

DEPARTMENT OF DEFENCE AND MILITARY VETERANS

NO. 828

15 JULY 2016



DEPARTMENT OF MILITARY VETERANS

SECTION 14 MANUAL PROMOTION OF ACCESS TO INFORMATION

(ACT 2 OF 2000)

Version 2 Updated 7 May 2016

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DEFINITION OF CONCEPTS

Court - means the court to which a person can make an application for the matter to be resolved. The courts are the Constitutional Court acting in terms of Section 167(6)(a) of the Constitution or a High Court or another court of similar status or a Magistrate's Court either generally or in respect of a specified class of decisions in terms of this Act, designated by the Minister of Justice and Constitutional Development by notice in the Gazette and presided over by the magistrate or an additional magistrate designated in terms of Section 91A within whose areas of jurisdiction it resides.

DMV – Department of Military Veterans.

Fees – means the amount of money paid for processing the request.

Head – of, or in relation to, a public body, means in case of a natural person, that natural person or any person duly authorised by that natural person.

Information Officer – means the officer in the office to whom a request for access to information to a record/information has to be submitted.

Internal appeal – an internal appeal refers to the process whereby a requester is dissatisfied with the decision of the Information Officer or in an instance in which his/her request was ignored and no response given within 30 days / extended for a period of 30 days. An internal appeal has to be lodged with the relevant authority where such a process is applicable.

Personal information – means information about an identifiable individual including, but not limited to, information relating to race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health and birth of the individual; information relating to the individual or information relating to financial transactions in which the individual was involved.

Personal applicant – means an applicant seeking access to a record containing personal information about her/him.

Public body – means any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government or any other functionary or institution exercising a power or performing a duty in terms of the Constitution or a provincial constitution or exercising a public power or performing a public function in terms of any legislation.

Record – means any recorded information regardless of its form or medium in the possession or under the control of the office whether or not it was created by the office.

Relevant authority – means the person to whom an internal appeal is lodged.

INTRODUCTION

1. Access to information is a right entrenched in Section 32 of the Constitution of the Republic of South Africa, which provides that

- a. *"everyone has the right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights"; and*
- b. *"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".*

2. To fulfil the constitutional obligation, the Promotion of Access to Information Act (PAIA), 2000 (Act No. 2 of 2000) ("the Act") was enacted by Parliament and came into effect on 9 March 2001.

COMPILATION OF A MANUAL IN TERMS OF SECTION 14 OF THE ACT

3. In terms of Section 14 of the Act, the Information Officer of a public body is required to compile a manual within six (6) months after the commencement of this section or the coming into existence of a public body. The manual containing the following information must be compiled in three official languages:

- a. A description of the structure and functions of the body.
- b. The contact details of every Deputy Information Officer of the body appointed in terms of Section 17(1) of the Act.
- c. A description of the guide compiled in terms of Section 10 of the Act.
- d. Sufficient details to facilitate a request for access to a record of the body and a description of the subjects on which the body holds records and the categories of records held on each subject.
- e. Categories of records of the body that are available without a person having to request access in terms of the Act (Section 15(2)).
- f. A description of the services of the body available to members of the public and how to gain access to those services.
- g. A description of any arrangement or provision for a person, other than a public body referred to in the definition of "public body", by consultation, making representations, or to participate in or influence:-
 - * the formulation of policy; or
 - * exercise of powers or performance of duties by the public body.
- h. A description of all remedies available in respect of an act or failure to act by the body.

- i. Any other information that may be prescribed.

OBJECTIVES OF THE ACT

4. The objectives of the Act are to
 - a. give effect to the constitutional right of access to information, balancing it with any other rights;
 - b. give effect to the constitutional obligations of the State of promoting a human rights culture and social justice;
 - c. establish voluntary and mandatory mechanisms of disclosing information; and
 - d. promote transparency, accountability and effective governance of all public and private bodies.

APPLICATION OF THE ACT

5. The Act is applicable as follows:
 - a. Application to Record. Promotion of access to information applies to both public and private bodies as defined in the Act.
 - b. Exclusion of Certain Records
 - i. The Act does not apply to a record of a public or private body if that record is requested for purposes of criminal or civil proceedings after the commencement of such proceedings, and if the production or access to the record for purposes of criminal or civil proceedings is provided for in any other law (Section 7(1)).
 - ii. The Act does not apply to the records of cabinet, cabinet committees, judicial functions of a court or a special tribunal, a record of a judicial officer of a court or special tribunal or a record of an individual member of parliament or a provincial legislature in that capacity (Section 12).

DELEGATION OF POWERS

6. The Information Officer has delegated all powers and functions to the Deputy Information Officer as defined in the Act.

STRUCTURE AND FUNCTION

7. The Department of Military Veterans (DMV) was established in terms of the Military Veterans Act, No. 18 of 2011 to provide socio-economic benefits to military veterans and, in certain instances, their dependants. Section 5(1)(a)-(k), read together with Section 24(1), deals with the benefits applicable to military veterans

and the regulations that the Minister may make, prescribing the criteria to be met to qualify for benefits.

8. The organisational and functional Structure of the DMV, comprising 169 posts, was approved by the Minister in 2010. The budget programmes of the Department, as approved by National Treasury in February 2015, have been aligned with the approved functional structure provided below.

CONTACT DETAILS

9. Contact details are as follows:

- a. Information Officer: Mr L.Z. Make
E-mail: Lifeni.Make@dmv.gov.za
Telephone number: 012 765 9336
- b. Deputy Information Officer: Mr B. Mpangalasane
E-mail: bangani.mpangalasane@dmv.gov.za
Telephone number: 012 765 9355
- c. Postal Address:
Department of Military Veterans
Private Bag X943
Pretoria
0001
- d. Street Address:
328 Festival Street
Hatfield
Pretoria

WHO CAN REQUEST INFORMATION?

10. The Promotion of Access to Information Act provides that everyone has a right of access to information. Thus, a natural or juristic person (e.g a company or a close corporation) can request access to information from the public body.

11. A person who requests information is referred to as a requester. The Act distinguishes between two types of requesters, namely a 'requester' and a 'personal requester'.

12. In relation to the Department, a requester is defined as any person who requests access to a record of the Office on behalf of another. However, the definition excludes the following public bodies:

- a. A state department or administration in the national, provincial or local sphere of government.
- b. Any functionary or institution when exercising a power or executing a duty in terms of the Constitution or a provincial constitution.

- c. Any other functionary or institution when exercising a public power or performing a public function in terms of any legislation.
- d. A personal requester means a requester who is seeking access to a record containing personal information about the requester.
- e. The definition of personal information excludes information about an individual who has been dead for more than 20 years.
- f. A personal requester is, in the first instance, a requester, and, depending on the type of information requested, becomes a personal requester.
- g. When a person requests personal records and any other records, such a person should, for purposes of payment of the prescribed request fees, be regarded as a personal requester, and not be classified as a requester if the records so requested are mainly for personal information.
- h. Requests for access to information can also be made on behalf of another person. Whenever a request for information is on behalf of another, proof of capacity must be attached.
 - i. A person can request information on behalf of another person if he/she is a guardian of a person under the age of 18 or if a person is unable to understand the nature of the request. If the record concerns a deceased person, proof of next of kin of the deceased or written consent from the deceased's next of kin to make the request must be attached.
 - ii. Persons who cannot read or write may make an oral request which will be put in writing by the Information Officer.
- i. Access to records held by the Department will be given if
 - i. Procedural requirements relating to a request for access to that record have been complied with;
 - ii. Access to that record is not refused on any grounds for refusal as contemplated in Chapter 4 of Part 2 of the Act. This includes a request for access to a record containing personal information about the requester; and
 - iii. Right of access to a record is not affected by any reasons that have been given for requesting access or the Information Officer's belief concerning the reasons for requesting access (Section 11[3]).

FROM WHOM CAN INFORMATION OR A RECORD BE REQUESTED?

13. Information from a record can be requested from the Information Officer or the Deputy Information Officer.

HOW TO REQUEST ACCESS TO A RECORD FROM THE OFFICE

14. A request to the Information Officer/ Deputy Information Officer must be made in writing.

15. To this end, Form A (printed in the Government Gazette, Notice R187 of 15 February 2002), must be completed, signed and submitted to the Information Officer or Deputy Information Officer. If this form is not completed, it is an act of non-compliance, thus making any relief in terms of PAIA impossible.

- a. The completed form has to be submitted to the Information Officer by hand at his/her physical address or sent by electronic mail together with the payment of a request fee of R35.00.
- b. The Information Officer/Deputy Information Officer is obliged to assist illiterate or disabled people who are unable to complete forms when making requests. The Information Office/Deputy Information Officer will transcribe their oral requests. The information Officer or Deputy Information Officer must render such reasonable assistance needed by a requester free of charge (Section 19).
- c. If requesting information and/or records of a deceased member, the following must be complied with:
 - i. In terms of Section 34(2)(e) the requester must submit proof of being the deceased's next of kin or submit a letter of consent from the deceased's next of kin indicating that he/she is requesting the information and/or records.
 - ii. In terms of Section 18(2)(a)(i), a death certificate or certified copy of the deceased's identity document must be submitted.
- d. The requester must provide full particulars of the record to which access is requested, including the reference number if that is known, to enable personnel to locate the record. If the space provided is inadequate, the requester must continue on a separate folio and attach it to Form A. The requester must sign all the additional attached folios.
- e. The requester's proof of payment must accompany the request to gain access to the records of the DMV. The request fee must be deposited into the bank account of the DMV. If requesting access to the requester's personal information and/or records, the request fee is not applicable.

REQUESTS NOT DEALT WITH WITHIN 30 DAYS

16. After submitting Form A to the Information Officer/Deputy Information Officer and the payment of the request fee, he/she should respond to the request within 30 days. The Information Officer/Deputy Information Officer can extend the 30-day period only for a further 30 days, after receiving written notification together with reasons for such an extension.

17. When the Information Officer decides to grant a person access to a record, he/she will indicate the payment of the access fee (if any) for the time spent

searching for and preparing the record, and he/she must state the form in which access will be given.

18. When access is refused, the Information Officer/Deputy Information Officer will give reasons for such a refusal in terms of PAIA and cite the specific section relied upon.

WHAT IF THERE IS NO RESPONSE TO YOUR REQUEST WITHIN 30 DAYS / THE EXTENDED PERIOD OF 30 DAYS OR YOU FEEL AGGRIEVED BY THE DECISION OF THE INFORMATION OFFICER / DEPUTY INFORMATION OFFICER?

19. When a request for access is simply ignored or the Information Officer/Deputy Information Officer fails to respond to the request within 30 days or within the extended period of 30 days, such non-response is deemed a refusal.

TRANSFER OF RECORDS OR REQUESTS

20. If a request for access is made to the Information Officer or Deputy Information Officer and such record is not in the possession of or under the control of that body, but in the possession of another public body, the Information Officer to whom the request is made must, within a reasonable time, but within 14 days after the request has been received, transfer the request to the Information Officer of the other public body.

FEES

21. The Information Officer or Deputy Information Officer to whom a request for access is made must, by notice, require payment of the prescribed fee from the requester (not applicable to a personal requester), before processing the request (Section 22).

22. The prescribed request fee is R35.00. The requester may lodge an internal appeal or an application with a court against the tender or payment of the request fee.

23. A personal requester does not have to pay the request fee. Only a requester, who is not a personal requester, must pay a request fee. Therefore, requesters must be classified correctly.

24. The Information Officer of the public body must withhold a record until the requester has paid the applicable fees.

25. Any payment made in respect of a request for access that is refused must be repaid to the requester by the Information Officer or Deputy Information Officer.

26. A requester whose request for access to a record of a public body has been granted must pay a fee for reproduction, ie the cost for making a copy of the record. The reproduction fee for the different categories of reproduction are set out in the table below :

Form and kind of copy of a record	Amount R
To search and prepare the record for disclosure	R15.00
For every photocopy, per A4 size page or part thereof	0.60
For every printed photocopy, per A4 size page or part thereof held on a computer or in electronic or machine readable form,	0.40
For a copy in a computer-readable form/electronic, per disk	5.00
Compact disc	5.00
For a transcription of visual images, for an A4 size page or part thereof for a copy of visual images	22.00 60.00
For a transcription of an audio record, for an A4-size page or part thereof for a copy of an audio record	12.00 17.00

27. The actual postage fee is payable when a copy of a record is to be posted to a requester.

DECISION IN RESPECT OF THE REQUEST

28. The Information Officer or Deputy Information Officer to whom a request for access is made or transferred must, subject to Sections 26 (extension of period to deal with request), 47, 48 and 49 (third party notification and intervention] of the Act, as soon as reasonably possible, but in any event within 30 days after the request is received, decide if the request will be granted or refused.

29. The requester must be notified of the decision, in the manner in which the requester stated, as contemplated in Section 18 (2)(e), that he or she wishes to be informed in any other manner that is reasonably possible.

30. If the request for access is refused, the Information Officer or Deputy Information Officer must give adequate reasons for the refusal, including the provisions of the Act relied upon;

31. The requester may lodge an internal appeal or an application with a court against the refusal of the request, and the procedure (including the period) for lodging the internal appeal or application.

EXTENSION OF PERIOD TO DEAL WITH REQUEST

32. The Information Officer or Deputy Information Officer to whom a request for access has been made or transferred may extend the original period of 30 days once for a further period of not more than 30 days, if

- a. the request is for a large number of records or requires a search through a large number of records, and compliance with the original period would unduly interfere with the activities of the public body concerned;

- b. the request requires a search for records or collection of records at an office of a public body not situated in the same town or city as the office of the Information Officer or Deputy Information Officer that cannot reasonably be completed within the original period;
- c. consultation between divisions of the public body or with another public body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original period;
- d. more than one of the circumstances contemplated in subparagraphs a, b, or c above exists in respect of the request making compliance with the original period reasonably impossible; or
- e. the requester consents in writing to such extension.

33. When a period is extended, the Information officer or Deputy Information Officer is required to notify the requester of the extension within 30 days after the request has been received or transferred.

34. For the purpose of the Act, failure by the Information Officer or Deputy Information Officer to make a decision about a request for access within 30 days is regarded as a refusal of the request.

35. Any part of the record that may or must be refused in terms of any of the provisions of Chapter 4 of Part 2 of the Act can be severed from any part that contains information that must be disclosed, despite any other provision of the Act.

36. If access to part of a record is granted and the other part is refused, the requester must comply with the requirements for a notice in terms of Section 25(2), which grants access, and with the requirements for a notice in terms of Section 25(3), which refuses access.

RECORDS THAT CANNOT BE FOUND OR DO NOT EXIST

37. The Information Officer or Deputy Information Officer must notify the requester by way of an affidavit or affirmation that it is not possible to give access to the record after all reasonable steps to find it have been taken, and where there are reasonable grounds for believing that the record is in possession of the public body but cannot be found or does not exist.

38. The affidavit or affirmation to be issued by the Information Officer or Deputy Information Officer must give a full account of all the steps taken to find the record in question or to determine whether the record exists, including all the communications with every person who conducted the search on his or her behalf.

39. For the purposes of the Act, the notice that the record cannot be found or does not exist will be regarded as a decision to refuse a request for access to the record.

40. If the record in question is found afterwards, the requester must be informed thereof and given access to the record unless there are grounds for the refusal of access in terms of which such access is refused.

41. The record of all search instructions and reports must be kept for ease of reference when making an affidavit or affirmation in compliance with the Act.

ACCESS AND FORMS OF ACCESS

42. Access Fee. The requester must pay an access fee, if any is payable, upon receipt of the notice that his or her request for access has been granted, where after he or she will be given access immediately in the applicable form as indicated in the request by the requester and in the language requested or available (Section 29).

43. Forms of Access. Access to a record for which a request for access has been granted may be given by

- a. supplying a copy of the record or by making arrangements for inspection of the record if the record is in a written or printed form;
- b. making arrangements to view the images or being supplied with copies or transcriptions by means of equipment which is ordinarily available to the public body in the case of the record not being in written or printed form but in visual images or printed transcriptions of those images that can be reproduced;
- c. making arrangements to hear the sounds or by means of written or printed transcription of the sounds in the case of a record in which words or information are recorded in such a manner that they can be reproduced in the form of sound or written or printed transcription by using equipment that is ordinarily available to the public body;
- d. means of a copy of a record in a computer-readable form or any other case, in the case of a record held on computer or in electronic or machine-readable form, and from which the public body concerned can reproduce a printed copy by using computer equipment and expertise ordinarily available to the public body;

LANGUAGE OF ACCESS

44. Access to a record must be given in the language preferred by the requester, if it exists in such a language. If it does not exist in the preferred language, it should be given in the language in which the record exists.

GROUND FOR REFUSAL OF ACCESS TO RECORDS

45. In some instances, there are mandatory grounds in terms of which access to a record must be refused. However, to avoid a blanket refusal, certain conditions exist. The Information Officer or Deputy Information Officer must refuse a request for access to a record if such a record

- a. contains unreasonable personal information about a third party including a deceased person;

- b. request for information held by the South African Revenue Service if held for the purposes of enforcing legislation concerning the collection of revenue;
- c. contains
 - i. trade secrets of a third party;
 - ii. financial, commercial, or technical information other than trade secrets likely to cause harm;
 - iii. constitutes a breach of confidence owed to the third party or supplied in confidence;
 - iv. information supplied by a third party in confidence likely to endanger the life or the physical safety of an individual, security of a building, structure or system including computer or communication system, means of transport or any other property;
- d. is prohibited in terms of the Criminal Procedure Act, No.51 of 1977;
- e. privileged from production; and
- f. contains information about research being conducted for a third party.
- g. may refuse a request for access to a record as contemplated in Sections 37 (1)(b), 38 (b), 39 (1)(b), 41 (1)(a) or (b), 42 (1) or (3), 43 (2), 44 (1) or (2) or 45, unless the provisions of Section 46 apply.

THIRD PARTY NOTIFICATION AND INTERVENTION NOTICE TO THIRD PARTIES

46. All reasonable steps must be taken by the information or Deputy Information Officer who considers a request for access to a record to inform a third party to whom the record relates in the request (Section 47(1)).

47. The Information Officer or Deputy Information Officer must inform a third party by the fastest means possible, as soon as is reasonably possible, but in any event within 21 days after the request has been received or transferred. The notification to the third party must

- a. state that the Information Officer or Deputy Information Officer is considering a request for access to a record and must describe the content of the record;
- b. furnish the name of the requester; and
- c. describe the type of record being requested.
- d. indicate that the Information Officer or Deputy Information Officer believes

- i. the disclosure of the record would reveal evidence of a substantial contravention of, or failure to comply with the law;
 - ii. an imminent and serious public safety or environmental risk analysis and the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question;
- e. state that the third party may, within 21 days after the third party has been informed,
 - i. make a written or oral representation to the Information Officer or Deputy Information Officer as to why the request for access should be refused; or
 - ii. give written consent for the disclosure of the record to the requester.

48. If a third party is not informed orally of a request for access, the Information Officer or Deputy Information Officer is required to give such third party a written notice stating the matters referred to above.

REPRESENTATIONS AND CONSENT BY THIRD PARTIES (SECTION 48)

49. Within 21 days after being informed, a third party who has been informed of a request for access may make written or oral representations to the Information Officer as to why the request should be refused or give written consent for the disclosure of the record to the requester.

50. A third party who obtains knowledge about a request for access without being informed by the Information Officer or deputy information officer may make written or oral representations to the Information Officer or Deputy Information Officer as to why the request should be refused or give written consent for the disclosure of the record to the requester.

DECISION IN RESPECT OF REPRESENTATIONS FOR REFUSAL AND NOTICE THEREOF

51. Within 30 days after the third parties concerned have been informed as provided for in Section 47, the Information Officer or Deputy Information Officer must

- a. decide, after duly considering any representations made by a third party in terms of Section 48, whether to grant the request for access; and
- b. notify the third party so informed, and a third party not informed in terms of section 47(1), but that made representations, or is located before the decision is taken, of the decision made.

52. If a third party is not informed of the request, after all reasonable steps have been taken, and the third party does not make any representations, any decision whether to grant the request for access must be made with due regard to the fact that the third party did not have the opportunity to make representations as to why the request should be refused.

53. The notice given upon granting a request for access must state
- a. adequate reasons for granting the request, including the provisions of the Act relied upon;
 - b. that the third party may lodge an internal appeal against the decision within 30 days after notice has been given, and the procedure for lodging the internal appeal; and
 - c. that the requester will be given access to the record after the expiry of the 30-day period, unless such internal appeal is lodged within that period.
54. After 30 days have expired after the notice to the third party, the requester must be given access to the record, unless an internal appeal or an application to a court is lodged against the decision within that period.

AUTOMATICALLY AVAILABLE RECORDS

55. In terms of Section 14(e), read together with Section 15(2), the Department must provide the latest notice that can be obtained automatically without request. The following is a list in terms of this section:

- a. Military Veterans Act, No. 18 of 2011.
- b. Application forms for benefits and registration on the military veterans' database.
- c. Strategic plans.
- d. Annual performance plans.
- e. Military veteran's magazine: *Honour*.

SERVICES AVAILABLE FROM THE DEPARTMENT OF MILITARY VETERANS

56. Military Veterans' Benefits Regulations. Section 24(1) of the Act prescribes that the Executive Authority develop criteria that stipulate the means test for each of the benefits. In invoking this provision, the Department of Military Veterans has developed regulations providing the criteria to be met in order to qualify for benefits stipulated in Section 5 of the Act.

57. The Military Veterans' Benefit Regulations cover the following benefits:
- a. Housing.
 - b. Health care.
 - c. Dedicated counselling and treatment for mental illness and posttraumatic stress.
 - d. Facilitation of business opportunities.
 - e. Facilitation of employment placement.

- f. Compensation for injury, trauma and disease.
- g. Burial support.
- h. Honouring and memorialising.
- i. Transport.

PARTICIPATION BY ANY PERSON (Section 14(1)(g))

58. Section 14(1)(g) deals with arrangements made by any person other than a public body as defined by the Act who, by consultation, may make representations that may influence the formulation of policy, exercising of powers or execution of duties by the body.

59. What follows is how military veterans can participate by means of consultation to influence either the formulation of policy or the exercising of powers or performance.

NATIONAL MILITARY VETERANS' ASSOCIATION

60. Section 7(1) of the Military Veterans Act stipulates that the Director-General must establish a Military Veterans' Association by publication in the Government Gazette. Furthermore, the DG and the Association must create mechanisms to ensure that the Association acts as an umbrella association representing military veterans' organisations. The mechanisms must at least result in the Association

- a. representing military veterans' organisations fairly;
- b. conducting its business fairly, transparently and accountably;
- c. holding free, fair and regular elections; and
- d. reporting to the Minister on its activities at least once a year.

61. The association must

- a. perform the functions provided for in this Act;
- b. advise the Minister on matters relating to legislation and policy affecting military veterans as the Minister may require; and
- c. advise the Minister or the Director-General on any other matter relating to the affairs of military veterans that the Minister or the Director-General may require.

ADVISORY COUNCIL ON MILITARY VETERANS

62. Section 9(1) of the Military Veterans' Act establishes an Advisory Council on Military Veterans responsible to the Minister that attends to the interests of military veterans and must

- a. perform the functions provided for in this Act;

- b. advise the Minister on any matter relating to the policy applicable to military veterans; and
- c. on its own initiative or at the request of the Minister, or of the Director-General, make recommendations to the Minister or the Director-General, as the case may be, and furnish advice on all matters pertaining to military veterans and their dependants.

63. Invitations for nominations were advertised in two national newspapers. Nominations had to be in writing and directed to the Director-General. The Military Veterans' Association nominated at least 3 persons for appointment.

MILITARY VETERANS' APPEAL BOARD

64. Section 19 of the Military Veterans' Act establishes the Military Veterans' Appeal Board, which must

- a. consider any appeal lodged with it by a military veteran against any decision taken by an official in terms of this Act which adversely affects the rights of that military veteran;
- b. consider any question of law relating to military veterans referred to it by the Minister or the Director-General; and
- c. advise the Minister or the Director-General regarding any legal matter relating to military veterans which the Minister or the Director-General refers to it.

65. The Appeal Board may

- a. confirm, set aside or vary a decision taken by an official;
- b. substitute any other decision for the decision; or
- c. provide the required legal advice.

APPEALS AGAINST DECISIONS

66. Right of Internal Appeal to Executing Authority. An internal appeal against a decision of the Information Officer or Deputy Information Officer may be lodged with the executing authority on any of the following grounds:

- a. A refusal to grant access.
- b. A decision taken with regard to fees, access or extension of period to deal with requests.

67. A third party may lodge an internal appeal against a decision of the Information Officer or Deputy Information Officer to grant a request for access.

68. Manner of Internal Appeal. An internal appeal must be

- a. lodged in the prescribed Form B within 60 days if notice to a third party as required by Section 49(1)(b) and within 30 days after a decision has been taken or notice has been given to the appellant of the decision appealed against; and
- b. delivered or sent to the Information Officer or Deputy Information Officer at his or her address or electronic mail address.

69. Notice to and Representations by other Interested Persons. When considering an internal appeal against the refusal of a request for access to a record, the relevant authority must inform the third party to whom or which the record relates of the internal appeal, unless all necessary steps to locate the third party have been unsuccessful. A third party must be informed within 30 days after the receipt of the internal appeal and by the fastest means reasonably possible.

70. Notice to a Requester. When considering an internal appeal against the granting of a request for access, the relevant authority must, give notice of the internal appeal to the requester. The relevant authority must notify the requester - within 30 days after the receipt of the internal appeal and, stating in the notice that the third party may, within 21 days after notice has been given, make written representations to that authority as to why the request should be granted.

71. A requester to whom notice is given may make written representations to the relevant authority within 21 days after that notice has been given, as to why the request for access should be granted.

APPLICATIONS TO COURT

72. Applications regarding decisions of relevant authority

- a. A requester or third party may apply to a court for appropriate relief only after having exhausted the internal appeal procedure against a decision of the Information Officer or Deputy Information Officer.
- b. A requester whose internal appeal has been unsuccessful or is aggrieved by a decision of the relevant executing authority to disallow the late lodging of an internal appeal may, by way of an application within 30 days, apply to a court for appropriate relief in terms of Section 82.
- c. The unsuccessful third party in an internal appeal to the relevant executing authority may, by way of an application, within 30 days apply to a court for appropriate relief in terms of Section 82.

73. Procedure

- a. An application in terms of Section 78 may be lodged only with a High Court or another court of a similar status.
- b. The burden of establishing that the refusal of a request for access or any decision taken in terms of Section 22, 26(1) or 29(3) complies with the provisions of the Act rests on the party claiming that it so complies.

74. Decision in Respect of Application. The court hearing an application may grant any order that is just and equitable, including an order

- a. confirming, amending or setting aside the decision which is the subject of the application concerned;
- b. requiring from the relevant executing authority to take such action or to refrain from taking such action as the court considers necessary within a period mentioned in the order;
- c. granting an interdict, interim or specific relief, a declaratory order or compensation; or
- d. concerning the costs.

LIABILITY

75. No person is criminally or civilly liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of the Act.

OFFENCES

76. A person who, with intent to deny a right of access in terms of the Act, destroys, damages, alters, conceals, falsifies or makes a false record commits an offence and is liable to conviction leading to a fine or imprisonment for a period not exceeding two years.

REVIEW OF THE MANUAL

This manual shall be reviewed as and when the need arises.

PAIA PROCESS FLOW DIAGRAM

