



the federation for a sustainable environment

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PBO No. (TAX EXEMPT) 930 039 506  
Postnet Suite #113, Private Bag X153, Bryanston, 2021

## **PROMOTION OF ACCESS TO INFORMATION MANUAL COMPILED IN COMPLIANCE WITH SECTION 14 OF THE PROMOTION OF ACCESS TO INFORMATION ACT (ACT 2 OF 2000)**

The Promotion of Access to Information Act 2 of 2000, (PAIA) gives effect to section 32 of the Constitution, which provides that everyone has the right to access information held by the State, as well as information held by another person (or private body) when such privately-held information is required for the exercise or protection of any rights in terms of the Bill of Rights of the Constitution of the Republic of South Africa.

### **Access to Information Held by a Private Body**

#### **1. Introduction**

The FSE is a federation of community based civil society organisations committed to the realisation of the constitutional right to an environment that is not harmful to health or well-being, and to having the environment sustainably managed and protected for future generations. Their mission is specifically focussed on addressing the adverse impacts of mining and industrial activities on the lives and livelihoods of vulnerable and disadvantaged communities who live and work near South Africa's mines and industries.

This Manual has been compiled in accordance with the Promotion of Access to Information Act, 2000 (Act No 2 of 2000) (the Act). The Manual relates to the information, reports and records kept by the FSE. The information, reports and records are aligned to the objectives of the Memorandum of Incorporation of the FSE and the FSE's activities.

Apart from the above-mentioned files, the Manual also contains information on the designated Information Officer and Deputy Information Officer who are responsible for the handling of all the applications, which are made for access to information.

## **2. Constitution of the FSE**

The FSE is a Non-Profit Company without members and with the following objectives:

Promoting the ecological sustainability of development and the wise use of natural resources in southern Africa.

Without derogating from the generality of the foregoing, the FSE's main objective include:

- a) Protecting and promoting environmental health and functional ecosystems for future generations.
- b) Ensuring that developments involving the consumptive or destructive use of natural resources specifically benefit local residents and parties directly affected by the development.
- c) Informing all decision making in development, including in planning and monitoring activities, that affect local people and natural and environmental resources.
- d) Promoting sustainable and just social development as an inseparable consequence of natural resource use development projects.
- e) Taking action, including legal action, to hold decision makers accountable in situations where development may have negative social, economic or environmental impacts that affect people and the environment.
- f) Ensuring that the total cost of the use of natural resources including all externalized and long-term costs of maintaining ecosystem services to local people, are provided for and borne by the project.
- g) Facilitating the remedying of existing environmental degradation.
- h) Mobilising collaborative national and local action among likeminded entities and raising and providing funds and legal and technical expertise to support such actions.

The FSE represents the interests of ordinary people in understanding and defending their constitutional rights, which specifically include Section 24 of the Constitution by having an environment that:

- i. Is not harmful to health and well being
- ii. Is protected for present and future generations, and
- iii. By implementing fully the legislation and other matters available to:
  - a. Prevent pollution and ecological degradation
  - b. Promote conservation
  - c. Ensure ecological sustainable development and use of natural resources, and
  - d. Promote justifiable social and economic development.

### **3. Section 10 Guide on how to use the Promotion of Access to Information Act 2 of 2000 (PAIA)**

The South African Human Rights Commission (SAHRC) has in terms of section 10 of the Act compiled a guide on the use of the Act. The Section 10 guide is available on the SAHRC's website ([www.sahrc.org.za](http://www.sahrc.org.za)) or Email: [info@sahrc.org.za](mailto:info@sahrc.org.za) or Twitter: @SAHRCommission or Facebook: SAhumanrightscommission or Youtube: SAHRC1 (<https://www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf>) or at the offices of SAHRC. The Section 10 guide is available in English, Afrikaans, Isindebele, Isixhosa, Isizulu, Sepedi, Sesostho, and Setswana.

The Section 10 guide explains how to make a request for access to information; who can make a PAIA request; what is the cost for making a PAIA request; whether an Information Officer can help the requester to make a PAIA request and what are the legal remedies if a PAIA request is denied.

### **4. Office bearers of the FSE**

The FSE consists of a Board of four non-executive directors, two directors of which one is appointed as the Chief Executive Officer.

### **5. Programmes of the FSE**

The activities of the FSE are listed on its website, namely [www.fse.org.za](http://www.fse.org.za) and requests for information related to the activities of the FSE can be submitted to the Information Officer.

### **6. Information Officer: Contact Details**

Name: Ms Mariette Liefferink

Postal Address: Postnet Suite #113, Private Bag X153, Bryanston, 2021

Phone Number: 011 465 6910

Mobile: +27 73 231 4893

Email: [mariette@pea.org.za](mailto:mariette@pea.org.za)

### **7. Categories of records which are available without a person having to request access in terms of the PAIA**

1. Draft and Published Governmental Strategies, Policies and Acts of Parliament, which may be in the possession of the FSE and which do not have a confidentiality clause
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2. Published scientific and academic reports and papers, which may be in the possession of the FSE
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3. Water quality results, which may be in the possession of the FSE and which are in the public domain
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4. Court papers, which may be in the possession of the FSE and which are within the public domain
5. Audit Reports, which may be in the possession of the FSE and which are within the public domain
6. The FSE's Integrated Annual Reports and audited financial statements
7. Minutes of meetings of Governmental Catchment Management Forums, Steering Committees, Task Teams, Advisory Committees unless there is a confidentiality clause
8. Powerpoint presentations on environmental issues, which are in the FSE's possession and which are in the public domain
9. The results of any product or environmental testing or other investigation supplied by a third party or the results of any such testing or investigation carried out by or on behalf of a third party and its disclosure which revealed a serious public safety or environmental risk.
10. The FSE's Memorandum of Incorporation (MOI)

## **8. How to obtain access to the abovementioned records**

The above-mentioned records can be obtained by submitting an electronic request to the Information Officer. The records will be made available electronically or as hard copies.

## **9. Categories of records which are available by having to request access in terms of the PAIA (please refer to Form B)**

1. The FSE's Non-Profit Organisation Registration Certificate
2. The FSE's Tax Exemption Certificate
3. The FSE's Tax Clearance Certificate
4. The FSE's B-BBEE Certificate
5. The FSE's CoR 39
6. The FSE's CoR 15.2

The FSE has submitted no request to the Minister in accordance with section 52(2) of PAIA.

## **10. Records that cannot be found or do not exist**

If all reasonable steps have been taken to find a record requested and there are reasonable grounds for believing that the record is the FSE's possession but is lost or damaged or does not exist then the Officer must by way of an affidavit notify the requester that it is not possible to give access to that record.

The affidavit must give a full account of all steps taken to find the record in question or to determine whether the record exists, including communicating with every person who conducted the search on behalf of the Information Officer.

## **11. Fees**

### **11.1 Personal Request**

Anyone who seeks information pertaining to her/him is called personal requestor and is exempted from paying the requestor's fee.

## 11.2 Requester

11.2.1 . The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.

11.2.2 A requester whose request for access to a record the FSE has been granted must pay an access fee for reproduction and for search and preparation and, for any time reasonably required in excess of the prescribed hours to search for and prepare (including making any arrangements contemplated in section 29 (2) (a) and (b) (i) and (ii) (aa))of the PAIA including the cost of making a copy of a record or of a transcription of the content of the record and if applicable, the postal fees.

11.2.3 The fees for reproduction 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

11.2.4 For a copy in a computer-readable form on:

- a) stiffy disc: R7,50
- b) compact disc: R70,00

11.2.5 For a transcription of visual images:

- a) for an A4-size page or part thereof: R40,00
- b) for a copy of visual images: R60,00

11.2.6 For a transcription of an audio record:

- a) for an A4-size page or part thereof: R20,00
- b) for a copy of an audio record: R30,00

11.2.7 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.
- c) The actual postage is payable when a copy of a record must be posted to a requester.

The fee structure can be accessed at <http://www.sahrc.org.za/home/21/files/FEES.pdf>

The requester may lodge an application with a court against the access fee to be paid or the form of access granted, and the procedure, including the period allowed, for lodging the application.

## 11.3 Payment method

Every requester who is not a personal requester must pay the required fee. The requester must deposit the request fee into the FSE's bank account. The proof of the deposit slip must be forwarded to FSE's Information Officer before any request can be processed. The FSE's banking details are:

BANK: FNB

ACCOUNT HOLDER: Federation for a Sustainable Environment

ACCOUNT NUMBER: 62355544985

BRANCH: Fourways View

BRANCH CODE: 251655

## **12. Refusal of requests for information**

The FSE will refuse a request for access to information if the disclosure would involve:

- a) The unreasonable disclosure of personal information about a third party (including the person's physical or mental health or well-being, gender, sexual orientation, etc.) unless the individual concerned has consented to the disclosure or if the information is already publicly available.
- b) Disclosure of personal information (title, address, phone number, remuneration, etc.) about the FSE's office bearers and employees, stakeholders, sponsors and contracting parties unless required by the Companies Act, 1973, the Non-Profit Organisations Act, King Code IV and applicable legislation.
- c) Disclosure of a record if the record contains trade secrets of a third party and financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or information supplied in confidence by a third party.
- d) The disclosure could reasonably be expected to endanger the life or physical safety of an individual; or prejudice or impair the security of buildings, structures or systems, including, but not limited to, a computer or communication system; means of transport; or any other property; or methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme; the safety of the public, or any part of the public; or the security of property.
- e) If the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege.

Notwithstanding the abovementioned, the FSE shall grant a request for access to information if the disclosure of the record would reveal evidence of-

- (i) a substantial contravention of, or failure to comply with, the law; or
- (ii) imminent and serious public safety or environmental risk; and
- (iii) the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question.

A requestor is entitled to make application to court in terms of section 78 of PAIA against a refusal of a request within 180 days from the refusal.

## **13. Deemed refusal of request**

If the head of a private body fails to give the decision on a request for access to the requester concerned within the period contemplated in section 56(1), the head of the private body is, for the purpose of this Act, regarded as having refused the request.



Mariette Liefferink.

CEO: FEDERATION FOR A SUSTAINABLE ENVIRONMENT

## **Form B**

### **Request for Access to a Record of a Private Body**

**1. Particulars of person requesting access to information**

Name and Surname

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Identity number

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Postal Address

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**2. Proof of Capacity in which the Request for Information is made**

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**3. 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.**

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**4. Form of access to record**

Please indicate which form the information is required namely:

- Copy of report
  
- If the information consists of visual images to view, copy of the images or transcription of the images
  
- If the information consists of recorded word or information, which can be reproduced in sound if a sound track is requested or a transcription of the soundtrack
  
- If the information is held on computer or in an electronic or machine readable form if a printed copy of the record, a printed copy of the information derived from the record, or a stiffy or compact disc.

You will be timeously notified whether your request for information has been approved or denied. Please specify the manner you wish to be notified and provide the necessary particulars to enable compliance with your request.

Signed\* at ..... this ..... day of ..... 202.....



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\*(Signature of requester or person on whose behalf request is made.)