

**FORM B  
RESPONSE TO REQUEST FOR REASONS**

**Legal context of this form:** Section 5(1) of the Promotion of Administrative Justice Act (PAJA) permits any person who is materially and adversely affected by an administrative action to request reasons within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action. Section 5(2) of PAJA requires the person who made the decision (the administrator) to give reasons for the administrative action within 90 days of the request. These time limits may be reduced or extended by consent.

The request for reasons and variation of time must be done in accordance with Rule 3 which prescribes that the request must be made in accordance with Form A of the rules. Once the administrator receives the request in accordance with Form A, the administrator must within 10 days notify the requester whether the administrator accedes to or declines the request.

**What this form is about:** The administrator must fill in this Form if there has been a request in accordance with Form A.

**How to send or deliver this notification:** Delivery of this Form must be effected in the manner and at the delivery address provided for by the requester in Form A.

**PART A: NAME AND DETAILS OF ADMINISTRATOR**

**How to fill this part of the Form:**

1. The administrator must confirm, supplement or rectify the details of the administrator set out by the requester in Form A to the extent that the information in Form A is not correct.

**Details of administrator responsible for the administrative action**

Name: .....

Official designation: .....

Department or institution: .....

Address of the administrator or institution .....

Telephone numbers: .....

Fax number: .....

Email address: .....

**PART B: RESPONSE TO REQUEST FOR REASONS**

**How to fill this part of the Form:**

1. If the administrator accedes to the request, the administrator must:
  - Furnish reasons within the period permitted in section 5(2) of PAJA; or
  - Within the period varied by agreement or by a court in terms of section 9 of PAJA.
2. If the request is refused, the administrator must state which one of the following grounds for refusal is applicable:

- Written reasons already furnished to requester
- Written reasons are publicly available and the requester is informed of where and how they are available (give details as to how and where the reasons are available)
- The requester is not a person whose rights are materially and adversely affected by the administrative action
- It is reasonable and justifiable to depart from the requirement to give reasons in terms of section 5(4)

of the Act

- Another valid ground (please give detail of the ground on which you rely)

Will reasons be provided? Yes/No

If no, reasons for refusal:

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If the reasons are publicly available, please give details of how and where they are available:

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**PART C: REQUEST TO REDUCE OR EXTEND TIME PERIODS**

**How to complete this part of the Form:**

The administrator may grant a request for the variation of the time periods taking into account the particular facts of each request. Such request may not be unreasonably refused.

Will the request for variation of time be agreed to?: Yes/No

If no, reasons for refusal:

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**FORM C  
REQUEST FOR DISCLOSURE OF DOCUMENTS**

**Legal context of this form:** The Rules that govern judicial review of administrative action allows a person intending to institute an application for judicial review to request a list and access to relevant documents that that person needs in order to apply to court for the judicial review of an administrative action. The request must be made in accordance with this Form.

**Meaning of terms:** An explanation of important legal terms referred to is given at the end of this Form. The relevant provisions of PAJA are also reproduced.

**What this form is about:** You need to fill in this Form if you want to institute proceedings for the review of the administrative action and -

- you need disclosure and access to the documents relevant to your grounds of review in order to assist you in formulating your intended application to court.
- you need to shorten or extend the periods contained in the Rules for disclosure.

**How do you send or deliver this request?** Delivery of this form shall be effected in one or other of the following ways: Delivery by hand delivery, registered post, fax or electronic mail.

**PART A: DETAILS OF REQUESTER**

**How to fill this part of the Form:**  
The requester must state the address for delivery of the reasons and state the manner in which the documents must be delivered.  
The requester may choose one of the following methods of delivery:

- registered post
- facsimile
- electronic mail.

You must make this request no later than 30 days from the date on which reasons are furnished under section 5 of the Act or Rule 3.

1. If a natural person-  
 Full name .....  
 Date of birth .....  
 Identity or Passport number .....
2. If a company, closed corporation, partnership etc -  
 Name and description .....  
 Registration details (if any) .....  
 Persons authorised to act on its behalf .....
3. Are you applying in your individual capacity? Yes/no  
 If yes, did the administrative action materially and adversely affect your rights?  
 .....  
 .....  
 If yes, give details of the rights affected and how they have been materially and adversely affected.  
 .....  
 .....
4. Are you applying in another capacity? Yes/No  
 If so, in what capacity? .....
5. Contact details:  
 Telephone number and email address .....  
 Details of legal representative (if represented) .....  
 Postal address .....  
 Manner in which the reasons should be delivered .....

6. Have reasons been furnished under section 5 of the Act or Rule 3? Yes/No  
 If yes, when and how were reasons furnished to you .....

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.....

**PART B: NAME AND DETAILS OF ADMINISTRATOR**

**How to fill this part of the Form:**

- 1. These details are important because they identify who must respond to your request.
- 2. If you do not know the name of the person responsible for the action, then it is sufficient to give the details of the body responsible for the decision. The body may be one of the following:

- a national department,
- a provincial department,
- a municipality

a government agency or institution like the CCMA, SASSA or a bargaining council.

1. Details of person administrator who took the decision (if known):

- Full name .....
- Official designation .....
- Work address .....
- Contact details including facsimile, telephone number and email address. ....

2. Details of department or institution responsible for action:

- Name of department or institution .....
- Address .....
- Contact details including facsimile, telephone number and email address .....
- Head of the office .....

**PART C: DETAILS OF THE ADMINISTRATIVE ACTION**

**How to fill this part of the Form:**

Part C of the Form must be as detailed as possible. This will assist the administrator in identifying the administrative action and will accordingly eliminate unnecessary delays.

1. Have you been informed of the administrative action? If "yes" provide the:

- Date of the administrative action .....
- Any file or reference number used by the administrator .....
- Any other details that will assist in identifying the administrative action.....
- In terms of which law was the administrative action taken (if known)? .....

2. If you have not been informed of the administrative action, then provide:

- Description of the administrative action .....
- Any details that will assist in identifying the administrative action .....
- Any file or reference number used in any documentation concerning the administrative action .....

**PART D: REQUEST FOR DOCUMENTS**

**How to fill this part of the Form:**

1. The purpose of this request is to assist you in the formulation of your application for judicial review of the administrative action, and accordingly should not be utilised if you are not intending to institute review proceedings.
2. You must explain why you would have legal standing in a judicial review application. An individual whose rights have been materially and adversely affected by the administrative action has legal standing. A person representing those whose rights have been so affected, or a person acting in the public interest, may have legal standing. The administrator may refuse to provide you with documents if you do not have legal standing.
3. The administrator may refuse to disclose documents if you have not exhausted an internal remedy.
4. You must list the reasons and ground(s) under section 6 of PAJA you intend to use in the review of the administrative action. The grounds in section 6 are set out at the end of this form.

1. Do you intend to institute an application for judicial review? Yes/No
2. Explain why you would have standing in a judicial review application. ....  
.....  
.....
3. Have you exhausted any internal remedy in respect of the administrative action to be reviewed? Yes/No  
  
If not, why has the internal remedy not been exhausted? .....  
.....  
.....
4. What are the grounds of the intended application for judicial review? .....  
.....  
.....  
.....

**PART E: REQUEST TO REDUCE OR EXTEND TIME PERIODS**

**How to fill in this form :**

You must set out in sufficient detail, the reasons why the administrator should vary the time periods stipulated in the rules or the Act.

The administrator may grant a request for the variation of the time periods taking into account the particular facts of each request.

Note: 180 days are calendar days

1. Do you want to extend the period of 180 days in section 7(1) to institute proceedings for judicial review? Yes/No  
If Yes, set out reasons .....  
.....  
.....

**Part F: Request to agree to an address and manner of delivery of documents in any court application made in terms of these rules**

1. Do you want the administrator to agree to an address for and mode of delivery of all documents in any court application made in terms of these rules? Yes/No.

If any party to an application for judicial review under these Rules has consented to service or delivery of documents by fax or e-mail and any dispute arises as to the proper or timeous service or delivery of any document, the onus of proof is on the delivering party.

**Part G: Request for mediation**

Do you request the administrator to consent to mediation regarding your intended judicial review of the administrative action? Yes/No

**Comment:**

Mediation offers an alternative to litigation. You may request the administrator to consent to mediation with the help of a

neutral third party (the mediator) in order to clarify potential issues in dispute, and possibly negotiate a settlement of the case for the purpose of avoiding litigation and facilitating the speedy resolution of the grievance.

The mediator does not decide the dispute or tell the parties what to do, but helps the parties to reach an agreement. If the matter is not resolved at mediation, you are entitled to proceed with your application for judicial review.

Mediation is entirely voluntary and neither party will be prejudiced for refusing to consent to mediation.

#### EXCERPTS FROM STATUTE

##### **GROUNDS FOR REVIEW OF ADMINISTRATIVE ACTION:**

The administrative action is reviewable if—

1. the administrator who took it—
  - was not authorised to do so by the empowering provision;
  - acted under a delegation of power which was not authorised by the empowering provision; or
  - was biased or reasonably suspected of bias;
2. a mandatory and material procedure or condition prescribed by an empowering provision was not complied with;
3. the action was procedurally unfair
4. the action was materially influenced by an error of law;
5. the action was taken—
  - for a reason not authorised by the empowering provision;
  - for an ulterior purpose or motive;
  - because irrelevant considerations were taken into account or relevant considerations were not considered;
  - because of the unauthorised or unwarranted dictates of another person or body;
  - in bad faith; or
  - arbitrarily or capriciously;
6. the action itself contravenes a law or is not authorised by the empowering provision; or
7. the action itself is not rationally connected to
  - the purpose for which it was taken;
  - the purpose of the empowering provision;
  - the information before the administrator; or
  - the reasons given for it by the administrator;
8. unreasonable delay in taking the decision where –
  - an administrator has a duty to take a decision;
  - there is no law that prescribes a period within which the administrator is required to take that decision; and
  - the administrator has failed to take that decision
9. unreasonable delay in taking the decision where –
  - an administrator has a duty to take a decision;
  - the law prescribes a period within which the administrator is required to take that decision; and
  - the administrator failed to take that decision before the expiration of that period
10. the exercise of the power or the performance of the function authorised by the empowering provision, in pursuance of which the administrative action was purportedly taken, is so unreasonable that no reasonable person could have so exercised the power or performed the function; or the action is otherwise unconstitutional or unlawful.

**REMEDIES IN PROCEEDINGS FOR JUDICIAL REVIEW**

- (1) The court or tribunal, in proceedings for judicial review in terms of section 6 (1), may grant any order that is just and equitable, including orders-
- (a) directing the administrator
    - (i) to give reasons; or
    - (ii) to act in the manner the court or tribunal requires;
  - (b) prohibiting the administrator from acting in a particular manner;
  - (c) setting aside the administrative action and
    - (i) remitting the matter for reconsideration by the administrator, with or without directions; or
    - (ii) in exceptional cases-
      - (aa) substituting or varying the administrative action or correcting a defect resulting from the administrative action; or
      - (bb) directing the administrator or any other party to the proceedings to pay compensation;
    - (d) declaring the rights of the parties in respect of any matter to which the administrative action relates;
    - (e) granting a temporary interdict or other temporary relief; or
    - (f) as to costs.
- (2) The court or tribunal, in proceedings for judicial review in terms of section 6 (3), may grant any order that is just and equitable, including orders-
- (a) directing the taking of the decision;
  - (b) declaring the rights of the parties in relation to the taking of the decision;
  - (c) directing any of the parties to do, or to refrain from doing, any act or thing the doing, or the refraining from the doing, of which the court or tribunal considers necessary to do justice between the parties; or
  - (d) as to costs.

**FORM D**

**AFFIDAVIT - LIST OF DOCUMENTS DISCLOSED**

**Details of Administrator:**

- Name: .....
- Official designation .....
- Department or institution .....
- Address of the administrator or institution .....
- Contact details of administrator including a telephone number, facsimile and electronic mail address .....
- Name and designation of person authorised by the administrator to depose to this affidavit .....

**Details of the Requester**

- Name: .....
- Address for delivery of list .....

I, ..... (the person authorised by the administrator),  
declare:

- (1) I have in my possession documents relevant to the grounds of the intended judicial review of the administrative action set out in Form C.
- (2) The requester will be allowed to inspect and make copies of the documents listed in Part 1 of Schedule A.
- (3) The requester may inspect and make copies (at the fees determined under the Promotion of Access to Information Act 2 of 2000) of the documents listed in Schedule A, Part 1 at the time, place and manner set out below:

.....  
 .....  
 .....  
 .....

- (4) I object to produce the documents listed in Part 2 of Schedule A, for the following reasons:

.....  
 .....  
 .....  
 .....



(5) I had, but no longer have in my possession, the documents listed in Schedule B hereto. These documents were last in my possession on:

.....  
.....

The documents were given to:

.....  
.....  
.....

(6) According to the best of my knowledge and belief, I have not now, and never had in my possession, any documents relevant to the review grounds set out in Form C other than the documents listed in Schedule A and Schedule B.

(7) I have read this affidavit and declare under pain of perjury that its contents are both true and correct. (this affidavit must be attested under oath or affirmation before a commissioner of oaths)

DATED at .....this .....day of .....20.....

Administrator: .....





**FORM E  
NOTIFICATION OF REFUSAL TO DISCLOSE DOCUMENTS**

**Legal context of this form:** The Rules that govern judicial review of administrative action allows a person intending to institute an application for judicial review to request a list and access to documents that that person needs in order to apply to court for the judicial review of an administrative action. The request must be made in accordance with Form C. Once the administrator receives the request in accordance with Form C, the administrator must within 15 days furnish the list of documents or notify the requester of his or her refusal to furnish the list.

**What this form is about:** The administrator must complete this form if there has been a request in accordance with Form C and the administrator is refusing to provide:

- A list of documents relevant to the grounds of review of the administrative action;
- An extension of the 180 day period in section 7(1) of the Act to institute proceedings for judicial review.

**How to deliver this notification:** Delivery of this Form must be affected in the manner and at the delivery address provided for by the requester in Form C.

**PART A: NAME AND DETAILS OF ADMINISTRATOR**

**How to fill this part of the Form:**

1. The administrator must confirm, supplement or rectify the details of the administrator set out by the requester in Form C to the extent that the information in Form C is not correct.
2. The administrator must provide the details for accepting service of documents in any court application.

1. Details of administrator responsible for the administrative action:

- Administrator .....
- Official designation .....
- Department or institution .....
- Address of the administrator or institution .....
- Contact details of administrator including a telephone number, facsimile and electronic mail address .....

2. Details of address and method for accepting all documents in any court litigation regarding the administrative action.

**PART B: REASONS FOR REFUSAL**

**How to fill this part of the Form:**

The administrator must identify the grounds for the refusal to provide a list of documents.

**PART C: REQUEST TO REDUCE OR EXTEND TIME PERIODS**

**How to fill this part of the Form:**

The administrator may grant a request for the variation of the time periods taking into account the particular facts of each request. Such request may not be unreasonably refused.

Will the request for variation of time be agreed to?: Yes/No

**PART D: REQUEST FOR MEDIATION**

Do you consent to mediation? Yes/No

**Comment:**

Mediation is entirely voluntary and no party will be prejudiced for refusing to consent to mediation.

FORM F

NOTICE OF MOTION: APPLICATION FOR JUDICIAL REVIEW

IN THE ..... COURT

HELD AT .....

CASE NO. \_\_\_\_\_

IN THE MATTER BETWEEN:

\_\_\_\_\_ Applicant

And

\_\_\_\_\_ Respondent

TAKE NOTICE that the applicant intends to make application to this Court for the review of the following administrative action:

.....  
.....  
.....  
.....  
.....

and claims an order in the following terms:

.....  
.....  
.....  
.....  
.....

and take notice that the accompanying affidavit(s) of..... will be used in support thereof.

TAKE NOTICE FURTHER that the applicant has appointed the following address at which delivery of all process in these proceedings will be accepted and method of delivery for all procedures and documents in these proceedings.

.....  
.....  
.....  
.....

TAKE NOTICE FURTHER that the applicant has elected the following manner in which he or she will accept delivery of documents:

.....  
TAKE NOTICE FURTHER that if you intend opposing this application, notice of intention to oppose must be given within 15 days of receipt of the notice of motion. This notice must appoint an address for and manner of delivery of all process and documents. If you provide a physical address and require that the documents be served on you by hand, the address provided must be within 25km of a Court.

TAKE NOTICE FURTHER that within 15 days after giving notice of your intention to oppose, you must deliver an answering affidavit, if any.

If no such notice of intention to oppose is given, the registrar will be requested to set the matter down for hearing on .....date at.....time.

DATED at .....this .....day of .....20.....

.....  
Applicant or his Attorney  
(address)

To:

- (1) The Registrar of the above Court;
- (2) The Administrator;
- (3) Any persons against whom relief is sought; and
- (4) Any other person necessary to join in the proceedings.