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M A N U A L S

IN ACCORDANCE WITH

THE PROMOTION OF ACCESS TO

INFORMATION ACT (NO. 2 OF 2000)



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PUBLIC SERVICE **COMMISSION**

MANUAL FOR THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF THE PUBLIC SERVICE COMMISSION In terms of Section 14 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

FINANCIAL PERIOD: 2011/2012

AUGUST 2011



(Exemplar of Good Governance)

Public Service Commission

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Public Service Commission

1. FUNCTIONS OF PUBLIC SERVICE COMMISSION (PSC)

The Public Service Commission (PSC) is an independent and impartial public institution, established in terms of Section 196 of the Constitution of the Republic of South Africa, 1996. The PSC is tasked and empowered to, amongst others, investigate, monitor, and evaluate the organisation and administration of the Public Service. This mandate also entails the evaluation of achievements, or lack thereof of Government programmes. Linked to the aforementioned powers, the PSC has an obligation to also promote measures to ensure effective and efficient performance within the Public Service and to promote values and principles of public administration as set out in the Constitution, throughout the Public Service.

1.1. Mandate of the PSC

The PSC derives its mandate from sections 195 and 196 of the Constitution, 1996. Section 195 sets out the values and principles governing public administration, which should be promoted by the PSC. These values and principles are:

- a high standard of professional ethics
- efficient, economic and effective use of resources
- a development-orientated public administration
- provision of services in an impartial, fair and equitable way, without bias
- responding to people's needs and encouraging the public to participate in policy-making
- accountable public administration
- fostering transparency
- the cultivation of good human resource management and career-development practices
- a representative public administration with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past

In terms of Section 196(4) of the Constitution, 1996, the functions and powers of the PSC are:

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- to promote the values and principles, as set out in Section 195, throughout the Public Service
- to investigate, monitor and evaluate the organisation, administration and personnel practices of the Public Service, in particular adherence to the values and principles set out in Section 195 and the public service procedures
- to propose measures to ensure effective and efficient performance within the Public Service
- to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in Section 195
- to report on its activities and the performance of its functions, including any findings it may make and directions and advice it may give; and to provide an evaluation of the extent to which the values and principles set out in Section 195 are complied with; and
- of its own accord, or on receipt of any complaint,
 - to investigate and evaluate the application of personnel and public administration practices and to report to the relevant executive authority and legislature
 - to investigate grievances of employees in the Public Service concerning official acts or omissions and to recommend appropriate remedies
 - to monitor and investigate adherence to applicable procedures in the Public Service
 - to advise national and provincial organs of state regarding personnel practices in the Public Service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the Public Service

1.2. Key Performance Areas

The PSC's work is structured around the following six key performance areas:

- leadership and human resource reviews
- labour relations improvement
- governance monitoring
- service delivery and compliance evaluations

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- public administration investigations
- professional ethics

2. STRUCTURE OF THE PSC**2.1. Background**

The PSC was established in terms of Section 196 of the Constitution of the Republic of South Africa, 1996. The Constitution stipulates that there is a single PSC for the Republic of South Africa, consisting of 14 members, five of which are appointed on the recommendation of the National Assembly. One member is appointed from each of the nine provinces, after nomination by the Premier of the province on the recommendation of a committee of the Provincial Legislature. The members are referred to as Commissioners. All Commissioners are appointed by the President. The procedure for the appointment of Commissioners is governed by the Public Service Commission Act, 1997, which provides for the regulation of the PSC and matters connected with it. According to the Act, a Commissioner is appointed for a term of five years, which is renewable for one additional term only. The PSC is headed by a Chairperson appointed by the President from the nominated Commissioners.

The PSC is accountable to the National Assembly and must report to it annually. It must also report to the Legislature of the province concerned on its activities in each province. The PSC is supported by the Office of the Public Service Commission (OPSC), with its Head Office in Pretoria and Regional Offices in each province. The Director-General who is the Accounting Officer, heads the OPSC.

2.2. Members of the Commission

The President designates one Commissioner as Chairperson and another as Deputy Chairperson of the PSC. The following are members of the PSC:

Nominated by the National Assembly

- Mr B Mthembu (Chairperson)
- Ms S Nkosi
- Ms PC Nzimande

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Nominated by the Provincial Legislatures

- Ms PM Tengen (KwaZulu-Natal), and appointed as Deputy Chairperson by the President
- Mr S Mafanya (Eastern Cape)
- Mr P Helepi (Free State)
- Gauteng Province - *vacant at the time of submission of the manual*
- Mr MZ Mawasha (Limpopo)
- Mr DS Mkhwanazi (Mpumalanga)
- North West Province - *vacant at the time of submission of the manual*
- Ms M Marais-Martin (Northern Cape)
- Western Cape- *vacant at the time of submission of the manual*

2.3. Management Structure

The organisational structure of the PSC is designed around its strategic objectives and consequently its performance areas. The work of the PSC is structured around six key performance areas as reflected under item 1 above. These areas are divided into four Branches, as outlined below:

Branch: Administration

The purpose of this branch is to manage, organise and provide administrative support to the PSC and the Office.

Branch: Leadership and Management Practices

The purpose of this branch is to promote sound Public Service leadership, human resource management, labour relations and labour practices.

Branch: Monitoring and Evaluation

The purpose of this branch is to establish a high standard of service delivery, monitoring and good governance in the Public Service.

Branch: Integrity and Anti-Corruption

The purpose of this branch is to undertake public administration investigations, promote a high standard of professional ethical conduct amongst public servants and contribute to preventing and combating corruption.

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3. CONTACT DETAILS OF INFORMATION OFFICER AND DEPUTIES

Mr Mashwahle Diphofa, the Director-General of the OPSC, is the Information Officer in terms of the Promotion of Access to Information Act. His contact details are as follows: mashwahled@opsc.gov.za, Tel (012) 352-1011. The Deputy Information Officers of the OPSC are:

- a. Deputy Director-General: Leadership and Management Practices - *vacant at the time of submission of the manual*
- b. Mr Indran Naidoo, Deputy Director-General: Monitoring and Evaluation, email: indrann@opsc.gov.za, Tel: (012) 352 1039
- c. Dr Dovhani Mamphiswana, Deputy Director-General: Integrity and Anti-Corruption, email: DovhaniM@opsc.gov.za, Tel: (012) 352 1205
- d. Ms Bontle Lerumo, Deputy Director-General: Corporate Services, email: bontlel@opsc.gov.za, Tel (012) 352 1194
- e. Mr Humphrey Ramafoko, Director: Communication and Information Services, email: humphreyr@opsc.gov.za, Tel (012) 352 1196.

Address

Postal address:

Private Bag X121

Pretoria

0001

Physical address:

Commission House

Corner Hamilton and Ziervogel Streets

Pretoria

0001

Website: www.psc.gov.za

Telephone: (012) 352 1000

Fax: (012) 325 8344

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4. GUIDE OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON HOW TO USE THE ACT

The guide on how to use the Promotion of Access to Information Act, 2000, is available from the South African Human Rights Commission. Enquiries can be directed to:

South African Human Rights Commission:
PAIA Unit
The Research and Documentation Department

Braampark Forum 3
33 Hoofd Street
Braamfontein
Telephone: 011-877 3600
Fax: 011-403 0668
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org.za

5. ACCESS TO RECORDS

5.1. Description of the subjects on which the PSC holds records and categories of records held on each subject

For purposes of facilitating a request in terms of the Act, a description of the subjects on which the PSC holds records and the categories of records held on each subject are as follows:

- Service Delivery Improvement Plans
- Service Charter
- Papers presented
- Records of workshops and conferences
- Internal newsletters
- External newsletters and magazine
- Annual Reports of the PSC

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- Posters
- PSC published reports
- Human Resource policies
- Personnel files
- Information relating to training of staff
- Budgets
- Medium Term Strategic Plans
- Medium Term Expenditure Framework submissions
- Financial statements
- Procurement policies
- Departmental asset register
- Tender documents received from the suppliers, after the tender has been awarded
- Contracts with suppliers
- Minutes of the Association of African Public Services Commissions
- Judge White records
- Audits and investigations into public administration practices
- National Anti-Corruption Hotline Case Reports
- Financial Disclosures of Senior Managers
- Minutes of the National Anti-Corruption Forum meetings
- Grievance reports
- Guidelines and protocol documents

5.2. Voluntary disclosure and records automatically available

Section 15 Voluntary Disclosure Notice of the PSC/OPSC is updated on an annual basis and is available on the PSC website, www.psc.gov.za. This update is in compliance with the provisions of Section 15 (2) of the Promotion of Access to Information Act. The PSC/OPSC's Section 15 Notice gives access to among others, all PSC reports that have been published and tabled in Parliament, as well as all the other records on the PSC website, without a person having to make a request in terms of the said Act.

It should be noted that certain province and department-specific reports that were compiled by the PSC are available from the respective provinces and

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departments and not the PSC/OPSC. In addition, the Annual Report of the PSC, newsletters/magazines, posters, and pamphlets, are automatically available from the Directorate: Communication and Information Services by contacting Mr Ben De Villiers, at bend@opsc.gov.za, or Tel. (012) 352 1059. A detailed list of easily accessible documents is contained in the Section 15 Notice referred to above.

5.3 Request procedure**5.3.1 *When is a request granted or refused***

The procedure to be followed regarding the granting or refusal of a request for information is contained in the OPSC Policy on the Promotion of Access to Information Act¹. The Policy is obtainable on the PSC website at www.psc.gov.za.

5.3.2 *How does one request access to a records*

- A requester must use the form (**Form A**) that was published in the Government Gazette, Government Notice R187 of 15 February 2002.
- The requester must indicate if he/she wants a copy of the record or if he/she wants to visit the offices of the PSC/OPSC to view the record. Alternatively, if the record is not a paper document, it can then be viewed in the requested format, where possible.
- If a person asks for access in a particular format (e.g. a paper copy, electronic copy, and so forth) the requester should obtain access in that format, unless doing so would interfere unreasonably with the running of the public body concerned (PSC/OPSC), or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required format but in another format, then the fee must be calculated according to the way that the requester first asked for it.

¹ OPSC Policy on PAIA.

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- If, in addition to a written reply to their request for the record, the requester wants to be informed about the decision in any other way, e.g. telephone, this must be indicated.
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made must be indicated.

5.3.3 Fees payable

There are two types of fees required to be paid in terms of the Act, namely; the request fee and the access fee (for notification of the decision regarding granting of access).

- A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the request fee of R35 (payable to public bodies).
- The Information Officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed request fee (if any) and deposit (if any) before further processing the request.
- The requester may lodge an internal appeal, where appropriate, or an application to the court against the bid or payment of the request fee.
- After the Information Officer has made a decision on the request, the requester must be notified of such a decision in the way in which the requester would like to be notified in.
- If the request is granted a further access fee must be paid for the reproduction and for search and preparation for any time required in excess of stipulated hours to search and prepare the record for disclosure.
- Access to a record will be withheld until the requester has paid all the applicable fees.

A fee schedule is attached as **Annexure B**.

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5.3.4 Disadvantaged requesters

- If a requester is unable to read or write, or has a disability, the request for the record can be made orally. The Information Officer or Deputy Information Officer must complete the form on behalf of such a requester and provide them a copy of the completed form.
- An individual who cannot read or write can request access to information using telephone numbers given in the manual.
- If requester is unemployed and requests access to information which requires payment, fees will be waived.

6. SERVICES AVAILABLE TO THE PUBLIC AND HOW TO ACCESS THEM**6.1 Services**

As set out in item 1, the PSC/OPSC does not offer services directly to the public. As such, our clients are the National Assembly, Provincial Legislatures, other government departments and public institutions/organisations. However, certain information about the Public Service, for instance, citizen satisfaction surveys which attempts to explore expectations and perceptions of citizens regarding the state of service delivery, can be obtained from the Directorate: Communication and Information Services by contacting Mr Ben De Villiers, at bend@opsc.gov.za, or Tel. (012) 352 1059. The public also has access to the toll-free National Anti-Corruption Hotline for the Public Service (0800 701 701), which is managed by the PSC.

6.2 How to gain access to services

Clients of the PSC/OPSC can gain access to its services by making requests to:

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The Director-General: Office of the Public Service Commission**Postal address:**

Private Bag X121
PRETORIA
0001

Street address:

Commission House
C/o Hamilton and Ziervogel Streets
PRETORIA

Contact person/s:

Mashwahle Diphofa, Tel: (012) 352 1011
Fax: (012) 325-8323
Email address: mashwahled@opsc.gov.za
Website: www.psc.gov.za

7. ARRANGEMENT ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND PERFORMANCE OF DUTIES**7.1 Informing policy and legislation**

The mandate of the PSC is to monitor and evaluate Public Service programmes with the purpose of providing advice and, where necessary, conduct investigations to explore ways to improve service delivery in the public service. Although the PSC is not directly involved in policy-making, through its programmes around community consultation and performance assessment it provides a platform for communities to have a direct say in how they want policies to be structured. Examples of such programmes include:

- Assessments of organisational performance and structuring to provide advice to heads of departments and political leadership on how these two areas can be improved.

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- Programme and systems evaluations that include in-depth assessments of the relevance of programmes and systems, the effectiveness and the efficiency of programmes and systems as well as programme/system preparation and design.
- Citizen satisfaction surveys which assess the effectiveness of service delivery from the perspective of citizens who are the users of the particular service.
- Citizen forums that use participatory methodologies to solicit suggestions from citizens on how to improve the outcomes of government programmes.

The PSC continuously conducts a variety of investigations which culminates in reports that are presented to the National Assembly, Provincial Legislatures, and individual departments. These reports are used to inform policy and legislation making processes.

In addition and whenever necessary, the PSC drafts rules or guidelines that are aimed at improving governance and/or service delivery within the Public Service. At times existing rules and guidelines/policies are reviewed to fit in with the operational/structural changes within the Public Service.

8. REMEDIES AVAILABLE IN RESPECT OF ACTS OR FAILURES TO ACT

The following procedures exist for citizens to report or remedy alleged irregular, improper or unlawful official acts or omissions by the PSC/OPSC or any of its employees.

8.1 Procedures for reporting

- 8.1.1 Remedies in respect of acts or failures to act in terms of the Promotion of Access to Information Act: The internal appeal authority for purposes of this Act is the Chairperson for the PSC (sections 74 – 77 of the Promotion of Access to Information Act). After exhausting the internal appeal remedy,

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an application may be lodged with a court (sections 78 – 82 of the Promotion of Access to Information Act).

- 8.1.2 A Public Service employee may lodge a grievance or complaint for investigation by the PSC concerning an official act or omission (Section 35 of the Public Service Act, 1994). Rules on how to lodge such a complaint / grievances were published in Government Gazette 23635 of 19 July 2002 and are accessible on the PSC website, www.psc.gov.za.
- 8.1.3 A person may use labour remedies regarding official acts or omissions of a labour nature, namely disputes of rights (the Public Service Act, 1994, and Labour Relations Act, 1995).
- 8.1.4 A person may lodge a complaint with a labour inspector concerning any alleged contravention of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997 - Section 78(1)(a)), or the Employment Equity Act, 1998 (Act No. 55 of 1998 - Section 34(e)).
- 8.1.5 A person may lodge a complaint with the Public Protector concerning a suspected unlawful or improper official act or omission (as outlined in the Constitution and the Public Protector Act, 1994 (Act No. 23 of 1994)).
- 8.1.6 A person may lodge a complaint with the South African Human Rights Commission concerning an official act or omission that is suspected to constitute a violation of or threat to any fundamental right (as per the Human Rights Commission Act, 1994 (Act No. 54 of 1994)).
- 8.1.7 In order to be protected from reprisals because of a disclosure regarding unlawful or irregular conduct by an employer or a fellow employee, the person in question may follow the disclosure procedures in the Protected Disclosures Act, 2000 (Act No. 26 of 2000).
- 8.1.8 The use of other legal remedies such as the institution of proceedings for the judicial review of an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

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8.2 Other supportive remedies

- 8.2.1 A person may request reasons for an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Section 5).
- 8.2.2 A person may request access to records of a government department or other public body in terms of the Promotion of Access to Information Act, 2000 (Section 11).

8.3 Duty to report

- 8.3.1 A Public Service employee, in the course of his or her official duties, is obliged in terms of the Code of Conduct for the Public Service to report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence or which is prejudicial to the public interest. An employee, who fails to comply with this, is guilty of misconduct as outlined in Regulation B.3 and C.4.10 of Chapter 2 of the Public Service Regulations, 2001.
- 8.3.2 The responsibility of every employer and employee to disclose criminal and any other irregular conduct in the workplace also underpins the Protected Disclosures Act, 2000 (Preamble).

9. UPDATING OF THE MANUAL

- The PSC/OPSC will, if necessary, update and publish its manual referred to in subsection (1) of Section 14, at intervals of not more than a year.

10. AVAILABILITY OF THE MANUAL

This manual is available in at least three of the official languages in the following manner:

- Submitted to the South African Human Rights Commission
- Obtainable at all the offices of the PSC/OPSC
- Posted onto the PSC website (www.psc.gov.za) and
- Published in the Government Gazette.

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ANNEXURES:

Annexure A:

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000))

[Regulation 10]

A. Particulars of private body

The Head/Designated Person:

B. Particulars of person requesting access to the record

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

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

Capacity in which request is made, when made on behalf of another person:

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C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

D. Particulars of record

- (a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) *If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios.***

1. **Description of record or relevant part of the record:**

2. **Reference number, if available:**

3. **Any further particulars of record:**

E. Fees

- (a) *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.*
- (b) *You will be notified of the amount required to be paid as the request fee.*
- (c) *The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.*
- (d) *If you qualify for exemption of the payment of any fee, please state the reason for exemption.*

Reason for exemption from payment of fees:

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F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability: _____ Form in which record is required: _____

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (b) 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.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

| | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|--------------------------|---------------------------------------------------------------|
| 1. If the record is in written or printed form: | | | |
| <input type="checkbox"/> | copy of record* | <input type="checkbox"/> | inspection of record |
| 2. If record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.): | | | |
| <input type="checkbox"/> | View the images | <input type="checkbox"/> | copy of the images* |
| <input type="checkbox"/> | | <input type="checkbox"/> | transcription of the images* |
| 3. If record consists of recorded words or information which can be reproduced in sound: | | | |
| <input type="checkbox"/> | Listen to the soundtrack (audio cassette) | <input type="checkbox"/> | Transcription of soundtrack* (written or printed document) |
| 4. If record is held on computer or in an electronic or machine-readable form: | | | |
| <input type="checkbox"/> | printed copy of record* | <input type="checkbox"/> | printed copy of information derived from the record* |
| <input type="checkbox"/> | | <input type="checkbox"/> | copy in computer readable form* (stiffy or compact disc) |
| *If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? | | | YES NO |
| Postage is payable. | | | |

G. Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:

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2. Explain why the record requested is required for the exercise or protection of the
aforementioned right:
-

H. 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 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?

Signed at _____ this _____ day of _____
20____

SIGNATURE OF REQUESTER / PERSON
ON WHOSE BEHALF REQUEST IS MADE

Public Service Commission

Annexure B:

FEES SCHEDULE

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| Fee for a copy of the manual as contemplated in Regulation 5(c) for every photocopy of an A4-size page or part thereof. | R0-60 |
| Fees for reproduction referred to in Regulation 7(1) are as follows: | |
| (a) For every photocopy of an A4-size page or part thereof | R0-60 |
| (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form. | R0-40 |
| (c) For copy in a computer-readable on (i) stiffy disk | R5-00 |
| (ii) compact disk | R40-00 |
| (d) For a transcription of visual images (i) For an A4-size page or part thereof | R22-00 |
| (ii) For a copy of visual images | R60-00 |
| (e) For a transcription of an audio record (i) For an A4-size page or part thereof | R12-00 |
| (ii) For a copy of an audio record | R17-00 |
| Request fee payable by a requester, other than a personal requester, referred to in Regulation 7(2) | R35-00 |
| The access fees payable by a requester referred to in regulation 7(3) are as follows | |
| (a) For every photocopy of an A4-size page or part thereof | R0-60 |
| (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form | R0-40 |
| (c) For copy in a computer-readable on (i) stiffy disk | R5-00 |
| (ii) compact disk | R40-00 |
| (d) For a transcription of visual images (i) for an A4-size page or part thereof | R22-00 |
| (ii) for a copy of visual images | R60-00 |
| (e) For a transcription of an audio record (i) for an A4-size page or part thereof | R12-00 |
| (ii) for a copy of an audio record | R17-00 |
| (f) To search for and prepare the record for disclosure, for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation | R15-00 for each hour |
| 2. For purposes of Section 22(2) of the PAIA, the following applies: | |
| a. Six hours as the hours to be exceeded before a deposit is payable | |
| b. One third of the access fee is payable as a deposit by the requester | |



Republic of South Africa

Public Service Commission

Tel: +27 12 352 1000

Fax: +27 12 325 8382

Website: www.psc.gov.za

National Anti-Corruption Hotline for the Public Service: 0800 701 701

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