

# PROMOTION OF ACCESS TO INFORMATION ACT ACT NO. 2 OF 2000 MANUAL



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# PROMOTION OF ACCESS TO INFORMATION ACT ACT NO. 2 OF 2000

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### 1. INTRODUCTION

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 (*"the Constitution"*) provides:

- (1) Everyone has the right of access to –**
  - (a) any information held by the state; and**
  - (b) any information that is held by another person and that is required for the exercise or protection of any rights.**
- (2) 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.**

The Promotion of Access to Information Act, No.2 of 2000 (*"the Act"*), gives effect to section 32 of the constitution, that enshrines the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of this Act, a private or public body (as contemplated in the Act) to whom the request is made is obliged to provide access to the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such request. This manual therefore applies to requests for access to records held by Santam Limited, as the private body contemplated under the Act.

### 2. WHO MAY REQUEST INFORMATION IN TERMS OF THE ACT

Any person who requires information for the exercise or protection of any rights, may request information from Santam. Section 50 of the Act states that:

- (1) A requester must be given access to any record of a private body if –**
  - (a) that record is required for the exercise or protection of any rights;**
  - (b) that person complies with the procedural requirements in this Act relating to a request for access to that record; and**
  - (c) access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4 of this Part.**

### 3. PROCEDURES FOR OBTAINING ACCESS

#### 3.1 Contact details

Any person who wishes to request any information from Santam Limited with the aim of protecting or exercising a right may contact the information officer whose contact details are as follows:

Requests to be addressed to: Santam Information Privacy Office  
Postal address: Santam Limited  
P.O Box 3881  
Tygervalley  
7536

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Street address:	1 Sportica Crescent Tygervalley Bellville 7530
Phone number:	(021) 915 7000
E-mail address:	SantamPrivacyOffice@santam.co.za

## 3.2 Prescribed access form

In terms of section 53, a request for access to a record held by Santam Limited must be made in the prescribed form to Santam Limited at the address, or electronic mail address given above. The form requires you, as the requester to provide the following information:

- sufficient information to enable the identification of the requester;
- sufficient information to enable the identification of the record(s) requested;
- the form of access required;
- the requester's postal address or fax number;
- identification of the right sought to be exercised or protected;
- an explanation as to why the record is required to exercise or protect that right;
- the manner in which the requester wishes to be informed of the decision on the request, if in a manner in addition to written notification; and
- if the request is made on behalf of a person, the submission of proof of the capacity in which the requester makes the request, to the satisfaction of the Santam Information Privacy Office.

Refer to [Annexure A](#) to this manual for the format of the prescribed form. Requesters should please note that all of the information as listed above should be provided, failing which the process will be delayed while Santam Limited requests such additional information. The prescribed time periods will not commence until all pertinent information has been furnished to Santam Limited by the requester.

## 3.3 Prescribed fees

Payment of fees is regulated in terms of section 54 of the Act. The Regulations to the Act provide for two types of fees:

- **Request fee:** This is a non-refundable administration fee paid by all requesters. It is paid before the request is considered.
- **Access fee:** This is paid by all requesters only when access is granted. This fee is intended to re-imburse the private body for the costs involved in searching for a record and preparing it for delivery to the requester.

Santam Limited may withhold a record until the request fee and the deposit (if applicable) have been paid. Refer to [Annexure B](#) below for a list of applicable fees.

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## 3.3.1 Requester

Written notice must be given to a requester of the request fee and amount to be paid before the request may be further processed.

If the search for a record, or preparation of the record for disclosure will require more than the prescribed hours, the requester may be required to pay a deposit, not being more than one third of the access fee that would be payable if the request is granted. If the request is declined, the deposit must be repaid to the requester.

The notice given to the requester must advise the requester that s/he has a right to apply to court against the payment of the request fee or deposit, and should also advise of the procedure of the application.

## 4. HUMAN RIGHTS COMMISSION GUIDELINE

In terms of section 10 of the Act, the Human Rights Commission must compile a guide. This guide is intended to assist users in the interpretation of the Act. The guide will contain a description of the aims of the Act, the contact details of the information officers of all the public bodies, particulars of the public bodies, the manner of access to the records of those public bodies and the remedies available in law regarding a breach of any of the provisions of the Act.

The South African Human Rights Commission's contact details are as follows:

Private Bag 2700

Houghton

2041

Tel: 011 484 8300

Fax 011 484 1360

Web-site: [www.sahrc.org.za](http://www.sahrc.org.za)

## 5. CATEGORIES OF RECORDS

### 5.1 Human Resources division

Records found in this division contain information of employees that include the following:

- (i) any personal records provided to Santam Limited by the employee/personnel;
- (ii) any records a third party has provided to Santam Limited about its personnel;
- (iii) conditions of employment and other personnel-related contractual and quasi-legal records;
- (iv) internal evaluation records;
- (v) other internal records and correspondence related to the particular employee.

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### 5.2 Client-related records

Clients include both juristic and natural entities that receive a service from Santam Limited.

This information includes:

- (i) any records a client has provided to a third party acting for and on behalf of Santam Limited;
- (ii) any records a third party has provided to Santam Limited; and
- (iii) records generated by or within Santam Limited pertaining to the client, including transactional records.

### 5.3 Santam records

This category of records relates, but is not limited to, the following information:

- (i) Financial records
- (ii) Operational records
- (iii) Databases
- (iv) Information technology
- (v) Marketing records
- (vi) Internal correspondence
- (vii) Product records
- (viii) Statutory records
- (ix) Internal policies and procedures
- (x) Treasury related records
- (xi) Securities and equities
- (xii) Records held by officials of Santam Limited

Each request will be evaluated on its own merits. If any record falls within any of the categories of exemptions, then such a request will be refused.

### 5.4 Other parties

Santam Limited may possess records pertaining to other parties, including without limitation, contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers. Alternatively, such other parties may possess records that can be said to belong to Santam Limited.

The following records fall under this category:

- Personnel, client or Santam Limited records which are held by another party as opposed to being held by Santam Limited; and
- Records held by Santam Limited pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

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### 5.5 Records available in terms of other legislation

The requester may also request information that is available in terms of legislation, such as the following:

- Basic Conditions of Employment Act (Act No. 75 of 1997)
- Compensation for Occupational Injuries & Diseases Act (Act No. 130 of 1993)
- Employment Equity Act (Act No. 55 of 1998)
- Labour Relations Act (Act No. 66 of 1995)
- Occupational Health and Safety Act (Act No. 85 of 1993)
- Promotion of Equality and Prevention of Unfair Discrimination Act (Act No. 4 of 2000)
- Skills Development Act (Act No. 97 of 1998)
- Skills Development Levies Act (Act No. 9 of 1999)
- South African Qualifications Authority act (58 of 1995)

In terms of the above legislation, information relating to personnel may be requested.

- Companies Act (Act No. 61 of 1973)
- Short-term Insurance Act (Act No. 53 of 1998)
- Financial Markets Control Act (55 of 1989)
- Financial Services Board Act (97 of 1990)

Records relating to company reporting and Company related records as far as is allowed in terms of these Acts may be requested.

- Income Tax Act (Act No. 58 of 1962 as amended)
- VAT act (89 of 1991)

Records relating to tax, employees and the company may be requested in terms of the above Acts.

**The Santam Information Privacy Office will take into consideration section 8 of the manual to decide on whether or not access to any of the information stated above should be given to the requester.**

## 6. DECISION-MAKING PROCESS

- 6.1 The Santam Information Privacy Office will request Santam Limited to take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the Santam Information Privacy Office will cause notification to the requester be submitted by way of affidavit or affirmation, that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requester must be given access if the request would otherwise have been granted.
- 6.2 The Information Privacy Office will within 30 days of receipt of a correctly completed request, notify the requester of the decision as to whether or not to grant the request.

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If the request is:

**Granted:** the notification must state the applicable access fee (if any) required to be paid upon access, and that the requester has the right to lodge a complaint with the Information Regulator or lodge an application to court against the fee and provide the procedure to be followed should the requester wish to apply to court or lodge a complaint with the Information Regulator against the decision. The form of access in must also be disclosed in the notice. The notice should also state that the requester will be given access to the record after the expiry of the 30 day period unless a complaint to the Information Regulator or an application with a court is lodged within that period.

**Declined:** the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and that the requester has the right to lodge a complaint with the Information Regulator or lodge an application to court against the refusal and provide the procedure to be followed should the requester wish to apply to court or lodge a complaint with the Information Regulator against the decision.

### 6.3 The Santam Information Privacy Office may extend the period of 30 days by a further period not exceeding 30 days if:

- the request is for a large number of records or requires a search through a large number of records;
- the request requires a search for records located in a different office of Santam Limited not situated in the same city;
- consultation between divisions of Santam Limited, or with another private body is required; or
- the requester consents to the extension.

The requester must be notified within the initial 30-day period in writing of the extension, together with reasons therefor, and that the requester may lodge a complaint with the Information Regulator or lodge an application to Court against the extension and the procedure to be followed.

The Santam Information Privacy Office's failure to respond to the requester within the 30-day period constitutes a deemed refusal of the request.

### 6.4 The Santam Information Privacy Office may sever a record and grant access only to that portion which the law does not prohibit access to.

If access is granted, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the Santam Information Privacy Office.

## 7. THIRD PARTIES

If the request is for a record pertaining to a third party, the Santam Information Privacy Office must cause all reasonable steps to be taken to inform that third party of the request. This must be done within 21 days of receipt of the request. The manner in which this is done must be in the fastest means reasonably possible, but if orally, it must thereafter give the third party a written confirmation of the notification. The third party may within 21 days thereafter either make representation to Santam Limited as to why the request should be refused, alternatively grant written consent to the disclosure of the record. The third party must be advised of the decision taken on whether to grant or decline the request, and must also be advised of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.



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### 8. GROUNDS FOR REFUSAL OF A REQUEST

Notwithstanding compliance with section 50, the request may be declined in accordance with one of the prescribed grounds in terms of the Act, namely:

- 8.1 The Act prohibits the unreasonable disclosure of the personal information of natural-person third parties to requesters. This includes the personal information of deceased persons. However Section 63(2) of the Act does provide exceptions to this.
- 8.2 A request must be refused if it relates to records containing third party information pertaining to:
- trade secrets;
  - financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or
  - information, supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition.

The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

- 8.3 The Act prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.
- 8.4 A request for access to a record held by Santam Limited must be refused if disclosure could reasonably be expected to:
- endanger the life or physical safety of an individual;
  - prejudice or impair the security of a building, structure or system, including but not limited to a computer or communication system, means of transport or any other property.

Santam Limited may also refuse a request for access to information that would prejudice methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.

- 8.5 A refusal of a request is mandatory if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.
- 8.6 Access to records containing information about Santam Limited itself is not mandatory, but rather discretionary. Santam Limited may refuse access to a record if the record:
- contains trade secrets of Santam Limited;
  - contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of Santam Limited;
  - contains information which, if disclosed, could reasonably be expected to put Santam Limited at a disadvantage in contractual or other negotiations, or prejudice Santam Limited in commercial competition; or
  - consists of a computer program owned by Santam Limited;

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Notwithstanding the above, the information must be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

- 8.7 The disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage is prohibited. Disclosure is discretionary if such research pertains to Santam Limited itself.

Notwithstanding any of the above-mentioned provisions, a record must be disclosed if its disclosure would:

- reveal evidence of a substantial contravention of or failure to comply with the law, imminent and serious public safety or environmental risk; and
- if the public interest in the disclosure clearly outweighs the harm.

## 9. RIGHTS OF APPEAL

A requester that is dissatisfied with the refusal to grant access to any information may, within 30 days of notification of the decision, apply to court for relief. Likewise, a third party dissatisfied with the decision to grant a request may, within 30 days of notification of the decision, apply to court for relief.

It should be noted that notwithstanding any provision in this Act, the court may examine the record(s) in question. No record may be withheld from the court on any grounds. The court may not, however, disclose the contents of the record(s).

The court is empowered to grant any order that is just and equitable, including:

- confirming, amending or setting aside the decision;
- requiring the information officer to take any action, or refrain from taking any action as identified by the court within a specified period;
- granting an interdict, interim or special relief, declaratory order or compensation; or
- an order as to costs.

## 10. PROCESSING OF PERSONAL INFORMATION IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT NO 4 OF 2013

- 10.1 Santam Limited must collect and use information, including personal information as defined in the Protection of Personal Information Act, to the extent that it is necessary to properly perform the functions, obligations and duties and its obligations towards data subjects and as a financial firm.

- 10.2 Santam Limited processes personal information of the following data subject categories:

10.2.1 Employees and job applicants

10.2.2 Third party suppliers

10.2.3 Regulatory bodies

10.2.4 Business partners with whom Santam has a business arrangement

10.2.5 Policyholders

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10.3 The following categories of personal information are processed to fulfil the functions.

1. First name	<b>GENERAL IDENTIFICATION INFORMATION</b>
2. Middle name	
3. Last name	
4. Initials	
5. If disclosure of the name itself would reveal information about the person.	
6. E-mail address	<b>GENERAL CONTACT DETAILS</b>
7. Physical address	
8. Telephone number	
9. Location information	
10. Online identifier	
11. Any identifying number	<b>ID/PASSPORT NUMBER/POLICY NUMBER/SHAREHOLDER NUMBER/ DATE OF BIRTH/PAY CODE</b>
12. Identifying symbol	
13. Other particular assignment to a person	
14. The name of the person if it appears with other personal information relating to the person	
15. Birth of the person	
16. Age	
17. Personal opinions	
18. Personal views	
19. Personal preferences	
20. Views/opinions of/another individual about a person	
21. Beliefs/philosophical beliefs	
22. Conscience	
23. Political persuasion	
24. Marital status	<b>MARITAL STATUS</b>
25. Financial history	<b>FINANCIAL HISTORY</b>
26. Employment history	<b>EMPLOYMENT HISTORY</b>
27. Correspondence sent of a private or confidential nature	<b>CORRESPONDENCE SENT OF A PRIVATE OR CONFIDENTIAL NATURE</b>
28. Medical history	<b>MEDICAL INFORMATION</b>
29. Physical health	
30. Mental health	
31. Well-being	
32. Disability	
33. Blood type	
34. Pregnancy	

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35. Race/Colour	<b>GENDER/ETHNICITY/NATIONALITY</b>
36. Gender	
37. Nationality	
38. Ethnic origin	
39. Social origin	
40. Criminal history	<b>CRIMINAL HISTORY</b>
41. Culture	<b>LANGUAGE/EDUCATION/CULTURE/RELIGION</b>
42. Language	
43. Education	
44. Religion	
45. Sex life	<b>SEX ORIENTATION/LIFE</b>
46. Sexual orientation	
47. Trade union membership	<b>TRADE UNION MEMBERSHIP</b>
48. Biometric information	<b>BIOMETRIC INFORMATION</b>

- 10.4 Where appropriate, we request the third parties with whom we share information with, to take adequate measures and comply with applicable data protection laws and protect the information we are disclosing to them. We do this through contractual arrangements with these third parties. We also take internal measures to ensure that the third parties we appoint have appropriate measures to protect the information we provide to them.
- 10.5 Santam Limited employs security controls, electronic and physical that are designed to maintain confidentiality, prevent loss of, unauthorized access and damage to information by unauthorised parties. The cyber security strategy of Santam Limited is aligned to industry standard frameworks to ensure effective cyber security risk management for the organisation.
- 10.6 Data subjects have the following remedies where there's interference with the protection of their personal information by Santam Limited:
- 10.6.1 Lodge a complaint with Santam Limited Client Care Department at **complaints@santam.co.za**, or lodge the complaint with the Santam Information Privacy Office at **SantamGroupPrivacy@santam.co.za** and where unsatisfied, lodge the complaint with the Information Regulator in the prescribed manner and form.
- 10.6.2 Institute civil action for damages in a court having jurisdiction.
- 10.7 Santam's Information Privacy Policy is available on the Santam website at [www.santam.co.za](http://www.santam.co.za)

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### ANNEXURE A

#### FORM C

#### 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:

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#### B. Particulars of person requesting access to the record

(a) The particulars of the person who requests access to the record must be given below.

(b) The address and/or fax number in the Republic to which the information is to be sent must be given.

(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

Fax number: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Capacity in which request is 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.

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

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

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2. Reference number, if available: \_\_\_\_\_

3. Any further particulars of record: \_\_\_\_\_

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### 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:
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

Mark the appropriate box with an X.

#### NOTES:

- (a) Compliance with your request in 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:  
 Copy of record\*       Inspection of record
2. If record consists of visual images  
*(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.)*  
 View images       Copy of the images\*       Transcription of images\*
3. If record consists of recorded words or information which can be reproduced in sound:  
 Listen to the soundtrack (audio cassette)   
 Transcription of soundtrack\* (Written or printed document)
4. If record is held on computer or in an electronic or machine-readable form:  
 Printed copy of record\*   
 Printed copy of information derived from the record\*   
 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?

Postage is payable.      YES  NO

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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 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
*Signature of requester/person on whose behalf request is made*



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### ANNEXURE B

#### FEES IN RESPECT OF PRIVATE BODIES

1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R 1,10 for every photocopy of an A4-size page or part thereof.
2. The fees for reproduction referred to in regulation 11(1) are as follows:

	R
(a) For every photocopy of an A4-size page or part thereof	01,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in machine readable form	00,75
(c) For a copy in a computer-readable form on –	
(i) Stiffy disc	07,50
(ii) Compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00
3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is 50,00
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:

(1) (a) For every photocopy of an A4-size page or part thereof	01,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	00,75
(c) For a copy in a computer-readable form on –	
(i) Stiffy disc	07,50
(ii) Compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00
(f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation.	

  - (2) 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.
  - (3) The actual postage is payable when a copy of a record must be posted to requester.