



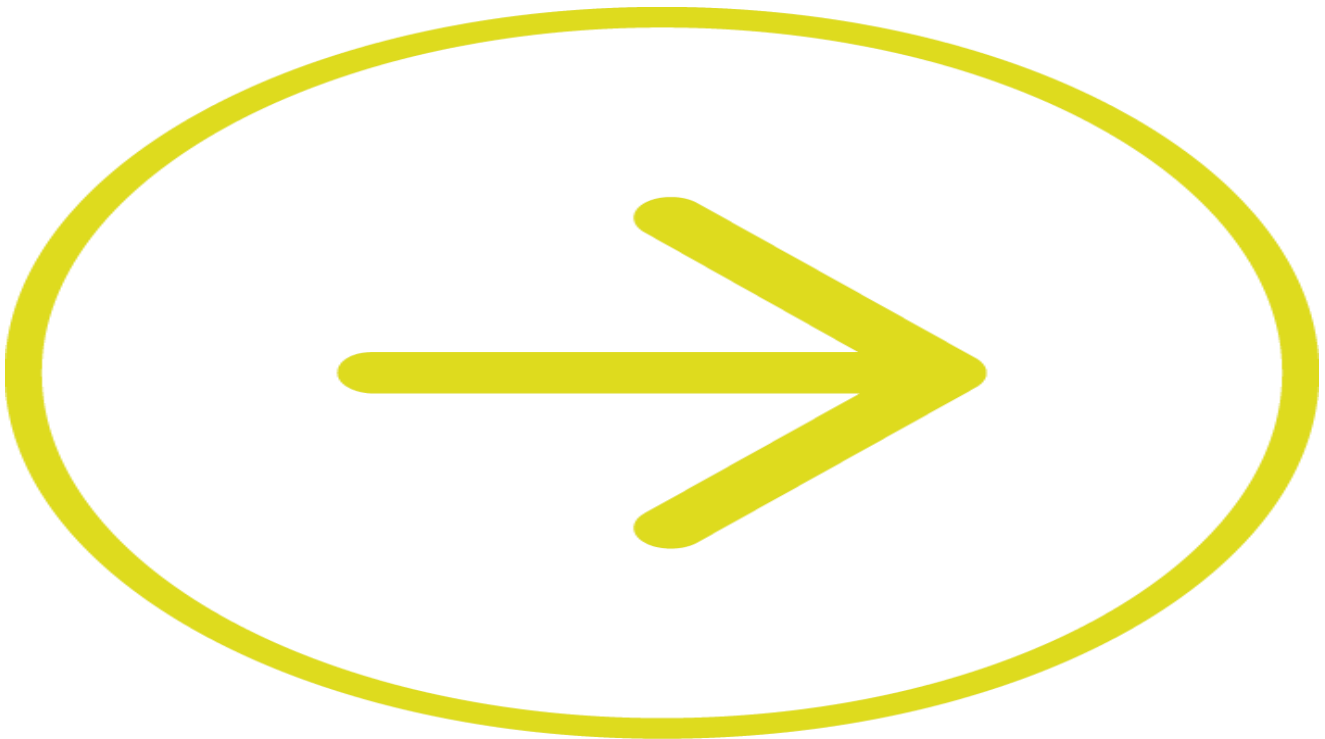
## **BIDVEST TANK TERMINALS**

### **PAIA Manual**

**Document Number: IMS-BUS-MAN-01**

Revision: 01

Date Of Issue: 08 March 2022



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### Revision History and Approval

Rev.	Nature of changes	Approval	Date
00	New manual	Managing Director.....  Sign	31 March 2021
01	Changed Deputy Information Officer contact details, page 5	Managing Director.....  Sign	08 March 2022

## **Introduction**

### **Objectives and scope of this manual**

The manual is developed to promote transparency, accountability, and effective governance as per PAIA to ensure that anyone requesting access to BTT's information can exercise their rights.

BTT does recognise that everyone has a constitutional right to access information, provided there is a valid reason for doing so.

The purpose of this manual is, therefore, to:

- Provide information about the types of records held by BTT
- Outline a process of how to obtain access to the records and associated fees when requesting access to certain records
- Set out grounds for granting or refusal of access to the records

The manual was prepared as per Section 51 of Promotion of Access to Information Act (PAIA), Act No. 2 of 2000 and the South African Human Rights Commission's guide.

The manual is not exhaustive of, nor does it comprehensively deal with every procedure provided for in PAIA. We advise anyone requesting information as per PAIA to familiarise themselves with the Act and this manual's contents before making any requests to access BTT information.

### **Where to find this manual**

The manual is available for public and inspection at the locations listed below. BTT may amend this manual from time to time and make the manual available.

- On our website: [www.bidtanks.com](http://www.bidtanks.com)
- On request from our Deputy Information Officer at the contact details given in this manual
- From the South African Human Rights Commission (SAHRC) at the contact details published on their website and given in this manual

## Definitions and Abbreviations

**Deputy Information Officer (DIO):** - The person to whom any power or duty conferred or imposed on an Information Officer (IO) by POPIA has been delegated

**Information Officer (IO):** - Head of a Private Body (i.e. Managing Director)

**Personal Information:** - Information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:

Race, gender, sex pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language or birth; or education, medical, financial, criminal or employment history; or identifying number, symbol, e-mail address, physical address, telephone number, location, online identifier; or biometrics; personal opinions, views or preferences; or correspondence of a private or confidential nature; or views or opinions of another person about that person; or name if it can be linked to other information;

**Private Body:** - A natural or juristic person (excludes public Body) who carries on any trade, business or profession, i.e. Island View Storage (Pty) Ltd t/a Bidvest Tank Terminals (BTT);

**Processing:** - means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including the collection, receipt, recording, or organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; or dissemination through transmission, distribution or making available in any other form; or merging, linking, as well as restriction, degradation, erasure or destruction of information;

**Promotion of Access to Information Act 2 of 2000 (PAIA):** - Enforces Section 32 of the Constitution, which provides that everyone has the right of access to any information held by a public or private body when that required information is for the exercise or protection of any rights.

**Protection of Personal Information Act 4 of 2013 (POPIA):** - Enforces the right to privacy contained in Section 14 of the Constitution by promoting the protection of and responsible processing of personal information.

**Public Body:** - Any department of state or administration in the national or provincial government or municipality;

**Public safety or environmental risk:** - Harm or risk to the environment or the public (including individuals in their workplace) associated with:

- A product or service which is available to the public;
- A substance released into the environment, including, but not limited to, the workplace;
- A substance intended for human or animal consumption;
- A means of public transport; or
- An installation or manufacturing process or substance which is used in that installation or process;

**Records:** - A document or recorded information regardless of the form or medium, in the possession or under the control of the organisation irrespective of whether or not the organisation created it;

**Requester:** - Anyone that requests access from public or private entity to a record or information containing their personal information. A requester also refers to anyone requesting access to a record or information on behalf of the person to whom the record relates.

**South African Human Rights Commission (SAHRC):** - As per 181(1)(b) of the Constitution, the independent national human rights institution that supports constitutional democracy through promoting, protecting and monitoring the attainment of everyone's human rights in South Africa without fear, favour or prejudice.

#### **Contact details of Information Officer, section 51(1)(a)**

Our Managing Director, David Leisegang, is the Information Officer (IO) of BTT. He has appointed one Deputy Information Officer (DIO) to facilitate any requests to access BTT's records.

Any person who wishes to request any BTT's records for the exercise or protection of any rights may contact our IO or DIO as follows:

<b>General Contact Details</b>	
<b>Company Name</b>	Island View Storage (Pty) Ltd t/a Bidvest Tank Terminals
<b>Postal Address</b>	PO BOX 149, DURBAN, 4000
<b>Street Address</b>	1 <sup>st</sup> Floor Glass House 5, Glass House Office Park, 309 Umhlanga Rocks Drive, DURBAN, 4319
<b>Information Officer contact details</b>	
<b>Managing Director</b>	David Leisegang
<b>Direct Landline</b>	031 277 5602
<b>Street Address</b>	1 <sup>st</sup> Floor Glass House 5, Glass House Office Park, 309 Umhlanga Rocks Drive, DURBAN, 4319
<b>Fax Number</b>	086 262 1387
<b>e-mail address</b>	<a href="mailto:DavidL@bidtanks.com">DavidL@bidtanks.com</a>
<b>Deputy Information Officer contact details</b>	
<b>DIO</b>	Thokozile Jili
<b>Direct Landline</b>	031 277 5624
<b>Street Address</b>	1 <sup>st</sup> Floor Glass House 5, Glass House Office Park, 309 Umhlanga Rocks Drive, DURBAN, 4319
<b>Fax Number</b>	086 674 6695
<b>e-mail address</b>	<a href="mailto:ThokozileJ@bidtanks.com">ThokozileJ@bidtanks.com</a>

## SAHRC guidance to requesters on how to use PAIA, Section 51(1)(b)

In terms of Section 10 of PAIA, SAHRC has compiled and published a guide to assist people in making requests for information under PAIA. The guide, sometimes called Section 10 Guide, is available in all 11 South African official languages. Please direct any queries to:

The South African Human Rights Commission: PAIA Unit

Postal Address: Private Bag 2700

Houghton

2041

Telephone +27 (11) 484 8300

Fax: +27 (11) 484 0582

e-mail: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

Copies of the guide are also available at all nine provincial SAHRC offices.

### Subjects and Categories of records held by BTT

#### Publicly available records, Section 51(1)(c)

The records listed below are freely available without submitting a formal request and payable fees to access the records in terms of PAIA.

**Table 1: Publicly available records and access to such records**

Description of categories of records automatically available in terms of Section 52(1)(a) of PAIA	Manner of access to records as per Section 52(1)(b)
<b>For inspection as per 52(1)(a)(i)</b>	
PAIA Manual	BTT website ( <a href="http://www.bidtanks.com">www.bidtanks.com</a> )
<b>Available free of charge as per 52(1)(a)(iii)</b>	
BTT Bulletins, Careers, Corporate Society Initiatives Company profile, Business Standards and Policies, Certificates, Standard Trading Conditions, NERSA requirements uploaded onto the BTT website	BTT website ( <a href="http://www.bidtanks.com">www.bidtanks.com</a> )
Organisational structure, the functions of the various departments of BTT	Records are available on request from contact details provided in <b>Contact details of Information Officer, section 51(1)(a)</b>

**The records held by BTT that may be requested, Section 51(1)(d)**

BTT maintains the records in terms of other applicable legislation. These records contain information of BTT, employees, customers, authorities/ regulators, and service providers. As a result, BTT will treat these records as confidential and not disclose to anyone without a given consent of the person to whom the information relates.

<b>Applicable Acts</b>	
National Ports Act No. 12 Of 2005	National Building Regulations and Building Standards Act, 103 Of 1977 (NBRBSA)
National Energy Regulator Act, 40 Of 2008 (NERA)	National Regulator for Compulsory Specifications Act, 5 Of 2008 (NRCSA)
Broad-Based Black Economic Empowerment Act 53 Of 2003(BBBEEA)	National Railway Safety Regulator Act 16 Of 2002 (NRSRA)
Employment Equity Act 55 Of 1998 (EEA)	Occupational Health and Safety Act, 1993 (OHSA)
Environment Conservation Act, 73 Of 1989 (ECA)	National Health Act, 61 Of 2003
Fencing Act, 31 Of 1963	Nursing Act, 33 Of 2005 (NA)
Fire Brigade Services Act, 99 Of 1987 (FBA)	Firearms Control Act, 60 Of 2000
National Environment Management: Air Quality Act 39 Of 2004 (NEM: AQUA)	Private Security Industry Regulation Act 56 Of 2001 (PSIRA)
National Environmental Management Act 107 Of 1998 (NEMA)	Private Security Industry Levies Act 23 Of 2002 (PSILA)
National Environmental Management: Biodiversity Act, 10 Of 2004	Standards Act, 8 Of 2008 (Sa)
National Environmental Management: Waste Act 59 Of 2008 (NEM: WA)	Tobacco Products Control Act 83 Of 1993 (TPCA)
National Veld and Forest Fire Act, 101 Of 1998 (NVFFA)	Legal Metrology Act 9 Of 2014
National Heritage Resources Act, 25 Of 1999 (NHRA)	Basic Conditions of Employment Act 75 Of 1997 (BCEA)
<b>Applicable Acts</b>	
National Water Act 36 Of 1998 (NWA)	Labour Relations Act 66 Of 1995 (LRA)
Water Services Act, 108 Of 1997 (WSA)	Protected Disclosure Act 26 Of 2000 (PDA)



Compensation for Occupational Injuries and Diseases Act, 130 Of 1993 (COIDA)	Unemployment Insurance Act, 63 Of 2001 (UIA)
Disaster Management Act 57 Of 2002 (DMA)	Unemployment Insurance Contributions Act, 4 Of 2002 (UICIA)
Hazardous Substances Act 15 Of 1973 (HSA)	Copyright Act No. 98 Of 1978
Non-Proliferation of Weapons of Mass Destruction Act 87 Of 1993	Trade Marks Act, 194 Of 1993 (TMA)
Competition Act 89 Of 1998	Formalities in Respect of Leases of Land Act 18 Of 1969 (FIRLLA)
Consumer Protection Act 68 Of 2008	Justices of The Peace and Commissioners of Oaths Act 16 Of 1963 (COAA)
Auditing Profession Act 26 Of 2005	Preferential Procurement Policy Framework Act No. 5 Of 2000
National Credit Act 34 Of 2005	Promotion of Access to Information Act, 2 Of 2000 (PAIA)
Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972	Protection of Personal Information Act, 4 Of 2013 (POPIA)
Tax Administration Act (TAA)	National Road Traffic Act 93 Of 1996 (NRTA)
Value Added Tax Act 89 Of 1991 (VATA) B20	Currency and Exchange Act, 9 Of 1933
Carbon Tax Act 2019	Income Tax Act 58 Of 1962 (ITA)
Companies Act 2008	

## Right of access to records

As per Section 50 of PAIA, BTT grant the requester access to the records held, only if they complied with the following requirements:

- The record is required for the exercise or protection of any rights;
- The requester complies with the procedural requirements of PAIA relating to a request for access to the requested record; and
- Access to the requested record is not refused in terms of any grounds for refusal in Part 3, Chapter 4 of PAIA

Furthermore, the requester must use reasonable means to prevent unauthorised disclosure and protect the confidentiality of records provided to them by BTT.

Note: BTT may institute legal proceedings against the requester if it is reasonably suspected that the said requester has obtained access to the BTT's records by submitting materially false or misleading information.

## Procedure for obtaining access to information, *Section 51(1)(e)*

### 1. Application Process

- The requester must comply with all the procedural requirements in PAIA relating to the request for access to a record.
- The requester must complete Form 1 **Annexure A** in full to avoid any delays.
- Suppose the requester is asking on behalf of someone. In that case, as per section 53(2)(f) of PAIA, they must submit a letter of authorisation from the person they represent.

Note: The letter of authorisation must state that the requester is authorised to request the record and specify the purpose of requesting the data, documents or information.

- A requester who seeks access to a record containing their personal information will not be required to pay the request fees.
- If the requester is seeking access to a record on behalf of someone, they must pay the initial non-refundable R50.00 (excluding VAT) is payable on submission. The requester must:
  - a. Contact DIO to arrange tax invoice for the initial payment, refer to the contact details provided in **Contact details of Information Officer, section 51(1)(a)**. The payment process will be managed through 1-Time Customer Module.
  - b. Submit a completed form and supporting documents (i.e. Letter of Authorisation, Proof of Payment) to DIO at the e-mail, fax or post to the contact details provided in **Contact details of Information Officer, section 51(1)(a)**.

## **2. Validation and acknowledgement**

- DIO receives and validates the application request to see whether:
  - i. The information provided is complete and verified, and the required information is available within BTT; and
  - ii. There will be no grounds for conflict of interest in the event that the application is granted.
- DIO respond to the requester with an acknowledgement of receipt and confirm the status of the application.
- If DIO refuses access to a record, the requester will be notified of the following:
  - i. Adequate reasons for the refusal; and
  - ii. The requester may lodge an application with a court against the request's refusal and the procedure, including the period, for lodging the application.

## **3. Processing of information**

- If DIO grants access to the requested records, DIO will:
  - i. Calculate associated costs required to search, reproduce, and prepare the records.
  - ii. Send the requester a tax invoice which must be paid prior to providing the information. The information would only be released once proof of payment has been provided.
- The period for processing information would be less than 30 days unless the requester stated special reasons to the DIO's satisfaction that circumstance dictates that the stipulated period is not complied with.
- The DIO may notify the requester and get consent to extend the original 30 days further by not more than 30 days if the processing would involve searching through the extensive database, cause a business interruption, or require access to the records stored at other facilities.

Note: The prescribed periods will not start until the requester has furnished all the necessary and required information.

## **4. Notification of 3rd party to whom/ which the record relates of the request**

If access is requested to a record containing information about a 3rd party, BTT is obliged to notify this 3rd party to inform them of the request within 21 days after that request is received. In terms of POPIA, this gives the 3rd party the opportunity to respond by either giving consent to disclose the information or provide reasons why the access should be denied.

## **5. Final notification**

- DIO notifies the requester of completing the request, the form in which access will be given and outstanding fees payable to BTT.
- The requester may lodge an application with Court against the payable access fee and the form in which access will be granted.

## 6. Payment of fees and delivery

- DIO notifies the requester of the required payment details and method. The requester must pay prescribed access fees listed below before being given requested record:

Activity	Associated fee (ZAR) (incl VAT)
For every photocopy of an A4 size page or part thereof	1.25
For every printed of an A4 size page or part thereof	0.85
For a copy in a computer-readable form on:	
(i) Stiffy disc	8.55
(ii) Compact disc/ USB Flash drive	70
(i) For a transcript of visual images, for an A4-size page or part thereof	40
(ii) For a copy of visual images	60
(iii) For a transcript of audio record, for an A4-size page or part thereof	20
(iv) For a copy of an audio record	30
To search for and prepare the record for disclosure, <b>ZAR 30</b> for each hour or part of an hour reasonably required for such research	
The actual postage fee is payable when a copy of a record must be posted to the requester	

## **7. Compliance of the requester to any provisions of POPIA**

All records received by the requester from BTT may only be used for the purpose for which it is provided. Such records may not be retained or utilised in any format or for any other purpose. Upon completion of the project for which the record was requested, the requester must certify in writing and within 7 days of the completion of the project, that it has duly destroyed such records.

### **Mandatory and discretionary grounds for granting or refusal of access**

#### **Mandatory disclosure in the public interest**

There are, however, exceptional situations as per Section 70 of PAIA when BTT can share these records without given consent. BTT will have to grant a request for access to records held if:

- The disclosure would reveal evidence of:
  - A significant breach of the Law; or
  - Imminent and severe public safety or environmental risk; and
- Public interest in disclosing these records outweighs the potential harm to a protected interest to justify the records' withholding.

#### **Severability**

Before refusing access to a record, DIO must assess whether the part of the record contains information which may or must be refused can reasonably be severed from any part that can be disclosed. If the information can reasonably be severed, then the record must be released in redacted form.

#### **Deemed refusal of a request**

In terms of PAIA, DIO may consider the following as decisions to refuse a request for access to the record:

- If DIO fails to notify the requester on the decision regarding the request for access within 30 days;
- Suppose all reasonable steps were taken to find the requested record and there are reasonable grounds for believing that the record is in BTT's possession but can't be found, or it does not exist. In that case, DIO will provide an affidavit or affirmation to notify the requester that it is impossible to access that records.
  - The affidavit or affirmation shall include a full account of all steps taken to find the record in question, including communications with every person who searched on behalf of DIO.

#### **Grounds for refusing access to the records**

The main grounds for BTT to refuse a request for information shall in terms of PAIA, be:

##### **Mandatory protection of the privacy of a 3<sup>rd</sup> party (who is a natural or juristic person)**

DIO must refuse a request for access to a record if the disclosure would involve the unreasonable disclosure of personal information about a 3<sup>rd</sup> party, including a deceased person.

However, a record may not be refused if it contains information:

- About a person who has given consent in writing to disclose the information;

- Information is already in the public domain;
- About a deceased, the deceased's next of kin has given written consent;

### **Mandatory protection of commercial information a 3rd party**

DIO must refuse a request for access to a record if it contains:

- Trade secrets of a 3<sup>rd</sup> party;
- Financial, commercial, scientific or technical information, where if disclosed would likely to cause harm to the commercial or financial interest of that 3<sup>rd</sup> party;
- Confidential information supplied by a 3<sup>rd</sup> party, where if disclosed could reasonably be disadvantageous in contractual or other negotiations, prejudice in commercial competition;
- The owned computer programme in terms of Copyright Act 1978, unless access is granted

However, a record may not be refused if it contains information:

- About a 3<sup>rd</sup> party who has given consent in writing to disclose the information;
- Information is already in the public domain;

### **Mandatory protection of certain confidential information of 3rd party**

DIO must refuse a request for access to a record if the disclosure would constitute a breach of a duty of confidence owed to a 3<sup>rd</sup> party in terms of an agreement.

However, a record may not be refused if it contains information about the 3<sup>rd</sup> party concerned and the 3<sup>rd</sup> party had given consent in writing to disclose the information.

### **Mandatory protection of the safety of individuals, and protection of property**

DIO must refuse a request for access to a record if the disclosure could reasonably be expected to:

- Endanger an individual's life or physical safety;
- Would be likely prejudice or impair a building's security, structure, systems, procedures, plans witness protection, or public safety.

### **Mandatory protection of records privileged from production in legal proceedings**

DIO must refuse a request for access to a record if those records are not available to anyone else, other than the person who has the privilege to access those records unless the person entitled to the privilege has waived their rights.

### **Mandatory protection of research information of 3rd party, and protection of research information**

DIO must refuse a request for access to a record if the disclosure would be likely to expose 3<sup>rd</sup> party, BTT, a person or Subject Matter Experts of the research to serious disadvantage

## References

- Promotion of Access to Information Act 2 of 2000
- South African Human Rights Commission guide, 2014
- Protection of Personal Information Act 4 of 2013
- Guidelines on the Registration of Information Officers
- Bidvest Group Manual
- J752 Form C: Requesting for access to record of private body, Department of Justice and Constitutional Development
- PAIA brochure, 2017. Department of Justice and Constitutional Development

**ANNEXURE A**

**FORM 1**

**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:

--

**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: .....

Telephone number: (.....) ..... Fax number: (.....) .....

E-mail address: .....

Capacity in which request is made, when made on behalf of another person [Attach the letter of authorization]:

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

**C. Particulars of person on whose behalf request is made**

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:

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

**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 below, 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 for access 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:**

	copy of record*		inspection of record		
<b>2. If record consists of visual images -</b> <b>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):</b>					
	view the images		copy of the images*		transcription of the images*
<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)		
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>					
	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
--	-----	----

**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:

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

**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.....year.....

.....  
SIGNATURE OF REQUESTER /  
PERSON ON WHOSE BEHALF REQUEST IS MADE