

SECTION A

CONCISE GUIDELINES

CONCISE GUIDELINES FOR ACCESS TO RECORDS OF THE CENTRAL UNIVERSITY OF TECHNOLOGY, FREE STATE IN ACCORDANCE WITH THE PROMOTION OF ACCESS TO INFORMATION ACT, ACT NO. 2 OF 2000

1. INTRODUCTION

The Promotion of Access to Information Act, Act No. 2 of 2000 (hereinafter referred to as “the Act”), with the exception of Sections 10, 14, 16 and 51, came into effect on 9 March 2001 and provides that a person (“the requester”) may apply for access to certain records of both private and public bodies.

Sections 10, 14, 16 and 51 of the Promotion of Access to Information Act, Act No. 2 of 2000, came into effect on 15 February 2002.

In view of the fact that the Central University of Technology, Free State, in terms of the definitions clause of the Act, is regarded as a “public body”, the Act shall be discussed or referred to hereafter only to the extent that it applies to a public body. The objects of the Act are specified in Section 9 of the Act, and state as follows:

The objects of this Act are –

(a) to give effect to the constitutional right of access to –
(i) any information held by the State; and

(ii) any information that is held by another person and that is required for the exercising or protection of any rights;

(b) to give effect to that right -

(i) subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and

(ii) in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution;

(c) to give effect to the constitutional obligations of the State of promoting a human rights culture and social justice, by including public bodies in the definition of “requester”, allowing them, amongst others, to access information from private bodies upon compliance with the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;

(d) to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and

(e) generally, to promote transparency, accountability and effective governance of all public and private bodies by, amongst others, empowering and educating everyone -

(i) to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

(ii) to understand the functions and operations of public bodies; and

(iii) to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights.

The full text of the Act, in English, is available on the Internet at <http://polity.org.za/govdocs/legislation/2000/index.html>

Section 14(1) of the Act states that “within six months after the commencement of this section or the coming into existence of a public body, the information officer of the public body concerned must compile in at least three official languages a manual, which must contain extensive details, *inter alia* regarding information that a requester may need to enable him or her to apply for access to a record in terms of the Act.”

2. APPLICATION FORM

The application form LS226 (available in English, Afrikaans and Sesotho) can be completed electronically, after which it can be printed. Hard copies of the application form are also available by request at info@tfs.ac.za or at telephone number +27 51 5073911 and facsimile number +27 51 5073019.

3. FEES PAYABLE

The application form must be completed in full in accordance with the instructions given on the form and must be accompanied by the prescribed fees payable. Access fees shall be determined by a number of variables, e.g. the format in which the record must be made available, the time spent in searching for the record, the voluminosity of the request, etc.

The request fee is a minimum fee payable for the submission of an application. This amount is currently R39.90 (thirty nine rand and ninety cents) per request payable by every requester, other than a personal requester, referred to in regulation 7(2) of the Regulations regarding the promotion of Access to Information Act, and is not refundable. Request fees are payable upon submission of the

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request form. An additional deposit may be levied in certain cases, depending on the nature (volume) of the information requested, as well as the format in which it is requested. The deposit shall be deducted from the access fee, if applicable.

Access fees are payable after a request for access to a record has been processed, with the exception of a record that contains personal information of the requester, and provided that the record is ready to be made available. Please note that where at all possible, a quotation for the access fees shall first be furnished to the requester.

Until further notice, the following fees will be used as general guidelines for the calculation of access fees:

Fees for reproduction

The fee for a copy of the Manual as contemplated in Regulation 5(c) of the Regulations regarding the Promotion of Access to Information Act is R0-68 for every photocopy of an A4-size page or part thereof.

For every photocopy of an A4-size page or part thereof (colour copies will be quoted separately): R0-68 per black-and-white copy.

For every printed copy of an A4-size page or part thereof held on computer or in electronic or machine-readable form (colour copies will be quoted separately): R0-46 per black-and-white copy.

For a copy in computer-readable form on -

- (i) stiffy disk: R5-70 each; and
- (ii) compact disc: R45-60 each

For a transcription of visual images - A4-size page or part thereof: R25-08

For a copy of visual images: R68-40

For a transcription of an audio record - A4-size page or part thereof: R13-68

For a copy of an audio record: R19-38

Please note! Value-added Tax ("VAT") is included in all the above-mentioned fees.

Access fees payable

(Unless exempted under section 22(8) of the Act):

For every photocopy of an A4-size page or part thereof (colour copies will be quoted separately): R0-68 per black-and-white copy.

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For every printed copy of an A4-size page or part thereof held on computer or in electronic or machine-readable form (colour copies will be quoted separately): R0-46 per black-and-white copy.

For a copy in computer-readable form on -

- (i) stiffy disk: R5-70 each; and
- (ii) compact disc: R45-60 each

For a transcription of visual images - A4-size page or part thereof: R25-08

For a copy of visual images: R68-40

For a transcription of an audio record - A4-size page or part thereof: R13-68

For a copy of an audio record: R19-38

To search for the record for disclosure purposes, excluding the first hour, which is reasonably required for such a search and preparation: R17-10 per hour or part of an hour

The actual postage fee is payable when a copy of a record must be posted to a requester.

For purposes of Section 22 (2) of the Act, the following applies:

- (i) Six hours are the hours to be exceeded before a deposit is payable; and
- (ii) One third of the access fee is payable as a deposit by the requester.

Please note! Value-added Tax ("VAT") is included in all the above-mentioned fees.

4. PAYMENT OF FEES

Fees payable must be deposited against the entity/account number B0015044 in cash, by cheque or by postal order, at the cashiers at the following address (no

credit card payments are allowed):

Main Building
20 President Brand Street
Bloemfontein

Direct payments to the Central University of Technology, Free State can be made into the following bank account: ABSA, Branch code: 334134, Account number: 470831901, Reference number: B0015044.

Office hours are Mondays to Fridays from 8:00 to 16:30. The cashiers are open during lunch.

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Payments made by mail can be addressed as follows: (Cheques/bills must be made payable to the "Central University of Technology, Free State"):

Postal Address:

The Information Officer
c/o The Registrar
Central University of Technology, Free State
Private Bag X20539
Bloemfontein
9301

(Please Note: No cash is to be sent by mail)

5. PROCEDURE FOR THE APPLICATION FOR ACCESS TO INFORMATION

A requester must submit the completed and signed application form, together with the access fee, by hand, by mail or by facsimile, to the Registrar's Office. Application forms can also be submitted by e-mail, e.g. as an attached file, provided that proof of payment of the prescribed fees is included. The e-mail address is info@tfs.ac.za.

All applications must comply with the requirements of Sections 11(1) and 18 of the Act. Please note that Section 11 of the Act expressly provides that an application for access to information can *inter alia* be refused in the event where the application does not comply with the procedural requirements of the Act.

6. TIME LIMITS FOR DEALING WITH REQUESTS

Section 87 of the Act provides that in the first twelve months after the Act comes into effect, a public body must grant or refuse a request for access to information within 90 days, and notify the requester accordingly. In the following twelve months, the 90-day period is reduced to 60 days. Thereafter it is further reduced to 30 days.

Should the Central University of Technology, Free State not respond within the prescribed time limits, a requester may deduce that the Central University of Technology, Free State refuses to grant access to the required information, and thereafter may bring the application to court.

7. PROVIDING ACCESS, AND THE FORMAT IN WHICH INFORMATION MUST BE MADE AVAILABLE

Sections 29 to 31 of the Act provide for the format in which a record must be made available.

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8. REFUSAL TO GRANT ACCESS TO INFORMATION

A public body may legitimately refuse to grant access to a record. The grounds for refusal are set out in Sections 33 to 45 of the Act.

9. APPLICATION TO COURT

Sections 78 to 82 provide for an application to court to gain access to a record.

10. ENQUIRIES

Any enquiries with regard to the Act can be made by e-mail to info@tfs.ac.za, by fax or in person, as indicated in this document.

11. SUMMARY

At present there is much uncertainty regarding certain provisions of the Act, even within the Department of Justice (which was responsible for drafting the Act).

One of the most problematic aspects is the uncertainty regarding the interpretation of Section 3, which states that the Act applies to the records of the Central University of Technology, Free State regardless of when such records came into existence.

Usually there is an assumption against retrospectivity; this particular provision, however, creates exactly the opposite impression.

Central University of Technology, Free State personnel are advised to provisionally accept that this particular provision does indeed have retrospective effect, until such time as our courts decide on the matter.

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PROMOTION OF ACCESS TO INFORMATION ACT: CENTRAL UNIVERSITY OF TECHNOLOGY, FREE STATE

INFORMATION OFFICER

DEPUTY INFORMATION OFFICERS

A. PROCESS

RESPONSIBILITIES

1. Deputy Information Officer (Co-ordination) – Registrar

(i) Prepare list of automatically available records (including procedures and fees

for reproduction & mailing).

- (ii) Communicate applicable procedures.
- (iii) Receive requests.
- (iv) Assist requesters.
- (v) Transfer requests, where necessary.
- (vi) Extend period to deal with request, where necessary.
- (vii) Administer requests (e.g. fee administration, correspondence).
- (viii) Seek legal advice.
- (ix) Record all requests.
- (x) Obtain records from assistant information officers.
- (xi) Communicate (mail) records to requesters, or make records available for inspection.

DEPUTY INFORMATION OFFICER

(Compliance)

REQUESTER

DEPUTY INFO OFFICER

(Co-ordination)

LEGAL COUNSEL

(Advice)

ASSISTANT INFO OFFICERS

(Search and preparation)

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2. Assistant Information Officers (Search and Preparation) – All first-line managers

- (i) Search record.
- (ii) Reproduce or prepare record.
- (iii) Ensure correction of record.

3. Legal Services

- (i) Provide legal advice with regard to disclosure or non-disclosure of a particular record.
- (ii) Advise on all categories of records available for inspection in terms of legislation other than Act 2 of 2000.

4. Deputy Information Officer (Compliance) – Executive Assistant of the Principal/ Vice-Chancellor

- (i) Provide report to the Minister in accordance with section 15 of the Act.
- (ii) Provide report to the Human Rights Commission in accordance with section 32 of the Act.
- (iii) Ensure compliance with the Act and with institutional procedures on the disclosure of information.