



MINING QUALIFICATIONS AUTHORITY

MANUAL FOR THE
APPLICATION OF
PROVISIONS IN TERMS OF
THE PROMOTION OF
ACCESS TO INFORMATION
ACT, 2002 [ACT 54 OF
2002]

CONTENTS

1. Definitions
2. Introduction
3. Purpose
4. Objectives
5. Structure of the MQA
6. Functions of the MQA
 - 6.1 Vision
 - 6.2 Mission
 - 6.3 Legislative Mandate
7. Committee Structure of MQA
8. Services available to members of the public
9. How to gain access to these services
10. Arrangements for the provision to be involved of policy making
11. Categories of records
 - 11.1 Exclusions of records
 - 11.2 Records available for immediate access
 - 11.4 Records available through the provisions of PAIA
 - 11.5 Fees
12. Grounds for refusal of records
13. Appeal procedures
 - 13.1 Timeframes for Appeals
 - 13.2 Process for dealing with Appeals
14. Language
15. Availability
16. References

1. Definitions

Roles & Terms	Definition/Description
Information Officer	<p>In the case of the Mining Qualifications Authority hereafter referred to as the “MQA” it is the Chief Executive Officer.</p> <p>The Information Officer may delegate a power or duty conferred or imposed on that Information Officer by this Act to the deputy Information Officer of this department.</p>
Deputy Information Officer	<p>The CEO must designate a person as Deputy Information Officer to render the MQA as accessible as possible for requesters of its records. The Information Officer has direction and control over the deputy information officer of the MQA.</p>
Personal Requester	<p>A requester seeking access to a record containing personal information about the requester.</p> <p>'Personal information' means information about an identifiable individual, including, but not limited to:</p> <ul style="list-style-type: none"> · information relating to the 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 and birth of the individual; · information relating to the education or the medical, criminal or employment history of the individual, or information relating to financial transactions in which the individual has been involved; · any identifying number, symbol or other particular assigned to the individual; · the address, fingerprints or blood type of the individual; · the personal opinions, views or preferences of the individual, except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual; · correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence; · the views or opinions of another individual about the individual; · the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual, but excluding the name of the other individual where it appears with the views or opinions of the other individual; and · the name of the individual where it appears with other personal information relating to the individual, or where the disclosure of the name itself would reveal information about the individual, but excluding information about an individual who has been dead for more than 20 years.

Requester	Any person making a request for access to a record of the MQA.
Third Party	In relation to a request for access to a record a third party means: · any person (including, but not limited to, the government of a foreign state, an international organisation other than the requester concerned and for the purposes of sections 34 of the Act, the reference to 'person' in paragraphs (a) and (b) must be construed as a reference to a 'natural person'.
Relevant Authority	In relation to the MQA, the Relevant Authority means the Minister responsible for the MQA which is the Minister of labour.
Human Rights Commission	Means the South African Human Rights Commission referred to in section 181 (1) (b) of the Constitution.
Record	In relation to the MQA, a record means any recorded information regardless of form or medium in the possession or under the control of that public body and whether or not it was created by that public body.
Days	"When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every Sunday or public holiday" Interpretation Act, (Act No 33 of 1957. Section 4 "Reckoning of number of days"
Working Days	Means any days other than Saturdays, Sundays or public Holidays, as defined in section 1 of the Public Holidays Act, 1994 (Act No 36 of 1994).

2. Introduction

The Promotion of Access to Information Act (PAIA), Act 2 of 2000 (hereafter also called the Act) came into effect on 9 March 2001, underlining the importance of access to information for an open, democratic, transparent society. The Act gives legislative form to section 32 of the Bill of Rights of the Constitution and should be interpreted as legislation giving effect to a constitutional right.

- This right states 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 of any rights.
- 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.

3. Objectives

The objectives of PAIA are thus:

- To give effect to the constitutional right of access to any information as stated above;
- To set out justifiable limitations on the right of access to information aimed at protecting people's privacy, confidential commercial information and ensuring effective, efficient and good governance;
- To balance the right of access to information with all the other rights in the constitution;
- To promote a culture of human rights and social justice;
- To establish mechanisms and procedures to enable persons to obtain access to records as swiftly, inexpensively and effortlessly as is reasonably possible;
- To promote transparency, accountability and effective governance;
- To empower and educate everyone to, understand their rights in terms of the Act, understand the functions and operation of public bodies and effectively scrutinise and participate in decision-making by public bodies that affects their rights.

4. Purpose

The purpose of this manual is to inform a person how to obtain access to records held by the National Department of Housing, giving effect to Section 14 of the Act.

5. Structure of the MQA

The structure of the MQA comprise of the Office of the Chief Executive Officer supported by the following divisions:

Chief Operating Officer:

- Skills Planning
- Quality Assurance
- Learnerships
- Standards Generation
- Strategic Projects

Chief Financial Officer:

Financial Administration
Procurement
Levy Grant disbursement
Risk and Fraud Administration
Management Information Systems

Corporate Services Manager:

Human resources
Communications
Office and facilities Management
Corporate Governance
Stakeholder Capacity Building

A complete organizational structure is available on request.

6. Functions of the MQA

The Mining Qualifications Authority (MQA) is a statutory body comprising of representatives from the State (Department of Minerals and Energy), Employers (Chamber of Mines) and Labour (National Union of Mineworkers (NUM) and United Association of South Africa (UASA).

The MQA is a Public Entity in terms of the Mine Health and Safety Act, 1996 and must comply with the provisions of the Public Finance Management Act, 1999;

The MQA is also registered as a Sector Education and Training Authority (SETA) in terms of the Skills Development Act, 1998;

The MQA is registered as an Education, Training and Quality Assurer (ETQA) in terms of the South African Qualifications Authority Act, 1995.

The MQA functions are as follows:

- Develop and implement a sector skills plan (within the framework of the national skills development strategy);
- Develop qualifications and training standards for the Sector for registration in the National Qualification Framework;
- Act as a Standard Generating Body for the Mining and Minerals Sector;
- Establish, register, administer and promote learnerships and skills programmes;
- Disburse skills development grants from skills levies in its sector;
- Maintain the quality of standards, qualifications and learnerships;
- Report to the Director-General of Labour on its income and expenditure as well as the implementation of its sector skills plan;
- Appoint staff necessary for the performance of its functions, and;

- Perform any other duties imposed by the Skills Development Act and the Skills Development Levies Act or consistent with the purposes thereof.

MQA has all such powers as are necessary to enable it to perform its duties as set out above and any other powers conferred upon it by virtue of the Skills Development Act.

6.1 Vision

The vision of the MQA is to have sufficient and appropriate knowledge and skills in order to support the productivity, occupational health and safety and transformation of the Mining and Minerals Sector.

6.2 Mission

To facilitate and promote human resources development in the sector, the MQA undertakes to:

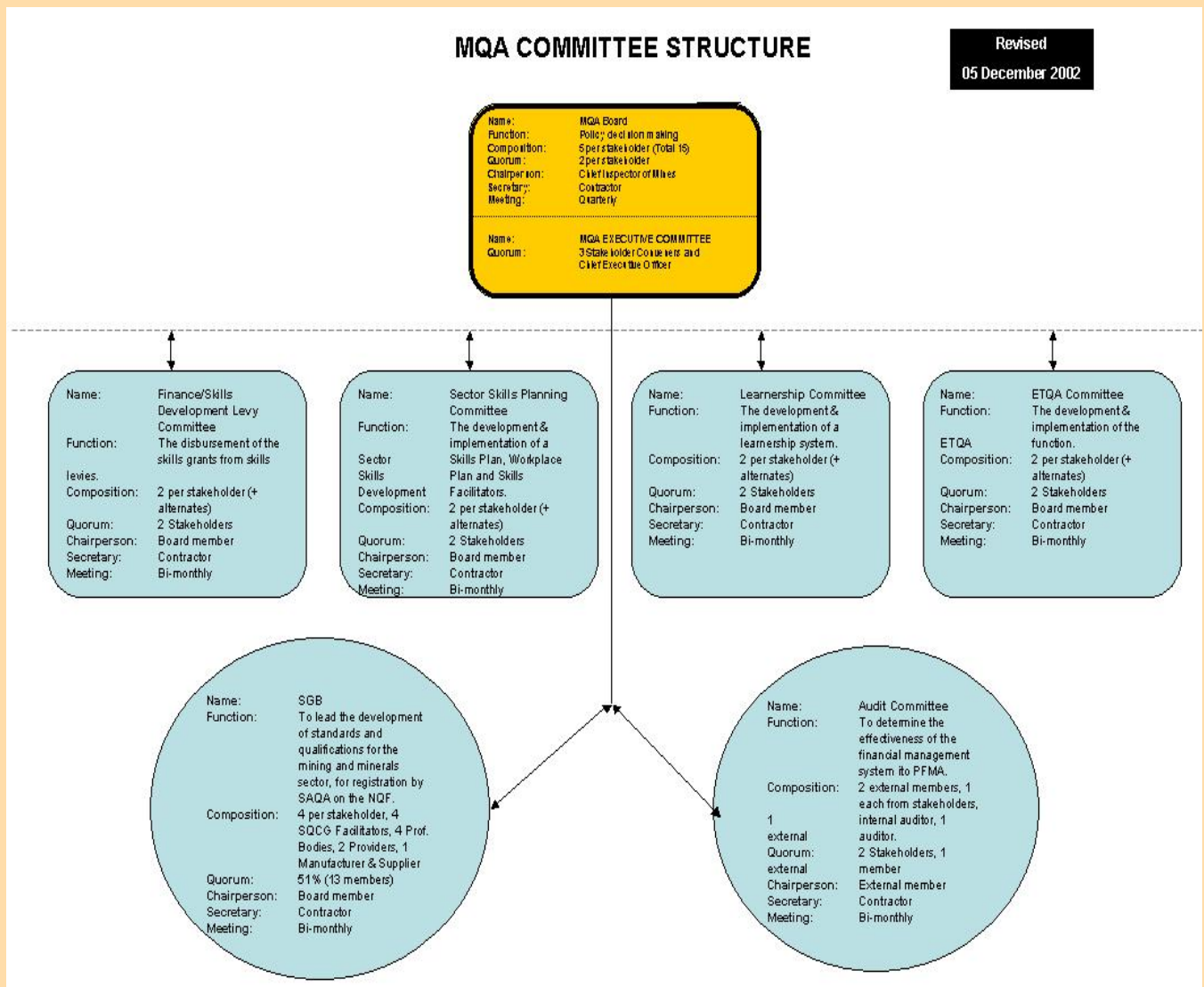
- Develop and facilitate the implementation of a Sector Skills Plan;
- Generate unit standards and qualifications;
- Establish, Administer and promote Learnerships, Skills Programmes and Apprenticeships;
- Maintain the quality of training provision;
- Disburse skills grants from skills levies;

6.3 Legislative Mandate

The mandate of the MQA is derived from the following legislation:

- Mine Health and safety Act, (Act 29 of 1996)
- Skills Development Act, Act (97 of 1998)
- South African Qualifications Authority Act, Act 58 of 1995)

7. Committee Structure



8. Services available to members of the public in terms of section 14 (1) (F)

The primary function of the MQA is to facilitate Skills development in the Mining and Minerals Sector in terms of the Skills Development Act, 1998.

9. How to gain access to these services

Members of the public can access to services through the office of the Deputy Information Officer. The details are outlined hereunder:

Name	Darion Barclay
Tel Number	011 630 3500
Fax:	011 630 3596
E-Mail address:	darionb@mqa.org.za
Postal Address:	The Deputy Information Officer, Mining Qualifications Authority PO Box 118, MARSHALLTOWN, 2018.
Street Address:	Union Corporation Building, 4 th floor, MARSHALLTOWN, JOHANNESBURG, GAUTENG, 2000.
Office Hours:	07:30 - 09:30 09:45 - 12:15 13:00 - 14:30 14:45 - 16:00
Website:	http://www.mqa.org.za

All requests for records must be directed to the Deputy Information Officer using the prescribed form. The prescribed form, fully completed may be posted, faxed or e-mailed to the Deputy Information Officer using the contact details stated above.

The prescribed form is attached hereto as Annexure A.

The Deputy Information Officer must upon receipt of request for information decide within a period of 30 days whether to grant the request for the record or not. The requester must be notified of the decision as contemplated in section 53 (2) (e).

The Deputy Information Officer to whom the request for access to records has been made may extend the period of 30 days referred to in section 25 (1) once for a further period of 30 days if the request is for a large number of records and/or consultation amongst divisions is required to gain access to records. The requester must be informed of the reasons for the extension.

Should the request be granted, the Deputy Information Officer must before processing the request, inform the requester of the fees payable in terms of clause 10.4 of this manual.

Should the Deputy Information Officer receive a request that should be dealt with by another public body, the Deputy Information Officer shall within 14 days transfer the request to the relevant public body concerned and inform the requester accordingly.

10. Arrangements for the provision to be involved of policy making

The formulation of policy documents and Sector Skills Plan takes place within a structured process based on profound research. In this regard the principle of consultation is made obligatory through the tripartite composition of the Board comprising of representatives from the Department of Minerals and Energy, representing State, The Chamber of Mines, representing organized business and the National Union of Mineworkers (NUM) and United Association of South Africa (UASA) representing organized Labour.

The process of consultation is supported by well functioned governance structures such as the Board, Executive Committee (EXCO) and various other Standing Committees.

11. Categories of records

Access to the records listed here are those that have to be requested in terms of the Act. These records can be requested from the Deputy Information Officer according to the request procedures. The categories of records have been structured into records available immediately and records available through the request procedures in terms of the Act.

11.1 Exclusions of records

The provisions of section 5 of the of the Act stipulates clearly that PAIA applies to the exclusion of any provision of any other legislation that prohibits or restricts the disclosure and which is materially inconsistent with the object or specific provision of PAIA. [Section 5(5)].

11.2 Records available for immediate access

The records listed here are automatically available upon request without a person having to request access in terms of the Act. The Deputy Information Officer can be contacted to get access to these records, available for inspection, purchase and copying subject to the payment of a fee outlined in clause 10.4 hereunder.

Selected information is available free of charge in certain instances via the MQA website: <http://www.mqa.org.za>.

Records automatically available from the MQA:

Subject	Sub-subject
Skills Planning	Sector Skills Plan Quarterly reports to the Department of Labour Service Level Agreement with the Department of Labour Details of received Workplace Skills Plans and Annual Training Reports
ETQA	List of Accredited Training Providers, Assessors and Moderators
Learnerships	List of learnerships, skills programmes and apprenticeships Details of learning materials developed
Standards Generation	Details of Unit Standards and Qualifications developed and submitted to SAQA List of registered Unit Standards and Qualifications
Strategic Projects	List of Strategic Projects List of Bursaries
Governance	List of Board and Committee Members Reports on the Evaluation of Board and Committees
Administration	List of Vacancies Organisational structure Annual Reports
Finance	Details of Income and expenditure Payment of mandatory grants Appointment of Tenders Service Contracts

11.3 Records available through the provisions of PAIA

Access to the records listed below are those that can be requested in terms of the Act. These records can be requested from the Deputy Information Officer according to the request procedures.

Subject	Sub-Subject
Skills Planning	Mandatory grants in respect of Workplace Skills Plans, Annual Training Reports and financial information relating to Adult Basic Education and Trainin [Abet]
Learnerships	Learnerships grant, Executive Preparation Programme and Graduate Development Programme and Learnerships Material development information, Learner details
ETQA	Memorandums of Understanding with SETA's and Public Service departments
Standards Generation	Details of Technical Reference Groups members and associated grant payments
Strategic Projects	University employment equity, new venture creation, bursaries, learner details
Governance	Minutes of meetings of the Board and Standing Committees, Memorandum of Understanding with department of Minerals and Energy
Finance	Budget, Cash flow, Expenditure reports
Administration	Business Plan

11.4 Fees

In terms of the Act there are two types of fees payable, namely:

The **request fee**, which is a standard once-off fee. The prescribed fee is R35,00. This fee must be paid before a request can be processed and the Deputy Information Officer must notify the requester, other than a personal requester in writing that this fee is payable.

The **access fees** include reproduction, search, preparation and postal costs where applicable. If the preparation time exceed six hours, a deposit of one third of the fee payable by the requester, other than a personal requester. Should the request be refused by the Deputy Information Officer, the access fee must be refunded.

The prescribed fees are summarised in accordance with Part II of the Government Notice (R187) published in the Government Gazette on 15 February 2002.

The request fees are payable by the requester, other than a personal requester in terms of regulation 7 (2).

NATURE OF REQUEST	FEES PAYABLE
Once off request	R 35.00
Copy of Manual in terms of regulation 5C, per A4 page	R 0.60 per page
Reproduction of A4 size document as per regulation 7 (1)	R 0.60 per page
Every photocopy of A4 size document	R 0.40 per page
Document in computer readable form on stiffy disk	R 5.00
Document in computer readable form on compact disc	R 40.00

Visual images of an A4 size page or part thereof	R 22.00
Copy of visual images	R 60.00
Transcription of audio records of an A4 size or part thereof	R 12.00
Copy of an audio record	R 17.00

12. Grounds for refusal of records

The following requests for records will in terms of the Act be refused;

- The requested record is a Cabinet record;
- The requested record is a Cabinet committee record;
- The requested record is a record of judicial functions of a court;
- The requested record is a record of a special tribunal;
- The requested record is a record of a judicial officer;
- The requested record is a record of an individual member of Parliament or Provincial Legislature;

A request may be refused if the requester hasn't complied with all procedural requirements after he/she has been notified of the intention to refuse the request by the Deputy Information Officer.

The Act provides for grounds where access to a record must or may be refused. The Act also provides for the availability of records in the interest of the public in terms of section 46.

For the purpose of this manual, only the grounds on which access to a record must be refused will be stipulated hereunder. The Deputy Information Officer must, subject to certain provisions, refuse a request for access on the following grounds:

- **Mandatory protection of privacy of a third party who is a natural person**, i.e. if its disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual [Section 34(1);
- **Mandatory protection of certain records of the South African Revenue Service (SARS);**
- **Mandatory protection of commercial information of third party** such as trade secrets, financial, commercial, scientific or technical information other than trade secrets of a third party, of which the disclosure could likely cause harm to the commercial or financial interests of that third party; or information supplied in confidence by a third party and the disclosure could put that third party at a disadvantage in contractual or other negotiations, or prejudice that third party in commercial competition;
- **Mandatory protection of certain confidential information of a third party** [Section 37(1)(a)].
- **Mandatory protection of safety of individuals, and protection of property**, if the disclosure could reasonably be expected to endanger the life or physical safety of an individual [Section 38(a)];
- **Mandatory protection of police dockets in bail proceedings, and protection of law enforcement and legal proceedings**, if access to that record is prohibited in terms of section 60 (14) of the Criminal Procedure Act, 1977 (Act 51 of 1977) [Section 39(1)(a)];

- **Mandatory protection of records privileged from production in legal proceedings**, if the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege [Section 40];
- **Mandatory protection of research information of third party, and protection of research information of public body**, if the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party;

13. Appeal procedures

The remedies available against decisions of the Information Officer or Deputy Information Officer on a request for access are an Internal Appeal in terms of section 74 - 77 or an application to court in terms of Section 78 - 82. A request to court may only be lodged after the internal appeal processes has been exhausted.

'**Internal appeal**' means an Internal Appeal to the 'Relevant Authority' in terms of section 74 of the Act. In the case of the MQA, the Minister of Labour. A requester, personal requester or third party may lodge an Internal Appeal if he/she is not satisfied with the decision made by the Information Officer or Deputy Information Officer about a request for access.

A requester, i.e. personal requester, requester, requester on behalf of someone, may lodge an Internal Appeal against, or an application with a court on the decision(s) of the Information Officer or Deputy Information Officer, regarding:

- The extension of the period to deal with a request [Section 26(3)(c)]; or
- The refusal to grant access [Section 25(3)(c)]; or
- The payment of fees, i.e. a request fee [Section 22]; access fee; a deposit on access fees [Section 22]; or
- The form of access granted [Section 25 (2)(c)].

13.1 Timeframes for Appeals

For an Internal Appeal to be lodged, a requester, personal requester or third party should complete the prescribed form to lodge an appeal within 60 days that the requester has been informed of a decision.

Third parties, must lodge an appeal on the prescribed form within 30 days after the third party has been informed of the decision.

The late lodging of an internal appeal will be considered provided good reasons for the late submission is provided. Notification of the decision in terms of section 75 (2) (a) (b) will be provided by the Deputy Information Officer.

The duly completed Appeal form must be signed and send to the Deputy Information Officer by post, fax or e-mail.

The Appeal Form is attached hereto as Annexure B.

13.2 Process for dealing with Appeal

The Deputy Information Officer must submit the Internal Appeal to the Relevant Authority within 10 working days. The Relevant Authority must inform third parties involved as soon as

possible, but not later than 30 days, by post, fax or e-mail, after receipt of an Internal Appeal lodged by the requester against the refusal to grant access.

The Relevant Authority must inform the requester involved within 30 days, by post, fax or e-mail after receipt of an Internal Appeal lodged by the third parties against the granting of access. The Relevant Authority must decide on the Internal Appeal within 30 days after receiving it from the Deputy Information Officer;

The requester or third party may within 21 days after being informed, make written representations to the relevant Executive Authority on why a request should be granted or not be granted in terms of section 76 (51).

The Relevant Authority may upon consideration of the appeal decide to confirm the decision appealed against, or substitute a new decision for it. Immediately after the decision on the Internal Appeal has been made, written notification of the decision will be given to the appellant, every third party and the requester.

If the Executive Authority fails to give notice of a decision on the appeal within 30 days it should be regarded as that the internal appeal has been dismissed and the requester may the appeal to a court in terms of section 77 (7).

14. Language

In terms of Regulation No R. 187 of 15 February 2002, section 4 (1), the MQA PAIA manual is available in the following languages:

- English;
- Zulu
- Tswana

15. Availability

In terms of Regulation No R. 187 of 15 February 2002, section 4 (1), the available upon approval by the MQA Board in October 2006.

16. References

This manual has been drafted in accordance with:

1. The guidelines as provided in the *Blueprint for public bodies for the manual in terms of section 14* drafted by the South African Human Rights Commission
2. The Promotion of Access to Information Act, Act 2 of 2000.
3. The Regulations regarding the Promotion of Access to Information, No R 187, 15 February 2002.

ANNEXURE A

REQUEST FOR RECORDS IN TERMS OF SECTION 18 OF THE PROMOTION
OF ACCESS TO INFORMATION ACT, 2002, ACT 54 OF 2002

TO: The Deputy Information Officer
Attention: Mr Darion Barclay
Private Bag x 118
MARSHALLTOWN
2107

FROM:

NAME OF REQUESTER:.....

POSTAL ADDRESS/FAX/E-MAIL ADDRESS:.....

.....

.....

Details of records requested:

.....

.....

.....

.....

.....

.....

SIGNED: REQUESTER:.....

DATE:.....

ANNEXURE B

APPEAL FORM IN TERMS OF SECTION 74 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2002, ACT 54 OF 2002

TO: The Deputy Information Officer
Attention: Mr Darion Barclay
Private Bag x 118
MARSHALLTOWN
2017

FROM:

NAME OF REQUESTER:.....

POSTAL ADDRESS/FAX/E-MAIL ADDRESS:.....

.....
.....

Details of records requested:

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

SIGNED: REQUESTER:.....

DATE:.....