



MHLATHUZE WATER

PROMOTION OF ACCESS TO INFORMATION ACT MANUAL

**Version 3
March 2013**

A copy of the manual will be available for inspection at Mhlathuze Water Head Office.

1. INTRODUCTION

The Promotion of Access to Information Act, No 2 of 2000 ("the Act") was enacted on 3 February 2000, giving effect to the constitutional right of access to any information that is 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 the Act, the body to whom the request is made is obliged to release the information except where the Act expressly provides that the information may or must not be released. Section 9 of the Act recognizes that access to information can be limited. The limitation relates to circumstances where its release would pose a threat to the protection of privacy, commercial confidentiality and the exercising of efficient governance. The Act specifies the requisite procedural issues attached to such request for information.

One of the main requirements specified in the Act is the compilation of a manual by 28 February 2003 that provides information on both the types and categories of records held by the public or private body. The date was subsequently extended to 31 August 2003 by the Minister of Justice and Constitutional Development. This document serves as the Mhlathuze Water manual in terms of the Act, to provide a reference as to the records held and the process that needs to be followed to request access to such records.

2. OVERVIEW OF STRUCTURE

Mhlathuze Water (hereinafter referred to as "the Board") is a water utility established by Proclamation in Government Gazette No 84 dated 23 May 1980. The Board has built and operates two inter-basin transfer schemes, one major regional water treatment plant, a major raw water supply scheme and operates several other smaller water treatment plants on an agency basis for local municipalities to supply water for urban, industrial, mining and agricultural purposes. In addition to this the Board also owns and operates a regional system for disposal of industrial effluent and domestic sewerage and operates a number of smaller sewerage plants on behalf of local municipalities and is also an implementing agent for various water related projects. The Head Office is situated in Alton, Richards Bay.

3. ACTIVITIES

Mhlathuze Water's functions include, but not limited to:

- Raw and potable water supply in bulk
- Wastewater and sanitation services
- Water resource management
- Catchment management
- Laboratory and analytical services
- Pollution prevention services
- Engineering and project management
- Water treatment and sewerage plant operation and management services.

4. ADMINISTRATION OF THE ACT

The Chief Executive has duly authorized the contact person below to ensure that the requirements of the Act are administered in a fair, objective and unbiased manner:

Contact person	:	Mr A S Makhanya
Postal address	:	P O Box 1264, Richards Bay, 3900
Physical address	:	Corner South Central Arterial / Battery Bank, Alton, Richards Bay
Phone number	:	+27 (35) 902 1000
Fax number	:	+27 (35) 902 1105
Email	:	smakhanya@mhlathuze.co.za

5. GUIDE FOR REQUESTERS ON HOW TO USE THE ACT

The Human Rights Commission (HRC) is responsible for compiling a guide that will facilitate ease of use of the Act for requesters. This guide will be available from the South African Human Rights Commission. Please direct any enquiries to:

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

Postal address	:	Private Bag 2700, Houghton, 2041
Phone number	:	+27 (11) 484 8300
Fax number	:	+27 (11) 484 0582
Email	:	PAIA@sahrc.org.za
Website	:	www.sahrc.org.za

6. RECORDS AVAILABLE IN ACCORDANCE WITH OTHER LEGISLATION

Records are available in accordance with the following legislation:

- The National Water Act No 36 of 1998
- The Water Services Act No 108 1997
- The Occupational Health and Safety Act No 85 of 1993
- The Hazardous Substances Act No 15 of 1973
- The Value-Added Tax Act No 89 of 1991
- Income Tax Act No 58 of 1962

- Basic Conditions of Employment Act No 75 of 1997
- Employment Equity Act No 55 of 1998
- Labour Relations Act No 66 of 1995
- Unemployment Insurance Act No 30 of 1966
- The Compensation for Occupational Injuries and Diseases Act No 130 of 1993
- Public Finance Management Act No. 01 of 1999

7. RECORDS HELD BY MHLATHUZE WATER

Records at Mhlathuze Water are managed and controlled based on a centralized classification system. Documents and electronic messages which are created and received by the organization are captured into an electronic records management system. Management of documents by means of this system is in accordance with the Electronic Communications and Transactions Act, No 25 of 2002 as amended from time to time.

Files no longer required by the users are, depending on the nature of the documents they contain, transferred to either the corporate archives or an independent off-site storage facility where they are retained for the duration of the gazetted retention period following which they are destroyed. Records of lasting legal, social, historical or research value are retained permanently.

The record keeping system contains a series of files dealing with internal administrative support matters referred to as the support series. Details of this support series and categories of records contained in them, are as follows:

Planning

Policy

Mhlathuze Water planning
 Departmental planning
 Collaborative planning

Management

Policy

Mhlathuze Water management
 Departmental management
 Management reports
 External liaison

Staff

Policy

Staff establishment
 Training
 Performance appraisal
 Staff motivation
 Occupational health
 Industrial relations
 Staff termination
 Staff files

Finance

- Policy
- Financial procedures
- Administration and funding income
- Budgeting
- Tariff determination
- Management accounting
- Financial accounting
- Financial reports
- Financial returns
- External audit

Office, Buildings and Grounds Administration / Services

- Policy
- Property administration
- Administration of office services
- Acquisition of materials and equipment
- Maintenance of equipment

Legal Matters

- Policy
- Legislation
- Agreements
- Permits
- Legal administration
- Litigation
- Licensing
- Water rates certificates
- Insurance policies
- Deeds of suretyship

Public Relations

- Policy
- Communication research
- Address lists
- Publications
- Crisis Communication
- Donations administration
- Corporate identity
- Special events
- Social responsibility programme
- Advertising
- Liaison with public relations consultants
- Liaison with public relations suppliers
- Membership of professional organizations
- Photographic library
- Communication evaluation
- Quotations

Internal Audit

- Policy
- Routine audits
- Audit investigations
- Audit reports

Movable Asset Management

- Policy
- Maintenance of assets register
- Asset stock take
- Disposal of assets
- Fleet management

IT Management

- Policy
- Systems investigation
- Systems development/installation
- Systems support/maintenance

Stores Administration

- Policy
- Procurement of stock
- Disposal of stock
- Issuing stock
- Write-off of stock
- Stock take
- Inventory control

Security

- Policy
- Security of building and premises
- Security of vehicles
- Security of people

Safety

- Policy
- Procedures
- Compliance with safety legislation

Insurance

- Insurance market research
- Liaison with brokers
- Asset revaluation

Insurance policies
Claims administration

Projects

Policy
Project/programme management
Terms of reference/motivations and approvals
Legal documentation
Project/programme liaison/communication
Cost monitoring
Quality control
Disputes

Scientific Services

Policy
Laboratory procedures
Mhlathuze Water quality monitoring programme
Customer services
Quality control
Pollution control
Schedules

Operations

Policy
Procedures
Water/effluent treatment
Water/effluent transportation
Water storage

Board of Mhlathuze Water

Policy
Selection panel
Appointment of board members
Members of the board
Meetings
Committee meetings
Board functions

Provision is made for the maintenance of case files within the different categories listed where records specific to a project/programme, study or event, are kept.

8. CATEGORIES OF DOCUMENTS AVAILABLE WITHOUT RECOURSE TO THE ACT

The following documentation is available on request from the contact person specified in this manual:

Annual report
Information brochures:
Internal newsletter

9. SERVICES AVAILABLE TO MEMBERS OF THE PUBLIC

The following services are provided by Mhlathuze Water:

1. Water supply services
2. Waste water disposal services
3. Process testing services
4. Laboratory sample testing and analysis services
5. Training and mentorship services
6. Project management
7. Consulting services in various water related fields.

In order to obtain more information regarding these services, the public may write to Mhlathuze Water, P O Box 1264, Richards Bay 3900, or telephone (035) 902 1000.

10. INFLUENCES ON THE FORMULATION OF POLICY

The Board of Mhlathuze Water, which consists of twelve non-executive members and one executive member, accepts final responsibility for the organization and ensures that delegated responsibilities are properly executed by management. Members of the Board are nominated by the public, to ensure that the interests of the community are represented. Board members may be nominated from a wide range of civic bodies, such as water committees, regional office councils, unions, universities, NGO's, etc. and it is at the nomination stage that the public may, by its choice of candidate, have an influence on the direction of Mhlathuze Water. Since the Board also has influence on the selection of senior management, Board members have a direct say in the constitution of Mhlathuze Water's executive.

11. REMEDIES AVAILABLE TO THE PUBLIC

Should Mhlathuze Water, or any of its officials, seen to be derelict in their duty or fail to fulfill their mandate, the public has recourse, in the first instance, to the Departmental Manager concerned. Failure to obtain satisfaction would result in a direct appeal to the Chief Executive. If the situation is still not resolved, it should be referred to the Board of Mhlathuze Water. Should this not have the desired effect, the final resort would be to the Minister of Water Affairs and Forestry.

12. ACCESS REQUEST PROCEDURE

The purpose of this section is to provide requesters with sufficient guidelines and procedures to facilitate a request for access to a record held by the Board.

It is important to note that an application for access to information can be refused in the event that the application does not comply with the procedural requirements of the Act.

The successful completion and submission of an access request form does not automatically allow the requester access to the requested record.

If it is reasonably suspected that the requester has obtained access to the Board's records through the submission of materially false or misleading information, legal proceedings may be instituted against such requester.

12.1 Completion of Access Request Form:

In order for Mhlathuze Water to respond to requests in a timely manner, the Access Request Form should be completed, taking due cognisance of the following:

1. The Access Request Form must be completed in the English language.
2. Type or print in BLOCK LETTERS an answer to every question.
3. If a question does not comply, state "N/A" in response to that question.
4. If there is nothing to disclose in reply to a particular question, state "Nil" in response to that question.
5. If there is insufficient space on a printed form in which to answer a question, additional information may be provided on an additional folio.
6. When the use of an additional folio is required, precede each answer thereon with the title applicable to that question.

12.2 Submission of Access Request Form

The completed Access Request Form must be submitted either by conventional mail, e-mail or fax and must be addressed to the contact person specified in this manual.

12.3 Notification

Requests will be evaluated and the requester will be notified within 30 days of receipt of the completed Access Request Form. Notifications may include:

12.4 Payment of Fees

Payment can be made into **Mhlathuze Water bank account: ABSA bank, account no.:215 055 0052, branch code 33-42-30** either by means of a direct deposit, by bank guarantee cheque or by postal order (no credit card payments are accepted). Proof of payment must be supplied.

If the request is successful an **access fee** will be required for the search, reproduction and/or preparation of the record(s) and will be based on the Prescribed Fees. The access fee must be paid prior to access being given to the requested record.

12.5 Payment of Deposit (if applicable)

The requester may be notified whether a deposit is required, payment thereof depending on certain factors such as the volume and/or format of the information requested and the time required for the search and preparation of the record(s). The notice will state:

1. the amount of the deposit payable (if applicable); and

2. that the requester may lodge an application with a court against the payment of the deposit and the procedure, including the period, for lodging the application.

In the event that access is denied to the requested record, the full deposit will be refunded to the requester.

12.6 Notification of Extension Period (if required)

The requester may be notified whether an extension period is required for the processing of their requests including:

1. the required extension period, which will not exceed an additional 30 days;
2. adequate reasons for the extension; and
3. notice that the requester may lodge an application with a court against the extension and the procedure, including the period, for lodging the application.

12.7 Decision on Request

If no extension period is required, the requesters will be notified, within 30 days, of the decision on their requests.

If the request for access to a record is successful, the requester will be notified of the following:

1. the amount of the access fee payable upon gaining access to the record (if any);
2. an indication of the form in which the access will be granted;
3. notice that the requester may lodge an application with a court against payment of the access fee and the procedure, including the period, for lodging the application.

If the request for access to a record is not successful, the requester will be notified of the following:

1. adequate reasons for the refusal (refer to *Third Party Information* and *Grounds for Refusal* below); and
2. that the requester may lodge an application with a court against the refusal of the request and the procedure, including the period, for lodging the application.

12.8 Third Party Information

If access is requested to a record that contains information about a third party, the Board is obliged to attempt to contact this third party to inform them of the request. This affords the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied.

In the event of the third party furnishing reasons for the support or denial of access, our designated contact person will consider these reasons in determining whether access should be granted, or not.

12.9 Grounds for Refusal

Mhlathuze Water may legitimately refuse to grant access to a request for a record that falls within a certain category. Grounds on which Mhlathuze Water may refuse access include:

1. protecting personal information that Mhlathuze Water holds about a third person who is a natural person, including a deceased person, from unreasonable disclosure;
2. protecting commercial information that Mhlathuze Water holds about a third person, for example financial, commercial, scientific or technical information that may harm the commercial or financial interests of that third person;
3. if disclosure of a record would result in a breach of a duty of confidence owed to a third party in terms of an agreement;
4. if disclosure of the record would endanger the life or physical safety of an individual;
5. if disclosure of the record would prejudice or impair the security of property;
6. if disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme;
7. if disclosure of the record would prejudice or impair the protection and safety of the public;
8. the record is privileged from production in legal proceedings, unless the legal privilege has been waived;
9. the record is a computer programme;
10. disclosure of the record would put Mhlathuze Water at a disadvantage in contractual or other negotiations and which may prejudice the Board in commercial competition; and
11. the record contains information about research being carried out or about to be carried out on behalf of a third party;
12. a record insofar as it consists of information already publicly available.

12.10 Records that cannot be found or do not exist

If Mhlathuze Water has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

13. CONFIDENTIALITY

All records would be kept confidential, unless requested following the procedure stated in this document.

14 CONCLUSION

Any changes to any clause in this document will be communicated in Mhlathuze Water website.

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

2b PARTICULARS OF REQUESTER (if a Legal Entity)

- (a) Particulars of the entity that requests access to the record must be recorded below.
- (b) Furnish an address and/or fax number in the Republic to which information must be sent.
- (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Name of entity: _____

Registration number: _____

Postal address: _____

Postal Code: _____

Phone number: (_____) _____

Fax number: (_____) _____

3 PARTICULARS OF PERSON ON WHOSE BEHALF REQUEST IS MADE

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

Full names and surname: _____

Identity number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

4 PARTICULARS OF RECORD

- (a) Provide full particulars of the record to which access is requested, including the reference number if it 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.**

Description of record or relevant part of the record: _____

Reference number, if available: _____

Any further particulars of record:

5 FEES

- (a) 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 the record.
- (b) You will be notified of the amount required to be paid as the **access fee**.
- (c) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees: _____

6a FORM OF ACCESS TO RECORD
Form in which record is required

Mark the appropriate box with an **X**.

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused under certain circumstances. In such a case you will be informed whether access will be granted in another form.

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 the images Copy the images* Transcription of the images*

3. If the record consists of recorded information that can be reproduced in sound:

- Listen to the soundtrack (audio cassette) Transcription of soundtrack* (written or printed Document)

4. If the record is held on computer or in an electronic or machine-readable form:
(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

- 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**

6b In the event of disability

If you are prevented by a disability from reading, viewing or listening to the record in the form of access provided for in 1 to 4 above, state your disability and indicate in the form in which the record is required.

Disability: _____ **Form in which record is required:** _____

7 PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED

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

1. Indicate the right to be exercised or protected: _____

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

8 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? _____

9

Signed at _____ this _____ day of _____ 20 _____

SIGNATURE OF REQUESTER/PERSON ON
WHOSE BEHALF REQUEST IS MADE

YOU MUST:

1. Complete all necessary spaces.
2. Sign the access request form.
3. Sign additional folios completed.

SEND WITH THIS APPLICATION:

1. Any additional folios completed.

Prescribed Fees

Page 1 of 2					
(Section 22(7) of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000))					
1	<p>PLEASE NOTE THAT ALL PRICES LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)</p> <p>(a) For a copy of the manual for every photocopy of an A4-size page or part thereof R 1.25</p>				
(Section 22(7) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))					
2	<p>PLEASE NOTE THAT ALL PRICES LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)</p> <p>(a) For every photocopy of an A4-size page or part thereof R 1.25</p> <p>(b) For every printed copy of an A4-size page or part thereof held on a computer or in an electronic or machine-readable form R 0.85</p> <p>(c) For a copy in a computer-readable form on</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">(i) flash disc</td> <td style="text-align: right;">R60.55</td> </tr> <tr> <td style="padding-left: 20px;">(ii) compact disc</td> <td style="text-align: right;">R79.80</td> </tr> </table> <p>(d) (i) For a transcription of visual images, for an A4-size page or part thereof R45.60 (ii) For a copy of visual images R68.40</p> <p>(e) (i) For a transcription of an audio record, for an A4-size page or part thereof R22.80 (ii) For a copy of an audio record R34.20</p> <p>(f) To search for and prepare the record for disclosure – R34.20 for each hour or part thereof reasonably required for such search and preparation</p>	(i) flash disc	R60.55	(ii) compact disc	R79.80
(i) flash disc	R60.55				
(ii) compact disc	R79.80				
(Section 22(2) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))					
3	<p>PLEASE NOTE THAT ALL PRICES FOR THE ITEMS LISTED BELOW ARE INCLUSIVE OF VALUE-ADDED TAX (VAT)</p> <p>(a) Six hours as the hours to be exceeded before a deposit is payable; and</p> <p>(b) One third of the access fee is payable as a deposit by the requester.</p>				
(Section 22(7) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))					

4

PLEASE NOTE THAT THE PRICE FOR THE ITEM LISTED BELOW IS INCLUSIVE OF VALUE-ADDED TAX (VAT)

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

ADDITIONAL PRESCRIBED INFORMATION

The Minister of Justice has prescribed no additional information.