

Issued in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 Last update: July 2012

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 ("the Constitution") provides that everyone has the right of access any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

The Promotion of Access to Information Act, 2 of 2000 ("the Act"), was enacted on 3 February 2002 to give effect to Section 32 of the Constitution, that is giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of this Act, the private or public body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such request.

The Act came into effect on 9 March 2001 with the exception of sections 10, 14, 16 and 51 which sections were brought into operation on 15 February 2002.

The following definitions apply in relation to the reading of this document:

"Magnacorp"	: refers collectively to Magnacorp 477 cc and any operating subsidiaries incorporated in South Africa.
"Information Officer"	: means the person that is responsible for discharging the duties and responsibilities assigned to the "head" of the private institution, such as the managing member or any person duly appointed by the managing member.
"other requester"	: means any person making a request for access to a record.
"personal requester"	: means any person making a request for access to a record containing personal information about the requester.
"requester"	: means any person making a request for access to a record.
"third party"	: means any natural or juristic person other than, the requester, a party that is acting on behalf of the requester, or alternatively Magnacorp itself.

MAGNACORP'S APPOINTED INFORMATION OFFICER

The Managing Member of Magnacorp has been appointed as the information Officer.

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GENERAL COMPANY INFORMATION

Full Legal Title	Magnacorp 477 cc
Registration number	2010/093317/23
Website	www.magcorp.co.za

Section 10 of the Act requires the South African Human Rights Commission (SAHRC) to publish a Guide. The Guide is intended to assist users in the interpretation of the Act and will contain such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act.

The Guide contains the following information:

- . The object of the Act;
- . Particulars of the information officer of every public body;
- . Particulars of every private body as are practicable;
- . The manner and form of a request for access to information held by a body;
- . Assistance available from the information officers and the Human Rights Commission in terms of the Act;
- . Legal remedies regarding acts, omissions, rights, duties (including lodging appeals & court application);
- . Schedules of fees paid in relation to requests for access to information;
- . Regulation made in terms of the Act.

A copy of the guide is available on the SAHRC website: www.sahrc.org.za

This section provides details of the types of records that may be accessed by request from Magnacorp. The accessibility of the documents requested may be subject to the grounds of refusal in accordance with Chapter 4 of the Act. Some of the types of records in this respect are set out hereinafter.

Personnel Records

- . Personal records provided by employee;
- . Records provided by a third party relating to employees;
- . Conditions of employment and other personnel-related contractual and quasi legal records;
- . Internal evaluation records and other internal records;
- . Correspondence relating to personnel;
- . Industrial training records and material;
- . Employment equity plan.

Client Related Records

- . Records provided by a client to a third party acting for or on behalf of Magnacorp;
- . Records provided by a third party;
- . Records generated by or within Magnacorp relating to its clients, including transactional records;
- . Records provided to Magnacorp by the client.

Records Relating to Magnacorp

- . Statutory Company Information;
- . Financial records;
- . Operational records;
- . Databases;
- . Information Technology;
- . Marketing records;
- . Internal correspondence;
- . Product records;
- . Internal Policies and Procedures;
- . Securities and Equities; and
- . Records held by officials of Magnacorp.

These records include, but are not limited to, the records that pertain to Magnacorp's own affairs.

Other Records

- . Magnacorp may possess records pertaining to other parties, including without limitation, contractors, suppliers, holding/sister companies, joint venture companies, and service providers. Alternatively, such other parties may possess records that can be said to belong to Magnacorp;
- . Personnel, client and other records relating to Magnacorp which are held by another party, as opposed to the records held by Magnacorp itself;
- . Records held by Magnacorp pertaining to other parties, including without limitation, financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.

Records held may be accessed by requester only once the prerequisite requirements for access have been met.

Who May Request Information

Any person that requires information for the exercise or protection of any rights may request information from a private body. The Act provides that a requester must be given access to any record of a private body if:

- . that record is required for the exercise or protection of any rights;
- . that person complies with the procedural requirements for a request for access to that record; and
- . access to that record is not refused in terms of any ground for refusal contemplated in Chapter 4, Part 3 of the Act.

Two Types of Requesters

- . In relation to a personal requester, Magnacorp will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information without the requester having to pay an access fee, but the prescribed fees for reproduction of the information requested will be charged.
- . In relation to any other requester, they are entitled to request access to information relating to a third party/ parties. However, Magnacorp is not obliged to voluntarily grant access. Such requester must fulfill the prerequisite requirements for access in terms of the Act, including payment of the relevant fees.

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

- . The requester must complete the prescribed request form, and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in Part I above. [Requesters please note that all of the information as listed above should be provided, failing which the process will be delayed while the private body requests such additional information. The prescribed time periods will not commence until all pertinent information has been furnished on Magnacorp].
- . The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify:
 - . The record or records requested;
 - . The identity of the requester (or person acting on behalf of the requester where applicable);
 - . The telephone number, postal address or fax number of the requester;
 - . What form of access is required, if the request is granted;
- . The requester must state the he requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- . The manner in which the requester wishes to be informed of the decision on the request, if in a manner in addition to written notification.
- . The institution will process the request within thirty days, unless the request contains considerations that are of such a nature that an extension of the thirty (30 day) time limit is necessitated.
- . Where an extension of the thirty (30 day) time limit is required, the requester shall be notified, together with reasons explaining why such extension is necessitated.
- . The requester shall be informed whether access granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he must state the manner and the particulars so required.
- . If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the information officer.
- . If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request

orally.

- . The requester must pay the prescribed fee, before any further processing can take place.

The Act provides for two types of fees, namely:

- . A request fee, which will be a standard non refundable administration fee, payable prior to the request being considered; and
- . An access fee, payable when access is granted, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- . When the request is received, the Information Officer, shall by notice require the requester, excluding personal requester, to pay the prescribed request fee (if any), before further processing of the request.
- . If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit the prescribed portion of the Access fee which would be payable if the request is granted.
- . The Information officer shall withhold a record until the requester has paid the required fees.
- . A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- . If a deposit has been paid in respect of a request for access, which is refused, then the information officer concerned must repay the deposit to the requester.

If the request pertains to a third party, the Information Officer will take all reasonable steps to inform that third party of the request within 21 days of receipt of the request. The third party may within 21 days thereafter either make representation as to why the request should be refused, or grant written consent to disclosure. The third party must be advised of both the decision taken and of his/her/its right to appeal against the decision by way of application to court within 30 days after the notice.

Magnacorp will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect. The Information Officer will take all reasonable steps to find a record that has been requested. If the record cannot be found or does not exist, the Information Officer must notify the requester by way of affidavit or affirmation that it is not possible to give access to the record. This is deemed to be a refusal of the request. If, however, the record is later found, the requester must be given access if the request would otherwise have been granted.

- . The 30 day period with which Magnacorp has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty days if the request is for a large amount of information, or the request requires a search for information held at another office of Magnacorp and the information cannot reasonably be obtained within the original 30 day period. Should an extension, Magnacorp will notify the requester in writing and will also provide the procedure involved should the requester wish to apply to court against the extension.
- . If the request is:

Granted: the notification must state the applicable access fee required to be paid, together with the procedure to be followed should the requester wish to apply to court against such fee, and the form in which access will be given;

Declined: the notification must include adequate reasons for the decision, together with the relevant provisions of the Act relied upon, and provide the procedure to be followed should the requester wish to apply to court against the decision.

- . The Information Officer's failure to respond to the requester within the thirty day period constitutes a deemed refusal of the request.
- . Section 59 provides that the Information Officer may sever a record and grant access only to that portion which the law does not prohibit access to.
- . If access is granted, access must be given in the form that is reasonably required by the requester, or if the requester has not identified a preference, in a form reasonably determined by the Information Officer.

The main grounds for Magnacorp to refuse a request for information relates to the:

- . Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- . Mandatory protection of the commercial information of a third party, if the record contains:

- . trade secrets of that third party;
- . financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- . information disclosed in confidence by a third party to Magnacorp, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- . Mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- . Mandatory protection of the safety of individuals and the protection of property;
- . Mandatory protection of records which would be regarded as privileged in legal proceedings;
- . The research information of Magnacorp or a third party, if its disclosure would place the research at a serious disadvantage.
- . The commercial activities of Magnacorp, which may include, without limitation:
 - . trade secrets of Magnacorp;
 - . financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of Magnacorp;
 - . information which, if disclosed could put Magnacorp at a disadvantage in negotiations or commercial competition;
 - . a computer program which is owned by Magnacorp, and which is protected by copyright.

Requests for information that are clearly frivolous or vexation, or which involve an unreasonable diversion of resources shall be refused.

Notwithstanding the above, disclosure is Mandatory where it would reveal a contravention of or failure to comply with the law, or imminent and serious public safety or environmental risk AND the public.

Internal Remedies

Magnacorp does not have internal appeal procedures. As such, the decision made by the information officer is final, and requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the information officer.

External Remedies

A requester that is dissatisfied with an information officer's refusal to disclose information, may within 30 days of notification of the decision, apply to a Court for relief.

Likewise, a third party dissatisfied with an information officer's decision to grant a request for information, may within 30 days of notification of the decision, apply to a Court for relief.

For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

The manual of Magnacorp will be available on the website of Magnacorp at www.Magcorp.co.za (alternatively, a copy of this manual can be obtained upon request from the Information Officer).

If required please contact the Information Officer for the;

1. Prescribed Form to be completed by a Requester for information, or/and
2. The reproduction Fee breakdown.