



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

Vol. 454

Pretoria, 11 April 2003

No. 24736



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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## CONTENTS

No.

Page  
No. Gazette  
No.

### GENERAL NOTICE

**Justice and Constitutional Development, Department of***General Notice*

1263 Promotion of Access to Information Act (2/2000): Amendment: Regulations relating to the Promotion of Access to Information .....

3 24736

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## GENERAL NOTICE

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### NOTICE 1263 OF 2003

#### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

#### PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000)

#### AMENDMENT OF THE REGULATIONS RELATING TO THE PROMOTION OF ACCESS TO INFORMATION

1. The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (the Act), with the exception of sections 10, 14, 16 and 51, came into operation on 9 March 2001 (Proclamation No. R. 20, 2001). Sections 10, 14, 16 and 51 of the Act came into operation on 15 February 2002 (Proclamation No. R. 9, 2002). The Regulations relating to the Promotion of Access to Information (the Regulations) also came into operation on 15 February 2002. The Regulations were published in the *Gazette* (No. 23119) of 15 February 2002 (Government Notice No. R. 187). The Regulations are also available on the Government Website at the following address: [www.doj.gov.za](http://www.doj.gov.za).

2. Various complaints were lodged regarding the Regulations in so far as they prescribe the availability of the manuals contemplated in sections 14 and 51 of the Act. The complaints relate to the following requirements:

- The publication of the manuals (of both public and private bodies) in the *Gazette*.
- The submission of a copy of a manual of a private body to the controlling body of which the private body is a member.
- Making the manual of a private body available on a website, if any, by the head of a private body.

3. In regard to the first requirement, the following concerns were, inter alia, raised:

- ▶ The logistical problems experienced by the Government Printer in complying with the requirements concerned.
- ▶ The high cost of publication of the manuals.
- ▶ The suitability of the *Gazette* as an information mechanism.

4. Because the Act does not allow private bodies which render the same services, for example attorneys, medical practitioners etc, to be joined and to compile only one manual, controlling bodies as mentioned in the second requirement are receiving a large number of manuals which need to be kept and stored. All these manuals contain the same information relating to the description of the subjects on which the body holds records and the categories of records held on each subject. Requests have consequently been received to have the regulations amended in order to do away with the requirement concerned.

5. Some private bodies indicated that the requirement pertaining to making the manual available on a website should also be discarded because in the case of large manuals, the displacing of the website becomes slower and it might be even necessary to expand the existing web space.

6. In order to accommodate the above concerns, draft amendments to the Regulations have been prepared and are set out in the Annexure.

7. If you are of the opinion that there is a need to amend any of the other regulations on an urgent basis, you are kindly requested to identify the regulation concerned, give a brief outline of the problem(s) associated with the particular regulation and submit a proposal to address the problem.

8. As you are probably aware, the Minister for Justice and Constitutional Development exempted all public and private bodies from submitting the manuals contemplated in sections 14(1) and 51(1) of the Act, for the period 1 March 2003 to 31 August 2003. In view of the exemption, it appears to be advisable to have any amendments to the Regulations finalised during June 2003. You are therefore requested to submit your comments on the draft amendments on or before 30 April 2003 to -

**The Director: Secondary Legislation**  
**Department of Justice**  
**Private Bag X 81**  
**Pretoria**  
**0001**

or  
**Room 403**  
**Saambou Building**  
**Church Square**  
**Pretoria**

or  
**Fax to (012) 328 5567**

or  
**E mail to Cvanvuuren@justice.gov.za**

**ANNEXURE****PROMOTION OF ACCESS TO INFORMATION ACT, 2000  
REGULATIONS REGARDING THE PROMOTION OF ACCESS TO INFORMATION****AMENDED REGULATIONS**

The Minister for Justice and Constitutional Development has, under section 92 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), made the regulations in the Schedule.

**SCHEDULE****Definition**

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R. 187 of 15 February 2002.

**Amendment of regulation 4(1) of the Regulations**

2. Regulation 4(1) of the Regulations is hereby amended by the deletion of paragraph (b).

**Amendment of regulation 9 of the Regulations**

3. The following regulation is hereby substituted for regulation 9 of the Regulations.

**"Availability of manual: Private body**

9.(1) The head of a private body must, immediately after the manual has been compiled in terms of section 51(1) or updated in terms of section 51(2) of the Act make a copy of the manual available to the Human Rights Commission.

(2) The head of a private body -

- (a) must, during office hours and upon request, make available for public inspection a copy of the manual;
- (b) may not charge a fee for a public inspection referred to in paragraph (a); and
- (c) may, in respect of a copy of the manual or part thereof made available in a manner other than that contemplated in paragraph(a), charge the

fee prescribed in Item 1 of Part III of Annexure A and the actual postage if a copy of the manual must be posted.

- (3) The head of a private body may make available, the manual on the website, if any, of the private body.”
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Publications: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504  
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737  
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001  
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504  
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