



## LC PROCEDURE 1/2018

**PROMULGATED BY** : **LEGAL COUNSEL**  
**EFFECTIVE FROM** : **10 APRIL 2019**  
**ENQUIRIES** : **LEGAL COUNSEL**  
**APPLICABLE TO** : **ALL ATNS EMPLOYEES**

### **MANUAL IN ACCORDANCE WITH THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000) (PAIA)**

#### **1. INTRODUCTION**

- 1.1. This information manual ("the Manual") is published in terms of Section 14 of the Promotion of Access to Information Act No.2 of 2000 (the "Act"). The Act gives effect to the provisions of Section 32 of the Constitution which provides for the right of access to information held by the State and to information held by another person that is required for the exercise and/or protection of any right.
- 1.2. The right to access to information is subject to certain justifiable limitations, including, but not limited to limitations relating to the reasonable protection of privacy, commercial confidentiality as well as effective, efficient and good governance, as contemplated in Section 9 (b) (i).
- 1.3. The purpose of the Act is to foster a culture of transparency and accountability in both the public and private sectors by affording any person the right of access to information to enable them to exercise and protect all of their rights to the full extent required.
- 1.4. The Act requires the Public and Private bodies to compile a manual containing information as set out in Section 14 of the Act.

#### **2. PURPOSE OF THE MANUAL**

The purpose of this Manual is to set out the procedures to be followed and criteria that have to be met for anyone (the "requester") to request access to records in the possession or under the control of Air Traffic and Navigation Services Company (ATNS).

### 3. DEFINITIONS

“Employee” refer to any person who works for or provides services to or on behalf of the organisation, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the organisation, and who has a written contract of employment with ATNS.

“Information Officer” means a person or persons acting on behalf of ATNS who is responsible for discharging duties and responsibilities assigned to the Chief Executive Officer or equivalent officer, as prescribed in terms of PAIA may include the Deputy Information Officer.

“Organisation” refers to Air Traffic and Navigation Services SOC Limited (ATNS)

“Other Requester” means any requester other than a personal requester.

“Personal Requester” means a requester who is seeking to access a record containing personal information about the requester.

“Requester” means any person making a request for access to a record that is under the control of ATNS.

“Third Party” means any natural or juristic person other than the requester or such party acting on behalf of the requester.

### 4. AVAILABILITY OF THE MANUAL

This Manual can be accessed on our website at [www.atns.co.za](http://www.atns.co.za) or by requesting a copy by e-mail from the relevant Deputy Information Officer as provided for in paragraph 6 below. The Manual may also be obtained from the South African Human Rights Commission.

### 5. FUNCTION AND STRUCTURE OF ATNS

- 5.1. The South African Government through the Department of Transport (DoT) is the sole Shareholder of ATNS and thus ATNS was established in terms of Section 2 of the Air Traffic and Navigation Services Company Act, 45 of 1993. It is a schedule 2 Public Entity in terms of the Public Finance Management Act, 1 of 1999.
- 5.2. The objective of ATNS is acquisition, establishment, development, provision, maintenance, management, control or operation of air navigation infrastructure, air traffic services or air navigation services.
- 5.3. ATNS is a sole provider of air traffic management, communication, surveillance, navigation, training and associated service within South Africa. ATNS manages ten percent of the world’s airspace. ATNS strives to continuously provide safe air space, orderly, expeditious and efficient management of Air Traffic Management services. The company operates at 21 aerodromes within the country, including OR Tambo, Cape Town and Durban International Airports.
- 5.4. In the rest of the African Continent, ATNS provides inter alia, Aeronautical Satellite, Communication networks known as VSAT Networks, WGS 84 surveys, documentation, airspace design, AIP documentation Billing Services and Consultancy services.

- 5.5. The services provided extend from Cape Town to Cairo interconnecting more than 33 states in Africa and Middle East. ATNS academy provides training to students from South Africa and other African Countries on Aeronautical information services (AIS).
- 5.6. ATNS has a Board which manages the affairs of ATNS, and exercises control over the performance of its functions, the exercise of its powers and the execution of its duties. The Board has assigned certain powers to the Chief Executive Officer who is responsible for the general management of ATNS.
- 5.7. ATNS is made up of the following Departments:
- Engineering and Technical Services
  - Operations
  - Air Traffic Management
  - Commercial Services
  - Risk
  - Legal and Compliance
  - Human Capital
  - Finance

## 6. INFORMATION OFFICER AND DEPUTY INFORMATION OFFICERS

- 6.1. In terms of the Act, the Chief Executive Officer of a public body is automatically designated as the Information Officer.
- 6.2. The Information Officer has designated:

Deputy Information Officer: Legal Counsel  
e-mail address: legalrequest@atns.co.za

Company Secretary

Chief Information Officer

Senior Manager: Marketing and Communication

However, to ensure proper processing of requests, all requests for information must be addressed to the Legal Counsel.

## 7. CONTACT DETAILS

- 7.1. ATNS office is situated in Eastgate Office Park, in Bruma, Johannesburg. Head Office is responsible for handling all request for access to information pertaining to all offices and branches of ATNS.

Physical address: Eastgate Office Park  
Block C  
South Boulevard Road  
Bruma, 2198, Gauteng South Africa

Postal address: Private Bag X15  
Kempton Park



1620

Business Telephone: +27 11 607 1000  
Fax: +27 11 607 1570  
Website address: [www.atns.co.za](http://www.atns.co.za)

## 8. SOUTH AFRICAN HUMAN RIGHTS COMMISSION ("SAHRC") GUIDE ON THE ACT

In terms of Section 10 of the Promotion of Access to information Act 2 of 2000, the Human Rights Commission has compiled a guide on the use of PAIA. Enquiries regarding the Guide should be addressed to the South African Human Rights Commission, the contact details of which are as follows:

Postal Address: South African Human Rights Commission  
Promotion of Access to Information Act Unit  
Research and Documentation Department  
Private Bag 2700  
Houghton  
2041

Telephone: +27 11 484 8300  
Fax: +27 11 484 0582  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)  
E-mail: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

## 9. MANNER OF REQUEST

- 9.1. ATNS can be regarded as both the Public Body and a Private Body depending on the record to be accessed.
- 9.2. ATNS will be regarded as a public body where the records relate or are relevant to the exercise of a power or the performance of a function in terms of legislation or the founding Act. All regulated services will fall under this category.
- 9.3. ATNS will be regarded as a Private Body if the record requested, relates to the exercise of a power or the performance of a function of a Private Body. Employee related matters will fall under this category.
- 9.4. All requests for access to information relating to ATNS as a Public Body will be dealt with in terms of Section 11 of the Act. Any other unregulated Services will be dealt with in terms of Section 50 of the Act as this relates to record of ATNS in a capacity as Private Body.

## 10. PROCEDURE FOR REQUESTING ACCESS TO INFORMATION

- 10.1. The requester must fill in a prescribed form (Form A) and forward a request to the Information Officer. The requester must indicate whether the request is for a copy of the record or inspection of the relevant record. "Form A" is accessible from the Government Notice R187 dated 15 February 2002.
- 10.2. If the requester requests access in a particular form, access will be granted in such a manner in which the request was made, unless doing so will interfere unreasonably with the running of the Public Body, if it will infringe on copyright not owned by the Public Body or if it will cause damage to the record.
- 10.3. If, in addition to a written reply to the request for the record, the requester wants to be informed telephonically, this must be indicated on the application form.
- 10.4. If the requester is requesting access on behalf of another person, the capacity in which the requester is making the request must be indicated.
- 10.5. If the requester is unable to read or write, or has a disability, then a request can be made orally. The Information Officer will assist such requester to fill in a form on behalf of a requester and give him a copy.

## 11. CONSIDERING THE REQUEST

- 11.1. Subject to the provisions of the Act, access to records requested from ATNS will only be given if the following conditions are met:
  - All the procedural requirements set out in the Act relating to a request are met; and;
  - Access to the requested record/s is not refused in terms of any ground for refusal set out in the Act.

The grounds of refusal are outlined in Part 2 of Chapter 4 and Part 3 Chapter 4 and includes mandatory protection of:

- commercial information of a third party;
  - certain confidential information;
  - safety of individuals, and protection of property;
  - records privileged from production in legal proceedings;
  - economic interests and financial welfare of the Republic and commercial activities of public bodies;
  - research information of a third party, and protection of research information of a public body; or
  - certain information regarding the operations of public bodies.
- 11.2. ATNS may also refuse requests that are manifestly frivolous or vexatious or that will lead to a substantial and unreasonable diversion of resources.
  - 11.3. In terms of the International Civil Aviation Organisation ("ICAO") Annex 13, paragraph 8.3, certain records cannot be disclosed and ATNS will take that into account when a request is made. ICAO Annex 13 Paragraph 8.3, states as follows:
    - the State conducting the investigation of an accident or incident shall not make the following records available for purposes other than accident or incident investigation, unless the appropriate authority for the administration of justice in that State

determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigations;

- all statements taken from persons by the investigation authorities in the course of their investigation;
- all communications between persons having been involved in the operation of the aircraft;
- cockpit voice recordings and transcripts from such recordings;
- recordings and transcriptions of recordings from air traffic control units; and
- opinions expressed in the analysis of information, including flight recorder information.

## 12. FEES PAYABLE

- 12.1. The Act makes provision for two types of fees, namely a prescribed fee and an access fee, which must be paid to ATNS for the access of record.
- 12.2. A personal requester is not required to pay a request fee.
- 12.3. A required prescribed fee is payable for any request if the requester is not requesting a record containing his personal information. The Deputy Information Officer, or duly authorised person, will notify the requester before processing the request to pay the prescribed fee.
- 12.4. The request fee payable to public bodies is as set out in Annexure A, payable on submission of each application. This amount is not refundable. "Annexure A" is accessible from the Government Notice R187 dated 15 February 2002 PART II (Fees in respect of Public Bodies).
- 12.5. After the Deputy Information Officer has made a decision on the request, the requester will be notified of such request and a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record.

## 13. RECORDS HELD BY ATNS

- 13.1. Records available from ATNS without a person having to request access in terms of PAIA (Voluntary disclosure and automatic available record).

The Annual Report of ATNS (The annual report can be downloaded from the Website at [www.atns.co.za](http://www.atns.co.za)), general information, service information and ATNS's brochure are available on ATNS's website.

- 13.2. Description of subjects and categories of records held by the ATNS

The following records are available, but disclosure thereof is not automatic and is subject to Chapter 3 of PAIA. Each request will be evaluated on a case by case basis in accordance with the provisions of the Act.

- Financial records;
- Operations records;
- Air Traffic and Management records;
- Engineering records;

- Internal Correspondences;
- Internal policies, directives and procedures;
- Statutory records;
- Human Resource records.

### 13.3. Services and information available to the public at a fee

- Upper Airspace Management;
- VSAT/NAFISAT;
- WGS- 84 Survey;
- Aeronautical Information Services Documentation;
- Central Aeronautical Database (CAD);
- Billing Services;
- Flight Procedure Design;
- Airspace Design;
- Engineering Services; and
- Training

## 14. APPEAL PROCEDURE

- 14.1. In terms of PAIA and the Constitution of the Republic of South, everyone has a right to access information held by a Public Body provided such record does not fall within the category of records prohibited in terms of Chapter 3.
- 14.2. Should the requester feel that the refusal to grant access to the record is unjustifiable, he or she can lodge an Appeal with the Information Officer. An internal appeal must be lodged in the prescribed form, within 60 (days) of the decision. The Appeal must contain information on the decision being appealed against, the reasons for the appeal and any other information that is known by the requester relating to the appeal. The prescribed form referred to as Notice of Internal Appeal "Form B" is accessible from the Government Notice R187 dated 15 February 2002.
- 14.3. After exhausting the internal appeal remedies, an application may be lodged with a court of law.

## 15. UPDATING OF MANUAL in terms of Section 14(3) of PAIA

The manual will be updated on an annual basis and as soon as the updated version is available, it will be made available to the public in the manner indicated below.

## 16. AVAILABILITY OF MANUAL

The manual will be made available in the following manner:

- From each Legal Deposit as defined in section 6 of the Legal Deposits Act 1997;
- The English version will be published in the Government Gazette;
- The manual can also be accessed on ATNS website (<http://www.atns.co.za>);
- South African Human Rights Commission.



## 17. CONCLUSION

The manual's purpose is to promote transparency and accountability and to enable the members of the public to exercise their Constitutional Right to access to information. ATNS will submit an annual report to the Human Rights Commission on the implementation of PAIA.