

**NKWE MINING SERVICES
(PTY) LIMITED**

**PROMOTION OF ACCESS TO
INFORMATION MANUAL
(In terms of Section 51, Promotion of
Access to Information Act, Act 2 of 2000)**

20 December 2011

NKWE MINING SERVICES (PTY) LIMITED

**MANUAL IN TERMS OF SECTION 51 OF THE PROMOTION
OF ACCESS TO INFORMATION ACT 20/2000 ("the Act")**

1. INTERPRETATION

In this document, clause headings are for convenience and shall not be used in its interpretation unless the context clearly indicates a contrary intention –

- 1.1 an expression which denotes -
 - 1.1.1 any gender includes the other genders;
 - 1.1.2 a natural person includes an artificial or juristic person and vice versa;
 - 1.1.3 the singular includes the plural and vice versa;
- 1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings -
 - 1.2.1 “this document” – this document together with all its annexures, as amended from time to time;
 - 1.2.2 “business day” – any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;
 - 1.2.3 “the company” – Nkwe Mining Services (Pty) Limited, registration number 1993/003007/07;
 - 1.2.4 “the Act” – Promotion of Access to Information Act No.2 of 2000, as amended from time to time including the regulations promulgated in terms of the Act;
 - 1.2.5 “request liaison officer” – the person duly authorised by the head of the private body / company and appointed by the company to facilitate or assist the head of the private body / company with any request in terms of the Act.
- 1.3 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the publication date, and as amended or substituted from time to time;
- 1.4 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this document;

- 1.5 where any term is defined within a particular clause other than this, that term shall bear the meaning ascribed to it in that clause wherever it is used in this document;
- 1.6 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 1.7 any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 1.8 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.9 insofar as there is a conflict in the interpretation of or application of this document and the Act, the Act shall prevail;
- 1.10 this document does not purport to be exhaustive of or comprehensively deal with every procedure provided for in the Act. A requester is advised to familiarize his/her/itself with the provisions of the Act before lodging any request with the company.

2. AIM

To facilitate the requests for access to records of the company as provided for in the Act.

3. CONTACT DETAILS OF THE COMPANY

Name of company:	Nkwe Mining Services (Pty) Limited
Physical address:	No 231 Beyers Naude Street, Rustenburg, 003, North West Province, RSA
Postal address:	P O Box 1618, Mogwase, 0314
Telephone number:	014 – 592 0255
Facsimile number:	086- 541 8295
E-mail address:	sales@nkwegroup.co.za

4. CONTACT DETAILS OF THE HEAD OF THE FIRM AND REQUEST LIAISON OFFICER

Name of Head of the firm:	Mrs NM Rapetswa
Physical address:	No 231 Beyers Naude Street, Rustenburg, 003, North West Province, RSA
Postal address:	P O Box 1618, Mogwase, 0314
Telephone number:	014 – 592 0255
Facsimile number:	086- 541 8295
E-mail address:	neo@nkwegroup.co.za

Name of Request Liaison Officer:	Advocate TI Lebeko
Physical address:	No 231 Beyers Naude Street, Rustenburg, 003, North West Province, RSA
Postal address:	P O Box 1618, Mogwase, 0314
Telephone number:	014 – 592 0255
Facsimile number:	086- 541 8295
E-mail address:	lebeko@nkwegroup.co.za

5. SOUTH AFRICAN HUMAN RIGHTS COMMISSION GUIDE

The Human Rights Commission has compiled a guide in terms of section 10 of the Act. The guide contains information in an easily comprehensible form and nature, as may be reasonably required by a person who wishes to exercise any right contemplated in the Act. It is available in all of the official languages.

The guide is available for inspection, *inter alia*, at the offices of the South African Human Rights Commission, at 29 Princess of Wales Terrace, corner York and St. Andrews Street, Parktown, and on its website at www.sahrc.org.za

6. RECORDS HELD BY THE COMPANY IN TERMS OF OTHER LEGISLATION AS CONTEMPLATED IN SECTION 51(1)(d) OF THE ACT (where applicable)

6.1 The following records are not automatically available without a request in terms of the Act. Records are kept in accordance with, *inter alia*, the following legislation: (This list is not exhaustive)

6.1.1 Human Resources & Labour:

- 6.1.1.1 Basic Conditions of Employment Act, 1997
- 6.1.1.2 Labour Relations Act, 1995
- 6.1.1.3 Employment Equity Act, 1998
- 6.1.1.4 Occupational Health & Safety Act, 1993
- 6.1.1.5 Compensation for Occupational Injuries and Diseases Act, 1993
- 6.1.1.6 Skills Development Act, 1998
- 6.1.1.7 Skills Development Levies Act, 1999
- 6.1.1.8 Unemployment Insurance Act, 2001
- 6.1.1.9 Unemployment Insurance Contributions Act, 2002
- 6.1.1.10 Mine Health & Safety Act, 1996

6.1.2 Environment:

- 6.1.2.1 Mineral & Petroleum Resources Development Act, 2002
- 6.1.2.2 National Environmental Management Act, 1998
- 6.1.2.3 Environment Conservation Act, 1989
- 6.1.2.4 National Water Act, 1998

- 6.1.2.5 National Environmental Management Act, 1998
(Air Quality Act, Protected Areas Act,
Biodiversity Act)
- 6.1.2.6 National Heritage Resources Act, 1999
- 6.1.2.7 Development Facilitation Act, 1995

6.1.3 Mining / Geology:

- 6.1.3.1 Mineral & Petroleum Resources Development
Act, 2002
- 6.1.3.2 Mineral & Petroleum Resources Royalty Act,
2008
- 6.1.3.3 National Nuclear Regulator Act, 1999
- 6.1.3.4 Explosives Act, 2003

6.1.4 Company / Financial:

- 6.1.4.1 Companies Act, 2008
- 6.1.4.2 Insider Trading Act, 1998
- 6.1.4.3 Income Tax Act, 1962
- 6.1.4.4 Value Added Tax Act, 1991
- 6.1.4.5 Income Tax Act, 58 of 1962

**7. OTHER TYPES OF RECORDS HELD BY THE COMPANY AS
CONTEMPLATED IN SECTION 51(1)(e) (where applicable)**

These records are not automatically available without a request in terms of the Act. A request in terms of this section is subject to section 63(1) of the Act, which provides that the head of a private body must refuse a request for access to a record of the company if the disclosure of the record would involve the unreasonable disclosure of personal information about a third party including a deceased individual.

7.1 Companies Act Records:

- 7.1.1 Documents of incorporation
- 7.1.2 Memorandum of Incorporation
- 7.1.3 Records relating to the appointment of directors / auditor /
secretary / public officer and other officers
- 7.1.4 Share Register and other statutory registers

7.2 Financial Records:

- 7.2.1 Annual Financial Statements
- 7.2.2 Tax Returns
- 7.2.3 Accounting Records
- 7.2.4 Banking Records / Statements
- 7.2.5 Asset Register
- 7.2.6 Rental Agreements
- 7.2.7 Invoices

7.3 Income Tax Records:

- 7.3.1 PAYE Records
- 7.3.2 Documents issued to employees for income tax purposes
- 7.3.3 Records of payments made to SARS on behalf of employees
- 7.3.4 All other statutory compliances relating to VAT, Regional Services Levies, Skills Development Levies, UIF & Workmen's Compensation

7.4 Personnel documents and records: (where applicable)

- 7.4.1 Employment contracts
- 7.4.2 Employment Equity Plan
- 7.4.3 Medical Aid records
- 7.4.4 Pension Fund records
- 7.4.5 Disciplinary records
- 7.4.6 Salary records
- 7.4.7 SETA records
- 7.4.8 Disciplinary code
- 7.4.9 Leave records
- 7.4.10 Training records
- 7.4.11 Training Manuals

7.5 Legal records

- 7.5.1 Company Secretarial records
- 7.5.2 Legal agreements

8. PROCESS OF REQUESTING INFORMATION NOT AUTOMATICALLY AVAILABLE

- 8.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.
- 8.2 A request must be made on the prescribed form. A copy of the form is attached marked annexure "A" ("the prescribed form").

- 8.3 The requester must complete the prescribed form and submit same as well as payment of a request fee and a deposit, if applicable, to the request liaison officer at the postal or physical address, fax number or electronic mail address as stated in paragraph 3 above.
- 8.4 The prescribed form must be filled in with enough particularity to at least enable the request liaison officer to identify –
 - 8.4.1 The record or records requested;
 - 8.4.2 The identity of the requester;
 - 8.4.3 Which form of access is required, if the request is granted;
 - 8.4.4 The postal address or fax number of the requester.
- 8.5 The requester must state that he / she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.
- 8.6 The same procedure as set out in 8.1 to 8.5 above applies if the requester is requesting information on behalf of another person or on behalf of a permanent employee of the company.
- 8.7 The following fees should accompany the prescribed form –
 - 8.7.1 R50,00;
 - 8.7.2 If the head of the private body or the request liaison officer is of the opinion that six hours will be exceeded to search, reproduce and/or prepare the information requested, a deposit is payable equal to 1/3 at an amount of R30 for each hour or part thereof, exceeding the six hours.
- 8.8 The head of the private body, as soon as reasonably possible and within thirty days after the request has been received, shall decide whether or not to grant the request.
- 8.9 The requester will be notified of the decision of the head of the private body or the request liaison officer in the manner indicated by the requester.

- 8.10 If the request is granted, the requester shall be informed by the head of the private body or the request liaison officer in the manner indicated by the requester in the prescribed form.
- 8.11 Notwithstanding the afore going, the company will advise the requester in the manner stipulated by the requester in the prescribed form of –
 - 8.11.1 the access fee to be paid for the information (in accordance with paragraph 8.3);
 - 8.11.2 the format in which access will be given;
- 8.12 After access is granted, actual access to the record requested will be given as soon as reasonably possible.
- 8.13 If the request for access is refused, the head of the private body or the request liaison officer shall advise the requester in writing in a notice of refusal. The notice of refusal shall state adequate reasons for the refusal. The main grounds for the company to refuse a request for information relates to the following:
 - 8.13.1 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;
 - 8.13.2 Mandatory protection of the commercial information of a third party, if the record contains –
 - 8.13.2.1 Trade secrets of that third party;
 - 8.13.2.2 Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
 - 8.13.2.3 Information disclosed in confidence by a third party to the company, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
 - 8.13.2.4 Mandatory protection of the safety of individuals and the protection of property;
 - 8.13.2.5 Mandatory protection of records that would be regarded as privileged in legal proceedings;

- 8.13.2.6 The research information of the company or a third party, if its disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the research at a serious disadvantage;
 - 8.12.2.7 Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources.
- 8.13 Upon the refusal by the head of the private body or the request liaison officer, the deposit paid by the requester will be refunded.
- 8.14 The head of the private body or the request liaison officer may decide to extend the period of thirty days ("original period") for another period of not more than thirty days if -
 - 8.14.1 the request is for a large number of records;
 - 8.14.2 the search for the records is to be conducted at premises not situated in the same town or city as the head office of the company;
 - 8.14.3 consultation among divisions or departments, as the case may be, of the company is required;
 - 8.14.4 the requester consents to such an extension in writing;
 - 8.14.5 the parties agree in any other manner to such an extension.
- 8.15 Should the company require an extension of time, the requester shall be informed in the manner stipulated in the prescribed form of the reasons for the extension.

9. AVAILABILITY OF THE MANUAL

The company's manual is available for inspection free of charge at the registered address of the company and on its website www.nkwegroup.co.za

Furthermore, a copy is available from the Human Rights Commission (see contact details in paragraph 5 above).

10. INFORMATION REQUESTED ABOUT A THIRD PARTY

- 10.1 Section 71 of the Act makes provision for a request for information or records about a third party.
- 10.2 In considering such a request, the company will adhere to the provisions of sections 71 to 74 of the Act.
- 10.3 The attention of the requester is drawn to the provisions of Chapter 5, Part 3 of the Act in terms of which the company is obliged, in certain circumstances, to advise third parties of requests lodged in respect of information applicable to or concerning such third parties. In addition, the provisions of Chapter 2 or part 4 of the Act entitles third parties to dispute the decisions of the head of the private body or the request liaison officer by referring the matter to the High Court.

11. UPDATING OF MANUAL

The company will update this manual every six months or at such intervals as may be necessary.

ANNEXURE A – PRESCRIBED FORMS

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53 (1) of the Promotion of Access to Information Act, 2000
(Act No.2 of 2000)

(Regulation 10)

A. Particulars of private body

The head: _____ (name of company)

B. Particulars of person requesting access to the record

- | | |
|-----|---|
| (a) | The particulars of the person who requests access to the record must be given below. |
| (b) | The address and/or fax number in the republic to which the information is to be sent must be given. |
| (c) | Proof of the capacity in which the request is made, if applicable, must be attached. |

<i>Full name and Surname:</i>	
<i>Identity number:</i>	
<i>Postal address:</i>	
<i>Telephone number:</i>	
<i>Facsimile number:</i>	
<i>E-mail address:</i>	
<i>Capacity in which request:</i>	

C. Particulars of person on whose behalf request is made

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

<i>Full names and surname:</i>	
<i>Identity number:</i>	

D. Particulars of record

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

<i>Description of record or relevant part of the record:</i>	
<i>Reference number, if available:</i>	
<i>Any further particulars of record:</i>	

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) 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 a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

E. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:	
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 in certain circumstances. In such a case you will be informed if access will be granted in another form.
(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:

RECORD	YES	NO
Copy of record		
Inspection of record		

2. If a record consists of visual images
(this includes photographs, slides, video recordings, computer-generated images, sketches, etc):

IMAGES	YES	NO
View the images		
Copy of the images		
Transcription of the images		

3. If record consists of recorded words or information which can be reproduced in sound:

	YES	NO
Listen to the soundtrack (audio cassette)		
Transcription of soundtrack (written or printed document)		

4. If a record is held on computer or in an electronic or machine-readable form:

	YES	NO
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 to be posted to you? Postage is payable.		

F. Particulars of right to be exercised or protected

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.

1. Indicate which right is to be exercised or protected:

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

G. 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?

Signed at _____ this _____ day of _____ 20____