

# **PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (“PAIA”)**

## **MANUAL**

### **PAI001**

**DOCUMENT USERS : INTERNAL AND EXTERNAL**

**PERSON RESPONSIBLE FOR  
KEEPING DOCUMENT CURRENT : LEGAL, GOVERNANCE &  
ETHICS DEPARTMENT**

Revision	Prepared	Reviewed	Approved	Date	Description
001	Legal, Governance & Ethics Department	Exco	CEO	18 June 2013	Approved
002	Legal, Governance & Ethics Department	Exco	CEO	9 September 2019	Approved

**MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION OF ACCESS TO INFORMATION ACT NO. 2 OF 2000 (“the Act”) FOR HARMONY GOLD MINING COMPANY LIMITED AND ITS SUBSIDIARIES (“HARMONY”)**

**COMPANY OVERVIEW:**

Harmony is involved in gold mining and related activities mainly in South Africa and Papua New Guinea.

**1. CONTACT PERSON**

In accordance with Section 51(1)(a) of the Act, the contact details and contact person for Harmony, in relation to the Act, are as follows:

Name of Body: Harmony Gold Mining Company Limited  
Physical Address: Block 17, Randfontein Office Park, Corner of Main Reef Road and Ward Avenue, Randfontein  
Postal Address: PO Box 2, Randfontein, 1760  
Information Officer: Lynnette Smith  
Telephone No: (011) 411-2141  
Fax No: (011) 696-9734  
E-mail: [Lynnette.Smith@Harmony.co.za](mailto:Lynnette.Smith@Harmony.co.za)

**2. DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT GUIDE**

In accordance with Section 51(1)(b) of the Act, it is confirmed that a guide on how to use the Act, as compiled by the Department of Justice and Constitutional Development in terms of Section 10 of the Act, is available from the Human Rights Commission, located at Braampark Forum 3, 33 Hoofd Street, Braamfontein. The Regulations promulgated in terms of the Act, published in *Government Gazette* No. 23119 under Notice No. R187 of 15 February 2002 as amended from time to time, set forth how the South African Human Rights Commission should make the Guide available.

The guide will in due course be available from the Information Regulator. Any queries should then be directed to:

The Information Regulator (South Africa):

33 Hoofd Street

Forum III, 3<sup>rd</sup> Floor Braampark

Braamfontein, Johannesburg

Pretoria

Telephone No (012) 406 4818

Fax No: 086 500 3351

Website: [www.justice.gov.za/inforeg](http://www.justice.gov.za/inforeg)

E-mail: [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za)

### 3. **AUTOMATIC DISCLOSURE**

Section 52(1) of the Act makes provision is made for the voluntary submission by a private body to the Minister of Justice, of a description of the categories of documents that may be available to the public without any need for a request of access to such, i.e. **Records automatically available to the public**. Such a submission has not been made to date. However, see item 5(iii) below for details of Harmony's website.

### 4. **LEGISLATIVE RECORDS**

In accordance with Section 51(1)(d) of the Act - **Records Held in Accordance With Legislation**: records are kept in accordance with such legislation as is applicable to Harmony, which includes but is not limited to, the following legislation as amended from time to time:

Companies Act 71 of 2008;

Securities Services Act 36 of 2004;

Income Tax Act 58 of 1962;

Unemployment Insurance Act 63 of 2001;

Value Added Tax Act 89 of 1991;  
Tax Administration Act 28 of 2011;  
Compensation for Occupational Injuries and Diseases Act 130 of 1993;  
Mine Health and Safety Act 29 of 1996;  
National Water Act 36 of 1992;  
National Environmental Management Act 107 of 1998;  
National Environmental Management: Air Quality Act 39 of 2004;  
National Environmental Management: Waste Act 59 of 2008;  
Mineral and Petroleum Resources Development Act 28 of 2002;  
Minerals Act 50 of 1991 (largely repealed);  
Nuclear Energy Act 46 of 1999;  
Hazardous Substances Act 15 of 1973;  
Explosives Act 26 of 1956;  
Occupational Diseases in Mines and Works Act 78 of 1973;  
Labour Relations Act 66 of 1995;  
Basic Conditions of Employment Act 75 of 1997;  
Employment Equity Act 55 of 1998;  
Skills Development Act 97 of 1998;  
Skills Development Levies Act 9 of 1999; and  
Protection of Personal Information Act 4 of 2013.

## **5. RECORDS HELD**

In accordance with Section 51(1)(e) of the Act, categories of **records** that may be requested, and for which access may be provided or refused in accordance with relevant provisions of the Act, are the following:

### **i. Operational Information**

Such information as is required for the overall governance of Harmony, and for the day to day running of Harmony. For instance: shareholder information, constitutional and statutory documents, director information, minutes of meetings, accounting and financial

records, legal and compliance records, company secretarial and administrative records, information technology records, marketing material, internal phone lists; address lists; company policies; employee records; permits; licences; authorizations; approvals and general “housekeeping” information.

ii. **Communications**

Correspondence between persons within and without Harmony relating to matters of business within the course and scope of their employment with Harmony, which are recorded in the communication system of Harmony, such as computer records and telephone records.

iii. **Website**

Harmony’s website address is [www.harmony.co.za](http://www.harmony.co.za) and is accessible to anyone who has access to the Internet. The website contains various categories of information relating to Harmony which is publically available.

6. **ACCESS REQUESTS**

In accordance with Section 51(1)(e) of the Act, the **request procedures** are as set out below:

*It is important to note that the successful completion and submission of an access request form does not automatically allow the requester access to the requested record. An application for access to a record is subject to certain qualifications (in that the requested record must be required for the exercise or protection of a right), and may be refused by Harmony if the requested record falls within a certain category as specified in Part 3, Chapter 4 of the Act.*

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

i. **Form of Request**

- The requester must use the prescribed form attached to this manual as Annexure A, to make the request for access to a record. This must be made to the person listed at item 1 above, as the Head of the Private Body (who has been duly authorized by the Chief Executive Officer as contemplated in the Act). A request must be made to the address, fax number or electronic mail address of Harmony, provided at item 1 above.
- The requester must provide sufficient detail on the request form to enable the Head of the Private Body (contact person) to identify the record/s requested, and the requester. The requester should also indicate which form of access is required and specify a revert address or fax number in the Republic of South Africa where any response to such request or such record may be sent. The requester should also indicate if, in addition to a written reply, any other medium is to be used to communicate with the requester, and state the necessary particulars for such purpose.
- The requester must identify the right that is sought to be exercised or protected, and provide an explanation of why the requested record is required for the exercise or protection of that right.
- If a request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request, to the satisfaction of the Head of the Private Body.

ii. **Fees**

A requester who seeks access to a record containing the requester's personal information is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The Head of the Private Body (contact person) must by notice, require the requester (other than a personal requester) to pay the prescribed request fee (if any) before further processing the request;
- The fee that the requester must pay to Harmony will be calculated in accordance with the access and request fee structure prescribed by the Department of Justice and Constitutional Development. The requester may lodge an application to the court against the tender or payment of the request fee;
- After the Head of the Private Body (contact person) has made a decision on the request, the requester must be notified in writing unless specified otherwise; and
- If the request is granted, then a further access fee must be paid for reproduction and for search and preparation, and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.
- The prescribed forms, and fee structure prescribed under the Act in respect of private bodies, are available on the website of the Department of Justice and Constitutional Development ([www.justice.gov.za](http://www.justice.gov.za)), under the PAIA "regulations" section. The fees in respect of private bodies can also be found in Part III of Annexure A to the Regulations made in terms of the Act.

## **7. ADDITIONAL INFORMATION**

The Minister of Justice and Constitutional Development has made regulations in terms of the Act, which regulations do not obligate Harmony to make available Additional Prescribed Information in this manual.

## **8. AVAILABILITY OF THE MANUAL**

In accordance with Section 51(3) of the Act, this manual is available on Harmony's website ([www.harmony.co.za](http://www.harmony.co.za)) and is also available for inspection by the general public upon request, during office hours and free of charge, at the offices of Harmony.

## **9. GROUND FOR REFUSAL OF ACCESS TO RECORDS IN TERMS OF CHAPTER 4 OF THE ACT**

The main grounds for refusal of a request for records would be:

- The mandatory protection of the privacy of a third party who is a natural person, where disclosure of the records would involve the unreasonable disclosure of personal information of that natural person.
- The mandatory protection of the commercial information of a third party, if the record contains:
  - Trade secrets of that party.
  - Financial, commercial, scientific or technical information disclosure of which could likely cause harm to the financial or commercial interests of that party.
  - Information disclosed in confidence by a third party, to Harmony, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition.
- The mandatory protection of confidential information of third parties if it is protected in terms of any agreement.



- The mandatory protection of the safety of individuals and the protection of property.
- The mandatory protection of records which could be regarded as privileged in legal proceedings.
- The protection of information relating to the commercial activities of Harmony, where such information may include:
  - Trade secrets of Harmony;
  - Financial, commercial scientific or technical information disclosure of which could likely cause harm to the financial or commercial interests of Harmony.

## **10. REMEDIES AVAILABLE TO AN AGGRIEVED REQUESTER OR THIRD PARTY**

A requester aggrieved by a decision of the Head of the Private Body—

- to refuse a request for access to records; or
- taken in terms of Section 54, 57(1) or 60 of the Act,

may, by way of an application, within 180 days apply to a court for appropriate relief in terms of Section 82 of the Act.

A third party aggrieved by a decision of the Head of the Private Body in relation to a request for access to a record of Harmony, may, by way of an application, within 180 days apply to a court for appropriate relief in terms of Section 82 of the Act.

In terms of Section 82 of the Act, the court hearing an application may grant any order that is just and equitable, including orders—

- confirming, amending or setting aside the decision which is the subject of the application concerned;
- requiring from the Head of the Private Body to take such action or to refrain from taking such action as the court considers necessary within a period mentioned in the order;
- granting an interdict, interim or specific relief, a declaratory order or compensation;
- as to costs; or
- condoning non-compliance with the 180 day period within which to bring an application, where the interests of justice so require.



## ANNEXURE A: ACCESS TO INFORMATION REQUEST FORM

Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)  
[Regulation 10]

**1. PARTICULARS OF PRIVATE BODY**

Requests can be submitted either via conventional mail or e-mail, and should be addressed to the relevant contact person as indicated below:

Name of Body: **Harmony Gold Mining Company Limited**  
Physical Address: **Block 17, Randfontein Office Park, Corner of Main Reef Road and Ward Avenue, Randfontein**  
Postal Address: **PO Box 2, Randfontein, 1760**  
Information Officer: **Lynnette Smith**  
Telephone No: **(011) 411-2141**  
E-mail: **lynnette.smith@harmony.co.za**

**2. PARTICULARS OF REQUESTER (If a Natural Person)**

*(a) Particulars of the person who requests access to the record must be recorded below.*

*(b) Furnish a postal address and/or an email 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.*

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

Postal code: \_\_\_\_\_

Phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Email address: \_\_\_\_\_

**PARTICULARS OF REQUESTER (If a Legal Entity)**

*(a) Particulars of the entity that requests access to the record must be recorded below.*

*(b) Furnish a postal address and/or an email 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: \_\_\_\_\_

Email address: \_\_\_\_\_

**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: \_\_\_\_\_

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Reference number, if available: \_\_\_\_\_

Any further particulars of records: \_\_\_\_\_

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**5. FEES**

- (a) *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a non-refundable request fee of R50-00 has been paid per request.*
- (b) *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.*
- (c) *You will be notified of the required amount to be paid as the access fee.*
- (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: \_\_\_\_\_

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**6. 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.*
- (c) *The fee payable for access to 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:**

☐

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 of the images\*

☐

Transcription of the  
images\*

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

☐

Listen to the soundtrack  
(compact disc)

☐

Transcription of soundtrack\*  
(written or printed document)

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

☐

Printed copy of record\*

☐

Printed copy of  
information derived from  
the record\*

☐

Copy in computer  
readable form\*  
(memory stick 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? (NB: Postage is payable)

Yes

No

\* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be e-mailed to you? (NB: depending on the volume, e-mail transmission may not be possible)

Yes

No

**Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available. (Cost of translation may be payable)**

In which language would you prefer the record? \_\_\_\_\_

7. **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 above, state your disability and indicate in the form in which the record is required.*

Disability: \_\_\_\_\_

Form in which record is required: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. 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: \_\_\_\_\_

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

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**9. 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?

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Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF REQUESTER/PERSON ON  
WHOSE BEHALF REQUEST IS MADE