



# **SECTION 51 MANUAL FOR**

## **Black Mountain Mining (Pty) Ltd**

### **(“BMM”)**

**MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE  
PROMOTION OF ACCESS TO INFORMATION ACT, NO. 2 OF 2000 (“THE ACT”)**

**Update: December 2017**

**BLACK MOUNTAIN MINING (PTY) LTD**

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**Registration number:** 2005/040096/07



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**Annexure A: Prescribed form C - REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

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*1. Contact details and the person to whom requests, pursuant to the provisions of the Act, should be made (section 51(1)(a) of the Act):*

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The Information Officer, BMM

E-mail: info@vedantaresources.co.za

Tel: +27 54 983 9202/ 9203

Fax: +27 54 983 9244

Postal Address: Private Bag X01, Aggeneys, Northern Cape Province,

Address: 1 Penge Road, Aggeneys, Northern Cape Province, South Africa

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*2. The Section 10 guide on how to use the Act (section 51(1)(b) of the Act):*

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In terms of Section 10 of the Act, the South African Human Rights Commission (“SAHRC”) is required to compile a guide containing information which a person intending to use the Act would require. Such guide must be made available in all official languages and, if necessary, must be updated every 2 years.

Please direct any queries regarding the guide to:

The South African Human Rights Commission

PAIA Unit

The Research and Documentation Department

Postal address : Private Bag 2700, Houghton, 2041

Business phone : +27 11 484 8300

Business fax : +27 11 484 0582

email address : PAIA@sahrc.org.za

Website : [www.sahrc.org.za](http://www.sahrc.org.za)

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*3. The latest notice in terms of section 52(2) (if any):*

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At this stage no notice(s) has/have been published on the categories of records that are automatically available without a person having to request access in terms of PAIA.

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*4. Records available in terms of other legislation: section 51(1)(d):*

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Records available in terms of other **legislation** are as follows:

- The Mine Health and Safety Act No. 29 of 1996;
- The Occupational Health and Safety Act No. 85 of 1993;
- Mineral and Petroleum Resources and Development Act No. 28 of 2002
- The Value-Added Tax Act No. 89 of 1991;
- Income Tax Act No. 58 of 1962;
- Companies Act No. 71 of 2008;
- Basic Conditions of Employment Act No. 75 of 1997;
- Employment Equity Act No. 55 of 1998;
- Customs and Excise Act No. 91 of 1964;
- Labour Relations Act No. 66 of 1995;
- Unemployment Insurance Act No. 30 of 1966;
- The Compensation for Occupational Injuries and Diseases Act No. 130 of 1993;
- The Insolvency Act No. 24 of 1936;
- The Road Transportation Act No. 74 of 1977;
- The Land Survey Act No. 8 of 1997;
- Explosives Act No 26 of 1956;
- Explosives Act No 15 of 2003;
- National Environmental Management Act No 107 of 1998;
- National Environmental Management: Air Quality Act No 39 of 2004;
- National Environmental Management: Biodiversity Act No 10 of 2004;
- National Environmental Management: Integrated Coastal Management Act No 24 of 2008;
- National Environmental Management: Protected Areas Act No 57 of 2003;
- National Environmental Management: Waste Act No 59 of 2008;
- Disaster Management Act No 57 of 2002;
- National Water Act No 36 of 1998;
- Broad-Based Black Economic Empowerment Act No 53 of 2003
- Competition Act No 89 of 1998
- Conventional Penalties Act No 15 of 1962

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*5. Subjects and categories of records held by BMM: section 51(1)(e):*

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Finance and Taxation

- Accounting Records
- Agreements
- Annual Financial Statements
- Audit Reports

- Capital Expenditure Records
- Investment Records
- Invoices and Statements
- Management Reports
- PAYE Records
- Purchasing Records
- Sale Records
- Supply Records
- Tax Records and Returns
- Treasury Dealing
- Transactional Records
- VAT Records

#### Assurance, Risk & Compliance (ARC)

- Risk Management Records
- General Correspondence
- BMM Audit Practice Records
- General Administration Records
- Audit Reports and Supporting Working Papers

#### Human Resources

- Education and Training Records
- Employee Benefit Records
- Employment Contracts
- Employment Equity Records
- BMM HR Policies and Procedures
- Labour Relations Records
- Leave Records
- Medical Records
- Personnel Information
- Retirement Benefit and Medical Aid Records
- UIF Returns
- Tax Returns of employees
- Statutory Employee Records

#### Legal Department

- General Correspondence
- Contracts and Agreements
- Property Records
- Mineral Rights Records
- Share Registration Records
- Statutory Records

#### Safety, Health, Environment and Sustainability

- Environmental Assessment Records
- Incident reports and investigations

- Licenses and Approvals
- Mining Charter Compliance Information
- Safety, Health, Environment and Sustainability Policies and Management Standards
- Philosophy and Strategy
- Safety and Environmental Statistics
- Sustainability Information
- Training Records

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## *6. Procedure for requesting information*

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### **Automatic available records in terms of section 52(1)(a) and (b) of the Act**

No records will be made automatically available, except for key environmental licenses to be published on the BMM website (however taking into consideration that necessary redactions will be made if required to protect commercially sensitive information).

Automatic available records may be obtained free of charge. Should a need arise for the reproduction of such record, a reproduction fee will be payable.

### **Application Process**

#### **Step 1: Request**

Where a person wishes to access information held by the companies, other than automatic available records, such a person must make a request for access to such information on the prescribed form, attached as Annexure A. This form is also available on the SAHRC website or may be obtained upon request to the Information Officer.

The prescribed form must be completed with enough particulars to enable the Information Officer to identify:

- the record(s) requested;
- the identity of the requester;
- which form of access is required, if the request is granted;
- the postal address, email or fax number of the requester;
- the right the requester is seeking to exercise or protect; and
- 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, 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.

The completed form may be submitted in either of the following manners to the Information Officer:

- by hand
- by post
- by facsimile
- by email

An individual who, because of illiteracy or a disability is unable to make a request for access to a record on the prescribed form, may make that request orally. The Information Officer will then reduce the oral request to writing in the prescribed form and provide a copy thereof to the requester.

#### Payment of Prescribed Fees

Payment details can be obtained from the Information Officer and payment can be made either via a direct deposit, by bank guaranteed cheque or by postal order (no credit card payments are accepted). Proof of payment must be supplied.

Four types of fees are provided for in terms of the Act:

**Request fee:** An initial, non-refundable R57.00 (incl. VAT) is payable on submission. This fee is not applicable to Personal Requesters, referring to any person seeking access to records that contain their personal information.

**Reproduction fee:** This fee is payable with respect to all records that are automatically available.

**Access fee:** If the request for access is successful an access fee may be required to reimburse BMM for the costs involved in the search, reproduction and/or preparation of the record and will be calculated based on the Prescribed Fees.

**Deposit:** A deposit of one third (1/3) of the amount of the applicable access fee, is payable if BMM receives a request for access to information held on a person other than the requester himself/herself and the preparation for the record will take more than six (6) hours. In the event that access is refused to the requested record, the full deposit will be refunded to the requester.

#### Step 2: Validation and acknowledgement

The Information Officer validates the request to see whether the required information is available. The request is then accepted, rejected or transferred to the rightful keepers of the required information. An acknowledgement confirming the status of the request is then forwarded

to the requester.

### **Step 3: Information processing**

Requests will be evaluated and the requester notified within 30 days of receipt of the completed the prescribed form. Notifications may include:

#### **Notification of Extension Period (if required)**

The requesters may be notified whether an extension period is required for the processing of their requests including:

- The required extension period, which will not exceed an additional 30 day period;
- Adequate reasons for the extension; and
- Notice that the requester may lodge an application with a court against the extension and the procedure, including the period, for lodging the application.

#### **Payment of Deposit (if applicable)**

The requester may be notified whether a deposit is required. A deposit will be required depending on certain factors such as the volume and/or format of the information requested and the time required for search and preparation of the record(s). The notice will state:

- The amount of the deposit payable (if applicable); and
- That the requester may lodge an application with a court against the payment of the deposit and the procedure, including the period, for lodging the application.

Please note:

In the event that access is refused to the requested record, the full deposit will be refunded to the requester.

#### **Decision on Request**

If no extension period or deposit is required the requesters will be notified, within 30 days, of the decision on their requests.

If the request for access to a record is successful, the requester will be notified of the following:

- The amount of the access fee payable upon gaining access to the record (if any);
- An indication of the form in which the access will be granted;

- Notice that the requester may lodge an application with a court against the payment of the access fee and the procedure, including the period, for lodging the application.

If the request for access to a record is not successful, the requester will be notified of the following:

- Adequate reasons for the refusal (refer to Third Party Information and Grounds for Refusal below); and
- That the requester may lodge an application with a court against the refusal of the request and the procedure, including the period, for lodging the application.

### Third Party Information

If access is requested to a record that contains information about a third party, BMM is obliged to attempt to contact this third party to inform them of the request. This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied.

In the event of the third party furnishing reasons for the support or denial of access, our designated contact person will consider these reasons in determining whether access should be granted, or not.

### Grounds for Refusal

BMM may legitimately refuse to grant access to a requested record that falls within a certain category.

Grounds on which the BMM may refuse access include:

- Protecting personal information that BMM hold about a third person (who is a natural person), including a deceased person, from unreasonable disclosure;
- Protecting commercial information that BMM holds about a third party or BMM (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of the organisation or the third party);
- If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement;
- If disclosure of the record would endanger the life or physical safety of an individual;
- If disclosure of the record would prejudice or impair the security of property or means of transport;
- If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- If disclosure of the record would prejudice or impair the protection of the safety of the public;

- The record is privileged from production in legal proceedings, unless the legal privilege has been waived;
- Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of BMM;
- Disclosure of the record would put BMM at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- The record is a computer programme; and
- The record contains information about research being carried out or about to be carried out on behalf of a third party or BMM.

#### Records that cannot be found or do not exist

If BMM has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

#### **Step 4: Final Notification**

The requester will be informed of the completion of the request as well as the outstanding fees payable.

#### **Step 5: Payment and delivery**

Once the payment is received, the information is released to the requester in accordance with Section 60 of the Act.

**ANNEXURE A**

**FORM C**

**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 Information Officer:

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**B. Particulars of person requesting access to the record**

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

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

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

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

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

email address : \_\_\_\_\_

Capacity in which request is made, when made on behalf of another person: \_\_\_\_\_

**C. Particulars of person on whose behalf request is made**

<i>This section must be completed ONLY if a request for information is made on behalf of another person.</i>
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Full names and surname : \_\_\_\_\_

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

**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.**

1. Description of record or relevant part of the record:

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2. Reference number, if available:

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3. Any further particulars of record:

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**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 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.

Reason for exemption from payment of fees:

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**F. Form of access to records**

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 by the form in which access is requested.*

<b>1.</b>	<b>If the record is in written or printed form</b>		
	copy of record*		inspection of record
<b>2.</b>	<b>If record consists of visual images</b> (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):		
	view the images	copy the images*	transcription of the images*
<b>3.</b>	<b>If record consists of recorded words or information which can be reproduced in sound:</b>		
	listen to soundtrack (audio cassette)		transcription of soundtrack* (written or printed documents)
<b>4.</b>	<b>If record is held on computer or in an electronic or machine-readable form:</b>		
	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 or transcription to be posted to you? <b>Postage is payable</b>			YES NO

**G. 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 the exercise or protection of the aforementioned right.

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#### H. 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 \_\_\_\_\_

**SIGNATURE OF REQUESTER / PERSON  
ON WHOSE BEHALF REQUEST IS MADE**

The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1.10 for every photocopy of an A4 size page or part thereof.

2) The fees for reproduction referred to in regulation 11(1) are as follows:

	<b>R</b>
a) For every photocopy of an A4size page or part thereof	1.10
b) For every printed copy of an A4-site page or part thereof held on a computer or in electronic or machine - readable form	0.75
c) For a copy in a computer-readable form on –	
i) stiffy disc	7.50
ii) compact disc	70.00
d) i) For a transcription of visual images, for an A4-size page or part thereof	40.00
ii) For a copy of visual images	60.00
e) i) For a transcription of an audio record, for an A4-size page or part thereof	20.00
ii) For a copy of an audio record	30.00

3) The request fee payable by every requester, other than a personal requester, referred to in regulation 11(2) is R50,00.

4) The access fees payable by a requester referred to in regulation 11(3) are as follows:

	<b>R</b>
1)	
a) For every photocopy of an A4-size page or part	1.10
b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable	0.75
c) For a copy in a computer-readable form on –	
i) stiffy disc	7.50
ii) compact disc	70.00

d)	i) For a transcription of visual images, for an A4-size page or part thereof	40.00
	ii) For a copy	60.00
e)	i) For a transcription of an audio record, for an A4-size page or part thereof	20.00
	ii) For a copy of an audio record	30.00
f)	To search for and prepare the record for disclosure, R30.00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	

- (2) For purposes of section 22(2) of the Act, the following applies:
- a) Six hours as the hours to be exceeded before a deposit is payable; and
  - b) one third of the access fee is payable as a deposit by the requester.
- (3) The actual postage is payable when a copy of a record must be posted to a requester.