

FINANCIAL AND FISCAL COMMISSION

MANUAL

*Promotion of Access to Information Act No.
2 of 2000 (as amended) [S.14]*



Financial and Fiscal Commission
Montrose Place (2nd Floor), Bekker Street,
Waterfall Park, Vorna Valley, Midrand,
Private Bag X69, Halfway House 1685

www.ffc.co.za

Tel: +27 11 207 2300

Fax: +27 11 207 2344

For an Equitable Sharing of National Revenue

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1. Introduction

The Financial and Fiscal Commission (FFC) is an independent, objective, impartial and unbiased constitutional advisory institution. It is a permanent expert commission with a constitutionally defined structure, with a set of generic responsibilities and institutional processes.

The Commission has the responsibility to advise and make recommendations to Parliament, provincial legislatures, organized local government and other organs of state on financial and fiscal matters. Its primary role is to ensure the creation and maintenance of an effective, equitable and sustainable system of intergovernmental fiscal relations in South Africa.

2. Functions of the FFC [S.14.1(a)]

NOTE: For the purposes of this Manual, the Financial and Fiscal Commission is referred to as “The Commission” or “The FFC”.

The functions, structure and objectives of the FFC are clearly defined and described in the Constitution, and are further qualified by the Financial and Fiscal Commission Act, no. 99 of 1997 (as amended).

Section 220 of the Constitution outlines the primary objectives of the FFC as follows:

- To make recommendations on financial and fiscal matters, as envisaged in the Constitution, and in particular, Chapter 13, or in national legislation, to Parliament, provincial legislatures and any other authorities determined by national legislation;
- To maintain the independence and impartiality of the FFC; In addition, Section 3 of the Financial and Fiscal Commission Act provides for the FFC:

- To act as a consultative body and give advice on financial and fiscal matters to organs of state;
- To perform its functions as required by the Constitution or by national legislation;
- To act on its own initiative or on the request of an organ of state;
- To ensure the efficient and effective functioning of the FFC;
- To undertake research and publish reports.

Finally, **Section 26** of the Financial and Fiscal Commission Act also provides for the FFC:

- To report annually to both houses of Parliament, to each provincial legislature and to organised local government, on the activities of the Commission during each financial year.

3. Services

The services flowing from the core business of the FFC are pre-determined by selected legislative provisions of the Constitution, the Financial and Fiscal Commission Act, the Intergovernmental Fiscal Relations Act and others. A description of the mandate of the Commission is available at: <http://www.ffc.co.za/index.php/mandate>

In terms of the legislative provisions, the key annual priorities of the FFC are the following:

- Make and submit recommendations for the equitable division of nationally collected revenue among the three spheres of government;
- Make and submit recommendations in accordance with specific constitutional mandates, the relevant national legislation and the FFC Act regarding any other allocations norms and standards and applicable criteria for various intergovernmental fiscal arrangements;
- Produce and distribute to all legislatures various reports, including audited financial statements on an annual basis;

- Maintain an effective functioning and management of the FFC; and,
- Undertake relevant research and appraise itself of relevant information so as to be able to provide advice on financial and fiscal matters

Relevant ad hoc requests from various state organs are responded to as and when they are received.

The outputs of research projects include the recommendations that feed into the Submission for the Division of Revenue document, as well as an independent technical report, policy briefs, scholarly articles in peer-reviewed journals, and contribution chapters to published works. These are disseminated in print and via the Commission’s website.

4. Structure of the FFC



Fig. 1: Organogramme

(Source: <http://www.ffc.co.za/index.php/commission-structure>)

The Evolution of the Structure of the Commission:

The structure of the FFC has changed since its original establishment in 1994. In accordance with the original constitutional requirements, the President had to appoint 22 commissioners to the FFC.

These were constituted as follows:

- A chairperson and a deputy chairperson who may be full time members;
- Nine persons nominated by the executive councils of each of the nine provinces;
- Two persons nominated by the South African Local Government Association (SALGA) as representative of organised local government; and
- Nine other persons.

The status quo remained unaltered until the end of 2002. Thereafter, in terms of a new constitutional amendment, the total number of commissioners was reduced to nine (9) *[Subs. (1) amended by S.2 of the Constitution Fifth Amendment Act of 1999 and substituted by S. 7 of the Constitution Seventh Amendment Act of 2001 with effect from 2003-12-01]*.

In terms of the Second Amendment Act, the current composition profile of the Commission is as follows:

- A chairperson and deputy chairperson;
- Three persons selected, after consulting the premiers, from a list compiled in accordance with a process prescribed by national legislation;
- Two persons selected after consulting with organised local government, from a list compiled in accordance with a process prescribed by national legislation; and
- Two other persons.

As at August 31 2011, an Acting Chairperson is at the helm of the Commission, and an announcement of newly nominated / appointed commissioners and a chairperson is awaited.

4.1 The Secretariat

The Commission's Secretariat is a permanent institution, housed in Midrand, Gauteng. It provides research, analytical and administrative support to the Commission, while it also has a Parliamentary Liaison Office based in Cape Town. The office in Cape Town largely maintains stakeholder relations and interacts with Parliament. The Secretariat performs its functions under the overall management and supervision of a Chairperson / CE (currently an Acting Chairperson). The Secretariat comprises the following key managerial positions:

- Commission Secretary – Commission co-ordination and enterprise information management;
- Chief Financial Officer – Financial management;
- Director: Research and Recommendations Programme – Overall management of research projects / activities, strategy and policy formulation
- Programme managers for the following research units:
 - National and Provincial Budget Units;
 - Fiscal Policy Unit;
 - Intergovernmental Fiscal Relations Unit;
 - Local Government Unit;
 - Data and Information Unit;
 - Macroeconomic and Public Finance Unit;
- Corporate Affairs Manager – Human resources management, facilities and corporate affairs.

5. Information Officers - Contact details [S. 14.1 (b)]

Information Officer Chairperson

Postal Address:

Private Bag X69,
Halfway House 1685
Tel: +27 11 207 2300
Fax: +27 11 207 2345

Physical Address:

2nd Floor, Montrose Place,
Waterfall Park,
Bekker Street,
Midrand, South Africa

Website: www.ffc.co.za

Alternative contact: The Librarian

Deputy Information Officer Commission Secretary

Private Bag X69,
Halfway House 1685
Tel: +27 11 207 2300
Fax: +27 11 207 2345

Contact Official

M K Mzaidume,
Private Bag X 69
Halfway House 1685
Tel. No: +27 (0) 86 1315 710

E-Mail: info@ffc.co.za –
mzaidume@ffc.co.za

library@ffc.co.za

Fax: +27 (0)11 207-2344/ Tel: +27 (0)11 207-2335

5.1 Section 10 Guide on how to use the PAIA [S. 14.1 (c)]

Section 10 of PAIA provides that the South African Human Rights Commission must compile simple and easily comprehensible guidelines on how to use the Promotion of Access to Information Act. The guide is now available at <http://www.sahrc.org.za/home/21/files/Reports/PAIA%20GUIDE%20english.pdf>
Alternatively, queries relating to the manual may be directed to:

The Research and Documentation Department,
South African Human Rights Commission,
PAIA Unit

Head Office
Braampark Forum 3,
33 Hoofd Street,
Braamfontein.

Tel: 011 877 3600

Website: www.sahrc.org.za
Email: PAIA@sahrc.org.za or info@sahrc.org.za

6. Record Categories [S.14.1(d)]

The FFC records relate to the organisation's activities on all levels: the Commission and Commissioners, the Research and Recommendations Programme's outputs, and the Secretariat's operational support activities. These records may be published records, historical and legal records, and/or ephemeral records which are bound to a disposal schedule. This section of the Act requires "... *sufficient detail to facilitate a request for access to a record of the body, a description of the subjects on which the body holds records, and the categories of records held on these subjects ...*"

The most recent documents and records of the FFC are available on the website at <http://www.ffc.co.za>. Older documents may have been archived or be out of print. Interested parties may request a free hard copy or a photocopy of the original as indicated in the Act [S.15(3)]. Alternatively, other document categories are available upon formal request under the Act.

Records of new publications are listed in accordance with Section 15(2) of the Act, and will be posted on the FFC website after formal publication.

6.1 Broad categorisation of records held by the FFC

Record Category	Record Type
<p>A. Published records</p>	<p>Core Publications:</p> <ul style="list-style-type: none"> • Annual Submission for the Division of Revenue (DoR) • Submission on the Division of Revenue (response to the DoR) • Ad hoc submissions (on new bills and intended legislation, the Medium-Term Budget Policy Speech (MTBPS), etc.) • Technical report: (FY) Submission for the Division of Revenue (DoR) <p>Publications issued for information purposes:</p> <ul style="list-style-type: none"> • Annual report • Press Releases • Presentations <p>FFC research-related publications other than core publications:</p> <ul style="list-style-type: none"> • Research outputs: technical reports, peer-reviewed journal articles, book chapters, etc. • Monographs (ad hoc publications) • Conference papers • Online publications (e.g. policy briefings) • Operational manuals • Research policy • Research strategy
<p>B. Historical and legal records</p>	<p>Policy documents:</p> <ul style="list-style-type: none"> • Policies and procedures • Organisational charts <p>Records that document the evolution of the FFC (i.e. the corporate memory)</p> <ul style="list-style-type: none"> • Commission and Commission Committee meetings: agendas, minutes and annexures • Annual business plans and three-year projections • Other records regarding the origin, structure and development of the organisation or its divisions <p>Historic records:</p> <ul style="list-style-type: none"> • Previous publications of the FFC • Previous research outputs • Confidential stakeholder reports and presentations • Confidential internal operational records <p>Records with evidential value:</p> <ul style="list-style-type: none"> • Contracts, agreements, memoranda of understanding • Documentation regarding protection of legal property (intellectual)

C. Ephemeral records	<p>Ephemeral records would be subject to a disposal schedule:</p> <ul style="list-style-type: none"> • Administrative /Operational records, e.g. dealing with routine execution of office functions • Domestic/ Household records, e.g. dealing with facilities (e.g. accommodation, supplies) • Finances and Accounting records, including statements, invoices, etc. • Human Resources records: policies, procedures, personnel records, pension fund records, medical records • Management records other than personnel records, including circulars, and memoranda regarding management decisions and policy directives
Category A	<p>Availability: Latest issues freely available at: http://www.ffc.co.za/ - Earlier copies free upon request</p>
Category B & C	<p>Formal request under PAIA to be completed</p>

7. Records that are automatically available to the general public and employees, or just to employees

The following records are automatically available to all employees and need not be requested in accordance with the procedure outlined in the Act [Ch. 3, Para. 10]:

- Personnel records are available to the employee concerned (no third party)
- Records of disciplinary hearings and related matters are available to the employee concerned.
- The organisation's policies and procedures documents are available to all employees.

The following records are automatically available to the general public and all employees and need not be requested in terms of the procedures outlined in the Act [Ch. 3, Para. 10]:

- The FFC Act [Act no. 99 of 1997 (as amended)]
- The FFC's employment equity plan
- The FFC's skills development plan

The records that are automatically available [S.14.1(e)] are updated on an annual basis to produce an annual report [S.15(2)] of most recent outputs

that should be submitted to the Department of Justice. In order to be able to update easily, the most recent report is formatted into a table as displayed below. This report will be published on the FFC website as a separate report update as from 2012.

FINANCIAL AND FISCAL COMMISSION			
Section 15 (2) Description of Records made available by the FFC			
FORM D			
AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS [Form D added by GN R466 of 1 June 2007.] (Section 15 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000)) [Regulation 5A]			
(a)	DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 15(1)A OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website) (Section 15 (1) (b))	Most recent documents / records
FOR INSPECTION IN TERMS OF SECTION 15 (1)(a)(i) (Legislation other than PAIA Act)			
1	Annual report	Hard copy / Website	2011/12
2	Submission for the Division of Revenue	Hard copy / Website	2013/14
3	Technical report	Hard copy / Website	2012/13
4	Commission Responses to the Division of Revenue Bill	Website	2012/13
5	Other Submissions	Website	2012
6	General information pertaining to FFC	Website	2012/13
7	Policy briefings	Website	2012
FOR PURCHASING IN TERMS OF SECTION 15(1)(a)(ii)			
1	None	Only fees payable is in terms of requested copying if determined by policy	
FOR COPYING IN TERMS OF SECTION 15(1)(a)(ii)			
1	Annual reports	Copying	1996-2007
2	Submissions for the Division of Revenue	Copying	1996-2007
AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 15(1)(a)(iii)			
1	Annual reports	Hard copy / Website	2010/11
2	Submissions for the Division of Revenue Bill	Hard copy / Website	2013/14
3	Technical reports	Hard copy / Website	2012/13
4	Commission Responses to the Division of Revenue Bill	Website	2011/12
5	Other Submissions	Website	2011/12
6	General information pertaining to FFC	Website	2011/12
7	Policy briefings	Website	2012

These can be extended to cover publications and newly-created knowledge which have been completed jointly with partners or sponsors. The joint reports are posted on the FFC website upon publication, e.g.

- FFC research-based publications
- Ad hoc publications created under partnership agreements

8. Records held in terms of other legislation

The FFC is obliged to hold records in terms of legislation guiding its mandate and the amendments thereto.

Legislation related to the FFC's mandate is available on the FFC website at <http://www.ffc.co.za/index.php/mandate> and also at <http://www.ffc.co.za/index.php/legislation> The core thereof includes the:

- [Constitution of the Republic of South Africa Act No. 108 of 1996 as amended;](#)
- [Intergovernmental Fiscal Relations Act No. 97 of 1997 as amended;](#)
- [Financial and Fiscal Commission Act No. 99 of 1997 as amended;](#)
- [Money Bills Amendment Procedures and Related Matters Act No. 9 of 2009;](#)
- [Municipal Systems Act No. 32 of 2000 as amended;](#)
- [Provincial Tax Regulation Process Act No. 53 of 2001 as amended;](#)
- [Municipal Finance Management Act No. 56 of 2003 as amended;](#)
- [Intergovernmental Relations Framework Act No. 13 of 2005 as amended;](#)
- [Municipal Fiscal Powers and Functions Act No. 12 of 2007.](#)
- [Public Finance Management Act, No 1 of 1999 as amended](#)

9. How to request access to a record: procedures [S. 14.1(f)]

Step	Who	Action	Resource needed
1.	Requester	Contact deputy information officer (contact details Para. 5)	Application form
2.	Requester	Complete form in full to allow the DIO to identify requested records and to identify requester	Record identification Requester identity
3.	Requester	Indicate which form of access is required	Personal access Fax Email
4.	Requester	Indicate preferred language (if record can be provided in a language other than English)	English/other language
5.	Requester	Provide a postal address or fax number	Postal address Fax No
6.	Requester	Indicate alternative method of being informed if relevant and provide full contact details (e.g. email)	Legal email identity
7.	Requester	If request is done on behalf of a third party, authorisation for and/or proof of capacity in which requester is doing request to be provided to satisfaction of DIO	Letter of authorization Identification document
8.	Requester	Send completed form to DIO	Completed form A
9.	Requester	Submit the prescribed fee of R35 together with application, except where person requires access to his/her own personal record	R 35.00 or R 0.00 if requester's income is less than R 14 712 p.a.
10.	DIO	Application is processed and requester is advised if additional fees are required	DIO attendance to processing
11.	PAIA Act	Prescription of circumstances where DIO has to advise a third party of a request for information about him/her	DIO advice to third party about request
12.	DIO	Evaluate request and decide whether or not to grant request within the time period indicated in the PAIA Act. Some requests may be refused on grounds set out in the Act	DIO evaluation and decision on granting of request.
13.	DIO	If request is granted, requested information is furnished in terms of the Act (within 30 days)	Furnished information
14.	DIO	If request is refused, the DIO will advise requested in writing of reasons for refusing access to the record	Written advice on reasons for request refusal
15.	Requester	May lodge an appeal with a court of law if access to the records is not granted	Completed Form B if no response within 30 days of request & for request for reconsideration if request not granted
16.	Requester	May lodge an oral request if he/she is illiterate	DIO to complete form

10. Opportunities for members of the public to participate in policy formulation or exercise of the powers/duties of the FFC [S.14.1(g)]

The FFC serves a wide spectrum of stakeholders under its constitutional mandate. It has a vibrant stakeholder population, the majority of which forms part of parliamentary, national, provincial or local government institutions, and would therefore be invited to partake in FFC activities or contribute to the work of the FFC as representatives of the wider public. On a personal level, any member of the public may approach the DIO to provide advice, to express interest or to comment.

11. Remedies available in respect of an act or failure to act by the FFC [S.14.1 (h)]

The line of resource open to a member of the public or stakeholder in respect of an act or failure to act on the part of FFC would be in the following order:

**FFC DIO (Commission Secretary)
FFC Acting Chairman / CE
Parliament**

**Mr. M. K. Mzaidume
Mr. B. Khumalo
Chairperson of NCOP
Speaker of the National
Assembly**

12. Availability of manual [S.14 (3)]

This manual is available in English, Afrikaans and isiZulu

13. FFC forms for lodging a request under PAIA are available on the FFC website:

PAIA Regulations: Annexure A: Fees

PAIA Regulations: Annexure B. Form A: Request for access to record of a public body.

PAIA Regulations: Annexure B. Form B: Notice of internal appeal.