



THE COALITION ON THE RIGHT TO INFORMATION, GHANA



FREQUENTLY ASKED QUESTIONS
ON GHANA'S

RIGHT TO
INFORMATION ACT,
2019 (ACT 989)



INTRODUCTION

The Right to Information is a right guaranteed under Article 21 (1) (f) of the 1992 Constitution of Ghana subject to such qualifications and laws as are necessary in a democratic society. The Parliament of Ghana passed Ghana's Right to Information (RTI) Act, (Act 989) in March 2019 to provide a framework for the implementation of the right. The Act was assented to by H.E President Nana Addo Dankwa Akuffo-Addo in May, 2019 for implementation in January 2020.

1. What is the Right to Information Act?

The Right to Information Act, 2019 (Act 989), popularly known as the RTI law, affirms and elaborates the constitutional right for people's access to information by setting out in detail the manner in which citizens and non-citizens alike can access/request official information from public and private institutions that receive public resources or perform a public function.

2. Can I access information only by making a request?

No, it is the responsibility of government to make available to the public, general information on governance without an application from a specific person. It is called **proactive disclosure** (Section 2)

3. Who can request for information?

Everyone in Ghana (Section 1)

4. Do I need to give a reason(s) for my request/application?

No, but if you need the information urgently or to protect life or liberty, you will need to state the reason for the urgency (Section 1)

5. What kind/type of information would be treated as urgent information?

Information urgently needed to safeguard the life or liberty of a person (Section 1)

HOW TO REQUEST FOR INFORMATION

6. How do I request for information?

Make a written application to the Information Officer (IO) of the institution from which you require the information with your contact details, identification and a brief description of the information you need. You can make the request either electronically or in hard copy form (Sections 18, 19)

7. What if I cannot read or write, can I still request for information?

Yes, make the request orally in a language that you understand to the IO (Section 18)

8. How do I make an oral request for information?

- Inform the IO that you would like to request for information orally
- Narrate your request to the IO who will write it down and afterwards explain to you what he or she has written down to make sure it is accurate
- The IO will ask a witness to certify that he/she (the IO) read the written request back to you in a language you understood and you appeared to understand what was read to you.
- You will be asked to sign or thumbprint the written request.
- The IO will give you a copy of the written request (Section 18)

9. How long does the IO have to take a decision on my request?

The IO is expected to take a decision on the application within 14 days (Section 23)

10. How will I know the decision of the IO concerning my request?

You will be notified in writing of the decision to grant or refuse the information you requested.

- Where the IO decides to grant access, the notice must state the manner in which you can access the information and the prescribed fee for the reproduction of the information, if any
- Where access is granted but it is deferred because

- the information is going to be published within 90 days from the date of your application, or
- the information has been prepared for submission to another person and is yet to be submitted,

the IO must inform you in writing within 3 days after the deferment (Section 22,23)

- Where the IO decides to give you only part of the information, the notice must state so and the reason (s)
- Where the IO refuses access, he/she must state the reason (s) for refusal and the provision(s) of the RTI Act under which your application was refused.
(Section 23)

11. What happens if the IO fails to respond to my request within 14 days?

Your request/application is deemed to have been refused.

12. Can the institution take longer than 14 days to handle my request?

The institution can do so ONLY if:

- The request is a large volume of information or requires a search through a large number of records and compliance, or
- The original time limit would unreasonably interfere with the operations of the institution, or
- The information requested has to be gathered from more than one source, or
- Consultations with other persons outside the institution are required and cannot be reasonably complied with within the 14 days limit

In such a case, the institution may extend the time for a further 7 days. When this happens, you must be informed of the extension in writing (Section 23, 25)

13. Are there no exceptions to this 14 days rule?

Yes, there are. If the information you seek is necessary to safeguard the life or liberty of a person, the IO shall within 48 hours:

- Determine whether or not to grant the application
- Notify the applicant of the decision in writing and
- Give the applicant access to the information where the application is granted (Section 23)

14. What happens to my request if the information is not in the custody of the institution I sent my request to?

- The institution where you made the request must, within 2 days, refer you to the appropriate institution, or
- Transfer your request to the appropriate institution within 2 days of receipt of your application and inform you of the transfer (Section 20)

15. Once my request is granted, how do I obtain the information?

- Through inspection, or viewing images or hearing the sound of the information requested, or
- Receiving soft or hard copy, or written transcript, or
- In any electronic form (Section 28)

WHEN TO PAY FOR INFORMATION – AND WHEN NOT TO PAY

16. Is the information free?

No, the applicant will be charged a fee to cover the cost of reproducing the information (Sections 23, 26)

17. Under what circumstances can I access information for free?

- When the information you requested is a reproduction of your own personal information or a reproduction of the personal information of another person on whose behalf you are requesting for information
- When the information is in the public interest
- Where under the Act, the information should have been provided within a stipulated time but was not
- Where information is requested by an indigent or a person with disability (Section 75)

18. What happens if the information is in a different language?

In such a case, you may be required to pay a reasonable cost for translating the information into the language you want. (Section 75)

19. What if I need the information to be transcribed, would I have to pay for it?

Yes, you may be required to pay a reasonable amount for the transcription (Section 75)

HOW TO APPLY FOR REVIEW AND APPEAL

20. What can I do if my request is refused and I am unhappy with the reasons given by the IO for the refusal?

You can apply to the head of that institution to review the decision of the IO (Section 31)

21. How long do I have to appeal the IO's decision?

Up to 30 days from the date of the refusal (Section 32)

22. How long does the head of the institution have to make a decision on my appeal?

Within 15 days from the date of the submission of appeal (Section 33)

23. What if the head of the institution fails to give a decision within the 15 days?

The head of institution is deemed to have affirmed the original decision of the IO (Section 35)

24. How will I know what his or her decision is?

- Where the head of the institution decides to grant access, you will be notified in writing. The notice must state the fee payable if any and the manner in which the information will be given
- Where the head of institution refuses to grant access, you will be notified in writing. The notice must state the reasons for the refusal, the provision(s) of the Act under which access was denied, and your right to appeal to the RTI Commission (Section 33)

25. What happens if the head of the institution also denies my request?

You can apply to the Right to RTI Commission or the High Court for redress.

26. Can I then appeal directly to the RTI Commission if the IO refuses to grant access?

No, you must appeal to the head of institution before applying to the RTI Commission. However, there are instances when you can appeal directly to the Commission and they are:

- If the request is in respect of your personal information
- If you need the information urgently to protect life and liberty of an individual
- If the information was previously in the public domain
- If the head of the institution is also the IO of that institution
- If you did not receive any reply to your initial request from the IO
(Section 67)

27. Can't I just apply to the High Court to review the IO's refusal?

Yes you can, if it is by way of judicial review. In every other situation, you must exhaust all the internal review processes before going to court (Section 36, 66)

28. Is my application for review to the High court time bound?

Yes, you have 21 days from the date of refusal to apply to the High Court for review (Section 36)

THE RIGHT TO INFORMATION COMMISSION (RTI COMMISSION)

29. What is the RTI Commission?

The RTI Commission is an independent body established by the Act with a Board to promote, monitor, protect and enforce the right to information as explained in the Act (Section 40-47)

30. What is the composition of the Board?

The Board of the Commission consists of seven (7) members comprising a Chairperson, Deputy Chairperson, four (4) other persons, two (2) of whom must be women and the Executive Secretary (Section 48)

31. How many years and terms can a person serve on the Board of the Commission?

5 years for 2 terms (Section 49)

32. How often will the Board meet for business?

At least once every 3 months (Section 50)

EXEMPT INFORMATION

33. Can I access or request for any information?

No. There are certain categories of information that shall not be disclosed under the Act. They are referred to as exempt information. (Section 1)

34. Why are certain information exempt?

While the Constitution guarantees everyone the right to information, there are occasions where it is necessary in the public interest or for the protection of the rights of others, for some types of information to be restricted.

35. What types of information are exempt?

- Information submitted or prepared for submission to the President or the Vice President or Cabinet
- Information disclosure of which can reasonably disrupt, endanger, impede or interfere with law enforcement and public safety
- Information disclosure of which can reasonably affect the security of the state
- Information disclosure of which can reasonably affect international relations
- Economic information and any other interests prior to official publication
- Economic information of third parties
- Information whose disclosure can reasonably infringe on Parliamentary privilege, prejudice fair trial, or constitute contempt of court (Sections 5-17)

36. Are there exception to the above categories of exempt information?

Yes, unless the applicant can demonstrate that the information reveals evidence of

- A contravention of, or a failure to comply with a law, or
- An imminent and serious threat to public safety, health or morals, the prevention of disorder or crime or the protection of the rights or freedoms of others, or
- A miscarriage of justice, or
- An abuse of authority or a neglect in the performance of an official function, or
- Any matter of public interest

and that the benefits of disclosure clearly outweigh the harm or danger that the disclosure will cause. (Section 17)

37. What must I do to access exempt information?

You must show that the benefits of disclosure clearly outweigh the harm or damage that the disclosure will cause (Section 17)

38. Is exempt information exempt forever?

No. Information is exempt for 30 years after which it can be requested. But the institution can still refuse to grant access if disclosure will endanger the life of an individual, public safety, national security, national economic interest and international relations with any other country (Section 78)

39. Are there any offences under the Act?

Yes.

- The failure or neglect of an IO or other public officer to perform his duties under the Act constitutes gross misconduct
- A person who seeks to gain access to the personal records of another under false pretence or willfully makes a false statement in order to gain access to information commits an offence and may be fined, if convicted, of between 250 to 500 penalty units or imprisoned for up to 3 years or both
- A person who destroys, damages, alters or conceals a document or makes a false entry in a document commits a crime and may be fined between 250 and 500 penalty units, or imprisoned for up to 3 years or both. (Sections 81, 82)

40. What is a penalty unit?

A penalty unit is a unit of value in monetary terms by which a fine is determined. The value is subject to change from time to time. Currently, one penalty unit is equivalent to twelve Ghana Cedis (GHS12.00).

For more information on the RTI Act and assistance on how to make an application, contact the Secretariat for the RTI Coalition at:

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