



THE RIGHT TO INFORMATION COMMISSION

ACCRA

28TH JANUARY, 2026

AFR NO.: RTIC/AFR/57/2025

PHILIP TEYE AGBOVE (THE FOURTH ESTATE)

APPLICANT

ACCRA

VRS

GHANA REVENUE AUTHORITY (GRA)

RESPONDENT

ACCRA

DETERMINATION BY THE RIGHT TO INFORMATION COMMISSION IN RESPECT OF AN APPLICATION FOR REVIEW FILED BY PHILIP TEYE AGBOVE (THE FOURTH ESTATE) AGAINST THE GHANA REVENUE AUTHORITY FOR NON-RELEASE OF REQUESTED INFORMATION

FACTS

The facts relevant to this determination are that on 15th July 2025, the Right to Information Commission (hereinafter referred to as the "Commission") received an application for review from Mr. Philip Teye Agbove of the Fourth Estate (the "Applicant") seeking a review of the decision of Ghana Revenue Authority (hereinafter the "Respondent") for failure to grant access to certain requested information.

According to the Applicant, a formal request for information was submitted to the Respondent through its Information Officer on 4th June 2025 and followed it up with an application for an internal review on the 24th day of June 2025 after not receiving any response from the Respondent.



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The Respondent subsequently, by a letter dated 8th July 2025, denied access on the ground that the information sought was exempt under section 12 of the Right to Information Act, 2019 (Act 989). It was this refusal that led the Applicant to apply to the Commission pursuant to section 65 of Act 989 for a review.

The information requested by the Applicant is as follows:

- 1. The annual breakdown of mining companies that paid their royalties and how much they paid in the years 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024.*
- 2. The full list of companies sanctioned for failing to pay their royalties in the years mentioned in point 1 above*
- 3. The specific sanctions that were imposed on them in accordance with Section 99 of the Minerals and Mining Act, 2006 (Act 703).*

Upon receipt of the Applicant's application for review, the Commission wrote to the Respondent pursuant to sections 43 (2) (f) and 70 of Act 989 in a letter dated 13th August 2025 requesting the Respondent to furnish the Commission with the information described as exempt to enable the Commission to determine whether indeed the information requested by the Applicant is exempt under any provision of Act 989.

The Respondent, after several exchanges of correspondence with the Commission, finally furnished the Commission with an information as an attachment to a letter dated 24th November 2025 in respect of the Applicant's first request.

The said letter from the Respondent also indicated that information relating to the 2nd and 3rd requests of the Applicant falls outside its purview.

LEGAL ANALYSIS

Under Act 989, the grounds on which a public institution may lawfully refuse an application for access to information, as outlined under section 27(1), are:



- Where the request is manifestly frivolous or vexatious; and/or.
- Where the information requested is exempt from disclosure.

In the matter under consideration, since the Respondent refused the Applicant access to information on grounds that the information is exempt under section 12 of Act 989 and also that part of the information, specifically information in relation to Requests (2) and (3), is outside its purview, the issues to be determined are:

1. **Whether information on mining royalty is exempt under section 12 of Act 989.**
2. **Whether the information in relation to the 2nd and 3rd requests is outside GRA's purview.**

RESOLUTION OF ISSUE ONE (1)

The Minerals and Mining Act, 2006 (Act 703), as amended, requires a holder of a mining lease, restricted mining lease or small scale mining license to pay royalties to the Government.

This is provided for under section 25 of Act 703, as amended by the Minerals and Mining (Amendment) Act, 2015 (Act 900) as follows:

"A holder of a mining lease, restricted mining lease or small scale mining licence shall pay royalty in respect of minerals obtained from its mining operations to the Republic at the rate of 5% of the total revenue of minerals obtained by the holder."

The rate of the royalty payable remains 5% because section 6(2) of Act 900 saved the provision on royalties contained in the repealed Act 794 as follows;

"Despite the repeal of Act 794, the rate of royalty in force immediately before the commencement of this Act shall continue in force until the rate is altered".



The mineral royalty is to be paid directly into the Minerals Income Investment Fund, as prescribed by subsection 2 of section 28 of the Minerals Income Investment Fund Act, 2018 (ACT 978), as amended by Minerals Income Investment Fund (Amendment) Act, 2020 (ACT 1024). However, according to section 28(1) of the MIIF Act, assessment of royalty, its collection and accounting is to be done by the Ghana Revenue Authority.

Section 12(1) of Act 989 provides as follows:

“Information obtained from a tax return or gathered for the purposes of determining tax liability is exempt from disclosure”.

Tax return in relation to mineral royalties is identified in subparagraph (j) of paragraph (1) of the Second Schedule of the Revenue Administration Act, 2016 (Act 915) as a return required under the Minerals and Mining Act, 2006 (Act 703).

The International Tax Glossary defines a tax as ***“a government levy that is not in return for specific benefit and is not imposed by way of a fine or penalty (e.g. for non-compliance with the law), except in some cases where it corresponds to tax-related offences.”***

The Revenue Administration Act, 2016 (Act 915), aforementioned, which provides for the administration and collection of revenue by the Ghana Revenue Authority and for related matters, under section 9 provides that for purposes of the administration and collection of tax revenue, a tax means ***“a duty, levy, charge, rate, fee, interest, penalty or any other amount imposed by a tax law or to be collected by, or paid to, the Commissioner-General under a tax law.”***

The above notwithstanding, section 28(5) of the Minerals Income Investment Fund Act, 2018 (ACT 978) as amended by *Minerals Income Investment Fund (Amendment) Act, 2020 (ACT 1024)* has this to say on mineral royalty:

“Income accruing to the Republic from minerals paid to the Fund by a mining company shall (a) not be classified as taxes paid by the mining companies and shall not be expended as conventional tax revenue paid to the Government; and



(b) be considered as paid to the Government under the Minerals and Mining Act, 2006 (Act 703) and any Minerals Investment Agreement”.

The deduction that can be made from the above provision is that mineral royalty is not tax properly so called and hence does not fall under the remit of section 12 of Act 989.

This position is fortified by the requirement of Mining companies to pay corporate income tax on the profit of their operations which is pegged at 35% of their profit, aside the royalties.

RESOLUTION OF ISSUE TWO (2)

As was established above, under section 28(1) of Act 978, the GRA is charged with the mandate to assess, collect and account for mineral royalties. The said subsection reads:

“Mineral royalties shall be assessed, collected and accounted for by the Ghana Revenue Authority in accordance with law and applicable Minerals Investment Agreements”

Again, under subsection 4 of the same section, the Act provides as follows:

“The Ghana Revenue Authority shall be responsible for the enforcement of the obligation of mining companies to make payment of mineral royalties and shall act in consultation with the Fund in this regard”.

Enforcement is defined in the Black’s Law Dictionary (Eight Edition) as the act or process of compelling compliance with a law, mandate, command, decree or agreement.

To suggest therefore that sanctioning of mining companies that have failed to pay their mineral royalties is outside the purview of the GRA is to suggest that the GRA has abandoned its duty as imposed by law.

In any event, under section 20 (1) and (3) of Act 989, a duty is imposed on a public institution which does not hold a requested information to assist an applicant in obtaining the information by



either transferring the application for information, or referring the applicant, to a relevant institution that holds the information being requested.

The relevant portions of the said section are produced below:

(1) Where a public institution is unable to deal with an application because the information requested

(a) is not in the custody or control of the public institution, but to the knowledge of the public institution, it is held by another public institution, or

(b) is in the custody of the public institution but it is more closely related to the functions of another public institution, the information officer shall, within two days of the receipt of the application,

(c) refer the applicant to the relevant public institution; or

(d) transfer the application to the relevant public institution and give written notice of the transfer to the applicant.

(3) Where an application for access is made and the public institution to which the application is made does not have the information in its custody, the information officer shall, within a period of not more than ten days,

(a) make the necessary enquiry to establish whether any other public institution has the information, and

(b) transfer the application to that other public institution if that public institution has the information, and

(c) notify the applicant accordingly”

Accordingly from the above-quoted provisions of Act 989, even if the information requested is not within the purview of GRA (which the Commission disputes), GRA had obligations in the terms contained in the above provisions to assist the Applicant to obtain the information requested.



CONCLUSION

From the foregoing, therefore, it is concluded that the information requested in relation to royalties paid is not exempt under section 12 of Act 989. Again, the GRA, the body mandated to enforce the payment of mineral royalties, cannot be heard to say that sanctions imposed for breaching the very law they are to enforce are outside their purview and that even if such matters are outside their purview, the GRA had an obligation to assist the Applicant to obtain the information he requested.

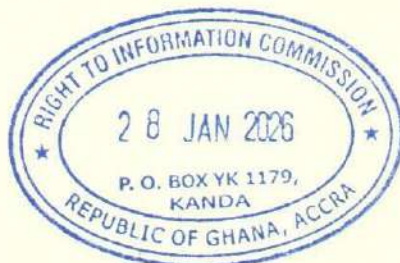
FINAL ORDERS

Pursuant to the power conferred on the Commission under **section 43(2)(c) of Act 989** to make any determination as the Commission considers just and equitable including issuing recommendations or penalties in matters before the Commission and **section 71(4) of Act 989** to issue directives that the Commission considers necessary for the enforcement of its decisions, the following orders are hereby made;

1. **Provision of Information:**

The Ghana Revenue Authority is hereby directed to provide the Applicant with the requested information and same copied the Commission within seven (7) days of receipt of this determination:

- a. *The annual breakdown of mining companies that paid their royalties and how much they paid in the years 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024.*
- b. *The full list of companies sanctioned for failing to pay their royalties in the years mentioned in point 1 above.*



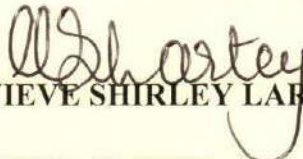
c. *The specific sanctions that were imposed on them in accordance with Section 99 of the Minerals and Mining Act, 2006 (Act 703).*

2. **Fees and Charges:**

Any reproduction of information or documents shall attract statutory fees as stipulated in the **Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080):**

- GH¢0.27 per photocopied page
- GH¢0.38 per printed page
- GH¢0.29 per page for data provided on an electronic device

The Commission admonishes the Ghana Revenue Authority to comply with its duty to uphold transparency and accountability under **Act 989** and to respond fully to all lawful requests for information in future.


GENEVIEVE SHIRLEY LARTEY, ESQ.
EXECUTIVE SECRETARY

