

Swedish statutes

SFS 2010:566

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Act

On the re-use of public administration documents

Adopted on 3 June 2010.

In accordance with the decision of the Swedish Parliament¹, the following is hereby decreed².

Purpose etc. of the Act

Section 1 The purpose of this Act is to create conditions conducive to the development of an information market by facilitating the use by individuals of documents held by authorities. The Act contains provisions designed to prevent authorities from setting conditions for the use of documents which restrict competition. Provisions on the availability of documents are contained in other legislation.

Scope of the Act

Section 2 This Act contains provisions covering the conditions for the re-use of documents held by state and municipal authorities. The Act also applies to the re-use of documents held by the bodies listed in the Annex to the Public Access to Information and Secrecy Act (2009:400), if the documents are related to the activity described there, and documents held by limited liability companies, partnerships, cooperative economic associations and foundations in which municipalities or county councils exercise a legally decisive influence. These bodies shall be regarded as equivalent to public authorities for the purposes of application of this Act.

Section 3 This Act shall not apply to documents held by

1. educational and research establishments, or
2. cultural establishments.

Section 4 This Act shall not apply to documents or information in documents which may not be made available, or to restrictions on the re-use thereof, which an authority is required to adopt or which ensue from other legislation. The Act shall not apply to documents which an authority makes available to another authority, except where it is evident that the documents will be used in its business activities. Nor shall the Act apply to documents which an authority makes available in its business activities.

Section 5 This Act shall not apply to documents to which third parties hold rights under the Act (1960:729) on Copyright in Literary and Artistic Works. The Act shall not affect the exercising of exclusive rights under the Trademarks Act (1960:644), Patents Act (1967:837), Designs Act (1970:485), Trade Names Act (1974:156), the Act (1992:1685) on Protection for Circuit Designs for Semiconductor Products or the Act (1997:306) on the Protection of Plant Breeders' Rights.

Definitions

¹ Prop. 2009/10:175, bet. 2009/10:FiU38, rskr. 2009/10:315.

² Cf. Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90, Celex 32003L0098)

Section 6 In this Act, the word 'document' shall have the meaning set out in Chapter 2 Section 3, first paragraph, of the Freedom of the Press Act. A computer program shall not, however, be regarded as a document.

In this Act, the word 're-use' shall mean the use of documents for purposes other than the original purpose for which the documents were processed by an authority.

Charges

Section 7 If an authority is entitled to levy charges for the re-use of documents, the total income from such charges plus the total income from charges for documents which the authority makes available shall not exceed the total cost of collection, production, reproduction and dissemination of the documents, together with a reasonable return on investments.

Other conditions

Section 8 Conditions for re-use shall be relevant and non-discriminatory for comparable categories of re-use. They shall not unnecessarily restrict opportunities for re-use.

Section 9 If an authority re-uses documents in its business activities, the same charges and other conditions shall apply to the provision of the documents for those activities as apply to other re-users of documents.

Section 10 An authority shall not grant an exclusive right to re-use documents, except where this is necessary for the provision of a service in the public interest. An exclusive right of this type shall be granted for a period of no more than three years at a time and shall be made public.

Information on conditions

Section 11 An authority shall provide information on charges or other conditions for re-use. This information shall be provided through electronic means where possible and appropriate. On request, the authority shall indicate the calculation basis for its charges.

Processing of requests for re-use

Section 12 When a body regarded as equivalent to a public authority under Section 2, second paragraph, processes a case involving the re-use of documents held by that body, the following provisions of the Administrative Procedure Act (1986:223) shall be applied:

- Section 5, second paragraph, on contact possibilities for individuals;
- Sections 11 and 12 on disqualification;
- Section 14, first paragraph, on the rights of a party to make an oral statement;
- Section 15 on the recording of information;
- Sections 16 and 17 on the rights of parties to be informed;
- Section 21 on notification of decisions;
- Sections 22 and 23-25 on appeals;
- Section 26 on typographical errors and the like;
- Sections 27 and 28 on reconsideration of decisions;
- Section 30 on appeals against decisions of summary rejection

Section 13 Requests to re-use documents shall be dealt with as quickly as possible.

Justification of decisions

Section 14 A decision to refuse a request for re-use shall contain the grounds for the decision in the case. Where the grounds for the decision are that re-use would violate a third party's rights under the Act (1960:729) on Copyright in Literary and Artistic Works, the authority shall identify the holder of those rights, where known, or the licensor from whom the authority has obtained the information.

Appealing against decisions

Section 15 Appeals against decisions taken by authorities other than the Government, the Supreme Court, the Supreme Administrative Court or the Parliamentary Ombudsman in an individual case may be lodged with an Administrative Court. Appeals against decisions by Administrative Courts in cases introduced there and appeals against decisions by District Courts or Courts of Appeal shall, however, be lodged with an Administrative Court of Appeal. Appeals against decisions by an Administrative Court of Appeal in cases introduced there shall be lodged with the Supreme Administrative Court.

Leave to appeal is required for appeals to the Administrative Court of Appeal. This shall not apply to cases that were first brought before an Administrative Court, District Court or Court of Appeal.

Section 16 If an appeal is lodged against a decision of a body regarded as equivalent to a public authority under Section 2, second paragraph, that body must have been the individual's opposing party since the documents in the case were submitted to the court.

This Act shall enter into force on 1 July 2010.

On behalf of the Government

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MATS ODELL (Ministry of Finance)