

**The Re-Use of Public Sector Information Act 2006 is promulgated by publication in the Government Gazette of the Republic of Cyprus in accordance with Article 52 of the Constitution.**

Number 132(I) of 2006

**ACT ESTABLISHING RULES GOVERNING THE RE-USE OF EXISTING  
INFORMATION HELD BY PUBLIC SECTOR BODIES**

For the purpose of harmonisation with the act of the European Community entitled:

OJ L345,  
31.12.2003, p. 90.

"Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information"

the House of Representatives hereby enacts the following provisions:

**PART I  
INTRODUCTORY PROVISIONS**

Short title.

1. This Act shall be referred to as the Re-Use of Public Sector Information Act 2006.

Interpretation

2. For the purposes of this Act the following definitions shall apply:

138(I) of 2001  
37(I) of 2003

"personal data" means personal data as defined in Article 2 of the Processing of Personal Data (Protection of Individuals) Act;

"document" means:

- (a) any content whatever its medium (printed on paper or stored in electronic form or as a sound, visual or audiovisual recording);
- (b) any part of the content referred to in paragraph (a);

"body governed by public law" means any body:

- (a) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; and
- (b) having legal personality, and
- (c) financed, for the most part by the State, or regional or local authorities, or other bodies governed by public law; or

subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law;

"re-use" means the use by persons or legal entities of documents held by a public sector body, for commercial or non-commercial purposes other than the initial purpose for which, within the task of the specific public body, the documents were produced.

The following do not constitute re-use:

- (a) exchange of documents within the public sector body in pursuit of its public task,
- (b) exchange of documents between public sector bodies in pursuit of their public tasks,

“Minister” means the Minister for Finance; and

"public sector body" means a State, regional or local authority, a body governed by public law, and associations formed by one or several such authorities or one or several such bodies governed by public law.

## **PART II GENERAL PROVISIONS**

Subject matter and scope.

208 of 1991  
70(I) of 1995

3.-(1) This Act establishes the rules governing the re-use of existing documents held by public sector bodies in the Republic.

(2) Without prejudice to the provisions of the State Archives Act, the categories of documents whose re-use is permitted and any terms and conditions for such use shall be determined by a Decree which shall be adopted by the Minister within six months of the date of publication of this Act.

(3) This Act shall not apply to:

- (a) documents the supply of which is an activity falling outside the scope of the public task, the work and the mission of the public sector bodies concerned;
- (b) documents for which third parties hold intellectual property rights;
- (c) documents which are excluded from access, including on the grounds of:
  - (i) the protection of State security, defence, or public security,
  - (ii) statistical or commercial confidentiality;

- (d) documents held by public service broadcasters and their subsidiaries, and by other bodies or their subsidiaries for the purposes of providing programme services or carrying out any activities which the public service broadcaster is obliged or permitted to provide pursuant to whatsoever legislation or other public authority;
- (e) documents held by educational and research establishments, such as schools, universities, archives, libraries and research facilities including organisations established for the purpose of disseminating research results;
- (f) documents held by cultural establishments, such as museums, libraries, archives, orchestras, operas, ballets and theatres.

(4) This Act shall not apply in cases in which citizens or companies have to prove a particular legitimate interest under the access regime to obtain access to the documents.

(5) For the purposes of this Act, the re-use of documents which contain personal data is permitted without affecting the level of protection of individuals with regard to the processing of personal data under the provisions of Community and national law, and in particular without altering the obligations and rights of any person as determined by the provisions of the Processing of Personal Data (Protection of Individuals) Act.

138(I) of 2001  
37(I) of 2003

(6) The obligations imposed on the basis of the provisions of this Act shall apply only insofar as they are compatible with the provisions of international agreements on the protection of intellectual property rights, and in particular the provisions of the Berne Convention, which was ratified by the Berne Convention for the Protection of Literary and Artistic Works (Ratification) Act of 1979, and the TRIPS Agreement, which was ratified by the Convention establishing the World Intellectual Property Organization Act of 1984.

86 of 1979.

36 of 1984.

General principle.

4. Where the re-use of documents held by public sector bodies is allowed, these documents must be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in the provisions of Part III and Articles 9, 12 and 13 and, where possible, the documents shall be made available through electronic means.

### **PART III CONDITIONS FOR RE-USE**

Available formats.

5.-(1) In cases where documents are made available for re-use, public sector bodies shall make such documents available:

- (a) in the format and language in which they exist on the date

on which the request to provide them is answered; and

(b) through electronic means where possible and appropriate.

(2) The provisions of paragraph (1) shall not imply an obligation for public sector bodies:

(a) to create or adapt documents in order to comply with the request;

(b) to provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation; and

(c) to continue the production of a certain type of documents with a view to the re-use of such documents by a private or public sector organisation.

Transparency.

6. Any public sector body which provides its documents for re-use shall ensure that the following information is provided to the public:

(a) any special conditions for the re-use of documents;

(b) any standard charges for the re-use of documents;

(c) the existence of a list, accessible preferably online, of the main documents available for re-use and portal sites that are linked to decentralised assets lists;

(d) the legal or out-of-court means of redress available to them relating to decisions or practices of the public sector body affecting them.

(2) Public sector bodies shall publish the above information through electronic means where possible and appropriate.

Principles governing charging.

7.-(1) Where a public sector body decides to impose charges, it shall prepare a report, which it shall submit to the Minister, setting out the reason for imposing charges, based on the cost of collection, production, reproduction and dissemination of documents, together with a reasonable return on investment, and setting out, with respect to atypical cases, the factors which are taken into account in the calculation of charges.

(2) If the Minister approves the report and considers the charge to be justified, he shall publish a decree setting out the charges payable for the provision by the public sector body concerned of documents for re-use.

(3) On request, the public sector body shall indicate in writing the calculation basis for the published charge and shall also indicate the factors which are taken into account in the calculation of charges for atypical cases.

Practical arrangements.

8. Public sector bodies shall put in place practical arrangements, such as the preparation of lists, accessible preferably online, of the main documents available for re-use, and portal sites that are linked to decentralised assets lists, so as to facilitate the search for documents available for re-use.

#### **PART IV REQUESTS FOR RE-USE**

Submission of a request for re-use of documents.

9.-(1) A request for re-use of public sector documents:

- (a) shall be submitted on a standard form specified by the public sector body concerned and published in the Government Gazette and, where possible, in digital format, so as to permit electronic processing and allow it to be adapted to particular licence applications;
- (b) indicate the name and address for correspondence of the applicant;
- (c) identify the requested document;
- (d) declare the purpose of re-use of the document.

(2) Public sector bodies shall, through electronic means where possible and appropriate, process requests for re-use and shall make the documents available for re-use to the applicant or, if special approval of the request is needed, finalise the offer to the applicant within a reasonable time, and no later than twenty working days after the date of receipt of the request.

(3) The timeframe of twenty working days from the date of receipt of the request specified in paragraph (2) may be extended by another twenty working days for extensive or complex requests, and in such cases the applicant shall be notified in writing within three weeks after the initial request:

- (a) that a decision on the request for re-use of documents has not been taken, and
- (b) the date by which the public body intends to answer the request, as specified in paragraph (4).

(4) For the purposes of the provisions of this Article, "answering a request for the provision of documents for re-use" means:

- (a) the delivery of the document for re-use to the applicant;
- (b) rejection of the application;
- (c) where special conditions are imposed, the finalisation of the

offer to the applicant as regards the conditions under which re-use of the documents will be permitted.

(5) Public sector bodies covered under the provisions of Article 3(2)(d), (e) and (f) shall not be required to comply with the requirements of this Article.

Rejection of the application.

10.-(1) In the event of rejection of the application for the provision of documents for re-use, the public sector body shall communicate the grounds for refusal of his request to the applicant, particularly where rejection is based on the provisions of Article 3(3)(a), (b) and (c) or Article 4.

(2) Where rejection of the request is based on Article 3(3)(b), the public sector body shall include a reference to the natural or legal person who is the rightholder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material.

(3) Any decision by a public sector body rejecting a request for the provision of documents for re-use shall contain a reference to the right of the person concerned to appeal pursuant to Article 146 of the Constitution to the Supreme Court.

(4) Public sector bodies covered under the provisions of Article 3(2)(d), (e) and (f) shall not be required to comply with the requirements of this Article.

## **PART V NON-DISCRIMINATION AND FAIR TRADING**

Non-discrimination.

11.-(1) Any applicable conditions for the re-use of documents shall be non-discriminatory for comparable categories of re-use.

(2) Where documents are re-used by a public sector body as input for its commercial activities which fall outside the scope of its public tasks, the same charges and other conditions shall apply to the supply of the documents for those activities as apply to other users.

Prohibition of exclusive arrangements.

12.-(1) Without prejudice to the provisions of paragraph (2), the conclusion of contracts providing for exclusive arrangements between public sector bodies and any person, including applicants for documents for re-use, is prohibited.

(2) By way of derogation from the provisions of paragraph (2)(*sic*), where the provision of an exclusive right for re-use of documents is necessary for the purpose of providing a service in the public interest, the validity of the reason for granting such an exclusive right shall be subject to regular review at least every three years.

Arrangements for the provision of exclusive arrangements adopted

after the entry into force of this Act shall be transparent and made public.

**PART VI  
FINAL PROVISIONS**

Transitional provisions.

13. Contracts involving existing exclusive arrangements that do not qualify for the exception under Article 12(2) shall be terminated at the end of the contract or in any case not later than 31 December 2008.

Adoption of Regulations.

14. The Council of Ministers shall have the power to adopt regulations which may regulate any matter with a view to improving the implementation of this Act, and anything which must or may be regulated by this Act.