

Act

amending the Act (2010:566) on the re-use of public sector documents;

issued on 21 May 2015.

By decision of the Riksdag¹, the following is laid down² concerning the Act (2010:566) on the re-use of public sector documents.

Sections 1-7, 9-12 and 14 and the heading immediately before Section 14 shall be worded as follows, and

a new heading, worded as follows, shall be added immediately before Section 5.

Section 1 The aim of this Act is to promote the development of an information market by facilitating the use by individuals of documents supplied by public authorities.

The purpose of the Act is to prevent public authorities from imposing conditions on the re-use of documents that restrict competition.

Provisions on the supply of documents are laid down in other legislation.

Section 2 The Act concerns the re-use of documents held by national and municipal public authorities.

The Act also applies to the re-use of documents held by bodies listed in the Annex to the Public Access to Information and Secrecy Act (2009:400), if the documents are related to the activity referred to there, and of documents held by limited liability companies, partnerships, cooperative economic associations or 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 does not apply to documents

1. that may not be made available,
2. that are supplied in the course of a public authority's competitive activities,
3. that are supplied by one public authority to another, except where it is clear that the documents will be used in the course of competitive activities,
4. that are kept in educational and research establishments other than university libraries,
5. that are kept in cultural establishments other than archives, libraries or museums,
6. relating to computer programmes, or
7. to which a third party has rights under the Act (1960:729) on copyright in literary and artistic work.

¹ Government bill 2014/15:79, Report 2014/15:FiU14, Riksdag Communication 2014/15:188.

² See Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information, as worded in Directive 2013/37/EU of the European Parliament and of the Council.

Section 4 The Act shall not affect the exercise of exclusive rights arising from the Patents Act (1967:837), the Design Protection Act (1970:485), the Trade Names Act (1974:156), the Act (1992:1685) on the protection of lay-out designs of integrated circuits, the Act (1997:306) on the rights of plant breeders or the Trademark Act (2010:1877).

Authorised re-use

Section 5 Re-use shall be authorised for documents supplied by public authorities, subject to the restrictions that a public authority is obliged to impose or that otherwise follow from legislation.

Section 6 For the purposes of this Act, the following definitions apply:

documents: the documents referred to in Chapter 2, Section 3(1)(1) of the Freedom of the Press Act,

re-use: the use of documents for purposes other than the original purpose for which the documents were processed by a public authority.

Section 7 If a public authority is allowed to charge for the re-use of documents, the charges may not exceed the cost of reproducing, supplying or disseminating the documents, unless otherwise provided for in subsection 2 or 3.

If a public authority is obliged to charge for the re-use of documents in order to cover a substantial part of the costs of an activity, the total income generated may not exceed the cost of collecting, producing, reproducing or disseminating the documents, together with a reasonable return on investment.

Archives, libraries and museums that may charge for the re-use of documents may apply the provisions in subsection 2, regardless of the requirement to cover costs.

Section 9 If a public authority re-uses documents in the course of its competitive activities, the same charges and other conditions apply to the supply of the documents for those activities as apply to other re-users of the documents.

Section 10 Unless otherwise provided for in subsection 2, a public authority may not grant exclusive rights to re-use documents, except when it is necessary for the provision of a service in the public interest. Such exclusive rights may not be granted for more than three years at a time.

Further to what follows from subsection 1, archives, libraries and museums may grant exclusive rights to digitise cultural resources. If the exclusive rights exceed ten years, their duration shall be subject to review during the 11th year and every 7 years thereafter.

At the latest once the exclusive rights under subsection 2 have expired, the party that was granted the rights shall give the public authority a free copy of the digitised cultural resources and the right to use and distribute the material for free.

If a public authority grants the kind of exclusive rights referred to in subsections 1 and 2, it shall inform the public thereof.

Section 11 A public authority shall provide information on any charges, including the basis for their calculation, SFS 2015:289, and other conditions governing re-use.

An public authority shall publish a list of the types of documents that can usually be supplied electronically for the purpose of re-use as well as any relevant information.

It shall be possible to provide the information under subsections 1 and 2 electronically and free of charge.

Section 12 When a body regarded as equivalent to a public 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) apply:

- Section 5(2) on means of communication for individuals,
- Sections 11 and 12 on disqualification,
- Section 14(1) 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, and
- Section 30 on appeals against decisions of summary rejection.

Decisions on re-use

Section 14 Upon request, a public authority shall provide its decision in writing, if the re-use is subject to conditions or if the request for re-use was refused. Such a decision shall contain the grounds for the decision in the case.

Where the grounds for such a decision are that re-use would violate a third party's rights under the Act (1960:729) on copyright in literary and artistic work, the public authority shall include a reference to the rightholder, where known, or the licensor from which the public authority has obtained the relevant information. However, archives, libraries and museums need not provide such information.

This Act shall enter into force on 1 July 2015.

On behalf of the Government

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