

## Act XCVI of 2015

### amending Act CXII of 2011 on Informational Self-Determination and Freedom of Information and Act LXIII of 2012 on the Re-Use of Public Sector Information\*

#### 1. Amendment of Act CXII of 2011 on Informational Self-Determination and Freedom of Information

**Section 1** The following point (e) is added to Section 77 of Act CXII of 2011 on Informational Self-Determination and Freedom of Information:

*(This Act transposes:)*

‘(e) Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information’

**Section 2** (1) Rows 19-21 of Table II ‘Data concerning activity and operation’ of Annex 1 to Act CXII of 2011 are replaced by the following:

	<i>[Data]</i>	<i>[Update]</i>	<i>[Preservation]</i>
19.	A list of public sector cultural information managed by a public body and available for re-use pursuant to the Act on the Re-Use of Public Sector Information, indicating the available formats, and details of the types of public sector information managed by a public body and available for re-use pursuant to the Act on the Re-Use of Public Sector Information, indicating the available formats	Within 15 days of the changes	By keeping the previous record on file for one year
20.	Electronically editable version of the general terms of contract for the re-use of public sector information and public sector cultural information under row 19	Within 15 days of the changes	Previous record to be deleted
21.	A general list of fees payable for making public sector information and public sector cultural information under row 19 available for re-use, along with the factors used to calculate the fee	Within 15 days of the changes	Previous record to be deleted

(2) The following rows 24 and 25 are added to Table II ‘Data concerning activity and operation’ of Annex 1 to Act CXII of 2011:

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\* This Act was adopted by Parliament at its session of 23 June 2015.

	<i>[Data]</i>	<i>[Update]</i>	<i>[Preservation]</i>
24.	The text of agreements concluded by the public body granting exclusive rights to the digitisation of public sector cultural information under the Act on the Re-Use of Public Sector Information	Within 15 days of the changes	Previous record to be deleted
25.	A piece of legislation, legal instrument of state administration, public sector contract or other binding document under the the Act on the Re-Use of Public Sector Information (or a reference to its availability) requiring the public body to generate revenue to cover a substantial part of the costs relating to the collection, production, processing and dissemination of public sector information available for re-use	Within 15 days of the changes	Previous record to be deleted

## **2. Amendment of Act LXIII of 2012 on the Re-Use of Public Sector Information**

**Section 3** (1) Section 1(1)-(3) of Act LXIII of 2012 on the Re-Use of Public Sector Information is replaced by the following:

‘(1) This Act covers the re-use of public sector information and public sector cultural information managed by public bodies.

(2) Public bodies may act in accordance with the provisions of this Act only where the applicant requesting re-use of the public sector information or public sector cultural information declares that it is requesting the public sector information or public sector cultural information for the purposes of re-use.

(3) If the applicant fails to make the declaration to the effect laid down in paragraph (2), the public body may not inquire as to either the purpose of the request or whether it pertains to the re-use of public sector information or public sector cultural information.’

(2) Section 1(4)(a) of Act LXIII of 2012 is replaced by the following:

*(This Act does not cover:)*

‘(a) requests for access to information of public interest and information disclosed due to public interest under the Act on Informational Self-Determination and Freedom of Information;’

**Section 4** Section 2 of Act LXIII of 2012 is replaced by the following:

‘Section 2 (1) With the exception of the information specified in paragraph (2) and Section 3, the public body shall, in accordance with Chapters II and III, make the public sector information managed by it available for re-use.

(2) The public body shall, in accordance with the provisions of Chapters II and III which apply subject to the derogations laid down in Chapter III/A, make the public sector information managed by it available for re-use.’

**Section 5** Section 3 of Act LXIII of 2012 is replaced by the following:

‘Section 3 The following may not be made available for re-use, and no law shall provide that the following must be made available as public sector information or public sector cultural information:

- (a) information whose release falls outside the scope of public duties of the particular public body;
- (b) works protected by copyright or other content protected by an intellectual property right and containing public sector information or public sector cultural information which are subject to copyright or other intellectual property rights held by third parties;
- (c) public sector information or public sector cultural information to which access is denied or restricted pursuant to the Act on Informational Self-Determination and Freedom of Information or any other Act;
- (d) public sector information managed by public service media providers and their subcontractors that is required to fulfil their public service media obligations;
- (e) public sector information managed by institutes of education and research, schools, universities, and organisations set up to transfer research findings;
- (f) public sector information or public sector cultural information containing only logos, crests and insignia.’

**Section 6** Section 4 of Act LXIII of 2012 is replaced by the following:

‘Section 4 For the purposes of this Act:

1. “*formal open standard*” means a standard detailing specifications for the requirements on how to ensure software interoperability;
2. “*applicant*” means any natural person, legal entity or private firm applying for the release for re-use of public sector information or public sector cultural information under this Act;
3. “*format automatically editable as an IT tool*” means a file format structured so that the individual data in it and its data structure can be easily identified, recognised and extracted by the IT tools processing the data and by users;
4. “*public sector information*” means information of public interest and information disclosed due to public interest as defined in the Act on Informational Self-Determination and Freedom of Information;
5. “*public body*” means a body or person performing a state or local authority function or other public function defined by law;
6. “*public sector cultural information*” means information stored in the register held in accordance with legislation by public bodies covered by the Act on Museums and Museum Institutions, Public Library Provisioning and Public Education, the Act on Public Documents, Public Archives and the Protection of Documents Stored in Private Archives, the Act on the Protection of Cultural Heritage, the Act on Support for and the Special Employment Rules Applicable to Performing Arts Organisations, and the Motion Pictures Act, as well as electronic copies editable as digital content of cultural goods, library documents and public documents stored in the register;
7. “*open format*” means an electronic format that is platform-independent and made available to the public without any restriction on re-use of the data;
8. “*re-use*” means the use of public sector information or public sector cultural information for commercial or non-commercial purposes outside the scope of the original objective set forth in the legislation specifying the public function for

which the information was produced;

9. “*making available for re-use*” means granting the applicant access to public sector information or public sector cultural information so that the applicant can re-use the information requested, including in particular the one-off or recurrent transfer of the information using a storage medium or electronically, granting direct access to the database containing the information, and any other lawful means of access stipulated in the re-use agreement between the public body and the applicant.’

**Section 7** Section 7 of Act LXIII of 2012 is replaced by the following:

‘Section 7 (1) Where the fee for making the public sector information available for re-use differs from the general fee or fee calculation published by the public body electronically in accordance with Section 6, the public body shall inform the applicant at the outset of the factors taken into account to calculate the fee.

(2) If requested to do so, the public body shall explain to the applicant how it calculated the fee payable for fulfilling the request to make the information available for re-use.’

**Section 8** (1) Section 15(2) of Act LXIII of 2012 is replaced by the following, and the following paragraphs (2a) and (2b) are added:

‘(2) The fee may not exceed the marginal cost of processing, making available and disseminating the public sector information made available.

(2a) By way of derogation from paragraph (2), the applicable fee may not exceed the cost of collecting, producing, processing and disseminating the public sector information made available, plus a profit margin of no more than 5%, if:

a) the public body is required to generate revenue to cover a substantial part of its costs relating to the performance of its public tasks;

b) a piece of legislation, legal instrument of state administration, public sector contract or other binding document requires the public body managing the public sector information to generate revenue to cover a substantial part of the costs relating to the collection, production, processing and dissemination of the public sector information to which the request relates.

(2b) The accounting policy of the public body setting the fee shall be taken into account for the purpose of calculating the costs referred to in paragraph (2a).’

(2) In Section 15(3) of Act LXIII of 2012, the words ‘paragraphs (1) and (2)’ are replaced by the words ‘paragraphs (1)-(2b)’.

**Section 9** (1) Section 16(3) of Act LXIII of 2012 is replaced by the following, and the following paragraph (3a) is added:

‘(3) If, in accordance with paragraph (1), making the public sector information available

(a) is not possible;

(b) would involve a disproportionate effort, going beyond a simple operation;

(c) would involve damaging the data or data structure;

(d) would hinder performance of the public function, or

(e) would involve making descriptive data or information available the public disclosure of which would breach the basic electronic information security requirements laid down in the Act on the Security of Electronic Information in State and Local Government Bodies,

the public sector information shall be made available by the public body to the

applicant electronically, in an open format automatically editable using IT tools, accompanied by descriptive data that relate to the public sector information, that are available and that cannot be made available without breaching the basic electronic information security requirements, in the available language.

(3a) A request to make public sector information available for re-use may not be rejected out of hand on the grounds of compliance with the basic electronic information security requirements laid down in the Act on the Security of Electronic Information Security in State and Local Government Bodies, if the public sector information can otherwise be made available for re-use in accordance with this Act.'

(2) The following paragraph (4a) is added to Section 16 of Act LXIII of 2012.

'(4a) When making public sector information available in accordance with this Section, the public body shall endeavour to ensure that the information and descriptive data made available meet the formal open standards ensuring the interoperability of software data processing.'

(3) Section 16(5) of Act LXIII of 2012 is replaced by the following:

'(5) To fulfil the terms of this Section, the public body shall not be required to:

(a) produce public sector information, adapt it in order to comply with the request or provide extracts from it if this would involve a disproportionate effort going beyond a simple operation;

(b) produce analyses or documents from or on the basis of public sector information;

(c) continue the production and storage of public sector information with a view to making it available for re-use.'

**Section 10** The following Chapter III/A is added to Act LXIII of 2012:

*'CHAPTER III/A*

*SPECIAL RULES ON MAKING PUBLIC SECTOR CULTURAL INFORMATION AVAILABLE FOR RE-USE*

**12/A Types of public sector cultural information that can be made available for re-use and special rules thereon**

Section 18/A (1) The types of public sector cultural information to be made available for re-use may be laid down by decree implementing this Act.

(2) The manager of the public body managing public sector cultural information may decide to allow public sector cultural information other than that referred to in paragraph (1) to be made available for re-use upon receipt of a request or requests to that effect.

Section 18/B The public body managing public sector cultural information need not name the person entitled to conclude an agreement for use in respect of the subject matter of the request if the request was refused with reference to Section 3(b).

**12/B Special rules on the charging of fees**

Section 18/C (1) The public body managing public sector cultural information may set the fee for making the public sector cultural information available for re-use. The fee shall not exceed the cost of collecting, producing, processing and disseminating the public sector information made available, plus a profit margin of no more than 5%.

(2) The accounting policy of the public body setting the fee shall be taken into account for the purpose of calculating the costs referred to in paragraph (1).

(3) The decree implementing this Act may lay down further rules in accordance with paragraphs (1) and (2) on the amount of the fee, the criteria for setting the fee,

the method of payment of the fee, and the discounts on and exemptions from payment of the fee.

**12/C Diverging rules of exclusive agreements on the re-use of public sector cultural information**

Section 18/D (1) If the contract or agreement on the re-use of public sector cultural information grants an exclusive right to the digitisation of the public sector cultural information, the duration of such exclusivity may exceed 10 years, provided justification for such exclusivity is reviewed once during the eleventh year and every seven years thereafter.

(2) The public body shall publish the text of the contract or agreement referred to in paragraph (1) electronically in accordance with the Act on Informational Self-Determination and Freedom of Information.

(3) A contract or agreement referred to in paragraph (1) shall be null and void if it excludes the public body managing public sector cultural information from, or charges it for, having access to digitised public sector cultural information after the duration of exclusivity has expired, in particular making it available for re-use.'

**Section 11** The following Section 20/A is added to Act LXIII of 2012:

'Section 20/A Agreements in force on 1 January 2016 that grant exclusive rights and are contrary to the provisions of Section 18/D shall be terminated when the agreement expires or on 18 January 2043, whichever is the sooner.'

**Section 12** (1) Section 21(1) of Act LXIII of 2012 is replaced by the following, and the following paragraph (1a) is added:

'(1) With the exception laid down in paragraph (1a), the ministers shall, with the agreement of the minister for cultural affairs, after seeking an opinion from the president of the National Authority for Data Protection and Freedom of Information, be authorised to specify by decree the types of public sector cultural information managed by public bodies supervised or overseen by the ministers that may be made available for re-use.

(1a) The minister for cultural affairs shall, after seeking an opinion from the president of the National Authority for Data Protection and Freedom of Information, be authorised to specify by decree the types of public sector cultural information that may be made available for re-use by museums, archives and libraries.'

(2) Section 21(4) and (5) of Act LXIII of 2012 is replaced by the following:

'(4) The president of the National Media and Info-communications Authority shall be authorised to specify by decree:

(a) the types of public sector cultural information managed by the National Media and Info-communications Authority that may be made available for re-use, after seeking an opinion from the minister for cultural affairs and the president of the National Authority for Data Protection and Freedom of Information;

(b) further detailed rules in accordance with this Act on the amount of the fee payable for information made available for re-use, the criteria for setting the fee, the method of payment of the fee, and the discounts on and exemptions from payment of the fee.

(5) The governor of the Hungarian Central Bank shall be authorised to specify by decree further detailed rules in accordance with this Act on the amount of the fee payable for information made available for re-use, the criteria for setting the fee, the method of payment of the fee, and the discounts on and exemptions from payment of the fee'.

(3) Section 21(3)(a) of Act LXIII of 2012 is repealed.

**Section 13** Chapter 13 of Act LXIII of 2012 is replaced by the following:

**‘13. Compliance with EU legislation**

Section 25 This Act transposes:

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

(b) Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information’

**3. Final provisions**

**Section 14** This Act shall enter into force on 1 January 2016.

**Section 15** This Act transposes Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information.

*János Áder* [signed]  
President

*László Kövér* [signed]  
Speaker of Parliament