

**Province**

Vorarlberg

**Date of entry into force**

18 August 2015

**Reference**

LGBl. (Provincial Law Gazette) No 42/2006\*), 44/2013, 47/2015\*\*)

**Title**Law on the re-use of documents held by public sector bodies (*Dokumenten-Weiterverwendungsgesetz – DokWG*)**Text****Part 1  
General rules****Section 1\*)****Scope**

- (1) This law governs the legal framework for the re-use of documents held by a public sector body.
- (2) This law should not be applied if documents are used exclusively for carrying out a public task.
- (3) This law does not affect any of the legal provisions that regulate access to documents of public sector bodies.

\*) Version from LGBl. No 47/2015

**Section 2\*)  
Exceptions from scope**

Notwithstanding the provisions regarding legal protection, this law does not apply to

- a) documents the supply of which is an activity falling outside the scope of the public task as defined by binding rules or, in the absence of such rules, the public task as defined in line with common administrative practice, provided that the scope of the public tasks is transparent and subject to review;
- b) documents which cannot be accessed, in particular for reasons of national security, general national defence, public security or because they contain commercial or business secrets or are otherwise confidential;
- c) documents to which access is restricted in accordance with the rules governing access to documents of public sector bodies, including those accessible only where a particular interest is demonstrated;
- d) documents to which access is excluded or restricted by virtue of the relevant access regulations on the grounds of protection of personal data, and parts of documents accessible by virtue of those regulations which contain personal data the re-use of which has been defined by law as being incompatible with the law concerning the protection of individuals with regard to the processing of personal data;
- e) documents for which third parties hold intellectual property rights;
- f) documents covered by industrial property rights;
- g) documents held by educational, research or other cultural establishments other than libraries, museums and archives;
- h) parts of documents containing only logos, crests and insignia.

\*) Version from LGBl. No 47/2015

### **Section 3\*)**

#### **Definitions**

In this law

- a) 'document' means any representation of content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) or a part thereof;
- b) 'document held by a public sector body'  
means a document which a public sector body is able to reuse;
- c) 'formal open standard' means a standard which has been laid down in written form, detailing specifications for the requirements on how to ensure software interoperability;
- d) 'machine-readable format' means a file format structured so that software applications can easily identify, recognise and extract specific data, including individual statements of fact, and their internal structure;
- e) 'open format' means a file format that is platform-independent and made available to the public without any restriction that impedes the re-use of documents;
- f) 'public sector body' means a body of a province, municipality, municipal association or establishment governed by provincial legislation;
- g) 're-use' means any use serving different purposes than the one for which a document was created as part of a public task. The exchange of documents between public sector bodies in accordance with this law, relevant federal laws or laws of other provinces, purely in pursuit of a public task, does not constitute re-use.

\*) Version from LGBl. No 47/2015

## **Part 2**

### **Provision of documents for re-use**

#### **Section 4\*)**

##### **General principles**

(1) Subject to paragraph 2, public sector bodies shall ensure that documents held by them and falling under the scope of this law may be re-used in accordance with the provisions of Sections 5 to 8.

(2) The requirement under paragraph 1 shall not apply to documents for which libraries, museums and archives hold intellectual property rights. Those nevertheless made available for re-use, may be re-used in accordance with Sections 5 to 8.

(3) When providing or having provided a document for re-use, a public sector body may not discriminate against other applicants (Sections 6 and 7) or exclude them from re-use (except in the case of Section 8(2) and (3)).

\*) Version from LGBl. No 47/2015

#### **Section 5\*)**

##### **The form in which documents are provided and practical arrangements**

(1) Documents shall be made available in any pre-existing format or language and, where possible and appropriate, in open and machine-readable format together with their metadata. Both the format and the metadata should, in so far as possible, comply with formal open standards.

(2) Public sector bodies are not required to create or adapt documents or to provide extracts in order to comply with a request for re-use where this would involve disproportionate effort, going beyond a simple operation. Moreover, public sector bodies are not required to create or save documents.

(3) Public sector bodies should take practical steps to facilitate access to those documents that are provided for re-use. To that end they may in particular

- a) publish asset lists of main documents with relevant metadata, accessible where possible and appropriate online and in machine-readable format or via portal sites that are linked to the asset lists, or
- b) designate contact persons or information points.

Where possible the public sector bodies shall allow cross-linguistic search for documents.

\*) Version from LGBl. No 47/2015

## **Section 6\*)**

### **Charges**

(1) These charges shall be limited to the marginal costs incurred for the reproduction, provision and dissemination of the documents. The total income from providing and allowing the re-use of documents shall not exceed the cost of capture, production, reproduction and dissemination, together with a reasonable return on investment.

(2) The last sentence of paragraph 1 shall not apply

- a) to public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks;
- b) by way of exception, to documents for which the public sector body concerned is required to generate sufficient revenue to cover a substantial part of the costs relating to their collection, production, reproduction and dissemination. These requirements shall be defined by binding rules or, in the absence of such rules, in accordance with common administrative practice and, where possible and appropriate, shall be published on the internet;
- c) to libraries, museums and archives.

(3) In the cases referred to in points (a) and (b) of paragraph 2, the public sector bodies concerned shall calculate the total charges according to objective, transparent and verifiable criteria. Those criteria shall be defined by binding rules or, in the absence of such rules, in accordance with common administrative practice. The total income of those bodies from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Charges shall be calculated in line with the accounting principles applicable to the public sector bodies involved.

(4) Where charges are made by the public sector bodies referred to in point (c) of paragraph 2, the total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment. Charges shall be calculated in line with the accounting principles applicable to the public sector bodies involved.

(5) The charge that is normally imposed for the re-use of documents (standard charge) and the calculation basis for such charges shall be defined and published in advance on the Internet homepage of the public sector body, if this is possible and useful.

(6) Where no standard charges have been set, the public-sector bodies shall indicate at the outset which factors are taken into account in the calculation of the charges. Upon request, the public sector body shall also indicate the way in which such charges have been calculated in relation to the specific re-use request.

(7) The charge may not be discriminatory with regard to similar categories of re-use. The same charge that applies to other users shall also apply to the public sector body that produced the document, and later re-uses it.

\*) Version from LGBl. No 47/2015

## **Section 7**

### **Other conditions for re-use**

(1) The public sector bodies may attach conditions to the re-use of documents. The conditions shall be laid down in an agreement dealing with fundamental questions concerning re-use. The conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.

(2) The conditions that normally apply to the re-use of documents (standard conditions) shall be defined and published in advance on the Internet homepage of the public sector body, if this is possible and useful. The standard conditions shall be made available in digital form. It shall be possible to process them electronically.

(3) The conditions may not be discriminatory with regard to similar categories of re-use. The same conditions that apply to other users shall also apply to the public sector body that produced the document, and later re-uses it.

## **Section 8\*)**

### **Exclusive arrangements**

(1) The public sector body may not grant anyone an exclusive right to re-use a document. This shall also be the case if value-added products based on this document are already being used.

(2) The public sector body may in exceptional cases grant an exclusive right if this is necessary to provide a service that is in the public interest. These prerequisites shall be checked at least every three years. The exclusive arrangement shall in any case include a provision giving the public-sector body a special right of termination if the review shows that the grounds justifying the arrangement no longer apply. Paragraph 3 applies to the digitisation of cultural resources.

(3) Notwithstanding paragraph 1, where an exclusive right relates to digitisation of cultural resources, the period of exclusivity shall in general not exceed ten years. In cases where that period exceeds ten years, its duration shall be subject to review during the eleventh year and, if applicable, every seven years thereafter. The exclusive arrangement shall in any case include a provision giving the public-sector body a special right of termination if the review shows that the grounds justifying the arrangement no longer apply. In the case of such exclusive rights, the public sector body concerned shall be provided free of charge with a copy of the digitised cultural resources as part of those arrangements. That copy shall be available for re-use at the end of the period of exclusivity.

(4) Exclusive arrangements shall be transparent and shall be made public by publishing them on the Internet homepage of the public sector body, if this is possible and useful.

\*) Version from LGBl. No 47/2015

### **Part 3 Application, legal redress**

#### **Section 9\*) Application for re-use**

(1) Every natural or legal person can make an application to re-use documents. The application shall be submitted to the public sector body that holds the document. The request must be made in writing. Section 13(2) of the General Administrative Procedures Act (*Allgemeines Verwaltungsverfahrensgesetz, AVG*) shall apply *mutatis mutandis*.

(2) The document intended for re-use shall be indicated in the application. In addition, it shall be stated how and for what purpose the document is to be re-used.

(3) The public sector body shall immediately request that an incomplete or incorrect application be corrected in writing. The applicant shall be set a deadline for this purpose of no longer than two weeks. If the application is not corrected within the deadline, it shall be considered as not having been submitted.

\*) Version from LGBl. No 47/2015

#### **Section 10 Processing period**

(1) The public sector body shall make a decision regarding the application within four weeks. The period begins on the day on which the application, or in the case of a corrected application (§ 9(3)), its deadline-compliant corrected version, is received by the public sector body.

(2) The public sector body may extend the deadline by another four weeks if the application is extensive or complex. It shall inform the applicant of this within three weeks of receiving the original application or its deadline-compliant corrected version.

#### **Section 11\*) Decision on the application**

- (1) Within the deadline the public sector body shall
- a) make the requested documents available in full or in part,
  - b) submit a written offer containing the conditions (including any possible charges) for providing the requested documents in full or in part, or
  - c) send written notification that the application has been rejected in full or in part.

(2) Notifications pursuant to paragraph 1(b) or (c) shall contain a short justification and state that a request may be made for a decision to be issued.

(3) If the applicant does not agree with the notification sent pursuant to paragraph 1(b) or (c), the applicant may request the public sector body to settle the matter of the application by way of a decision. If an application is rejected on the grounds that the intellectual property rights of the requested document are held by a third party, the third party must be indicated. If the identity of the third party is not known, the public sector body must declare the licensor from whom the material in question was obtained. Libraries, museums and archives shall not be required to declare such information.

(4) Applications for re-use shall be approved subject to fulfilment of the conditions of Section 4 in conjunction with Sections 5 to 8.

\*) Version from LGBl. No 44/2013, 47/2015

#### **Part 4**

#### **Final provisions**

#### **Section 12\*)**

#### **The municipalities' area of competence**

The tasks of the municipality laid down in this law are those within its own area of competence.

\*) Version from LGBl. No 44/2013

#### **Section 13\*)**

#### **Transitional arrangements and entry into force**

(1) In the case of exclusive arrangements concluded after 31 December 2003, Section 8(4) shall apply *mutatis mutandis*. Exclusive arrangements that already exist when this law enters into force and that are not subject to the exception set out in the first sentence of Section 8(2), shall end on 31 December 2008 at the latest.

(2) Exclusive arrangements in place on 17 July 2013 that are not covered by the exceptions provided for in Section 8(2) and (3) shall end when the contract expires or on 18 July 2043 at the latest.

\*) Version from LGBl. No 44/2013, 47/2015