

## **Re-use of Public-Sector Information Act (Informationsweiterverwendungsgesetz - IWG)<sup>1</sup>**

**of 13 December 2006**

The Federal Parliament has passed the following Act:

### **Article 1 Scope**

(1) This Act shall govern the re-use of any and all information held by public-sector bodies.

(2) This act shall not govern the following:

1. information to which no right of access exists;
2. information accessible only to those having a demonstrable legal or legitimate interest;
3. information, the compilation of which is not part of the official duties of the public-sector body in question;
4. information falling under the copyright, related rights or industrial property rights of third parties;
5. information held by public broadcasters or their representatives, serving the purposes of public broadcasting;
6. information held by educational or research institutions, including institutions founded for the purpose of transferring research findings;
7. information held by cultural institutions.

(3) Provisions on the protection of personal data laid down by other legislative acts governing the re-use of public-sector information or more extensive rights conferred by such legislative acts shall not be affected.

### **Article 2 Definitions**

For the purposes of this Act,

1. public-sector bodies shall be defined as:
  - a) state, regional and local authorities, including their special assets;
  - b) other legal persons governed by public or private law established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, for the most part financed by the bodies referred to under (a) or (c) either individually or jointly, by participation or otherwise, or whose management is supervised by these bodies, or more than half of the members of whose management or supervisory organs are appointed by these bodies. The same shall apply where the body that for the most part finances, either individually or jointly with other bodies, or appoints, either individually or jointly with other bodies, more than half of the members of the management or supervisory organs, falls under the first sentence;
  - c) associations whose members fall under (a) or (b);
2. information shall be defined as any record stored in any way;
3. re-use shall be defined as any use of information beyond the bounds of public-sector duties and usually aimed at obtaining payment. Intellectual perception of information and use of the resulting knowledge often do not constitute re-use
4. provisions on permitted use shall be defined as provisions substantially circumscribing the way in which information can be re-used;
5. a person is defined as any EU citizen or any natural or legal person residing or having its registered office in a Member State.

### **Article 3 Right to equal treatment**

(1) All persons shall receive equal treatment in decisions about the re-use of information that is held and made available for re-use by public-sector bodies. This Act shall not confer any right to access information.

(2) Where information held by public-sector bodies is re-used for their own business activities, the same tariffs and conditions shall apply as for any other person.

(3) Information authorised for re-use shall be made available in any format or language requested to the extent

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<sup>1</sup> This Act transposes 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).

that it is available to the public-sector body itself. It shall be made available in electronic format wherever possible. Excerpts of information shall be made available if this does not put a disproportionate strain on the public-sector body.

(4) Arrangements for the re-use of information of public-sector bodies shall not guarantee any exclusive rights. This shall not apply where an exclusive right to re-use of information is required to provide a service in the public interest. The grounds for such a right shall be verified regularly, no less than once every three years. Arrangements for exclusive rights concluded after 31 December 2003 shall be clear and unambiguous and shall be made public. Existing exclusive rights not covered by the second sentence expire on 31 December 2008 or when the relevant arrangement expires, whichever comes first.

#### **Article 4 Processing applications; transparency**

(1) Public-sector bodies shall decide about applications for re-use of information within 20 working days from the date the application is received. This limit shall be brought to 40 working days for extensive or complicated requests. The applicant shall be informed about the time limit within three weeks from the date the application is received. The time limits referred to in the first and second sentence shall not apply where public-sector bodies have themselves established an appropriate time limit or where one is laid down by a legal provision. Where a time limit for the processing of applications to access information is in force, the same time limit shall apply to the processing of applications for re-use.

(2) Public-sector bodies shall make information available for re-use or turn down applications for re-use within the time limits set out in the first subparagraph. Public-sector bodies may also draw up contract proposals containing provisions on permitted use. These provisions on permitted use shall be proportionate. They shall not result in any market distortion and shall not unnecessarily limit the possibilities for re-use.

(3) Where agreements provide for the payment of a fee for re-use, the total charge for making the information available and authorising its re-use shall not exceed the costs of recording, compiling, reproducing and disseminating the information, increased by a reasonable profit margin. The fee shall be cost-oriented within the limits of the relevant accounting period and calculated in accordance with the accounting principles applying to the public-sector body concerned.

(4) Provisions on permitted use and fees for re-use, intended for general application, shall be laid down or determined in advance and, to the extent meaningful and technically possible, published electronically.

(5) Fees shall likewise be published electronically. Public-sector bodies shall provide upon request the basis of calculation for the fees they make public, together with the factors used when calculating fees in exceptional cases. Public-sector bodies shall duly inform applicants about the means of legal redress at their disposal.

(6) Public-sector bodies turning down applications for re-use, either fully or in part, shall state their reasons for doing so to the applicants and duly inform them of the means of legal redress at their disposal. Public sector bodies turning down applications for re-use on the basis of Article 1(2)(4) shall name the rights holder to the extent that one is known to them and they have permission to do so.

(7) The obligations set out in (1), (2) and (5) shall not apply to the public-sector bodies referred to in Article 1(2) nr 5 to 7.

#### **Article 5 Legal redress**

The Administrative Courts entertain jurisdiction in disputes on the interpretation of this Act.

#### **Article 6 Entry into force**

This Act enters into force on the day following its promulgation.

The constitutional rights of the Federal Council are maintained.

This Law is herewith drawn up and will be promulgated in the Federal Gazette.

Berlin, 13 December 2006

The Federal President  
Horst Köhler

The Federal Chancellor  
Angela Merkel

The Federal Minister of Economic Affairs and Technology  
Michael Glos