

PROVINCIAL LAW GAZETTE FOR CARINTHIA

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Law No 22:	Amendments to the Carinthian Information and Statistics Act, the Carinthian Provincial Archives Act and the Carinthian Provincial Museums Act	

Law No 22 of 29 October 2015 amending the Carinthian Information and Statistics Act, the Carinthian Provincial Archives Act and the Carinthian Provincial Museums Act

The Carinthian Provincial Parliament has decided as follows:

Article I

The Carinthian Information and Statistics Act – K-ISG, Provincial Law Gazette No 70/2005, latest version Provincial Law Gazette No 85/2013, is amended as follows:

1. The following table of contents is inserted before the text of the law:

'Contents

Section 1

General obligation to provide information

- § 1 Obligation to provide information
- § 2 Right of access
- § 3 Provision of information
- § 4 Refusal to provide information

Section 2

Environmental information

- § 5 Improving the dissemination of environmental information; bodies with an obligation to provide information
- § 6 Free access to environmental information
- § 7 Duty of notification
- § 8 Limitations on notification
- § 8a Processing of commercial or business secrets
- § 9 Legal redress
- § 10 Charges
- § 11 Publication of environmental information
- § 12 Report on the state of the environment

Section 2a

Information on lifelong learning

- § 12a Obligation to provide information
- § 12b Report on lifelong learning

Section 3

Data protection

- § 13 Scope

§ 14 Application of the Data Protection Act 2000 (DSG 2000)

Section 4

Reuse of documents of public bodies

§ 15 Scope
 § 16 Right to reuse, applications and completion
 § 17 Form of provision, practical arrangements and transparency
 § 17a Charges
 § 18 Conditions for reuse, non-discrimination and exclusivity agreements
 § 18a Legal redress
 § 19 Reporting obligations

Section 4a

Spatial data and spatial data infrastructure

§ 19a Purpose of this part
 § 19b Scope and general principles
 § 19c Definitions
 § 19d Metadata requirements, spatial data and spatial data services
 § 19e Network services
 § 19f Electronic network
 § 19g Limits on public access
 § 19h Charges and conditions for the use of network services by the public
 § 19i Use of spatial data and spatial data services by domestic public spatial information bodies
 § 19j Use of spatial data and spatial data services by foreign public bodies
 § 19k Legal redress
 § 19l Spatial data infrastructure coordination body
 § 19m Monitoring and reporting duties
 § 19n Provincial government's power to regulate

Section 5

Provincial statistics

§ 20 Tasks
 § 21 Principles
 § 22 Collection and processing of data
 § 23 Personal data

Section 6

Common provisions

§ 24 Own area of competence
 § 25 Penal provisions
 § 26 Exemption from levies
 § 26a References
 § 26b Equal linguistic treatment
 § 26c Transitional provisions
 § 26d Use of personal data
 § 27 Implementing guidelines
 § 28 Entry into force and expiry'

2. *The following sentence is added to § 7(3):*

'If this request for clarification is fulfilled, the request shall be deemed to have been received on the day on which the body required to provide the information received the clarified request.'

3. *§ 7(4) shall read:*

'(4) The requested information is to be supplied in the form requested by the applicant in the individual case or, where appropriate, in another form. Preference is to be given to electronic data transfer where such resources are available. In particular, the applicant may be referred to other publicly available information (§ 11) that is available in another form or another format, provided this is easily accessible to the person seeking information and free access to the environmental information held by or on behalf of the bodies required to provide information is thus ensured. The reasons for the choice of another format or another form are to be specified and to be given to the applicant as soon as possible and in any case within one month of receipt of the request by the body required to provide information.'

4. § 9(1) shall read:

'(1) If some or all of the requested environmental information is not provided, at the request of the person seeking information, a decision must be issued without undue delay and in any case no later than two months after receipt of the request. A single decision may be taken in respect of similar requests.'

5. § 9(2) shall read:

'(2) The body required to provide information is responsible for issuing a decision within the meaning of paragraphs 1 and 1a, insofar as it performs public tasks; if that is not the case, requests within the meaning of paragraphs 1 and 1a are to be forwarded, or the person seeking information referred, without delay to the decision-making body responsible for carrying out or organising supervision or other control, otherwise to the district administrative authority of the administrative district in which the body required to provide information is based.'

6. Section 4 of the Act shall read:

**'Section 4
Reuse of documents of public bodies**

**§ 15
Scope**

(1) This Section governs the reuse of documents that are in the possession of public bodies within the meaning of Paragraph 4(a) and are to be provided by these in the context of the public tasks conferred upon them by the province within its areas of competence. This Section does not give rise to a right of access to public bodies' documents.

(2) Laws that govern access to public bodies' documents, the provision of the Data Protection Act 2000, other statutory secrecy duties and other legislative provisions relating to the reuse of public bodies' documents are not affected by this Section.

(3) This Section does not apply to:

- (a) the disclosure of information in accordance with Section 1 and the provision of environmental information in accordance with Section 2 of this Act or the reuse of such information, provided that the provision of the documents concerned in accordance with the provisions of Section 4 of this Act is not also requested;
- (b) the reuse of documents the provision of which does not come within the public task of the relevant public body (Paragraph 4(a)). The scope of the public task, where it is not laid down by provincial law, must be transparent and subject to regular scrutiny;
- (c) the transfer of documents within and between public bodies within the meaning of paragraph 4(a) or within and between public sector bodies within the meaning of Article 2(1) of Directive 2003/98/EC the reuse of public sector information in the version of Directive 2013/37/EU, where such transfer is exclusively for the purpose of carrying out a public service task of the transferring public bodies;
- (d) the reuse of documents to which there is no right of access, in particular for reasons:
 - 1. of statutory requirements to keep them secret;
 - 2. of protecting commercial, business or professional secrets;
 - 3. of national security, national defence or public safety;
 - 4. of ensuring statistical confidentiality or
 - 5. of protecting personal data where a legitimate interest in keeping those data confidential exists pursuant to the Data Protection Act 2000;
- (e) if not already covered by point (d)(5),
 - 1. documents to which no or a limited access right exists for reasons of protection of personal data within the meaning of the Data Protection Act 2000, and
 - 2. parts of documents that contain personal data within the meaning of the Data Protection Act 2000 and to which a right of access exists, but whose reuse would not be compatible with the fundamental right to data protection pursuant to the Data Protection Act 2000;
- (f) the reuse of documents that are, according to law, accessible only where a legitimate interest can be demonstrated;
- (g) the reuse of parts of documents that contain only logos, coats of arms and insignias;

- (h) the reuse of documents in possession of an educational or research establishment, except university libraries, or of a public sector broadcaster with a public service broadcasting remit;
 - (i) the reuse of documents that are in the possession of cultural institutions other than libraries, museums or archives;
 - (j) the reuse of documents that are the intellectual property of third parties.
- (4) In this Section the following definitions apply:
- (a) public body:
 - 1. the Province;
 - 2. a municipality or an association of municipalities;
 - 3. another public law entity established by or on the basis of a provincial law (authority, institute, foundation, fund);
 - 4. a natural person or legal entity with powers delegated by means or by virtue of a provincial law, within the scope of such delegation, including the Austrian Institute of Construction Engineering to the extent that it carries out tasks pursuant to the Carinthian Construction Products Act, Provincial Law Gazette No 46/2013;
 - (b) document: any means of displaying content, regardless of the form of the data carrier (such as paper, electronic form, or sound, image or audiovisual recordings) created by a public body in the performance of its public tasks;
 - (c) reuse: the use of a document that is in the possession of a public body within the meaning of (a) above for purposes distinct from the original purpose of its creation in the performance of one of the public tasks entrusted to that public body; the exchange of documents between public-sector bodies within the meaning of Article 2(1) of Directive 2003/98/EC purely in pursuit of their respective public tasks does not constitute reuse;
 - (d) machine-readable format: 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: a file format that is platform-independent and made available to the public without any restriction that impedes the reuse of documents;
 - (f) formal open standard: a standard which has been laid down in written form, detailing specifications for the requirements on how to ensure software interoperability;
 - (h) public task: any matter to be dealt with by a public body in the public interest.

§ 16

Right to reuse, requests and completion

(1) Documents or parts of documents that fall within the scope of this Section may, unless Paragraph 2 stipulates otherwise, be used upon request for commercial and non-commercial purposes in accordance with the provisions of this Section.

(2) Documents in respect of which libraries, museums and archives hold intellectual property rights may be used in accordance with the provisions of this Section for commercial and non-commercial purposes if the competent public body makes them available for reuse.

- (3) A public body may not fulfil a request for reuse of a document if:
 - (a) the requested document does not fall within the scope of this Section (§ 15(3));
 - (b) other legal constraints, in particular legal secrecy obligations, prevent the release of the document;
 - (c) the request does not meet the requirements set out in paragraphs 5 to 8;
 - (d) extracts of documents are being requested that could only be made available with disproportionate effort that goes beyond normal processing;
 - (f) conditions pursuant to § 18 must be fulfilled if the requested documents are to be released and the requester will not state that he is prepared to comply with the conditions for the reuse of documents pursuant to § 18; or
 - (g) a charge in accordance with § 17a must be paid for the reuse of the requested documents and the requester is not prepared to pay such charge.

(4) Paragraph 3(f) applies only if the public body establishes conditions for the reuse of documents that comply with the principles set out in § 18; Paragraph 3(g) applies only if the public body demands a charge that complies with the principles set out in § 17a.

(5) Requests for the reuse of documents shall be made in writing to the public sector body which holds the requested document; § 13(2) of the General Administrative Procedures Act (Allgemeines Verwaltungsverfahrensgesetz, AVG) shall apply mutatis mutandis.

(6) If the request does not make the content, scope or type and manner of reuse of the requested documents sufficiently clear, the public body must immediately ask the requester to clarify the request by an appropriate deadline. If the requester fulfils the request for clarification by the deadline, the period after receipt referred to in paragraph 7 begins again. Otherwise, the application shall be deemed not to have been submitted.

(7) The public body must process the request for reuse and complete it within the meaning of paragraph 8 without undue delay. Where federal or provincial law provides for specific deadlines for the processing of requests for access to documents or information, these shall apply. If the public body has not set any deadline for the release of the documents or if there are no legal provisions pursuant to the second sentence, the public body must process the request and complete it within the meaning of paragraph 8 without due delay, but in any case no later than four weeks after receipt of the request. If the time limit specified in the second sentence cannot be observed due to the extent or complexity of the request, a handling time for the request of up to eight weeks shall apply. Where this is the case, the applicant shall be informed as soon as possible, and no later than three weeks after the request has been received, that the handling time for the request has been extended, with an indication of the reasons for this.

(8) In accordance with the deadlines set out in paragraphs 3 and 7, the public body must, making reference where applicable to the option of requesting a decision to be issued pursuant to § 18a:

- (a) make fully available to the applicant all the requested documents for reuse, or
- (b) make some of the requested documents available to the applicant and inform the applicant in writing of the reasons for his request not being met in full, or
- (c) send the applicant a final contract proposal (licence proposal) if the reuse of the requested documents requires conditions pursuant to § 18 to be fulfilled, or
- (d) inform the applicant in writing that his request is not being fulfilled, specifying reasons.

(9) If the public body bases its refusal on the fact that the requested document is the intellectual property of third parties or is covered by commercial copyright, it must refer to the owner of the rights if it knows who this is. Otherwise, it must state from whom it obtained the document. Libraries, museums and archives shall not be required to declare such information.

§ 17

Form of provision, practical arrangements and transparency

(1) In accordance with the provisions of this Section, public bodies must, as far as reasonably possible, make documents in their possession, in all the formats or languages they have, available in an open, machine-readable format (§ 15(4)(d) and (e)) together with the associated metadata. Both the formats and the metadata should, as far as possible, meet formal, open standards (§ 15(4)(f)).

(2) Paragraph 1 does not oblige public bodies to draw up new documents or adapt documents or release extracts of documents if such drafting, adapting or partial release would require disproportionate effort that goes beyond simple processing.

(3) This Section does not oblige public bodies to continue the drafting and storage of certain types of documents with a view to their reuse.

(4) Every public body must take suitable practical steps to make searching for the documents available for reuse easier. This includes in particular:

- (a) maintaining and releasing inventories of the –documents or types of available documents from their respective areas of competence that are most important in terms of current or expected future demand –, including the associated metadata, which should, as far as practically possible, be made available online and in a machine-readable format;
- (b) running internet portals associated with an inventory within the meaning of paragraph (a), or establishing electronic access points to such internet portals;
- (c) where possible, providing multilingual search facilities for documents, and
- (d) designating contact persons or information points.

(5) Public bodies which demand standard charges for the reuse of documents or subject the reuse of documents to standard conditions (§ 18(2)) must establish such standard conditions and standard charges,

and the basis on which these are calculated, in advance and, where possible, publish them on the internet; otherwise, the public body must announce them in advance in a publicly accessible place on its premises.

(6) Public bodies which demand non-standard charges for the reuse of documents must announce in advance what factors they take into account when calculating such charges. If an applicant so requests, they must also specify the calculation method for the charges applicable to that applicant's request.

§ 17a Charges

(1) If a public body demands charges for the reuse of documents, these charges must not exceed the marginal costs arising from reproduction, release and distribution.

(2) The limit on charges set by paragraph 1 does not apply to:

- (a) public bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks;
- (b) libraries, museums and archives;
- (c) in exceptional cases, documents of public bodies other than those listed in subparagraphs (a) and (b) for which the public body concerned must, by virtue of a provincial law or other legal provision binding upon the public body, generate sufficient revenue in order to cover a significant part of the costs associated with their collection, production, reproduction and dissemination.

(3) In the cases referred to in points (a) and (c) of paragraph 2, the public body concerned must calculate the total charges according to objective, transparent and verifiable criteria. The total income of each public body 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 bodies involved.

(4) Requirements within the meaning of paragraph 2(c) in connection with paragraph 3 are to be established by provincial law or in the form of other legal provisions binding upon the public body and, as far as practically possible, published on the internet.

(5) Where charges are demanded by public libraries, museums or archives within the meaning of paragraph 2(b), 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 bodies involved.

§ 18 Conditions for reuse, non-discrimination and exclusivity agreements

(1) Public bodies may either allow the reuse of documents unconditionally, or attach it to conditions having regard to paragraphs 2 to 11, to § 17(5) and (6) and to § 17a. The conditions are to be established in a contract (licence).

(2) The conditions that normally apply to the reuse of documents (standard conditions) are to be established and published in advance in accordance with § 17(5). The standard conditions must be able to be adapted to specific contract applications (licence applications) and be available in digital format. It must be possible to process them electronically.

(3) The conditions for the reuse of documents established in a contract (a licence) must not place unnecessary restrictions on the possibilities for reuse or hinder competition. They must be non-discriminatory in respect of comparable types of reuse.

(4) If documents are reused by public bodies as a basis for their own business activities that do not form part of a task arising from the autonomous competences of the province, the same charges and other conditions shall apply to the release of these documents as for other users.

(5) The reuse of documents shall be open to all actors in the market, even if one or more market players already use added-value products based on these documents.

(6) Public bodies may not grant third parties exclusive rights to reuse of documents falling within the scope of this Section (exclusivity agreement). This does not apply if the granting of an exclusive right is necessary for the provision of a service in the public interest. The grounds for such an exclusive arrangement shall be checked regularly, and at least every three years. The public body must include a clause within the exclusivity agreement granting it a specific right of termination if the regular check

referred to in the second sentence shows that the reason justifying the exclusivity agreement no longer exists. Paragraphs 9 and 10 apply to the digitisation of cultural resources.

(7) Exclusivity agreements that do not fall under the exception provided for in the second sentence of paragraph 6 must be dissolved by the public body with effect from 31 December 2008 at the latest, unless they expire before that date.

(8) If a public body grants or has granted exclusive rights (exclusivity agreement) to a third party in accordance with the second to fourth sentences of paragraph 6 or with paragraph 7, all exclusivity agreements concluded after 31 December 2003 must be transparent and, where possible, published on the internet; otherwise, the public body must give notice of them in a publicly accessible place on its premises.

(9) If an exclusive right (exclusivity agreement) refers to the digitisation of cultural resources, it may, notwithstanding the second to fourth sentences of paragraph 6, generally be granted for a maximum of 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 public body must include a clause within the exclusivity agreement granting it a specific right of termination if the regular check referred to in the second sentence shows that the reason justifying the exclusivity agreement no longer exists. In addition, the exclusivity agreement must stipulate that the public body shall receive a copy of the digitised cultural resources free of charge; in turn, the public body must make this copy available for reuse once the exclusivity agreement has expired. The obligation set out in the fifth sentence to provide a copy free of charge to the public body also applies in cases where this is not expressly stated in the exclusivity agreement.

(10) If a public body grants a third party an exclusive right to the digitisation of cultural resources in accordance with paragraph 9, the exclusivity agreement must be transparent and, where possible, published on the internet; otherwise, the public body must give notice of it in a publicly accessible place on its premises.

(11) Exclusivity agreements that are in force on 17 July 2013 and do not fall within the second sentence of paragraph 6 or paragraph 9 are to be terminated by the public body upon their expiry, but no later than 18 July 2043.

§ 18a

Legal redress

(1) If an application for reuse of a document in accordance with § 16 has been unfulfilled or fulfilled only in part, or if the public body delays completing the request, a decision relating to this must be issued at the applicant's request. An application for the issue of a decision can – except in cases of delay by the public body – be made within four weeks of receipt of notice that the request was to remain partly or entirely unfulfilled or that the release of the document was to be made contingent upon the conclusion of a contract (a licence) (§ 16(8)).

(2) If the applicant is presented with a binding contract proposal (licence proposal) (§ 16(8)(c)), a decision shall be issued, upon the request of the applicant, stating whether the individual provisions of the contract proposal (licence proposal) comply with this Section. If it so transpires that the provisions of the contract proposal (licence proposal) do not comply with this Act, the public sector body shall present the applicant with a new binding contract proposal (licence proposal) which takes into account that decision; in this case, the deadlines set out in § 16(7) apply *mutatis mutandis*.

(3) Decisions within the meaning of paragraphs 1 and 2 are to be issued within eight weeks of receipt of a request for issue of a decision. The public body is responsible for issuing a notice within the meaning of paragraphs 1 and 2, insofar as it carries out public service tasks; if that is not the case, requests within the meaning of paragraphs 1 and 2 are to be forwarded without delay to the decision-making body responsible for carrying out or organising supervision, otherwise to the district administrative authority of the administrative district in which the public body is based.

§ 19

Reporting obligations

(1) Where required for the fulfilment of reporting obligations under EU law, public bodies (§ 15(4)(a)) must forward to the provincial government on its request the required information from within their respective remits in accordance with Article 13(2) of Directive 2003/98/EC in the version of Directive 2013/37/EU. The information is to be provided to the provincial government in anonymised form.

(2) The Regional Administrative Court must provide the provincial government on its request with anonymised information on the legal proceedings carried out during the reporting period where this is required for the fulfilment of reporting obligations under EU law within the meaning of paragraph 1.'

7. § 19b(1)(d)(1) shall read:

'1. of a public spatial information body in connection with its public task or'

8. § 19b(6)(a) shall read:

'(a) all other legal provisions that govern the access to or reuse of public bodies' documents, in particular Sections 1, 2 and 4 of this Act, unless this section determines otherwise, and'

9. § 19h shall read as follows:

'§ 19h
Charges and conditions for the
use of network services by the public

(1) Search facilities (§ 19e(1)(a)) must be provided free of charge to the public.

(2) Charges may be levied for view services (§ 19e(1)(b)) provided such charges are used to maintain the spatial data and the related spatial data services. This applies particularly to cases where large quantities of data need to be updated frequently.

(3) Charges may be levied for download services and services allowing spatial data services to be invoked (§ 19e(1)(c) and (e)).

(4) Where charges are demanded for view services (§ 19e(1)(b)), download services (§ 19e(1)(c)) and services allowing spatial data services to be invoked (§ 19e(1)(e)), these are to be limited to the marginal costs arising from the reproduction, release and dissemination (§ 17a) and e-payment facilities must be available to pay them. Exclusions of liability, electronic licensing agreements or, where necessary, licences in another form may be provided for in respect of these data.'

10. § 19k(6) is deleted.

11. § 26a(2) shall read as follows:

'(2) References to federal laws in this Act are to be understood as references to the following versions:

- (a) Data Protection Act 2000 – DSG 2000, Federal Law Gazette I No 165/1999 in the version of the Act in Federal Law Gazette I No 83/2013;
- (b) Establishment and Residence Act – NAG, Federal Law Gazette I No 100/2005 in the version of the Act in Federal Law Gazette I No 40/2014;
- (c) Federal Statistics Act 2000, Federal Law Gazette I No 163/1999 in the version of the Act in Federal Law Gazette I No 40/2014;
- (d) Spatial Data Infrastructure Act – GeoDIG, Federal Law Gazette I No 14/2010 in the version of the Act in Federal Law Gazette I No 109/2012.'

12. '§ 26a(4) is inserted as follows:

'(4) Where this Act refers to Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the reuse of public sector information, OJ L 345, 21.12.2003, p. 90, this is to be understood to refer to the version in Directive 2013/37/EU of the European Parliament and the Council of 26 June 2013, OJ L 175, 27.6.2013, p. 1.'

13. After § 26c, § 26d is inserted as follows:

'§ 26d
Use of personal data

(1) The bodies subject to the obligation to provide information in accordance with § 1, provincial bodies with an obligation to provide information in accordance with § 5, public bodies within the meaning of § 15(4)(a) and public spatial information bodies within the meaning of § 19c(j) are entitled to process the following personal data by computer for the purposes of implementing the procedure pursuant to this Act and for documenting the applications submitted to them under this Act:

- (a) identification, address and contact details of applicants and their nominated contact persons;
- (b) data relating to the request and handling of the request.

(2) Personal data within the meaning of paragraph 2 are to be deleted as soon as they are no longer needed for the implementation of this Act.'

14. § 27(3) shall read:

'(3) Section 4 implements Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the reuse of public sector information, OJ L 345, 21.12.2003, p. 90, in the version in Directive 2013/37/EU of the European Parliament and the Council of 26 June 2013, OJ L 175, 27.6.2013, p. 1.'

Article II

The Carinthian Provincial Archives Act – K-LAG, Provincial Law Gazette No 40/1997, latest version Provincial Law Gazette No 85/2013, is amended as follows:

1. The following table of contents is inserted before the text of the law:

‘Contents

Section 1

General provisions

§ 1	Scope
§ 2	Delimitation of federal competences
§ 3	Definitions
§ 4	Establishment of the institute
§ 5	Tasks of the institute

Section 2

Archiving procedures

§ 6	Preparation of archiving
§ 7	Offering of documents
§ 8	Acceptance of documents offered
§ 9	Administration and securing of archived material

Section 3

Use of archived documents

§ 10	Use of archived public documents
§ 11	Official and non-official use
§ 12	Protection periods
§ 13	Exclusion from use
§ 14	Use of archived private documents
§ 15	Reproduction
§ 16	Lending of archived documents
§ 17	Regulations on use and reimbursement of costs

Section 4

Organisation of the institute

§ 18	Director
§ 19	Appointment of the Director
§ 20	Termination of the Director's function
§ 21	Deputising for the Director
§ 22	Institute staff and establishment plan
§ 23	Archive secrecy
§ 24	Buildings and equipment for the Institute

Section 5

Financial management and revenue

§ 25	Financial management
§ 26	Revenue
§ 27	Financial year

Section 6

Cooperation of the Provincial Government Office and supervision

§ 28	Participation of the Provincial Government Office in the performance of the Institute's tasks
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§ 29	Provincial supervision
§ 30	Exemption from levies
§ 30a	References

Section 7

Final provisions

§ 31	Entry into force and transitional provisions'
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2. § 15(1) shall read:

'(1) The creation of reproductions (photocopies, photographs, microfilms, digital reproductions, etc.) of archived documents and scientific data in the Institute's possession is – subject to restrictions on the use of archived private documents stipulated in a contract or will – permissible, provided this is not prevented by laws on the protection of individuals or data, reasons related to the conservation of the archives in the light of their physical state, or intellectual or industrial property rights.'

3. The following paragraph 1a is inserted after § 15(1):

'(1a) The procedure relating to the release of archived documents and of scientific data in the Institute's possession for the purpose of making reproductions, including the form of release, the conditions for reuse and the publication of standard conditions, charges and exclusivity agreements, shall be governed by Section 4 of the Carinthian Information and Statistics Act –K-ISG, Provincial Law Gazette No 70/2005.'

4. § 15(2) and (3) shall read:

'(2) The Institute may, if this is necessary due to restrictions on the use of archived private documents stipulated in a contract or will or to reasons related to the conservation of the archives in the light of their physical state, reserve the right to ensure that reproductions of archived documents are made only by the Institute itself. If reproductions of archived material are made by the user, the Institute may, if necessary for the reasons set out in the first sentence, require the user to make reproductions using only the technical equipment provided by the Institute and under the supervision of Institute staff.

(3) The reproduction of archived documents that are excluded from use (§ 13(1)) is prohibited.'

5. In § 15, the following subparagraphs 4 and 5 are inserted:

'(4) The Institute may grant third parties exclusive rights for the reuse of documents in accordance with § 18(6) K-ISG and exclusive rights in relation to the digitisation of cultural resources in accordance with § 18(9) K-ISG only to the extent permitted by Section 4 of K-ISG.

(5) The rules on use and the cost reimbursement tariff are to be displayed in areas of the Institute's premises that are accessible to users and, in accordance with §§ 17 and 17a K-ISG, published on the Institute's website.'

6. § 17(2) and (3) shall read:

'(2) The Institute may not charge for the use of archived documents. If the Institute provides services beyond the release of archived documents for use, such as making reproductions and copies or drawing up expert reports – other than for authorities and offices of the Province of Carinthia – an appropriate charge by way of reimbursement of costs should be paid. Such charges should, where the reuse of documents in possession of the Institute within the meaning of § 15 K-ISG is concerned, be set in accordance with § 17a K-ISG; in other cases (for example for drawing up expert reports), the Director should set the charge in accordance with the break-even principle, taking into account the regular staff and material costs to the Institute of providing the service.

(3) The rules on use and the cost reimbursement tariff are to be displayed in areas of the Institute's premises that are accessible to users and, in accordance with §§ 17 and 17a K-ISG, published on the Institute's website.'

7. After § 30, § 30a is inserted as follows:

§ 30a References

Where this Act refers to provincial laws, these are to be applied in their current form.'

Article III

The Carinthian Provincial Museums Act – K-LMG, Provincial Law Gazette No 72/1998, latest version Provincial Law Gazette No 85/2013, is amended as follows:

1. The following table of contents is inserted before the text of the law:

'Contents

Section 1

General provisions

- § 1 Establishment of the institute
- § 2 Tasks of the institute
- § 3 Delimitation of competences

Section 2

Museum tasks of the Institute

- § 4 Definitions
- § 5 Principles of performance of museum tasks
- § 6 Administration and securing of artefacts
- § 7 Acquisition and sale of artefacts
- § 8 Loan of artefacts
- § 9 Reproduction
- § 10 Advice to other museums
- § 11 Coordination and cooperation with other museums

Section 3

Scientific research tasks of the Institute

- § 12 Principles for the performance of scientific research tasks
- § 13 The Institute's research programme
- § 14 Performance of scientific research tasks on behalf of third parties

Section 4

Management of the Institute

- § 15 Director
- § 16 Appointment of the Director and termination of his function
- § 17 Deputising for the Director
- § 18 Museum scientific panel

Section 5

Organisation of the institute

- § 19 Museum departments
- § 20 Branches of the Institute
- § 21 Education department
- § 22 Library
- § 23 Head office
- § 24 Museum rules

Section 6

Institute staff

- § 25 Management powers towards employees of the Institute
- § 26 Establishment plan
- § 27 Recruitment to a private-law employment relationship
- § 28 Recognition of foreign professional qualifications

Section 7

Financial management and revenue

- § 29 Budget and revenue
- § 30 Annual accounts
- § 31 Buildings and equipment for the Institute
- § 32 Provision of financial resources for the Institute
- § 33 Reimbursement of costs of services provided by the Institute
- § 34 Financial year

Section 8**Participation and supervision rights**

- § 35 Participation of the Provincial Government in the performance of the Institute's tasks
- § 36 Participation of the Provincial Government Office in the performance of the Institute's tasks
- § 37 Provincial supervision

Section 9**Exemption from levies and references**

- § 38 Exemption from payment of levies governed by provincial law
- § 38a References

Section 10**Final provisions**

- § 39 Entry into Force
- § 40 Transitional provisions'

2. § 9(1) shall read:

'(1) The creation of reproductions (photocopies, photographs, microfilms, digital reproductions, etc.) of artefacts and scientific data in the Institute's possession is – subject to restrictions on the use of artefacts from private collections stipulated in a contract or will – permissible, provided this is not prevented by laws on the protection of individuals or data, reasons related to the conservation of the artefacts in the light of their physical state, or intellectual or industrial property rights. If there are doubts as to the legality of making reproductions, the museum's scientific panel (§ 18) is to be consulted.'

3. The following paragraph 1a is inserted after § 9(1):

'(1a) The procedure relating to the release of artefacts for the purpose of making reproductions, including the form of release, the conditions for reuse and the publication of standard conditions, charges and exclusivity agreements, shall be governed by Section 4 of the Carinthian Information and Statistics Act –K-ISG, Provincial Law Gazette No 70/2005.'

4. § 9(2) and (3) shall read:

'(2) The Institute may, if this is necessary due to restrictions on the use of artefacts from private collections stipulated in a contract or will or to reasons related to the conservation of the artefacts in the light of their physical state, reserve the right to ensure that reproductions of artefacts in the Institute's long-term custody are made only by the Institute itself. If reproductions of artefacts are made by the user, the Institute may, if necessary for the reasons set out in the first sentence, require the user to make reproductions using only suitable technical equipment, provided where applicable by the Institute itself, and under the supervision of Institute staff. Where the reproduction of artefacts takes place away from the Institute's premises, the artefacts are to be returned to the Institute immediately the reproductions have been made.

(3) Appropriate charges should be paid by way of reimbursement of costs incurred in making reproductions. Such charges should be set in accordance with § 33 of this Act and § 17a K-ISG.'

5. In § 9, the following subparagraphs 4 and 5 are inserted:

'(4) The Institute may grant third parties exclusive rights for the reuse of documents (artefacts) in accordance with § 18(6) K-ISG and exclusive rights in relation to the digitisation of cultural resources in accordance with § 18(9) K-ISG only to the extent permitted by Section 4 of K-ISG.

(5) The conditions of reuse of artefacts and the cost reimbursement tariff are to be displayed in areas of the Institute's premises that are accessible to users and, in accordance with §§ 17 and 17a K-ISG, published on the Institute's website.'

6. § 33 shall read as follows:**'§ 33****Reimbursement of costs of services provided by the Institute**

(1) The Director, after consulting the provincial government, must set an appropriate tariff for reimbursement of costs of services provided by the institute on behalf of third parties other than the Province of Carinthia, such as the lending of artefacts (§ 8), the making of reproductions (§ 9), advising

other museums (§ 10), performing scientific research tasks on behalf of third parties (§ 14), the provision of library information services (§ 22(3)(b)) and the lending of library stock (§ 22(3)(f)). Such charges should, where the reuse of documents in possession of the Institute within the meaning of § 15 K-ISG is concerned, be set in accordance with § 17a K-ISG; in other cases, the Director should set the charge in accordance with the break-even principle, taking into account the regular staff and material costs to the Institute of providing the service.

(2) The rules on use and the cost reimbursement tariff are to be made available for consultation in areas of the Institute's premises that are accessible to users and, where possible, published on the Institute's website in accordance with §§ 17 and 17a K-ISG.'

7. *The title of part 9 shall read as follows:*

**'Section 9
Exemption from levies and references**

8. *After § 38, § 38a is inserted as follows:*

**§ 38a
References**

Where this Act refers to provincial laws, these are to be applied in their current form.'

Article IV

This Act shall enter into force on the day following its publication.

**President of the Provincial Parliament:
Mr Rohr**

**Provincial Governor:
Dr Kaiser**

**The Deputy Provincial Governor:
Dr Prettnner**

**The Deputy Provincial Governor:
Dr Schaunig-Kandut**

**Member of the Provincial Government:
Mr Ragger**

**Member of the Provincial Government:
Mr Bengner**

**Member of the Provincial Government:
Mr Holub**

**Member of the Provincial Government:
Mr Köfer**