

# GOVERNMENT GAZETTE

## OF THE HELLENIC REPUBLIC

SERIES I

Issue

31 October 2014

LAW No. 4305 'Open supply and re-use of public sector documents, information and data, amendment to Law 3448/2006 (A 57), adaptation of national legislation to the provisions of Directive 2013/37/EU of the European Parliament and of the Council, further enhancing transparency, regulating matters relating to the Entry Examinations of the National School of Public Administration and Local Government and other provisions.'

**THE PRESIDENT OF THE HELLENIC REPUBLIC**

We hereby promulgate the following Law adopted by the Parliament:

**CHAPTER A****OPEN SUPPLY AND RE-USE OF PUBLIC SECTOR DOCUMENTS, INFORMATION AND DATA, AMENDMENT TO THE PROVISIONS OF THE FIRST CHAPTER OF LAW 3448/2006 (A 57), ADAPTATION OF NATIONAL LEGISLATION TO THE PROVISIONS OF DIRECTIVE 2013/37/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****Article 1**

Article 1 of Law 3448/2006 is replaced as follows 'Article 1

Articles 1 to 13 of this Law aim to establish the principle of open supply and re-use of public sector documents, information and data held by public sector bodies, according to the definitions of Article 4, to specify the terms, conditions and methods for facilitating implementation of said principle, and to adapt national legislation to the provisions of Directive 2013/37/EU of the European Parliament and of the Council 'on the amendment of Directive 2003/98/EC regarding the re-use of public sector information'. The applicable provisions regarding access to administrative documents, as well as the information obligations of public sector bodies continue to apply, subject to the regulatory arrangements of this law.'

**'Article 2 - General principles (Article 1(3) of Directive 2013/37/EU)**

Article 2 of Law 3448/2006 is replaced as follows:

**'Article 2 General principles**

1. Public sector documents, information and data shall be made freely available, from the moment of their posting, publication or initial supply, for re-use and further exploitation for commercial or other purposes, without this requiring any action from the interested party or any administration act (principle of open supply and re-use of public information).

2. The documents, information and data are made available online as a dataset or via programming interfaces in open machine-readable format which complies with open standards according to the provisions of Article 6 hereof, from a fixed point of deposit. If documents, information or data cannot be made available online, then submission of an application by the party concerned is required according to the provisions of Article 5 hereof. In exceptional cases where public sector bodies impose conditions for the re-use of documents, information or data through a licence or charges, Articles 7 to 9 hereof apply. The open supply and re-use of documents, information or data may be excluded only in the cases laid down in Article 3 hereof and such exclusion should be specifically justified by the body holding these documents, information or data.

**Article 3 – Scope- (Article 1 (1), point (a) of Directive 2013/37/EU)**

1. Article 3(1)(a) of Law 3448/2006 is hereby replaced as follows:

'1. Articles 1 to 13 of this Act shall not apply to documents, information and data:

'(a) the supply of which is an activity falling outside the scope of the public mission of the public sector bodies concerned, as defined by applicable provisions.'

2. In Article 3(1)(c) of Law 3448/2006, items (aa) and (bb) are replaced as follows:

i) national security, defence or public order, foreign policy or information systems security,

ii) confidential tax and statistical information,

iii) confidential commercial, industrial, business, professional or company information,

iv) protection of the cultural heritage from theft, looting, vandalism, illegal excavation, illicit trade in antiquities, and in general to avoid putting at risk movable and immovable monuments and areas protected under Law 3028/2002.'

3. After Article 3(1)(c) of Law 3448/2006, new points (ca) to (cc) are inserted as follows:

'(ca) in documents, information and data, access to which requires individual citizens or companies, under special provisions, to prove a particular legal interest to obtain access to said documents, information and data,

(cb) in sections of documents, information and data containing only logos, banners and trademarks;

(cc) in documents, parts of documents, information and data, access to which is excluded or restricted on the grounds

of protection of personal data, or access to which is permissible, but re-use is incompatible by law with legislation concerning the protection of individuals with regard to the processing of personal data.'

4. Article 3(1)(e) of Law 3448/2006 is replaced by the following:

'(e) documents, information and data held by educational and research establishments, including organisations established for the exchange of research results, schools and universities, apart from university libraries, and documents, information and data held by cultural establishments, other than libraries, museums and archives.'

5. Article 3(2) of Law 3448/2006 is replaced as follows:

'2. Open supply, re-use and processing, in general, of documents, information and data shall always be subject to the provisions on the protection of individuals with regard to the processing of personal data (Law 2472/1997, Government Gazette, Series I, Issue 50), as applicable.'

#### **Article 4 – Definitions - (Article 1(2) of Directive 2013/37/EU)**

1. First indent of Article 4 of Law 3448/ 2006 is amended as follows:

'Public sector bodies, state authorities, central and regional authorities, independent administrative authorities, first and second-level local government authorities, other public legal entities, organisations incorporated under public law as per paragraph 2 of this article, and the associations formed by one or more of these authorities, or by one or more organisations incorporated under public law.'

2. Article 4, item 3 of Law 3448/2006 is amended as follows:

'Document', means any document, part of a document, information or data published or made available to public sector bodies for handling within the scope of their responsibilities, and in particular, studies, records, statistical data, circulars, directives, replies from administrative authorities, recommendations, decisions or reports, regardless of the recording medium used (e.g. printed on paper, stored in electronic format, or audio, visual or audiovisual recordings). For the implementation of the provisions of this law, 'documents' also refers to personal documents held in the archives (files) of public sector bodies, used or taken into account to determine administrative courses of action.'

3. To Article 4 of Law 3448/2006, indents 5 to 8 are added as follows:

'5. 'Document, information or data in machine-readable format' means a digital document, information or data structured in such a way that software applications can easily identify, recognise and extract specific data, including its internal structure.

6. 'Open format', a format that is platform-independent and made available to the public without any restriction that impedes the re-use of information, documents or data.

7. 'Formal open standard', a standard set down in written form, detailing required specifications to ensure software interoperability.

8. 'Personal data', means the data specified in Article 2(a) of Law 2472/ 1997.

#### **Article 5 - Rejection Decisions (Article 1(4) of Directive 2013/37/EU)**

1. Article 5 (3, 4, & 5) of Law 3448/ 2006 are replaced as follows:

'3. In the event of a negative decision, public sector bodies will communicate the grounds for refusal to the applicant on the basis of the relevant provisions. Where a negative decision is based on Article 3(1)(b), the public sector body will include a reference to the entitled natural or legal person, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material. Libraries, including university libraries, museums and archives are not required to include such a reference.

4. An administrative appeal may be lodged against the rejection decision of the body concerned before the General Inspector of Public Administration, who will rule according to the legal and material merits of the case. This appeal must be lodged within a strict deadline of ten (10) days from the notification of rejection to the applicant.

5. Rulings of the General Inspector of Public Administration in accordance with paragraph 4, are subject to an appeal for annulment before the competent Three-Member Administrative Court of Appeal.'

2. Indent (q) is added to Article 1 (1) of Law 702/1977 (Government Gazette, Series I, No 268) as follows:

'(q) the implementation of Articles 1 to 13 of Law 3448/2006 on the open supply and re-use of public sector documents, information and data.'

#### **Article 6 - Available formats (Article 1(5) of Directive 2013/37/EU)**

The title and paragraphs (1) and (2) of Article 6 of Law 3448/2006 are replaced

'Available formats

1. Public sector bodies will make their documents, information and data available in any pre-existing format or language as well as, wherever possible, in open machine-readable format, from a fixed point of deposit together with the respective metadata on the website [www.data.gov.gr](http://www.data.gov.gr) or on the organisation's website. If it is posted on the organisation's website it must be accessible via hyperlinks or otherwise on the website [www.data.gov.gr](http://www.data.gov.gr). Both the format and the metadata should, in so far as possible, comply with formal open standards. Where possible datasets should be accessible via APIs (Application Programming Interfaces).

2. Paragraph 1 does not imply an obligation on the part of public sector bodies to create or adapt documents, information and data or provide extracts in order to comply with the previous paragraph, where this would demand disproportionate effort. Public sector bodies are not obliged to continue the production and storage of any specific type of document, information or data solely with a view to its re-use by third parties. If production and storage is to be terminated as per the previous subparagraph, public notification will be posted 30 business days in advance on the [www.data.gov.gr](http://www.data.gov.gr) website and on the website of the body in question.'

**Article 7****Permissions and other terms pertaining to the re-use of documents (Article 1(8) of Directive 2013/37/EU)**

Article 7(1) and (2) of Law 3448/2006 are replaced

'1. Public sector bodies will permit the open supply and re-use of the documents, information and data they create or hold and administer and, by way of exception, may impose justifying conditions via a licence or otherwise, including the obligation to acknowledge sources, inclusion of a personal data protection clause, the charging of fees, and inclusion of a liability disclaimer of the body in question. The conditions imposed may not lead to restriction or distortion of competition.

2. In those exceptional cases where licences are required for the re-use of documents, information or data, public sector bodies shall ensure, where possible, the supply of open licences available online, which grant wider re-use rights without technological, financial or geographical limitations and relying on open data formats. These licences may be adapted to cover more specialised licensing applications. In any event, licences shall place as few restrictions on re-use as possible, according to the principle of open supply of public information.'

**Article 8 - Principles governing imposition of charges (Article 1(6) of Directive 2013/37/EU)**

Article 8 of Law 3448/2006 is replaced as follows:

'Article 8 - Principles governing imposition of charges

1. Where charges are made for the re-use of documents, information or data, those charges shall be limited to the marginal costs incurred for their reproduction, provision and dissemination.

2. Paragraph 1 shall not apply to the following:

a) public sector bodies which

(b) by way of exception, documents, information or data for which the respective public sector body generates sufficient revenue to cover a substantial part of the costs relating to their collection, production, reproduction and dissemination, according to the applicable provisions.

(c) libraries, including university libraries, museums and archives.

3. In the cases referred to in points (a) and (b) of paragraph 2, the respective public sector bodies will calculate the total charges according to objective, transparent and verifiable criteria. The total income of said bodies which is derived from supply and granting permission for re-use of documents, information or data over the appropriate accounting period must not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment. Charges must be related to costs incurred over the appropriate accounting period and calculated in line with the accounting principles applicable to the public sector bodies in question.

4. Where charges are made by the public sector bodies referred to in point (c) of paragraph 2, total income derived from supply and granting permission to re-use documents, information or data over the appropriate accounting period must not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment.

5. Charges must be related to costs incurred over the appropriate accounting period and calculated in line with the accounting principles applicable to the public sector bodies in question.'

**Article 9 -****Transparency (Article 1(7) of Directive 2013/37/EU)**

Article 9 of Law 3448/2006 is replaced as follows:

'Article 9

Transparency

1. Fees charged for the re-use of documents, information or data held by public sector bodies, as well as applicable terms and conditions and the total sum of said charges, together with the basis on which they are calculated according to the provisions of Article 8, will be determined beforehand and published, via electronic means, on the www.data.gov.gr website and the website of the respective body.

2. The terms and conditions referred to in Article 8(2) will be published electronically on the www.data.gov.gr website and the website of the respective body.

3. Public sector bodies must take due care to ensure that applicants for re-use of documents, information or data are informed regarding administrative appeals and any other means of redress they are entitled to pursue'.

**Article 10 - Practical arrangements (Article 1(9) of Directive 2013/37/EU)**

Article 10 of Law 3448/2006 is replaced by the following:

'Article 10 - Practical arrangements

1. A 'Register of Open Public Sector Data' will be kept by the Ministry of Administrative Reform and e-Governance, and access made available on the www.data.gov.gr website. All public sector documents, information and data available in open and machine-readable format, classified in 'Structured Datasets', or any links to the bodies' websites where such documents, information and data are kept shall be posted on the 'Register of Open Public Sector Data'. Where documents, information and data are not available in open and machine-readable format or where the body supplies the data under terms or licences, according to Articles 7 through 9 hereof, a relevant entry shall be made in the 'Register of Open Public Sector Data'.

2. Any public sector body falling within the scope of implementation hereof must record and assess, by category, all documents, information and data in its possession, for the purpose of making them openly available.

3. After completion of the inventory as per the previous paragraph, the body concerned will issue a ruling, which will

describe: (a) all documents, information and data held by the body; (b) all documents, information and data to be made available in open and machine-readable format, in implementation of the principle of open supply, by default, of public information; (c) all documents, information and data to be made available by imposing conditions through a licence or charges, according to Articles 7 through 9 hereof; (d) all documents, information and data subject to the restrictions laid down in Article 3(1) hereof, which are not to be made available for further exploitation and re-use. This decision will be posted on the 'Clarity Programme' website, as per Law 3861/2010 i.e. [www.data.gov.gr](http://www.data.gov.gr), and on the website of the respective body, and will also be communicated to the Ministry of Administrative Reform and e-Governance.

4. Public sector bodies will promptly update details of all documents, information and data in their possession as necessary when changes arise, and in any event, annually. The publication of the decision as per paragraph 3 will be repeated at least annually, to include the updated data.

5. The Inspectors & Controllers Body for Public Administration (SEEDD) will inspect compliance of the public sector bodies falling under its purview with the obligations of this Article.

6. The recording and assessment of the total quantity of documents, information and data held by public sector bodies, in accordance with paragraph 2, the technical, procedural and organisational support of the open availability of documents, information and data in the public sector, as well as communication with the Ministry of Administrative Reform and e-Governance, the General Inspector of Public Administration and the Inspectors & Controllers Body for Public Administration are the administrative teams of the 'Clarity Programme', which were set up under Article 6(1) of Law 3861/2010 (Government Gazette, Series I, No 112). Public sector bodies may provide additional staff to support the teams referred to in the previous section, in order to facilitate implementation of the provisions hereof.'

#### **Article 11 Exclusive arrangements (Article 1(10) of Directive 2013/37/EU)**

1. A third paragraph is added after Article 12(2) in Law 3448/2006 as follows:

'This paragraph shall not apply to digitisation of cultural resources'.

2. (b) After Article 12(2) of Law 3448/2006 paragraph 2A is added as follows:

'2A. Where an exclusive right relates to digitisation of cultural resources, the period of exclusivity shall not exceed ten (10) years, unless otherwise specified in the relevant contracts.

In the case that this period exceeds ten (10) years, its duration is subject to review in the 11th year and at the least, every seven (7) years thereafter.

Arrangements granting the exclusive rights referred to in the first subparagraph must comply with the principle of transparency, as per Article 2(2) of Law 2251/1994 (Government Gazette, Series I, No 191) and must be posted on the [www.data.gov.gr](http://www.data.gov.gr) website and the website of the respective body.

In the case of exclusive rights as mentioned in the first subparagraph, the public sector body in question will be supplied with at least one copy of the digitised cultural resources as part of the agreement free of charge. The copy in question will be available for re-use on expiry of the exclusivity period.'

3. Paragraph 4 is added to Article 12 of Law 3448/2006 as follows:

'4. Without prejudice to paragraph 3, exclusive arrangements existing on 17 July 2013 that do not qualify for the exemptions of paragraphs 2 and 2a will be terminated at the end of the contract or in any event not later than 18 July 2043.'

#### **Article 12**

After Article 12 in Law 3448/2006, Articles 12A to 12C are added as follows:

##### **'Article 12A - Annual open data competition**

1. An annual competition is established for the best use of open data which the bodies referred to in Article 4(1) have at their disposal. The purpose of the competition is to develop applications for the efficient use of open data, improve public sector efficiency, enhance public accountability, transparency and entrepreneurship. The competition is open to national or foreign individuals and legal entities.

2. A decision by the Minister of Administrative Reform and eGovernment determines the procedure, terms and conditions of the competition, the formation of a committee of persons with recognised standing either nationally or abroad with scientific backgrounds and experience in associated fields, the timetable for its conduct, acceptance and disposal of sponsorship funding for the conduct of the competition, and all other necessary details. Monetary prizes for the winners can be determined by joint decision of the Ministers of Administrative Reform & e-Governance and Finance.

##### **'Article 12b**

##### **Establishment of Awards for Excellence for public bodies**

1. Annual awards are established for those organisations referred to in Article 4(1) which have employed effective, innovative and pioneering procedures in open availability and re-use of public information.

2. A decision by the Minister of Administrative Reform and eGovernment determines the procedure, terms and conditions of the competition, the formation of a committee of persons with recognised standing either nationally or abroad with scientific backgrounds in associated fields, the timetable for its conduct, and all other necessary details.

##### **Article 12C**

##### **Annual report on the disposition and re-use of open data**

1. Within the first two months of each calendar year, the Minister of Administrative Reform and e-Government will submit to the President of the Parliament an annual report on open availability and re-use of documents, information and data by the public bodies referred to in Article 4(1). Before submission as per the previous paragraph, the report will be the subject of public consultation for a period of at least fifteen days.

2. The report referred to paragraph 1 will be discussed at a joint meeting of the Standing Committee on Public Administration, Public Order and Justice, and the Special Permanent Committees on Institutions and Transparency, and

Research and Technology of the Parliament.

3. The report referred to in paragraph 1 will be posted on the website of the Ministry of Administrative Reform and e-Governance and the www.data.gov.gr website.'

#### **Article 13 - Enabling provisions**

Article 13 of Law 3448/2006 is replaced as follows:

'Article 13 - Enabling provisions

1. A decision by The Minister of Administrative Reform and e-Governance will set out the particular issues, as well as matters of detail, and technical or procedural issues for the implementation of the principle of open availability and re-use of documents, information and data in the public sector, in accordance with Articles 1 to 11 hereof. A similar decision may specify the criteria of Articles 7 and 8 and established the National Open Licence and other standardised licences to facilitate the purposes of public bodies. A similar decision will also define the rules, standards, means and specifications governing the operation of the website www.data.gov.gr, the Registry of Public Sector Open Data and all other necessary details for the implementation hereof.

2. Establishment of the terms as per Article 7(1), and the level of applicable fees are determined by a decision of the relevant Minister or the officer responsible for administration of the legal entity or independent authority. Decisions taken as per the previous paragraph will be announced by the Ministry

3. of Administrative Reform and e-Governance.'

#### **Article 14 - Transitional provisions**

1. Article 5(5) of Law 3448/2006, as amended by Article 5(1) of this Law, as well as Article 5(2) hereof, also apply to pending cases. Any appeals for annulment which have been lodged before the Council of State before entry into force of this Law but have not yet been heard, are to be forwarded to the competent Administrative Courts of Appeal, by a ruling from the President of the respective court.

2. The initial registration and assessment of the total quantity of documents, information and data held by public bodies as per Article 10(2) of Law 3448/2006, as amended by Article 10, is to be carried out within three (3) months from the entry into force hereof.

3. During the introduction of this law, a decision as per Article 10(3) of Law 3448/2006, as amended by Article 10, will be issued within three (3) months from the completion of registration as per the previous paragraph.

4. The deadlines referred to in paragraphs 2 and 3 are respectively set at twelve (12) and six (6) months, respectively: a) for libraries, museums and archives, and b) any other case relating to cultural resources of the Ministry of Culture and Sport or any bodies under its supervision.

5. The deadlines set out in paragraphs 2, 3 and 4 are subject to alteration by decision of the Minister of Administrative Reform and e-Government and any other competent Minister as appropriate.

6. Upon lapse of the deadline laid down in paragraphs 2, 3 and 4, all documents, information and data falling within the scope of this Law will be made freely available for re-use and further exploitation, subject to the provisions on the protection of personal data.

7. Following initial introduction of the law, the annual report on open availability and re-use of documents, information and data made by the respective bodies referred to in Article 4(1) of Law 3448/2006 must be submitted by 29 February 2016.

### **CHAPTER B FURTHER STRENGTHENING OF PUBLIC SECTOR TRANSPARENCY**

#### **Article 64 - Entry into force**

This Law shall enter into force upon its publication in the Hellenic Government Gazette, unless otherwise specified in its individual provisions. Article 10a of Law 3861/2010, as supplemented by Article 15, enters into force on 1 December 2014. Article 10b of Law 3861/2010, as supplemented by Article 16, enters into force on 1 January 2015.

We hereby order the promulgation of this Law in the Government Gazette and its execution as a Law of the State.

Ioannina, 30 October 2014.

THE PRESIDENT OF THE HELLENIC REPUBLIC  
**KAROLOS G. PAPOULIAS**

THE MINISTERS

FINANCE <b>GIKAS CHARDOUVELIS</b>	DEPUTY MINISTER FOR FINANCE <b>CHRISTOS STAIKOURAS</b>
EDUCATION AND RELIGIOUS AFFAIRS <b>ANDREAS LOVERDOS</b>	DEVELOPMENT AND COMPETITIVENESS <b>NIKOLAOS-GEORGIOS DENDIAS</b>
ADMINISTRATIVE REFORM AND E- GOVERNANCE FOR THE INTERIOR <b>ARGYRIS DINOPOULOS</b> <b>KYRIAKOS MITSOTAKIS</b>	CULTURE AND SPORTS <b>KONSTANTINOS TASOULAS</b>
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JUSTICE, TRANSPARENCY & HUMAN RIGHTS <b>CHARALAMBOS ATHANASIOU</b>	ENVIRONMENT, ENERGY AND CLIMATE CHANGE <b>IOANNIS MANIATIS</b>
	PUBLIC ORDER AND CITIZEN PROTECTION <b>KYRIAKOS MITSOTAKIS</b>
	TOURISM <b>OLGA KEFALOGIANNI</b>

*Certified and sealed with the Great Seal of State. Athens, 31*

October 2014.

THE MINISTER FOR JUSTICE  
**CHARALAMBOS ATHANASIOU**

