

Act on the re-use of public sector information¹

WE, MARGRETHE THE SECOND, by the Grace of God
Queen of Denmark, hereby proclaim:

Parliament (Folketinget) has adopted and
we by our ascent have confirmed the following Act:

Chapter 1

Objective and scope of the Act *Objective*

Article 1

The objective of this Act is to establish a uniform minimum set of rules for the commercial and non-commercial re-use of documents and data collections held by public sector bodies.

Scope

Article 2

1. The Act covers the re-use of documents and data collections held by public sector bodies; however, see paragraph 2.
2. The Act does not apply to documents and data collections:
 - (1) which have been produced or enhanced in the course of a public sector body's commercial activities, or
 - (2) for which third parties hold a non-material right.
3. The Act is not applicable to:
 - (1) programme-related activities within television and radio organisations on which a public service obligation is imposed;
 - (2) educational and research establishments;
 - (3) cultural establishments;
 - (4) the [Danish] Parliament and bodies connected with it, and
 - (5) the courts.

Chapter 2

Definitions

Article 3

1. "Public sector body" means State, regional or local authorities, bodies governed by public law and associations formed by one or several such authorities or by one or several such bodies governed by public law.
2. "Body governed by public law" means any body:
 - (1) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
 - (2) having legal personality; and
 - (3) financed for the most part by the State or regional or local authorities or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law.
3. "Document" means all information regardless of the medium and any part of such information.
4. "Data collection" means registers or other systematic lists for which use is made of electronic data processing.
5. "Re-use" means the use of documents or data collections of public sector bodies for

¹ The Act establishes rules implementing parts of 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 EU L 345/2003, page 90).

commercial or non-commercial purposes other than the initial purpose for which the documents or data collections were produced. Exchange of documents or data collections between public sector bodies constitutes re-use only if the public sector bodies make documents or data connections covered by this Act available for commercial activities.

Chapter 3

Processing of requests for re-use

Article 4

1. When a public sector body makes documents or data collections available for re-use under this Act, it may impose conditions for re-use in an agreement. The conditions shall not restrict possibilities for re-use and shall not be used to restrict competition.

2. Requests for re-use shall be submitted to the public sector body that holds the document or data collection or to the bodies which under other legislation administer data collection.

3. The body shall decide as soon as possible whether the request can be granted. If the request is not granted or if it is refused within 10 days of the day on which the body received the request, it shall inform the applicant of the reasons for this, indicating when the decision can be expected.

4. To the extent that it is necessary to make ongoing arrangements for re-use, the body shall as soon as possible propose arrangements to the applicant. If no proposal has been drawn up within ten days of the day on which the body received the request, it shall inform the applicant of the reasons thereof, indicating when a proposal for arrangements can be expected.

5. If a decision on a request for the re-use of existing documents or data collections entails significant costs for the public sector body for documentation, expert searches, etc., the body shall inform the applicant thereof, indicating its estimate of the expenditure required to process the request if the costs are to be charged to the applicant. If, because of the costs to be charged to him, the applicant does not wish to maintain his request, the public sector body may discontinue processing the request.

Article 5

Public sector bodies shall, where possible, use electronic means to process requests for re-use of documents or data collections.

Article 6

If a public sector body takes a negative decision in response to a request for re-use on the basis of Article 2(2)(2), it shall in its decision include a reference to the natural or legal person who is the rightholder, where known. Alternatively, the public sector body shall refer the applicant to the licensor from which the public sector body has obtained the relevant material.

Chapter 4

Conditions for re-use Available format

Article 7

1. Where documents or data collections are made available for re-use, the public sector bodies shall make sure that they are available in any pre-existing language or format, including electronic format, through electronic means where possible.

2. In consultation with the Minister of Finance, the Minister of Science, Technology and Development may lay down rules on standards for formats for the purpose of the re-use of documents and data collections of public sector bodies in connection with the establishment of new interfaces and data enhancement.

Charges

Article 8

1. Where documents or data collections are made available for re-use, charges may be made. Where charges are made, the charge may not exceed the marginal costs of making data available, i.e. the costs of distribution and possibly enhancement of documents and data collections, including the establishment of interfaces, that may be necessary to grant the applicant's request.

2. Where documents or data collections are produced as part of a revenue-financed public production activity, i.e. if the body's main task is partly or fully financed from revenue, a charge may be made over and above that specified in paragraph 1 to fully or partly cover the costs of internal document or data production.

3. Public sector bodies shall in advance fix standard charges for re-use of their documents and data collections.

4. The public sector bodies shall upon request specify the basis for calculating the charge made. The body shall also indicate what factors have been taken into account in calculating charges in atypical cases.

Transparency and non-discrimination

Article 9

1. Where public sector bodies lay down conditions for re-use pursuant to this Act, it shall do so in advance. Conditions and standard charges shall be published through electronic means where possible.

2. Where the public sector body makes use of standard arrangements for re-use of documents and data collections, it shall make these available through electronic means.

3. Conditions for re-use of documents and data collections shall be non-discriminatory for similar categories of re-use.

4. Documents and data collections shall be made available to private companies to the same extent and under same conditions as for commercial activities of public sector bodies.

Prohibition of exclusive arrangements

Article 10

1. Arrangements on re-use of documents and data collections shall not grant exclusive rights; however, see paragraph 2.

2. However, where an exclusive right is necessary for the provision of a service in the public interest, the public sector body may make exclusive arrangements. The

arrangements shall include a statement of the reason for granting such an exclusive right. The reasons for granting an exclusive right shall be subject to regular review and shall in any event be reviewed every three years.

3. The exclusive arrangements shall be made public.

Practical arrangements

Article 11

1. The public sector body shall publish a list of documents and data collections available for re-use pursuant to this Act.

2. If the public sector body decides that particular documents and data collections are no longer available for re-use or if it no longer updates them, it shall as soon as possible publish a decision to that effect, through electronic means where possible.

Chapter 5

Entry into force and transitional provisions

Article 12

1. This Act shall enter into force on 1 July 2005

2. Existing exclusive arrangements that do not meet the conditions for exceptions under Article 10(2) shall cease to be applicable upon expiry of the contract, but not later than on 31 December 2008.

Article 13

This Act shall not extend to the Faeroe Islands and Greenland. This Act may by Order in Council be brought into application for the Faeroe Islands and Greenland, taking account of the special conditions obtaining there.

Done at Amalienborg on 24 June 2005

MARGRETHE R.

/Helge Sander