

2013 No. 1977

FREEDOM OF INFORMATION

**The Freedom of Information (Release of Datasets for Re-use)
(Fees) Regulations 2013**

<i>Made</i>	- - - -	<i>7th August 2013</i>
<i>Laid before Parliament</i>		<i>9th August 2013</i>
<i>Coming into force</i>	- -	<i>1st September 2013</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred upon him by section 11B(1), (2) and (3) of the Freedom of Information Act 2000(a) and with the consent of the Treasury:

Citation, commencement and interpretation

1. These Regulations may be cited as the Freedom of Information (Release of Datasets for Re-use) (Fees) Regulations 2013 and come into force on 1st September 2013.

Fees for release of datasets for re-use

2.—(1) A public authority may charge a fee for making a relevant copyright work available for re-use—

- (a) under section 11A(2) (release of datasets for re-use)(b) of the Act, or
- (b) in accordance with a requirement imposed by virtue of section 19(2A)(c) (publication schemes: datasets)(c) of the Act.

(2) The total fee shall not exceed the sum of—

- (a) the cost of collection, production, reproduction and dissemination of the relevant copyright work, and
- (b) a reasonable return on investment.

(3) A fee shall be determined, so far as is reasonably practicable,—

- (a) in accordance with the accounting principles applicable to the public authority from time to time, and
- (b) on the basis of a reasonable estimate of the demand for a relevant copyright work over the appropriate accounting period.

(4) A fee charged by a public authority for a relevant copyright work shall not include the cost of an activity mentioned in paragraph (2)(a) if that cost has been included in any other fee charged under the Act to the same applicant by that authority in respect of that work.

(a) 2000 c. 36. Section 11B was inserted by section 102(3) of the Protection of Freedoms Act 2012 (c. 9) (“the 2012 Act”).
(b) Section 11A was inserted by section 102(3) of the 2012 Act.
(c) Section 19(2A) was inserted by section 102(4) of the 2012 Act.

(5) Where a public authority charges fees it shall, so far as is reasonably practicable, establish standard fees.

(6) The public authority shall specify in writing the basis on which a standard fee has been determined, if requested at any time to do so by the applicant.

(7) Where a standard fee has not been established, the public authority shall specify in writing the factors that will be taken into account in determining a fee, if requested at any time to do so by the applicant.

(8) The public authority may not charge a fee by virtue of this regulation in relation to a relevant copyright work where it has a power under an enactment other than the Act to charge a fee in connection with making that work available for re-use.

(9) In this regulation “the Act” means the Freedom of Information Act 2000.

7th August 2013

We consent

Jeremy Wright
Parliamentary Under Secretary of State
Ministry of Justice

6th August 2013

Mark Lancaster
Anne Milton
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which come into force on 1st September 2013, make provision about the charging of a fee by a public authority in connection with making certain datasets which are relevant copyright works available for re-use in accordance with section 11A(2) of the Freedom of Information Act 2000 (c. 36) or a requirement imposed by virtue of section 19(2A)(c) of that Act. Subject to section 11A(1), section 11A(2) imposes a duty on a public authority releasing such a dataset to make the dataset available for re-use in accordance with the terms of a specified licence. Section 19(2A)(c) imposes an equivalent duty on a public authority publishing such a dataset in accordance with its publication scheme.

Regulation 2(1) and (8) confers a power on a public authority to charge a fee for such re-use except where the public authority has another statutory power to charge a fee for that re-use. Regulation 2(2) to (4) prescribes how any fee that may be charged under this regulation is to be determined, including how the maximum fee is to be determined. Regulation 2(5) to (7) makes provision relating to the establishment of standard fees, including a requirement on the public authority to specify the basis for calculating any fee or standard fee.

In making the above provision these Regulations implement, in part, Directive 2003/98/EC of the European Parliament and of the Council on the re-use of public sector information (O.J. No. L345, 31.12.2003, p.90). These Regulations make equivalent provision to, and have the same legal effect as, Regulation 15 of the Re-use of Public Sector Information Regulations 2005 (SI 2005/1515) for public authorities subject to the Freedom of Information Act 2000.

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