

Transposition table: 2013/37/EU by SI 2015 No. 1415 The Re-use of Public Sector Information Regulations 2015

Articles	EU Text	Implementation (references to SI 2015 No. 1415)	Comments
<i>Article 1</i>			
<i>1(1)</i>	<i>Article 1 is amended as follows:</i>		
<i>1(1)(a)</i>	<i>Paragraph 2 is amended as follows:</i>		
<i>1(1)(a)(i)</i>	<i>Point (a) is replaced by the following:</i> '(a) documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State, or in the absence of such rules, as defined in line with common administrative practice in the Member State in question, provided that the scope of the public tasks is transparent and subject to review;'	Regulation 5(1)(a)	
<i>1(1)(a)(ii)</i>	<i>point (c) is replaced by the following:</i> '(c) documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of: — the protection of national security (i.e. State security), defence, or public security, — statistical confidentiality, — commercial confidentiality (e.g. business, professional or company secrets);';	Regulation 5(7)(a)	
<i>1(1)(a)(iii)</i>	<i>the following points are inserted:</i> '(ca) documents access to which is restricted by virtue of the access regimes in the Member States, including cases whereby citizens or companies have to prove a particular interest to obtain access to documents;	Regulation 5(5)	The wording of point (ca) has the effect of re-enacting the second sentence of Article 1(3) of the Directive, despite some difference in wording. That provision was implemented by regulation 5(5) of the Re-Use of Public Sector Information Regulations 2005 (the "2005 Regulations"). The wording has therefore not changed in the current Regulations as a consequence of point (ca).
	(cb) parts of documents containing only logos, crests and insignia;	Regulation 5(6)	
	(cc) documents access to which is excluded or restricted by virtue of the access regimes on the grounds of protection of personal data, and parts of documents accessible by virtue of those regimes which contain personal data the re-use of which has been defined by law as being incompatible with	Regulation 5(7)(b)	

	the law concerning the protection of individuals with regard to the processing of personal data';			
1(1)(a)(iv)	<i>Point (e) is replaced by the following:</i> '(e) documents held by educational and research establishments, including organisations established for the transfer of research results, schools and universities, except university libraries and';	Regulation 5(3)(b)		
1(1)(a)(v)	<i>Point (f) is replaced by the following:</i> '(f) documents held by cultural establishments other than libraries, museums and archives.';	Regulation 5(3)(c)		
1(1)(b)	<i>Paragraph 3 is replaced by the following:</i> '3. This Directive builds on and is without prejudice to access regimes in the Member States.';	Regulations 5(2)		This provision effectively re-enacts the first sentence of Article 1(3) of the 2003 Directive, and so no amendment has been required (other than these consequential amendments) to the (restated) text of the 2005 Regulations.
1(1)(c)	In paragraph 4, the word 'Community' is replaced by the word 'Union'.	Implementation unnecessary		
1(2)	(2) <i>The following points are added to Article 2:</i> '6. 'machine-readable format' means a file format structured so that software applications can easily identify, recognize and extract specific data, including individual statements of fact, and their internal structure; 7. 'open format' means a file format that is platform-independent and made available to the public without any restriction that impedes the re-use of documents; 8. 'formal open standard' means a standard which has been laid down in written form, detailing specifications for the requirements on how to ensure software interoperability; 9. 'university' means any public sector body that provides post-secondary-school higher education leading to academic degrees.'.	Regulation 2		
1(3)	<i>Article 3 is replaced by the following:</i> <i>Article 3</i> General principle 1. Subject to paragraph 2 Member States shall ensure that documents to which this Directive applies in accordance with Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.	Paragraph 1: Regulation 7(1) and (3)		

	2. For documents in which libraries, including university libraries, museums and archives hold intellectual property rights, Member States shall ensure that, where the re-use of such documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.’	Paragraph 2: Regulation 7(2)	
1(4)	<i>(4) In Article 4, paragraphs 3 and 4 are replaced by the following:</i> ‘3. In the event of a negative decision, the public sector bodies shall communicate the grounds for refusal to the applicant on the basis of the relevant provisions of the access regime in that Member State or of the national provisions adopted pursuant to this Directive, in particular points (a) to (cc) of Article 1(2) or Article 3. Where a negative decision is based on Article 1(2)(b), the public sector body shall include a reference to the natural or legal person who is the rightholder, 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 shall not be required to include such a reference.	The possibility of responding by refusal of the request is introduced in Regulation 8(4)(a). Regulation 9(1) and (4) cover the notification of refusal to the applicant. The final sentence has been implemented by Regulation 9(6).	The first part of the provision is not substantively different from the 2003 Directive and the wording of the 2005 Regulations has therefore largely been retained. For reasons of certainty, all notifications should be provided in writing and this method of notification has been retained
	4. Any decision on re-use shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include the possibility of review by an impartial review body with the appropriate expertise, such as the national competition authority, the national access to documents authority or a national judicial authority, whose decisions are binding upon the public sector body concerned.’	First sentence: Regulation 9(3). Second sentence: Regulations 18, 19 and 20	The impartial redress mechanism is implemented through review by the Information Commissioner and the possibility of appeal to the Tribunal using provisions modified from the Freedom of Information Act 2000. In most cases the IC can make a binding decision (subject to appeal) but if the Regulation 15(3)(a) or (b) charging exceptions and the Regulation 19 redress process is invoked, he can only make a recommendation.
1(5)	<i>(5) Article 5 is replaced by the following:</i> ‘Article 5 Available formats 1. Public sector bodies shall make their documents available in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with their metadata. Both the	First sentence: Regulation 11(1)(b)	The 2003 Directive, Article 3, provided that “where possible documents shall be made available through electronic means”, and this was previously implemented by regulation 11(2) of the 2005 Regulations. This provision has been updated in order to implement Article 1(5) of the 2013 Directive.

	format and the metadata should, in so far as possible, comply with formal open standards.	Second sentence: Regulation 11(2)	
	2. Paragraph 1 shall not imply an obligation for public sector bodies to create or adapt documents or provide extracts in order to comply with that paragraph where this would involve disproportionate effort, going beyond a simple operation.	Regulation 11(4)(a)	The same wording as previously found in regulation 11(3) of the 2005 Regulations has been retained.
	3. On the basis of this Directive, public sector bodies cannot be required to continue the production and storage of a certain type of documents with a view to the re-use of such documents by a private or public sector organisation.’	Regulation 11(4)(b)	The same wording as previously found in regulation 11(3)(c) of the 2005 Regulations has been retained with the sole addition of the words ‘and store’.
1(6)	(6) <i>Article 6 is replaced by the following:</i>		
	‘ <i>Article 6</i> Principles governing charging 1. Where charges are made for the re-use of documents, those charges shall be limited to the marginal costs incurred for their reproduction, provision and dissemination.	Regulation 15(2)	
	2. Paragraph 1 shall not apply to the following: (a) public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks; (b) by way of exception, documents for which the public sector body concerned is required to generate sufficient revenue to cover a substantial part of the costs relating to their collection, production, reproduction and dissemination. Those requirements shall be defined by law or by other binding rules in the Member State. In the absence of such rules, the requirements shall be defined in accordance with common administrative practice in the Member State; (c) libraries, including university libraries, museums and archives.	(a) Regulation 15(3)(a) (b) Regulation 15(3)(b) Second sentence: Regulation 15(4) (c) Regulation 15(3)(c)	
	3. In the cases referred to in points (a) and (b) of paragraph 2, the public sector bodies concerned shall calculate the total charges according to objective, transparent and verifiable criteria to be laid down by the Member States. The total income of those bodies from supplying and	First sentence: Regulation 15(5) to (6) Second sentence: Regulation 15(6)	

	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 sector bodies involved.	Third sentence: Regulation 15(9)	
	4. Where charges are made by the public sector bodies referred to in point (c) of paragraph 2, 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 sector bodies involved.’	First sentence: Regulation 15(7) and (8) Second sentence: Regulation 15(9)	
1(7)	(7) <i>Article 7 is replaced by the following:</i>		
	Article 7 Transparency 1. In the case of standard charges for the re-use of documents held by public sector bodies, any applicable conditions and the actual amount of those charges, including the calculation basis for such charges, shall be pre-established and published, through electronic means where possible and appropriate.	Regulations 16(1), 16(2)(a) – (c), 16(3) and 16(6)	
	2. In the case of charges for the re-use other than those referred to in paragraph 1, the public sector body in question shall indicate at the outset which factors are taken into account in the calculation of those charges. Upon request, the public sector body in question shall also indicate the way in which such charges have been calculated in relation to the specific re-use request.	First sentence: Regulation 16(4)(a) Second sentence: Regulation 16(4)(b)	
	3. The requirements referred to in point (b) of Article 6(2) shall be pre-established. They shall be published by electronic means, where possible and appropriate.	First sentence: Regulation 16(5) Second sentence: Regulation 16(6)	
	4. Public sector bodies shall ensure that applicants for re-use of documents are informed of available means of redress relating to decisions or practices affecting them.’	Regulation 16(7)(b)	
Art 1(8)	(8) <i>In Article 8, paragraph 1 is replaced by the following:</i>		
	‘1. Public sector bodies may allow re-use without conditions or may impose conditions, where appropriate through a licence. These conditions shall not unnecessarily	Regulation 12	

	restrict possibilities for re-use and shall not be used to restrict competition.’.			
Art 1(9)	(9) <i>Article 9 is replaced by the following:</i> ‘ <i>Article 9</i> Practical arrangements Member States shall make practical arrangements facilitating the search for documents available for re-use, such as asset lists of main documents with relevant metadata, accessible where possible and appropriate online and in machine-readable format, and portal sites that are linked to the asset lists. Where possible Member States shall facilitate the cross-linguistic search for documents.’.	First sentence: Regulation 16(7)(a) and 16(8)(a) and (b) Second sentence: Regulation 16(8)(c)		
Art 1(10)	(10) <i>Article 11 is amended as follows:</i> (a) <i>the following subparagraph is added to paragraph 2:</i> ‘This paragraph shall not apply to digitisation of cultural resources.’; (b) <i>the following paragraph is inserted:</i> ‘2a. Notwithstanding paragraph 1, where an exclusive right relates to digitisation of cultural resources, the period of exclusivity shall in general not exceed 10 years. In case where that period exceeds 10 years, its duration shall be subject to review during the 11th year and, if applicable, every seven years thereafter. The arrangements granting exclusive rights referred to in the first subparagraph shall be transparent and made public. In the case of an exclusive right referred to in the first subparagraph, the public sector body concerned shall be provided free of charge with a copy of the digitised cultural resources as part of those arrangements. That copy shall be available for re-use at the end of the period of exclusivity.’;	Regulation 14(5)		
	(c) <i>paragraph 3 is replaced by the following:</i> ‘3. Exclusive arrangements existing on 1 July 2005 that do not qualify for the exceptions under paragraph 2 shall be terminated at the end of the contract or in any event not later than 31 December 2008.’;	First sentence: Regulation 14(6) and (7) Second sentence: Regulation 14(8) Third sentence: Regulation 14(9) Regulation 14(10) Regulation 14(11)		
	(d) <i>the following paragraph is added:</i> ‘4. Without prejudice to paragraph 3, exclusive arrangements existing on 17 July 2013 that do not qualify for the exceptions under paragraphs 2 and 2a shall be terminated at the end of the contract or in any event not later than 18 July 2043.’.	Not transposed as already terminated Regulation 14(12)		

