

Translator's note — The majority of this document is made up of amendments to the Estonian Public Information Act. An English translation of the whole Act, updated and containing all amendments, is available on the Riigi Teataja (State Gazette) [website](#). The relevant parts of that translation have been copied here, and no changes have been made to it by DGT.

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Decision No 719 of the President of the Republic
of 22 December 2015

Act amending the Public Information Act and other related Acts

Adopted 15 December 2015

§ 1. Amendment of the Archives Act

A subsection 1¹ is added to Section 10 of the Archives Act, worded as follows:

‘(1¹) Digitised images of archival records, digital archival records, and data describing archival records, digitised images of archival records and digital archival records, in respect of which copyright is or related rights are held by the National Archives on the basis of law or a transaction, are reusable in accordance with the conditions and procedures laid down in the Public Information Act, having regard to the special provisions laid down in this Act and the Copyright Act.’

§ 2. Amendment of the Public Information Act

The Public Information Act is amended as follows:

1) in Section 2(1)(3) the words ‘and administrative supervision’ are added after the words ‘state supervision’;

2) in Section 2(2)(2) the words ‘and the re-use of information’ are added after the word ‘access’;

3) Section 3¹(1) is amended to read as follows:

‘(1) The re-use of information is the use of such public information, the public use of which is not restricted by law or pursuant to the procedure established by law (hereinafter *open data*), by natural persons or legal persons for commercial or non-commercial purposes other than the initial purpose within the public duties for which the information was obtained or produced.’

The exchange of information between holders of information for the performance of their public duties does not constitute re-use of information.’;

4) new subsections 3–9 are added to Section 3¹, worded as follows:

‘(3) Upon giving information for public use, the inviolability of the private life of persons, protection of copyrights, protection of national security, and protection of business secrets and other restricted information must be ensured. Before giving information for public use, the holder of information shall assess the need to establish restrictions on the public use of the information.

(4) If this is possible and appropriate, the holder of information shall grant access to open data in a file format which is structured so that software applications can easily identify, recognize and extract specific data, including individual statements of fact, and their internal structure (hereinafter *machine-readable format*), and in a format that is platform-independent and made available to the public without any restriction that impedes the re-use of documents (hereinafter *open format*). If conversion of open data into digital format, machine-readable format or open format is impossible or would involve disproportionately great effort, the holder of information shall grant access to open data in their original format or in any other format.

(5) Information in respect of which restriction on access is established by law or to which access is restricted pursuant to the procedure established by law, including information to which access is granted pursuant to law only upon existence of legitimate interest or in respect of which special conditions of, procedure for and methods of access are established by law, is not for public use.

(6) The information specified in subsection (5) of this section shall not be given for public use or only such part of the information shall be given for public use which does not contain restricted information and if giving such part of the information for public use does not involve the risk of disclosure of restricted information.

(7) If information disclosed pursuant to law contains personal data, the public use of such information may be restricted if giving such information for public use would significantly breach the inviolability of the private life of the person.

(8) If giving information, which is disclosed pursuant to law and contains personal data, for public use breaches the inviolability of the private life of the person, such information shall not be given for public use or only such part of the information shall be given for public use the public use of which does not significantly breach the inviolability of the private life of the person or the information shall be given for public use in a way which does not significantly breach the inviolability of the private life of the person.

(9) A holder of information may give information for public use without conditions or impose conditions for the public use thereof through a licence provided for in the Copyright Act. The licence shall not unnecessarily restrict possibilities for re-use and shall not restrict competition. The holder of information shall publish the licence on its website.’;

5) in Section 6 the words ‘or re-use’ are added after the word ‘obtain’;

6) Section 8(3) is amended to read as follows:

‘(3) Access to open data also includes the right to re-use that information. If the holder of information has imposed conditions for the public use of information through a licence, the information shall be used pursuant to the conditions of the licence.’;

7) a subsection 2¹ is added to Section 12, worded as follows:

‘(2¹) Documents related to a person, which have been entered in another database and to which access of the person is ensured, are not required to be entered in the document register.’;

8) a subsection 3¹ is added to Section 12, worded as follows:

‘(3¹) If the sender of documents received by an agency or the recipient of documents released from an agency is a natural person, information which would allow to identify the natural person shall not be indicated in public view of the document register.’;

9) a subsection 2¹ is added to Section 14, worded as follows:

‘(2¹) If a person making the request for information requests access to information for the purpose of re-use, the person shall notify the holder of information thereof.’;

10) new subsections 5 and 6 are added to Section 25, worded as follows:

‘(5) Holders of information who must cover a substantial part of the costs arising from the performance of their public duties or related to the holding of information may include, in addition to the costs specified in subsection (4) of this section, a reasonable return on investment in the income received for supplying information for re-use. A reasonable return on investment shall be up to five percent higher than the fixed interest rate applicable to the main refinancing operations of the European Central Bank, unless otherwise provided by law.

(6) If a fee is charged for the re-use of information, the holder of information shall disclose the bases for calculation of the fee at least every three years and organise recalculation of the fees, if necessary.’;

11) Section 28(1)(14) is amended to read as follows:

‘14) precepts issued or decisions made in the course of state supervision, administrative supervision or supervisory control as of the entry into force thereof;’;

12) an indent 31² is added to Section 28(1), worded as follows:

‘31²) open data subject to disclosure, information on the availability of open data and on licences, if necessary;’;

13) Section 29(3) and (4) is amended to read as follows:

(3) The information specified in clauses 28 (1) 1)–4), 7), 8), 10)–13), 15)–24), 26), 27), 31¹) and 31²) of this Act shall be open data which the holder of information must disclose in the manner provided for in subsection 3¹ (4) of this Act.

(4) Holders of information shall establish restrictions on public use of the information specified in clauses 28 (1) 5), 6), 9), 14), 25), 28), 29), 31) and 32) of this Act pursuant to the provisions of § 3¹ of this Act and shall disclose the information given for public use in the manner provided for in subsection 3¹ (4) of this Act.’;

14) new subsections 5 and 6 are added to Section 29, worded as follows:

‘(5) The holders of information specified in subsection 43⁴ (1) of this Act shall establish restrictions on public use of the information specified in clause 28 (1) 30) of this Act pursuant to the provisions of § 3¹ of this Act and shall disclose the data of database given for public use (hereinafter *open data of database*), if this is possible and appropriate, in an up-to-date version and in a manner and format which allows to download the open data of database as a full set of data together with metadata in a machine-readable and open format. If conversion of the open data of database into machine-readable format or open format is impossible or would involve disproportionately great effort, the holder of information shall ensure disclosure of the open data of database in their original format or in any other format.

(6) The open data of database specified in subsection (5) of this section must be accessible through the Estonian information gateway.’;

15) in Section 35(1)(2) the words ‘state supervision proceedings’ are replaced with the words ‘state supervision, administrative supervision and supervisory control proceedings’;

16) an indent 3¹ is added to Section 35(1), worded as follows:

‘3¹) information concerning the duties and staff of a structural unit and officials and employees and the duties of the officials and employees of a holder of information engaged in ensuring of internal security, development of national defence policy, organisation of national defence, including planning, preparation and conduct of national military defence, or organisation of the protection of state secrets and classified information of foreign states, if the disclosure of such information would endanger national defence or protection of state secrets and classified information of foreign states;’;

17) in Section 35(1)(5¹) the words ‘the Police’ are replaced with the words ‘an investigative body’;

18) in Section 36(1)(12) the words ‘, administrative supervision’ are added after the words ‘state supervision’;

19) Section 38(3) is amended to read as follows:

‘(3) State and local government officials or employees have the right to access information which is classified as information intended for internal use in order to perform their duties. Such information shall not be communicated to third persons without the permission of the agency which establishes the restriction on access.’;

20) a subsection 3¹ is added to Section 38, worded as follows:

‘(3¹) If, in a case provided by law, access is requested for the performance of public duties to information which is classified as information intended for internal use, the holder of information shall be notified of the basis and purpose of accessing the information provided by law.’;

21) in Section 40(2) the words ‘, administrative supervision’ are added after the words ‘state supervision’;

22) Section 43(1) and (2) is amended to read as follows:

‘(1) A holder of information shall apply organisational, physical and information technology security measures in order to protect:

- 1) integrity of internal information – against accidental or intentional unauthorised alteration;
- 2) availability of internal information – against accidental or intentional destruction and prevention of access to data by entitled persons;
- 3) confidentiality of internal information – against accidental or intentional unauthorised access.

(2) Organisational, physical and information technology security measures must be applied for the protection of internal information, regardless of whether the information is in digital format or on paper.’;

23) a subsection 3 is added to Section 43, worded as follows:

‘(3) The Government of the Republic may establish, by a regulation, the list of organisational, physical and information technology security measures applied for the protection of the integrity, availability and confidentiality of internal information.’;

24) Section 43²(1) is amended to read as follows:

‘(1) The state information system consists of databases which are connected to the data exchange layer of the information system and registered in the administration system of the state information system, and of the systems supporting the maintenance of the databases.’;

25) Section 43⁹(5) is amended to read as follows:

‘(5) Exchange of data with the databases belonging to the state information system and between the databases belonging to the state information system shall be carried out through the data exchange layer of the state information system.’;

26) a subsection 6 is added to Section 43⁹, worded as follows:

‘(6) The provisions of subsection (5) of this section shall not restrict exchange of data through the data exchange layer of information systems between other legal persons.’;

27) Section 45(1) is amended to read as follows:

‘(1) The Data Protection Inspectorate shall exercise state and administrative supervision over holders of information during:

- 1) compliance with requests for information and the disclosure of information;
- 2) protection of information intended for internal use;
- 3) establishment, introduction, maintenance, reorganisation and termination of databases.’;

28) Section 45(3) is repealed;

29) Section 53¹(1) is amended to read as follows:

‘(1) The Estonian Information System’s Authority shall exercise administrative and state supervision over the application of the system of security measures for information systems and the connection to the data exchange layer of information systems.’;

30) in Section 53¹(2) the number ‘32’ is added after the number ‘31’;

31) Section 58¹(5) and (6) is amended to read as follows:

‘(5) The first sentence of subsection (4) of this section does not apply to the databases which are registered in the national register of databases but are not connected to the data exchange layer of the information system.

(6) Databases registered in the administration system of the state information system or which are deemed to be registered therein pursuant to subsection (4) of this section and are connected to the data exchange layer of the information system are deemed to be databases belonging to the state information system.’;

32) Section 58²(1) is amended to read as follows:

‘(1) A holder of information shall disclose the open data specified in § 28 of this Act pursuant to the provisions of § 29 of this Act by 1 February 2016 at the latest.’;

33) Section 58²(2) and (3) is repealed;

34) the legislative note to the Act is amended to read as follows:

¹ Directive 2003/98/EC of the European Parliament and of the Council on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90) and Directive 2013/37/EU of the European Parliament and of the Council amending Directive 2003/98/EC on the re-use of public sector information (OJ L 175/1, 27.6.2013, p. 1).’.

§ 3. Amendment of the National Library of Estonia Act

A Section 6(1¹) is added to the National Library of Estonia Act, worded as follows:

‘(1¹) Digital items, digitised images of items, and data describing digital items, digitised images of items and items, in respect of which copyright is or related rights are held by the National Library on the basis of law or a transaction, are reusable in accordance with the conditions and procedures laid down in the Public Information Act, having regard to the special provisions laid down in this Act and the Copyright Act.’.

§ 4. Amendment of the Electronic Communications Act

The Electronic Communications Act is amended as follows:

- 1) in the heading of Section 133 the words ‘and administrative supervision’ are added after the words ‘State supervision’;
- 2) in Section 133(4) the word ‘Supervision’ is replaced with the words ‘State supervision and administrative supervision’.

§ 5. Amendment of the Personal Data Protection Act

The Personal Data Protection Act is amended as follows:

- 1) in Section 1(2)(2) the words ‘and administrative supervision’ are added after the words ‘state supervision’;
- 2) in Section 32¹ the number ‘49,’ is added after the number ‘32,’.

§ 6. Amendment of the Museums Act

The Museums Act is amended as follows:

- 1) Section 16(3) is amended to read as follows:

‘(3) Digital museum objects, digitised images of museum objects, and data describing museum objects, digital museum objects and digitised images of museum objects, in respect of which copyright is or related rights are held by a museum on the basis of law or a transaction, are reusable in accordance with the conditions and procedures laid down in the Public Information Act, having regard to the special provisions laid down in this Act and the Copyright Act and provided that reference is made to the museum object and to the museum to whose museum collection the digital museum object or digitised image of the museum object belongs.’;

- 2) in Section 20(3)(5) the words ‘to which a reasonable return on investment may be added’ are added after the words ‘cost based’.

§ 7. Amendment of the Public Libraries Act

A Section 15(2²) is added to the Public Libraries Act, worded as follows:

‘(2²) Digital items, digitised images of items, and data describing digital items, digitised images of items and items, in respect of which copyright is or related rights are held by a public library on the basis of law or a transaction, are reusable in accordance with the conditions and procedures laid down in the Public Information Act, having regard to the special provisions laid down in this Act and the Copyright Act.’.

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