

Bulletin of Acts and Decrees of the Kingdom of the Netherlands

Year 2015

Act of 24 June 2015 laying down rules on the re-use of public sector information (Act on re-use of public sector information)

We, Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc., etc., etc.

Greetings to all who see or hear these presents! Be it known:

Whereas We have considered that it is necessary to lay down rules on the re-use of public sector information in connection with the implementation of Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (OJ L 175, 27.6.2013, p. 1);

We, therefore, having heard the Advisory Division of the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

CHAPTER I. GENERAL PROVISIONS

Article 1 Definitions

For the purposes of this Act and the provisions based thereon, the following definitions apply:

- a. ‘Directive’: 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 L 345, 31.12.2003, p. 90);
- b. ‘re-use’: the use of information contained in documents held by a body entrusted with a public task for purposes other than the initial purpose within the public task for which the information was produced, not including information exchanged between such bodies solely in the performance of their public tasks;
- c. ‘body entrusted with a public task’: a public sector body as referred to in Article 2(1) of the Directive;
- d. ‘document’: a written record or other material containing data held by a body entrusted with a public task;
- e. ‘museum’: a body entrusted with the public task of displaying cultural objects to the general public;
- f. ‘library’: publicly accessible library facilities subsidised or maintained largely by one or more municipalities, the Dutch National Library referred to in Article 1.5 of the Act on higher education and scientific research or the library facilities of a university referred to in the Annex to that Act.

Article 2 Scope

1. This Act does not apply to:

- a. information not publicly accessible under the Act;
- b. information to which the rights are held by a third party within the meaning of the Copyright Act, the Related Rights Act or the Databases Act;
- c. information held by a public service broadcaster, another body entrusted with a public service broadcasting task or a body operating under the responsibility of a public broadcaster or another body entrusted with such a task;
- d. information held by educational and research establishments;

- e. information held by cultural establishments other than libraries and museums;
 - f. parts of documents containing only logos, crests and insignia;
 - g. information relating to public personal data, re-use of which is incompatible with the purposes for which the data were collected.
2. Bodies entrusted with a public task that are not administrative bodies within the meaning of the General Administrative Law Act are considered to be equivalent to administrative bodies for the purposes of this Act.

CHAPTER II. REQUESTS FOR RE-USE

Article 3 Submission and refusal of requests

1. Any person may submit a request for re-use to a body entrusted with a public task or to an institution, department or company operating under the responsibility of such a body.
2. The applicant shall state in their request what information they wish to re-use.
3. In their requests, applicants need not declare their interests.
4. Where the wording of a request is too general, the body entrusted with a public task shall ask the applicant to provide more detail as soon as possible and shall assist them in doing so.
5. The body entrusted with a public task may refuse re-use requests only for information referred to in Article 2(1).
6. Without prejudice to the provisions of (5) above, a museum or library may refuse a request to re-use information to which it holds the rights within the meaning of the Copyright Act, the Related Rights Act or the Databases Act.
7. A body entrusted with a public task that refuses a re-use request because the request relates to information referred to in Article 2(1)(b) shall inform the applicant of the identity of the rightholder or licensor of the requested information.
8. Where a museum or library refuses a re-use request because the request relates to information referred to in Article 2(1)(b), the identity of the rightholder or licensor of the requested information need not be disclosed.

Article 4 Processing of requests

1. Where the request relates to data and documents held by a body entrusted with a public task other than that to which the request was submitted, the applicant shall be referred to that body if necessary. Written requests shall be forwarded and the applicant shall be notified.
2. Decisions on requests for re-use shall be given orally or in writing.
3. Whole or partial refusal of written requests for re-use shall be made in writing. Requests made orally may be refused in writing if the applicant so requests. Applicants shall be informed of this option.
4. Bodies entrusted with a public task shall decide on requests for re-use as promptly as possible and within no more than four weeks of the date following that of receipt of the request.
5. Bodies entrusted with a public task may defer the decision by up to four weeks. Written reasons for the deferral shall be sent to the applicant before the end of the initial period.
6. Without prejudice to Article 4:15 of the General Administrative Law Act, the time limit for making a decision shall be suspended from the date following that on which the body entrusted with a public task informs the applicant of the use made of Article 4:8 of that Act to the date on which the interested party or parties either have expressed a view or have failed to do so in the allotted time.

7. If the suspension referred to in (6) above ceases to apply, the body entrusted with a public task shall inform the applicant as promptly as possible, stating the time limit for the decision.
8. Where the body entrusted with a public task has decided to provide information for re-use, it shall do so as promptly as possible and in any case within a period allowing the potential of the information to be fully exploited. The applicant shall be informed of the deadline for the provision of information.

CHAPTER III. PROVISION OF INFORMATION FOR RE-USE

Article 5 Available formats

1. Information available for re-use shall be provided in the form in which it is held by the body entrusted with a public task, where possible electronically, in an open and machine-readable format, together with the metadata. The format and the meta data shall comply, where possible, with formal open standards in accordance with Article 5(1) of the Directive.
2. Bodies entrusted with a public task are not required to continue to produce and store documents solely with a view to re-use.

Article 6 Conditions

1. The conditions for re-use are similar for comparable categories of re-use.
2. Bodies entrusted with a public task shall not make their authorisation of re-use subject to any licence conditions which unnecessarily limit the scope for re-use or restrict competition.

Article 7 Exclusive rights

1. Exclusive rights of re-use shall be granted only where necessary for the provision of a service in the public interest.
2. Where an exclusive right is granted in respect of a service in the public interest not relating to the digitisation of collections of public sector information held in museums or libraries, the body entrusted with a public task that granted the exclusive right shall examine at least every three years whether the basis on which the exclusive right was granted still applies.
3. Where an exclusive right is granted for the digitisation of collections of public sector information held in museums or libraries, the period of exclusivity shall generally not exceed ten years. If the period does exceed ten years, the body which granted the exclusive right shall examine in the 11th year, and where appropriate every seven years thereafter, whether the basis on which the exclusive right was granted still applies.
4. Under the agreement granting an exclusive right for the digitisation of collections of public sector information held in museums or libraries, the body concerned shall receive free of charge a copy of the digitised information. The copy shall be available for re-use at the end of the period for which the exclusive right was granted.
5. The substantive content of all exclusive rights granted shall be published in a government journal or other appropriate forum.

Article 8 Phasing-out of exclusive rights

1. Exclusive rights of re-use granted before 20 January 2006 and not in respect of a service in the public interest shall not be renewed at the end of the contract concerned or shall lapse in the case of contracts expiring after 31 December 2008, with legal effect from that date.

2. Without prejudice to the provisions of (1) above, exclusive rights of re-use granted before the entry into force of this Act and not in respect of a service in the public interest or for the digitisation of collections of public sector information held in museums or libraries shall not be renewed at the end of the contract concerned or shall lapse automatically in the case of contracts expiring after 18 July 2043.

Article 9 Charges

1. The amount charged by bodies entrusted with a public task for the re-use of information shall not exceed the marginal costs of reproduction, provision and dissemination.

2. By way of derogation from (1) above, the amount charged by museums and libraries for the re-use of information shall not exceed their costs of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment.

3. By way of derogation from (1) above, the amount charged by a body entrusted with a public task for the re-use of information in order to cover its costs in the performance of that task may not exceed its costs of collection, production, reproduction and dissemination, together with a reasonable return on investment, where such a return is defined by law. Costs shall be calculated on the basis of objective, transparent and verifiable criteria.

4. Bodies entrusted with a public task shall give prior notice of any charge made for re-use and of the factors taken into account in the calculation of that charge. When asked to do so, the body concerned shall clarify the calculation relating to a particular request for re-use.

5. Detailed rules on the criteria referred to in (3) above may be laid down by or pursuant to general administrative order.

CHAPTER IV. AMENDMENTS TO CERTAIN ACTS

Article 10 Amendments to the Government Information (Public Access) Act

The Government Information (Public Access) Act is amended as follows:

A

In Article 1 parts h and i are deleted, the semicolon at the end of part g being replaced by a full stop.

B

Chapter V-A is deleted.

C

Article 16 is deleted.

Article 11 Amendments to the 1995 Public Records Act

The 1995 Public Records Act is amended as follows:

A

The following article is inserted after Article 2a:

Article 2b Re-use

1. The term ‘use’, as used in Articles 14 and 17 of this Act, shall include re-use within the meaning 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 L 345, 31.12.2003, p. 90).
2. The Act on re-use of public sector information shall not be applicable to the provision of records archived for use, unless stated otherwise in this Act.

B

In Article 17(1) the following is inserted after ‘restrictions’: ‘and in accordance with Articles 5 and 6 of the Act on re-use of public sector information’.

C

Article 19 is replaced by the following:

Article 19

The archivist shall lay down rules on any costs under Articles 14 and 18(6) in respect of which a charge is made. Article 9(1) and (4) of the Act on re-use of public sector information applies *mutatis mutandis* to the chargeable costs.

Article 12 Amendments to the Land Registry Act

In Article 108 of the Land Registry Act the following paragraph is inserted before paragraph 3, which now becomes paragraph 4:

3. Article 9(3) of the Act on re-use of public sector information shall apply to the charges referred to in (1) above.

Article 13 Amendments to the 1994 Road Traffic Act

The 1994 Road Traffic Act is amended as follows:

1. In Article 4b the following paragraph is inserted after paragraph 3:
 4. Article 9(3) of the Act on re-use of public sector information shall apply to the charges referred to in (1)(n) above.
2. In Article 16b(3) ‘Government Information (Public Access) Act’ is replaced by ‘Act on re-use of public sector information’.

Article 14 Amendments to the 2007 Commercial Register Act

In Article 50 of the 2007 Commercial Register Act the following paragraph is inserted, paragraphs 2 to 4 being renumbered 3 to 5:

2. Article 9(3) of the Act on re-use of public sector information shall apply to the charge referred to in (1) above.

Article 14a Amendments to the Act on the Royal Dutch Meteorological Institute (*Koninklijk Nederlands Meteorologisch Instituut*, KNMI)

Article 6 of the KNMI Act is replaced by the following:

Article 6

1. Data obtained by the KNMI from its own observations shall be made available upon request.
2. The KNMI may agree to the provision of additional services.
3. Rules relating to the following may be laid down by ministerial order on the provision and use of KNMI data:
 - a. the scope for the issuing of licences;
 - b. the setting of licence fees; and
 - c. other aspects of the concluding and content of agreements, including the necessary information and documents.

CHAPTER IV-A. CONCURRENCE PROVISIONS

Article 14b Concurrence with the 2014 Infrastructure and Environment Remedial Act

1. If Part A of Article VII of the 2014 Infrastructure and Environment Remedial Act enters or entered into force before this Act, Article 12 of this Act will be replaced by the following:

Article 12 Amendments to the Land Registry Act

In Article 108 of the Land Registry Act the following paragraph is inserted, paragraphs 3 and 4 being renumbered 4 and 5:

3. Article 9(3) of the Act on re-use of public sector information shall apply to the charges referred to in (1) above.

2. If Part A of Article VII of the 2014 Infrastructure and Environment Remedial Act enters into force after this Act, point (2) of Part A of Article VII of that Act will be replaced by the following:

2. The following paragraph 5 is inserted: 5. In the submission for approval referred to in Article 17 of the Autonomous Administrative Agencies Framework Act, the Office's management shall set out the view on the proposed charges held by the supervisory board referred to in Article 3 of the Land Registry Organisation Act and the response of the Users' Council referred to in Article 16 of that Act.

Article 14c Amendments to the Act on meteorological and seismological tasks

If the Bill submitted by Royal Message of 11 November 2013 laying down rules on public welfare in the fields of meteorology and seismology (Act on meteorological and seismological tasks) (Parliamentary document No 33 802) becomes or has become law and enters or has entered into force, the phrase 'as referred to in the Government Information (Public Access) Act' in Article 3(1) of that Act will be replaced by 'as referred to in the Act on re-use of public sector information'.

Article 14d Concurrence with amendments made to the Government Information (Public Access) Act in the form of additions to prevent misuse

If the Bill submitted by Royal Message of 9 December 2014 amending the Government Information (Public Access) Act by making additions to prevent misuse (Parliamentary document No 33 802) becomes or has become law and enters or has entered into force, the term ‘four weeks’ in Article 4(5) of this Act will be replaced by ‘two weeks’.

CHAPTER V. FINAL PROVISIONS

Article 15 Entry into force

This Act will enter into force on a date to be determined by Royal Decree.

Article 16 Official title

This Act may be cited as ‘the Act on re-use of public sector information’.

We order and command that this Act be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at Wassenaar on 24 June 2015

Willem-Alexander

R.H.A. Plasterk
Minister for the Interior and Kingdom Relations

Published on 7 July 2015

G.A. van der Steur
Minister for Security and Justice