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Item 352

## ACT

of 25 February 2016

**on the re-use of public sector information<sup>1), 2)</sup>**

### Chapter 1

#### General provisions

**Article 1.** This Act lays down the rules and procedure for making available and providing for re-use of public sector information, entities which make available or provide such information, conditions for re-use and rules for determining charges for re-use.

**Article 2.** 1. ‘Public sector information’ shall be understood as any content or any part thereof, regardless of the method of recording, in particular written on paper, or stored in electronic form or as a sound, visual or audiovisual recording, held by the entities referred to in Article 3.

2. ‘Re-use’ shall be understood as the use of public sector information by natural persons, legal persons and organisational units without legal personality, hereinafter referred to as ‘users’, for commercial or non-commercial purposes other than the original public purpose for which the information was produced.

3. If public sector information is made available or provided by an entity performing public tasks to another entity performing public tasks purely in pursuit of such tasks, this shall not constitute re-use.

**Article 3.** The following entities, hereinafter referred to as ‘obliged entities’, shall be obliged to make available or provide for re-use of public sector information:

- 1) public finance sector units within the meaning of the Public Finance Act of 27 August 2009 (*Journal of Laws (Dziennik Ustaw)* 2013, item 885, as amended<sup>3)</sup>);

<sup>1)</sup> This Act implements 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) as amended by 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 175/1).

<sup>2)</sup> This Act amends the following acts: the Act of 14 July 1983 on the national archival resources and archives, the Geodetic and Cartographic Law Act of 17 May 1989, the Public Statistics Act of 29 June 1995, the Museum Act of 21 November 1996, the Traffic Law Act of 20 June 1997, the Water Law Act of 18 July 2001, the Act of 6 September 2001 on access to public information, the Act of 2 July 2004 on freedom of economic activity, the Act of 17 February 2005 on the computerisation of activities of entities performing public tasks, the Act of 16 February 2007 on stocks of crude oil, petroleum products and natural gas and the procedure to be followed in the event of a threat to national fuel security and disruptions in the petroleum market, the Population Register Act of 24 September 2010 and the Act of 24 July 2015 amending the Traffic Law Act and certain other acts.

<sup>3)</sup> Amendments to the official codification of the above Act were published in *Journal of Laws* 2013, items 938 and 1646; 2014, items 379, 911, 1146, 1626 and 1877; and 2015, items 238, 532, 1045, 1117, 1130, 1189, 1190, 1269, 1358, 1513, 1830, 1854, 1890 and 2150; and 2016, item 195.

- 2) state organisational units without legal personality other than those specified in point 1;
- 3) legal persons other than those specified in point 1, established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, if the entities referred to in this provision and in points 1 and 2, individually or jointly, directly or indirectly through another entity:
  - a) provide more than 50 % of their financing, or
  - b) hold more than half of their shares or stocks, or
  - c) supervise their management body, or
  - d) have the right to appoint more than half the members of their supervisory or management body;
- 4) associations of the entities referred to in points 1 to 3.

**Article 4.** 1. This Act shall not apply to public sector information held by:

- 1) public broadcasting units within the meaning of the Broadcasting Act of 29 December 1992 (*Journal of Laws* 2015, items 1531, 978 and 1830; and 2016, item 25) and Polska Agencja Prasowa S.A.,
- 2) state cultural institutions, self-governing cultural institutions and other entities conducting cultural activities as referred to in Article 2 of the Act of 25 October 1991 on organising and conducting cultural activities (*Journal of Laws* 2012, item 406; 2014, item 423; and 2015, items 337 and 1505), except for state museums and self-governing museums within the meaning of the Museum Act of 21 November 1996 (*Journal of Laws* 2012, item 987; and 2015, item 1505), public libraries within the meaning of the Library Act of 27 June 1997 (*Journal of Laws* 2012, items 642 and 908; and 2013, item 829), as well as archives forming the state network of archives and other organisational units conducting archiving activities relating to the national archival resources within the meaning of Article 22 of the Act of 14 July 1983 on the national archival resources and archives (*Journal of Laws* 2015, item 1446), hereinafter referred to as ‘archives’,
- 3) higher education institutions, the Polish Academy of Sciences (Polska Akademia Nauk) and scientific units within the meaning of the Act of 30 April 2010 on science financing rules (*Journal of Laws* 2014, item 1620; and 2015, items 249 and 1268), except for:
  - a) scientific libraries within the meaning of the Library Act of 27 June 1997,
  - b) the Institute of Meteorology and Water Management (Instytut Meteorologii i Gospodarki Wodnej),
  - c) the Polish Geological Institute (Państwowy Instytut Geologiczny),
- 4) scientific libraries whose organisers are not public sector units,
- 5) the entities referred to in Article 2 of the Education System Act of 7 September 1991 (*Journal of Laws* 2015, item 2156; and 2016, items 35, 64 and 195)

– unless this information constitutes public sector information to be made available in the Public Information Bulletin.

2. This Act shall not apply to public sector information which is made available or provided on the condition that users prove a legal or actual interest under separate provisions.

**Article 5.** Everyone shall have the right to re-use public sector information:

- 1) made available in an IT system, in particular on the website of the Public Information Bulletin of an obliged entity or in the central repository of public information referred to in Article 9a of the Act of 6 September 2001 on access to public information (*Journal of Laws* No 2015, item 2058; and 2016, item 34), hereinafter referred to as the ‘central repository’, or in another way;
- 2) provided upon a request for re-use.

**Article 6.** 1. The right to re-use shall be limited to the extent and on the terms specified in provisions on the protection of classified information and on the protection of other secrets protected by law.

2. The right to re-use shall be limited on the grounds of the privacy of individuals or business secrets. This limitation shall not apply to information about persons performing public functions relating to the performance of these functions, including information about the conditions for entrusting and performing functions, and in cases where natural persons or undertakings waive their rights.

3. The right to re-use shall be limited with respect to information constituting public sector information to which access is limited under other acts. The second sentence of paragraph 2 shall apply *mutatis mutandis*.

4. The right to re-use shall be limited with respect to public sector information:

- 1) which is not produced by obliged entities as part of their public tasks defined by law;
- 2) related to deposits held by an obliged entity if their owners excluded under an agreement the possibility of this information being made available or provided in full or to a specific extent;
- 3) to which copyright and related rights within the meaning of the Act of 4 February 1994 on copyright and related rights (*Journal of Laws* 2006, item 631, as amended<sup>4)</sup>), database rights within the meaning of the Act of 27 July 2001 on database protection (*Journal of Laws*, item 1402; 2004, item 959; and 2007, items 662 and 1238), plant variety rights within the meaning of the Act of 26 June 2003 on legal protection of plant varieties (*Journal of Laws*, item 1300; 2006, item 877; 2007, item 662; 2011, item 1099; and 2015, item 1830), industrial property rights within the meaning of the Industrial Property Law Act of 30 June 2000 (*Journal of Laws* 2013, item 1410; 2015, items 1266, 1505 and 1615) or industrial property rights subject to protection under international agreement or EU laws, apply to entities other than obliged entities;
- 4) held by state museums, self-governing museums, public libraries, scientific libraries or archives if the original owners of commercial copyrights or related rights were entities other than obliged entities and the duration of these rights has not expired.

**Article 7.** 1. This Act is without prejudice to the right to access public information or to the freedom to disseminate public information, or other acts laying down the rules, conditions and procedure for accessing information constituting public sector information.

2. This Act is without prejudice to the Act of 29 August 1997 on personal data protection (*Journal of Laws* 2015, items 2135 and 2281; and 2016, item 195).

## Chapter 2

### Rules for making available and providing for re-use of public sector information

**Article 8.** 1. In comparable situations, an obliged entity shall make available or provide for re-use of public sector information on the same terms.

2. If public sector information is re-used by users who are entities performing public tasks as part of activities that go beyond the performance of such tasks, conditions for re-use or charges for re-use shall be determined on the same terms as for other users.

**Article 9.** 1. An obliged entity which makes available or provides for re-use of public sector information shall not limit the use of this information by other users.

2. If the use of public sector information must be limited in order for public tasks to be correctly performed, an obliged entity may conclude with a user an agreement for granting an exclusive right to use this information.

3. Once a year, an obliged entity shall assess whether the reasons for concluding an agreement for granting an exclusive right to use public sector information continue to apply. If the obliged entity concludes that the reasons for concluding the agreement have ceased to apply, the agreement shall be terminated with immediate effect.

**Article 10.** 1. Obligated entities which make available or provide for re-use of public sector information using IT systems shall use data formats, and communication and encryption protocols specified in provisions issued under Article 18(1) of the Act of 17 February 2005 on the computerisation of activities of entities performing public tasks (*Journal of Laws* 2014, item 1114), if possible in a machine-readable format, together with metadata.

2. Obligated entities shall not be required to create public sector information, process it in the manner or form specified in requests for re-use or make extracts from this information if this necessitates taking disproportionate efforts going beyond simple operations.

**Article 11.** 1. An obliged entity shall make the following available in the Public Information Bulletin on its website, in the section 'Re-use':

- 1) conditions for re-use, if they have been established by that obliged entity;
- 2) information about the amount of charges for re-use, including the calculation basis for these charges, if they have been determined by that obliged entity, and information about factors which will be taken into account

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<sup>4)</sup> Amendments to the official codification of the above Act were published in *Journal of Laws* 2006, items 658 and 843; 2007, items 662 and 1293; 2009, item 1241; 2010, item 1016; and 2015, items 932, 994, 1639 and 1923.

when considering atypical requests for re-use and may affect, in particular, the cost or duration of the preparation or provision of information;

- 3) information about factors taken into account when determining charges for re-use, in the case of obliged entities which are state museums or self-governing museums;
- 4) information about legal remedies available if re-use is not authorised, and about the right to object;
- 5) an agreement for granting an exclusive right to use public sector information, the reasons for concluding it and the results of an assessment of that agreement, if such an agreement has been concluded.

2. An obliged entity which makes public sector information available for re-use otherwise than in the Public Information Bulletin or the central repository shall provide information about the lack of conditions for re-use or charges for re-use, when making public sector information available, or shall determine these conditions or the amount of charges for re-use.

3. An obliged entity which makes public sector information available in the central repository or in the manner specified in paragraph 1 or 2 shall also provide information that this public sector information is available for re-use.

4. If information about conditions for re-use of public sector information made available in the Public Information Bulletin or the central repository is not provided, it shall be deemed that public sector information has been made available for re-use without conditions.

**Article 12.** 1. Conditions for re-use established by an obliged entity for public sector information made available on the website of the Public Information Bulletin of that obliged entity or in the central repository of public information shall constitute an offer containing these conditions.

2. Conditions for re-use established by an obliged entity for public sector information made available otherwise than as specified in paragraph 1, or information about the amount of charges for re-use, if they have been determined, shall constitute an offer containing these conditions or this information.

3. The re-use of public sector information made available in the manner referred to in Article 5(1) shall be deemed to constitute the acceptance of an offer, as referred to in paragraph 1 or 2, by a user.

### Chapter 3

#### Conditions for re-use

**Article 13.** 1. Public sector information shall be made available or provided for re-use without conditions.

2. An obliged entity shall establish conditions for re-use of public sector information which has the properties of a work or is subject to related rights within the meaning of the Act of 4 February 1994 on copyright and related rights, or constitutes a database within the meaning of the Act of 27 July 2001 on database protection, to which that obliged entity has commercial copyrights or related rights. In particular, an obliged entity shall establish a condition that information must be provided about the surname, the first name or the pseudonym of the author or the performer, if known.

3. An obliged entity may establish conditions for re-use in cases other than those specified in paragraph 2.

**Article 14.** 1. Conditions for re-use may concern:

- 1) the obligation to provide information about the source and the time of creation, and to obtain information from an obliged entity;
- 2) the obligation to provide information that re-used information has been processed;
- 3) the responsibility of an obliged entity for the information made available or provided.

2. State museums, self-governing museums, public libraries, scientific libraries and archives may establish conditions for re-use other than those listed in paragraph 1, limiting the use of public sector information:

- 1) in commercial activities or in specific fields of use if this information concerns collections addressing martyrdom and contains the national emblem, colours and anthem of the Republic of Poland as well as coats of arms and reproductions of orders, decorations or badges of honour, military badges or other decorations;
- 2) to non-commercial activities if this information is related to items which are covered by third-party claims or are not owned by an obliged entity.

**Article 15.** The establishment of the conditions for re-use shall not unjustifiably limit possibilities of re-use.

## Chapter 4

**Charges for re-use**

**Article 16.** Public sector information shall be made available or provided for re-use free of charge.

**Article 17.** 1. An obliged entity may impose a charge for re-use if additional costs must be incurred to prepare or provide information in the manner or form specified in a request for re-use.

2. The costs of preparing or providing public sector information in a specific manner and form and other factors which will be taken into account when considering atypical requests for re-use and may affect, in particular, the cost or duration of the preparation or provision of information shall be taken into account when determining the amount of the charge referred to in paragraph 1. The total amount of the charge shall not exceed the sum of costs directly incurred to prepare or provide public sector information for re-use in a specific manner and form.

**Article 18.** 1. State museums and self-governing museums may impose charges higher than those determined under Article 17 if public sector information is made available or provided for re-use for purposes other than non-commercial research, scientific or educational purposes.

2. The costs of collection, production, reproduction, dissemination, preservation and rights clearance shall be taken into account when determining the amount of the charge referred to in paragraph 1. The total amount of the charge shall not exceed the sum of these costs, together with a reasonable return on investment not exceeding five percentage points above the reference rate of the National Bank of Poland.

3. The minister responsible for culture and national heritage protection, in consultation with the minister responsible for computerisation, shall determine, by means of a regulation, the maximum rates of charges for re-use imposed by state museums and self-governing museums, taking into account the costs and the reasonable return on investment referred to in paragraph 2.

**Article 19.** When enabling the re-use, in a continuous and direct manner in real time, of public sector information gathered and stored in its IT system, an obliged entity may impose a charge for re-use which takes into account the costs of adjusting the IT system and the technical and organisational conditions in such a way as to fulfil a request for re-use.

**Article 20.** At the request of an applicant, an obliged entity shall indicate how a charge for re-use has been calculated for the request for re-use submitted by the applicant.

## Chapter 5

**Re-use of public sector information provided upon request**

**Article 21.** 1. A request for re-use, hereinafter referred to as a 'request', shall be submitted if public sector information:

- 1) has not been made available in the Public Information Bulletin or the central repository;
- 2) has been made available otherwise than as specified in paragraph 1 and conditions for re-use or charges for re-use have not been determined, or information about the lack of such conditions or charges has not been provided;
- 3) will be used on the terms other than those specified for this information;
- 4) has been made available or provided under other acts laying down the rules and procedure for accessing information constituting public sector information.

2. A request may concern the re-use, in a continuous and direct manner in real time for a period not exceeding 12 months, of public sector information gathered and stored in the IT system of an obliged entity.

3. A request shall include in particular:

- 1) the name of the obliged entity;
- 2) information about the applicant, including the full name or business name and address to make it possible to send a reply to the applicant or the applicant's attorney in the manner or form specified in the request;
- 3) information about the public sector information that will be re-used and, if this public sector information has already been made available or provided, the conditions for re-use as well as the source of making available or providing;
- 4) information about the purpose of re-use (commercial or non-commercial), including the area of activity in which public sector information will be re-used, in particular goods, products or services;

- 5) information about the form of preparation of public sector information and, for electronic form, also about the data format;
- 6) information about the method of providing public sector information, unless it has been made available or provided in a different manner, or about the method of accessing information gathered in an IT system, as referred to in paragraph 2.

4. The request referred to in paragraph 2 shall also include information about the period during which an obliged entity will enable the re-use of public sector information in a continuous and direct manner in real time.

5. Requests shall be submitted in paper or electronic form.

6. If formal conditions for a request have not been fulfilled, an applicant shall be requested to remove formal deficiencies and shall be instructed that the request will not be considered if these deficiencies are not removed within seven days from the date of receipt of the request.

**Article 22.** 1. A request shall be immediately considered, not later than 14 days from the date of receipt.

2. If a request for re-use cannot be considered within 14 days, an obliged entity shall notify the applicant within that period of the reasons for the delay and of the deadline by which the request will be considered, which shall not be longer than two months from the date of submission of that request.

**Article 23.** 1. After considering a request, except for a request as referred to in Article 21(2), an obliged entity shall:

- 1) provide public sector information for re-use without establishing conditions for re-use;
- 2) provide information about the lack of conditions for re-use if public sector information is held by the applicant;
- 3) submit an offer containing conditions for re-use or information about the amount of charges for re-use;
- 4) refuse, by means of a decision, to authorise the re-use of public sector information.

2. An applicant that received an offer as referred to in paragraph 1(3) may file an objection on the grounds of an infringement of this Act or notify an obliged entity of acceptance of the offer within 14 days of the receipt of the offer. If an obliged entity is not notified of acceptance of the offer within 14 days of the receipt of the offer, this shall mean that a request has been withdrawn.

3. If an objection is filed, an obliged entity shall specify, by means of a decision, conditions for re-use or the amount of charges for re-use.

4. An obliged entity shall refuse, by means of a decision, to authorise the re-use of public sector information if the right to re-use is subject to the limitations referred to in Article 6.

5. An obliged entity may refuse, by means of a decision, to authorise the re-use of public sector information in the case referred to in Article 10(2).

6. If the re-use of public sector information is not authorised because of copyright and related rights within the meaning of the Act of 4 February 1994 on copyright and related rights, database rights within the meaning of the Act of 27 July 2001 on database protection, plant variety rights within the meaning of the Act of 26 June 2003 on legal protection of plant varieties, industrial property rights within the meaning of the Industrial Property Law Act of 30 June 2000 or industrial property rights subject to protection under international agreement or EU laws applicable to entities other than obliged entities, an obliged entity shall indicate the natural person, legal person or the organisational unit without legal personality which holds intellectual property rights, if known, or the licensor from which the obliged entity has obtained the subject of intellectual property rights concerned. This paragraph shall not apply to state museums, self-governing museums, public libraries, scientific libraries or archives.

**Article 24.** 1. After considering a request as referred to in Article 21(2), an obliged entity shall:

- 1) submit an offer containing conditions for re-use or information about the amount of charges for re-use, against which an objection cannot be filed;
- 2) inform the applicant that re-use in the manner specified in the request is impossible;
- 3) refuse, by means of a decision, to authorise the re-use of public sector information. Article 23(4) and (6) shall apply.

2. An applicant shall notify an obliged entity of acceptance of an offer within 14 days of the receipt of the offer. The second sentence of Article 23(2) shall apply.

**Article 25.** 1. To the extent not provided for in this Act, the Act of 14 June 1960 – Code of Administrative Procedure (*Journal of Laws* 2016, item 23) shall apply to decisions refusing to authorise the re-use of public sector information and to decisions specifying conditions for re-use and the amount of charges for re-use.

2. The Act of 30 August 2002 – Law on proceedings before administrative courts (*Journal of Laws* 2012, item 270, as amended<sup>5)</sup>) shall apply to complaints considered in proceedings for re-use. However:

- 1) files shall be submitted and the response to a complaint shall be given within 15 days from the date of receipt of the complaint;
- 2) a complaint shall be considered within 30 days from the date of receipt of files, along with the response to the complaint.

## Chapter 6

### Amendments to the existing provisions

**Article 26.** The Act of 14 July 1983 on the national archival resources and archives (*Journal of Laws* 2015, item 1446) is amended as follows:

- 1) in Article 16:
  - a) paragraph 1 is repealed,
  - b) paragraph 2a is replaced by the following:

‘2a. State archives provide archiving services involving searching for information and data in archival materials, processing such information and data and making extracts, excerpts, copies or visual or sound reproductions of these materials, including metadata of digital reproductions.’;
- 2) the following Articles 16a to 16e are added after Article 16:

‘Article 16a. 1. Everyone shall have the right to access archival materials,

2. The entities referred to in Article 22(1)(1) and (2) and Article 22(2), hereinafter referred to as ‘obliged entities’, shall make available:

  - 1) original archival materials, in particular in the original language version or in the original digital file format, or in the form or format given by an obliged entity for long-term storage and access to the content of these materials;
  - 2) reproductions of archival materials.

3. Obligated entities may also make available archival materials which do not constitute state archival resources if the possibility of making them available has not been excluded.

4. Archival materials shall be used, in particular:

  - 1) for learning purposes, including research or personal information needs;
  - 2) for the purpose of re-using the content or reproductions of these materials for purposes other than those which they were created for or originally collected, including commercial purposes;
  - 3) to obtain, under separate provisions laying down rules for issuing certificates, official confirmation of the content of archival materials stored, in the form of their certified reproductions (copies, excerpts, extracts and reproductions) in the original language version and in the form of secondary documents describing this content or parts thereof selected by an applicant.

Article 16b. 1. Access to archival materials shall be limited:

  - 1) to the extent and on the terms specified in the following provisions:
    - a) on the protection of classified information,
    - b) on the protection of secrets protected by law;
  - 2) on the grounds of the protection of:
    - a) personal property,
    - b) personal data;
  - 3) due to the need to preserve the integrity of state archival resources which are at risk of damage, destruction or loss.

2. Archival materials shall be made available not earlier than:

<sup>5)</sup> Amendments to the official codification of the above Act were published in *Journal of Laws* 2012, items 1101 and 1529; 2014, items 183 and 543; and 2015, items 658, 1191, 1224, 1269 and 1311.

- 1) for civil status documents or records, from the end of the calendar year in which the following acts were prepared or the following records were closed:
  - a) on births: after 100 years,
  - b) on marriages and deaths: after 80 years;
- 2) for individual medical records: after 100 years from the last entry;
- 3) for notarial deeds and mortgage registers, together with records: after 70 years from the preparation of a deed or document;
- 4) for records of court cases and investigations: after 70 years from the date on which a judgment became final or an investigation was concluded;
- 5) for population registers: after 30 years from their preparation;
- 6) for employers' personnel and payroll records: after 50 years from the termination of an employment relationship.

3. The limitations specified:

- 1) in paragraph 1(2) and (3) shall not apply if an interested party has specific rights or pursues objectives subject to special legal protection which override these limitations;
- 2) in paragraph 2 shall not apply in cases where access to the data contained in these materials is provided to authorised entities. Article 16c. 1. Archival materials shall be made available free of charge.

2. Obligated entities shall not exercise the commercial copyrights of the State Treasury with respect to entities to which these materials have been made available.

3. Obligated entities shall not limit the access to archival materials beyond the limitations applied in connection with the original purpose for which these materials were created.

4. If separate provisions ensure broader access to archival materials than this Act, these provisions shall apply.

Article 16d. 1. Obligated entities shall make archival materials available to interested parties or their authorised representatives by:

- 1) making it possible to personally:
  - a) become familiar with these materials,
  - b) record their content in the form of notes, extracts, excerpts, copies or visual, sound or digital reproductions, together with their metadata;
- 2) providing information contained in these materials in the form of reproductions or a written reply to an inquiry.

2. Obligated entities shall make available original archival materials or their reproductions:

- 1) in rooms adapted for this purpose, upon a written request in paper or electronic form;
- 2) through IT systems, together with the metadata of reproductions.

3. If the activities referred to in paragraph 1(1)(b) could hinder the access to archival materials for other interested parties, they shall be carried out on the basis of an arrangement between an interested party and an obliged entity.

Article 16e. 1. If there is a justified suspicion that the access to archival materials is limited, an obliged entity shall institute proceedings for refusing access to these materials.

2. An obliged entity shall issue a decision:

- 1) refusing access to archival materials, in whole or in part, or
- 2) discontinuing proceedings:
  - a) in the case referred to in Article 16b(3)(1),
  - b) if the access to archival materials is not limited.

3. The Act of 14 June 1960 – Code of Administrative Procedure (*Journal of Laws* 2016, item 23) shall apply to proceedings for refusing access to archival materials. However, decisions shall be issued not later than 14 days from the date of receipt of a request.;

- 3) in Article 17, paragraphs 1 to 2 are repealed.

**Article 27.** In the Geodetic and Cartographic Law Act of 17 May 1989 (*Journal of Laws* 2015, items 520, 831, 1137, 1433 and 2281; 2016, item 65), the following Article 40k is added after Article 40j:



‘Article 40k. The Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352) shall apply to the extent not provided for in this Act.’

**Article 28.** In the Public Statistics Act of 29 June 1995 (*Journal of Laws* 2012, item 591, as amended<sup>6)</sup>), Article 49a is replaced by the following:

‘Article 49a. To the extent not provided for in this Act, the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352) shall apply to the re-use of data from national official registers.’

**Article 29.** The Museum Act of 21 November 1996 (*Journal of Laws* 2012, item 987; and 2015, item 1505) is amended as follows:

1) in Article 25, the following paragraph 4 is added:

‘4. The Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352) shall apply in cases where charges for the activities referred to in paragraph 1 carried out as part of making public sector information available for re-use are determined and collected.’;

2) in Article 25a, the following paragraph 4 is added:

‘4. The Act referred to in Article 25(4) shall apply in cases where charges for making images of museum collections available for re-use as public sector information using IT media are determined and collected.’;

3) the following Article 31a is added after Article 31:

‘Article 31a. Access to information used to ensure the safety of museum collections against fire, theft or other hazards which could result in resources being damaged or lost shall be limited.’

**Article 30.** In the Road Traffic Law Act of 20 June 1997 (*Journal of Laws* 2012, item 1137, as amended<sup>7)</sup>), Article 80c(5) is replaced by the following:

‘5. Data or information in records shall be provided for re-use in such a way that persons or vehicles cannot be identified, subject to the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352), unless this Act provides otherwise.’

**Article 31.** The Water Law Act of 18 July 2001 (*Journal of Laws* 2015, items 469, 1590, 1642 and 2295) is amended as follows:

1) in Article 110, paragraphs 3 to 8a are replaced by the following:

‘3. The Institute of Meteorology and Water Management shall make available free of charge information about the state of the atmosphere and hydrosphere, processed as a result of standard procedures, to public authorities and owners of waters or managers acting on their behalf, as well as higher education institutions, research institutes and scientific units of the Polish Academy of Sciences.

4. The Polish Geological Institute shall make available free of charge information gathered about the state of groundwater resources, processed as a result of standard procedures, to public authorities, higher education institutions, research institutes and scientific units of the Polish Academy of Sciences.

5. The information referred to in paragraphs 3 and 4 shall be made available to public authorities and owners of waters or managers acting on their behalf, as well as higher education institutions, research institutes and scientific units of the Polish Academy of Sciences to the extent necessary to perform statutory tasks.

6. Public authorities and owners of waters or managers acting on their behalf, as well as higher education institutions, research institutes and scientific units of the Polish Academy of Sciences shall not provide the information referred to in paragraphs 3 and 4 made available to them to other entities to be used for commercial purposes.

7. The Institute of Meteorology and Water Management and the Polish Geological Institute shall provide information gathered and processed as a result of standard procedures for re-use free of charge.

8. The Institute of Meteorology and Water Management and the Polish Geological Institute shall provide information obtained as a result of procedures other than standard procedures for re-use free of charge.

8a. Information shall be provided for re-use as specified in paragraphs 7 and 8 on the terms laid down

<sup>6)</sup> Amendments to the consolidated text of the above Act were published in *Journal of Laws* 2013, item 2; 2014, items 1161 and 1662; and 2015, items 855, 1240, 1893 and 2281.

<sup>7)</sup> Amendments to the official codification of the above Act were published in *Journal of Laws* 2012, item 1448; 2013, items 700, 991, 1446 and 1611; 2014, items 312, 486, 529, 768, 822 and 970; 2015, items 211, 541, 591, 933, 1038, 1045, 1273, 1326, 1335, 1830, 1844, 1893, 2183 and 2281; and 2016, item 266.

in the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352).’;

2) Article 194(15) is replaced by the following:

‘15) provides information made available to it to other entities to be used for commercial purposes in breach of Article 110(6)’.

**Article 32.** The Act of 6 September 2001 on access to public information (*Journal of Laws* 2015, item 2058; and 2016, item 34) is amended as follows:

1) footnote 1 is repealed;

2) Article 1(1) is replaced by the following:

‘1. Any information about public matters shall constitute public information within the meaning of this Act and shall be made available on the terms and in the manner specified in this Act.’;

3) Article 2a is repealed;

4) in Article 9a:

a) paragraph 1 is replaced by the following:

‘1. Public information of particular importance for the development of innovation in Poland and the development of the information society which may be re-used within the meaning of the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352) in a useful and effective manner because of the way in which it is stored and made available shall constitute a set, hereinafter referred to as ‘information resources’, and shall be made available in the central repository.’;

b) in paragraph 2:

– the introduction to the enumeration is replaced by the following:

‘The following entities shall provide the information resources held and metadata describing their structure to be made available in the central repository.’;

– point 6 is repealed;

– point 7 is replaced by the following:

‘7) state legal persons established under separate acts to perform public tasks, except for higher education institutions, the Polish Academy of Sciences and scientific units within the meaning of the Act of 30 April 2010 on science financing rules (*Journal of Laws* 2014, item 1620; and 2015, items 249 and 1268) other than state research institutes.’;

c) the following paragraph 2c is added:

‘2c. Entities indicated in provisions issued under paragraph 3 shall regularly verify and update information resources and metadata made available in the central repository.’;

d) in paragraph 3:

– point 1 is replaced by the following:

‘1) the manner of provision referred to in paragraph 2, having regard to IT infrastructure held by that entity making it possible to gather and make available information, as well as the technical capacities for storing this information in the central repository.’;

– point 3 is repealed,

e) the following paragraph 4 is added:

‘4. In the regulation referred to in paragraph 3, the minister responsible for computerisation may set out additional technical requirements for creating information resources and an additional set of metadata elements other than those specified in provisions issued under Article 9b(6), having regard to:

1) facilitation of the search for information resources in the manner specified in Article 9b(2);

2) control of information resources as well as long-term storage and management of these resources;

3) the possibility of re-use of public information and its machine-readability to the broadest extent possible.’;

5) the following Article 9c is added after Article 9b:

‘Article 9c. 1. Information resources and metadata other than those specified in provisions issued under Article 9a(3) or (4) may be made available in the central repository by the entities specified in Article 4.’

2. Information resources and metadata made available in the central repository under paragraph 1 shall be regularly verified and updated by the entities making them available.

3. Provisions issued under Article 9b(6) shall apply *mutatis mutandis* to the entities and information resources specified in paragraph 1.

4. The minister responsible for computerisation may remove from the central repository information resources which do not have particular importance for the development of innovation in Poland or the development of the information society.’;

6) Chapter 2a is repealed.

**Article 33.** In the Act of 2 July 2004 on freedom of economic activity (*Journal of Laws* 2015, item 584, as amended<sup>8)</sup>), Article 39(8) is replaced by the following:

‘8. To the extent not provided for in paragraphs 2 to 7, the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352) shall apply to the re-use of data from the Business Activity Central Register and Information Record (Centralna Ewidencja i Informacja o Działalności Gospodarczej, CEIDG).’.

**Article 34.** In the Act of 17 February 2005 on the computerisation of activities of entities performing public tasks (*Journal of Laws* 2014, item 1114), Article 15(4) is replaced by the following:

‘4. Data from a public-data register shall be provided for re-use by the entity maintaining that register for a purpose other than performance of a public task on the terms laid down in the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352).’.

**Article 35.** The Act of 16 February 2007 on stocks of crude oil, petroleum products and natural gas and the procedure to be followed in the event of a threat to national fuel security and disruptions in the petroleum market (*Journal of Laws* 2014, item 1695; and 2016, item 266) is amended as follows:

1) Article 13(6) is replaced by the following:

‘6. Unit data contained in a register, except for the identification of manufacturers or traders, shall constitute a secret protected by law and may be made available only upon request of public authorities for the purposes of proceedings conducted by these authorities, or to other authorities, including international organisations, if such an obligation arises from an act, an international agreement or EU provisions.’;

2) Article 22(4) is replaced by the following:

‘4. The information referred to in paragraphs 1 to 3a, except for information processed and aggregated in such a way that it cannot be linked to a specific undertaking or a specific undertaking cannot be identified, shall constitute a secret protected by law and may be made available only upon request of public authorities for the purposes of proceedings conducted by these authorities, or to other authorities, including international organisations, if such an obligation arises from an act, an international agreement or EU provisions.’.

**Article 36.** In the Population Register Act of 24 September 2010 (*Journal of Laws* 2015, items 388, 1337, 1864 and 2281), Article 46(3) is replaced by the following:

‘3. The data referred to in paragraph 1 shall be made available for re-use by the entities referred to in paragraph 2(2) upon request, on the terms laid down in the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352), unless this Act provides otherwise.’.

**Article 37.** In Article 1 of the Act of 24 July 2015 amending the Traffic Law Act and certain other acts (*Journal of Laws*, items 1273, 2183 and 2281):

1) in point 10, Article 80ce(1) is replaced by the following:

‘1. Data or information in records shall be provided for re-use in such a way that persons or vehicles cannot be identified, subject to the Act of 25 February 2016 on the re-use of public sector information (*Journal of Laws*, item 352), unless this Act provides otherwise.’;

2) in point 17, Article 100am(1) is replaced by the following:

‘1. Data in records shall be provided for re-use in such a way that persons cannot be identified, subject to the Act of 25 February 2016 on the re-use of public sector information, unless this Act provides otherwise.’.

## Chapter 7

<sup>8)</sup> Amendments to the official codification of the above Act were published in *Journal of Laws* 2015, items 699, 875, 978, 1197, 1268, 1272, 1618, 1649, 1688, 1712, 1844 and 1893; and 2016, item 65.

**Transitional and final provisions**

**Article 38.** 1. The existing provisions shall apply to cases relating to public information made available for re-use in which a final or binding decision was not issued as at the date of entry into force of this Act.

2. Agreements concluded before the date of entry into force of this Act which are incompatible with Article 9(2) shall expire at the end of their validity period, but not later than 18 July 2043.

**Article 39.** The existing implementing rules issued under Article 9a(3) of the Act referred to in Article 32, in its current wording, shall remain in force until the date of entry into force of implementing rules issued under Article 9a(3) or (4) of the Act referred to in Article 32, as amended by this Act. However, they shall remain in force for no more than 12 months from the date of entry into force of this Act.

**Article 40.** This Act shall enter into force three months after its publication, with the exception of Article 4(1)(3)(b) and (c) and Article 31 to the extent of Article 110(3) to (8), which shall enter into force on 1 January 2017.

President of the Republic of Poland: *A. Duda*