

Ref DPE039-002-2016

26 April, 2016

Circular 12/2016: Licence for Re-Use of Public Sector Information

A Dhuine Uasail,

1. I am directed by the Minister for Public Expenditure and Reform to refer to Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 on the re-use of public sector information, which has amended earlier Directive 2003/98/EC on the re-use of public sector information. The 2013 Directive has been transposed into Irish law by the European Communities (Re-Use of Public Sector Information) (Amendment) Regulations 2015 (S.I. No. 525 of 2015), which amend S.I. No. 279/2005 (the 2005 Re-Use of Public Sector Information Regulations) 1 (collectively “the Regulations”) and which came into force on 24 November 2015.
2. Directive 2013/37/EU on the re-use of Public Sector Information (PSI), and the earlier 2003 PSI Directive, which it amends, create an EU statutory framework for the re-use by businesses and citizens of existing information held by public sector bodies in new products and services. The Directives affect how information can be re-used, once it has been legitimately accessed, by placing obligations on the public sector to the benefit of re-users with the aim of boosting economic activity, but they do not create any new rights of access to information.
3. According to general principles provided for by Directive 2013/37/EU (and reflected henceforth by the Regulations), accessible documents held by bodies to which the Regulations apply should be made available for re-use for commercial and non-commercial purposes. Recital 26 of the said Directive stipulates that licences, whenever used, should place as few restrictions on re-use as possible. However, the recital expressly recognises the possibility of requiring attribution of the source material.
4. S.I. No. 525 of 2015 amends Regulation 8 of the Principal Regulations - the European Communities (Re-Use of Public Sector Information) Regulations 2005 (S.I. No. 279 of 2005) - by the substitution of the following for paragraph 1:

“A public sector body may (a) allow re-use without conditions, or (b) impose conditions on re-use, where appropriate through a licence, provided that such conditions shall not (i) unnecessarily restrict possibilities for re-use, or (ii) be used to restrict competition.”

The amended Regulations substitute the following for paragraph 3:

“A public sector body shall, where possible and appropriate, use the standard licence for the re-use of documents published from time to time by the Minister.”

5. The existing licence to re-use public sector information under the European Communities (re-use of public sector information) regulations 2005 (SI 279/2005) - PSI GENERAL LICENCE No.: 2005/08/01 needs to be amended to take account of these amendments to the Principal Regulations.
6. The open standard licence identified in this Circular supersedes PSI General Licence No: 2005/08/01.

Open Data

7. The European Commission guidelines on licences¹ for Re-Use of Public Sector Information published in July 2014 recommended the adoption of open standard licences for PSI re-use. For data that is deemed suitable for publication as Open Data, the recommended Open Data Licence, [Creative Commons Attribution \(CC-BY\) 4.0](https://creativecommons.org/licenses/by/4.0/), should be associated with these datasets and the data should be linked through the Open Data portal, data.gov.ie. Where such data are re-used, this licence requires that the source of data should be acknowledged. Where the data is modified, CC-BY requires that any modifications be clearly identified. The CC-BY licence does not carry any assumption of endorsement. Further information on the Open Data Licence is available at <https://data.gov.ie/technical-framework#open-Data-licence>.

Re-Use of Public Sector Information

8. The Re-Use of PSI Directive and Regulations are wider in scope than the Open Data Initiative, although Open Data is a subset of PSI, and the EU Commission's guidance deals with both together. The Commission, in its guidelines on recommended standard licences for the re-use of documents, encourages the use of open standard licences, such as the Creative Commons licence, which avoids a multiplicity of custom-made licences at national and sub-national level

¹ <https://ec.europa.eu/digital-single-market/en/news/commission-notice-guidelines-recommended-standard-licences-datasets-and-charging-re-use>

thereby reducing complications associated with handling numerous licences with possibly conflicting provisions. The adoption of CC-BY as the standard PSI licence ensures that Ireland complies with this objective.

9. However, on occasions where application of the standard licence is not possible or appropriate, the use of a more restrictive licence may be justified (such as where it is in the public interest, for example national weather warnings from Met Éireann). Where a more restrictive licence is used, this should be clearly identified and associated with the information both through the metadata and at the source.
10. To note the broader range of information covered by the re-use of Public Sector Information Directive and Regulations, Annex 1 sets out the interpretation of conditions associated with the licence for the purposes of this Circular.

Each Department and Office is required to bring this Circular to the attention of all bodies and sectors under its aegis and ensure appropriate steps are taken to implement it.

Is mise le meas,

Dr. Orlaigh Quinn
Assistant Secretary
Department of Public Expenditure and Reform
26 April 2016

Annex 1 – PSI Licence: Conditions of Re-Use of Public Sector Information

Users are encouraged to use the public sector information that is available under this standard licence which has only a few conditions. These conditions are consistent with the Creative Commons Attribution Licence (CC-BY 4.0 International) which has been adopted under the Open Data Initiative. Where a more restrictive licence is required (for example, where it is in the public interest), the appropriate licence should be clearly defined in the metadata and at the information source. More restrictive licences should also be based on open standard licences, such as <https://creativecommons.org/licenses/> to maximise interoperability across borders.

Using Information under this licence

- Use of any Information indicates the user's acceptance of the terms below.
- The Information Provider grants the user a worldwide, royalty-free, perpetual, non-exclusive licence to use the Information, including for commercial purposes, subject to the terms below.

Users may:

- Copy, modify, publish, translate, adapt, distribute or otherwise use the Information in any medium, mode or format for any lawful purpose.

Users must:

- Acknowledge the source of the Information by including any attribution statement specified by the Information Provider(s) and, where possible, provide a link to this licence.
- If the Information Provider does not provide a specific attribution statement, or if using Information from several Information providers and multiple attributions are not practical for the product or application, users must use the following attribution statement:

“Contains Irish Public Sector Information licensed under a Creative Commons Attribution 4.0 International (CC BY 4.0) licence”.

It is not necessary from a legal perspective for the attribution to refer to the specific public sector organisation providing the data.

The terms of this licence are important, and if users fail to comply with any of them, the rights granted under this licence, or any similar licence granted by the Information Provider, will end automatically.

Exemptions

This licence does not grant users any right to use:

- Personal Information, unless sufficiently anonymised and/or aggregated.;
- third party rights and other intellectual property rights that the Information Provider is not authorised to license including, but not limited to, patents, copyright, database rights or trademarks;
- the names, crests, logos, or other official symbols of the Information Provider.

Non-endorsement

This licence does not grant you any right to use the Information in a way that suggests any official status or that the Information Provider endorses any product or other use of the Information.

No Warranty

All data linked to the Open Data portal is published “as is”. The Information is licensed 'as is' and the Information Provider and/or Licensor excludes all representations, warranties, obligations and liabilities in relation to the Information to the maximum extent permitted by law.

The Information Provider and/or Licensor are not liable for any errors or omissions in the Information and shall not be liable for any loss, injury or damage of any kind caused by its use. The Information Provider does not guarantee the continued supply of the Information.

Governing Law

This Licence is made under the laws of Ireland and come under the exclusive jurisdiction of the courts of Ireland.

Glossary

Data and Information

Data and Information resources protected by copyright and offered for use under the terms of this licence. The scope of resources covered under Regulation 2 on *Interpretations* of the amended regulations.

Data Protection

Data protection legislation protects privacy rights of individuals in relation to the processing of their personal data.

When published openly, datasets must not identify individuals.

Anonymisation and Aggregation

Anonymisation and aggregation can be used to ensure that datasets relating to human subjects comply with relevant data protection legislation before publication.

Anonymisation involves the redaction of information from a dataset where individuals could previously have been identified. “Sufficiently anonymised” means irrevocable anonymisation of personal data which puts it outside data protection requirements as the data can no longer be linked to an individual and therefore cannot be considered to be personal data.

Aggregation involves the publication of a dataset in summary form to exclude personal information which would allow an individual to be identified.

Copyright

Copyright is an area of Intellectual Property law which covers original creative works including literary, dramatic, musical and artistic works, film, sound recordings, broadcasts and the typographical arrangement of published editions, computer software and non-original databases, and performances. Copyright exists from the moment the work is created, and does not require any registration of the work. In the case of a dataset, copyright may belong to an employer, a government department, a funder or another party, depending on the contract surrounding the creation of the data.

Licence

Licensing allows copyright owners to permit approved use and reuse of their work, without relinquishing copyright fully. Licensing can permit both commercial and non-commercial reuse of a work, depending on the terms of the licence, and licences may last in perpetuity or for a specified period. The application of a licence does not mean that a copyright statement should not be applied to a work, and many licences such as Creative Commons suggest that the copyright holder is credited. Open Data is usually associated with an Open Licence such as CC-BY (Creative Commons Attribution Only) or a Publication Domain Dedication such as CC0.