

NEW REGULATIONS ON PUBLIC SECTOR INFORMATION - ARE YOU PREPARED?

New regulations will be introduced in July 2005 on the re-use of public sector information. They will implement a European Directive on the Re-use of Public Sector Information that became European law at the end of 2003.

The main objective of the Regulations is to promote the re-use of information held by public sector organisations. They will, therefore, have an impact on most public sector organisations. It is important that as a public sector body you are aware of the requirements under the Regulations and that you have processes in place to meet your obligations. A public consultation was recently held and responses will be published on HMSO's website.

Why are the Regulations necessary?

The size of the European information industry has been estimated at €68 billion. However, by contrast, the United States information industry is approximately five times that size. The European Commission and other commentators attribute this to the fact that in the US Federal Government information is not subject to copyright, therefore most information, certainly at Federal Government level, can be re-used with virtually no restrictions. The European Commission judged, therefore that there is enormous scope for growth in this area, particularly in terms of developing pan-European products and services and this was the basis for the European Directive.

What issues need to be addressed?

The new Regulations will establish a framework for making re-use easier and more transparent. The main elements will be:

- Licence terms: Public sector bodies will have an obligation to publish licence terms whether in the form of a standard licence or a copyright notice on the material;
- Details of charges: where applicable these must be published and must be fair and consistent;
- Responses to be within set time limits: this will be 20 working days in line with Freedom of Information (FOI);
- Asset lists: an obligation to produce a list of material, both published and unpublished, which is available for re-use;
- Robust complaints procedures: Public sector bodies will be required to publish details of their complaints process. In addition, a dispute resolution process is being implemented.

Which UK Public Sector Bodies will be covered by the Regulations?

In the UK, the Regulations will cover most of the public sector. This includes:

- central government, including government trading funds and executive agencies;
- local government;
- the health service;
- Parliament.

There are, however, some notable exemptions. These are:

- public sector broadcasters, such as the BBC;
- educational establishments, including universities; and
- cultural organisations, such as museums and libraries.

Links with Freedom of Information

FOI is all about access to information. The Regulations go beyond access by dealing with the re-use of that information, for example, by publishing and making the information available to a wider audience. A key point to note is that any information that is exempt under FOI is not available for re-use.

Challenge for the UK

The policy responsibility for implementing the Directive is shared by Mike O'Brien, Minister of State for Energy and E-Commerce at the Department of Trade and Industry (DTI) and David Miliband, Minister for the Cabinet Office.

In the UK we are in the fortunate position of having introduced practical measures which have made the re-use of information easier. Much of this results from initiatives launched by Her Majesty's Stationery Office (HMSO), which is attached to the Cabinet Office. These initiatives are:

- the Click-Use Licence, which is an online licensing system;
- the Information Asset Register (IAR) which provides detailed information on what material is available for re-use.
- the Information Fair Trader Scheme (IFTS) which sets out a framework for the verification of public sector bodies' licensing and information trading activities;

HMSO's information policy role will be extended with responsibility for the public sector and not just central government. HMSO will also have a key role to play in the handling of disputes and complaints. Given this wider remit, HMSO will be renamed the Office of Public Sector Information (OPSI).

What happens next?

There is still work to be done to ensure that the public sector meets the requirements of the EU Directive, but OPSI is available to give practical advice on the changes. A series of seminars and workshops are being arranged in the run-up to publication of the regulations. Further information, including a Guide to Best Practice, is available at: www.hmsso.gov.uk