

FINLAND'S DATA FILES ACT AND DECREE PUBLISHED IN ENGLISH

Finland's Personal Data Files Act and Decree have only recently been available in English. This is the first "second generation" national law to be enacted, with a greater element of self-regulation than the earlier mass registration laws, for example, in France and Sweden. Since then we have reported on how the Data Protection Ombudsman has started her work (PL&B May '87 p.14, November '87 p.3 and February '88 p.3). Here we present an overview.

Chapter 1 General Provisions

Scope of the Act; Definitions; The care obligation of the controller of the file.

Chapter 2 Collecting and Recording Personal Data

Definition of the use of a personal data file; Recording personal data in a personal data file; Prohibition of recording of sensitive data; Exceptions to the prohibition of recording sensitive data; Registration of the sources of data.

Chapter 3 Inspection and Correction of Personal Data

Ensuring the validity of the data; Preparation of a statement giving the purpose and content of the file; The data subject's right of inspection; Limitations on the right of inspection; The right of inspection of personal credit data files; Fulfillment of the right of inspection; Rectification of an error.

Chapter 4 The Use and Transfer of Personal Data

Commitment to purpose; The reporting obligation of the recipient of transferred data; Transfer of data from a personal data file; Mass delivery of, and sensitive sampling from personal data; The combining of personal data files; The use of transferred data; Transborder transfer of data; The right to prohibit the use or transfer of data (for example, used for direct marketing and market research); Notification of the use of a personal data file in certain cases (for example, a file used for credit information and direct marketing); Registering the transfer of data.

Chapter 5 Protection, Transfer into Archives and Erasure of a Personal Data File

Protection of a personal data file; Erasure of a personal data file; Personal data files transferred into archives

Chapter 6 Supervision, Coercive Measures and Exceptional Permission

Data protection authorities; Notification obligation; Obligation of the controller of a file to provide data; Right of inspection of a data protection authority; general instructions; specific guidance (voluntary action, submit case to the Data Protection Board or report case for

prosecution); Establishment of obligations and prohibitions by the Data Protection Ombudsman and the Data Protection Board; Fines; Exceptional permission.

Chapter 7 Appeals

The right of appeal; Immediate implementation of a decision.

Chapter 8 Miscellaneous Provisions

The protection of data in postal shipments; secrecy obligation; obligation to pay damages; personal data file offences leading to fines or imprisonment; personal data file violations leading to a fine; unauthorized access to a personal data file leading to a fine or imprisonment; violation of the secrecy obligation in respect of personal data files; Right of the Data Protection Ombudsman to be heard before the court; The right to issue decrees.

Chapter 9 Provisions on Entry into Force and Transitory Provisions

The Personal Data Files Decree is arranged as follows:

Chapter 1 Collection and Registration of Personal Data

Research data files; Statistical data files; Opinion and market research; Files used in direct marketing and directory assistance; Credit data files.

Chapter 2 Inspection and Correction of Personal Data

Details required for the statement giving the purpose and content of a personal data file; Exceptions to the display of the statement describing a personal data file; Restrictions on the right of inspection; The right to inspect health care files; Certificate of the refusal to grant the right of inspection; Certificate of the presentation of a demand for rectification.

Chapter 3 Transfer of Personal Data and its Transfer into Archives

Transfer of personal data for direct marketing and directory assistance; Transborder transfer of personal data (to certain countries without permission); The transfer of personal data into archives.

Chapter 4 Supervision by the Data Protection Ombudsman

File notices to the Data Protection Ombudsman, for example, for data used for direct marketing, telephone selling, market research or other activity where the file contains data on persons who are not associated with the controller of the file; Notice of the transborder transfer of personal data, unless permission has been received from the Data Protection Board, or the consent of the data subjects has been given; Notices of activity for a party who uses, for example, credit data, debt collecting data, marketing research data, or carries out data processing tasks related to the selection of personnel and the assessment of their suitability; The need for a data subject's written consent for the recording, transfer, or linking of sensitive personal data, and the data subject's right to revoke his consent.