

DENMARK SIMPLIFIES APPROVAL FOR NEW PUBLIC SECTOR FILES

From September 1 this year, a less bureaucratic system for approving the establishment of public sector personal data files will come into operation. Professor Peter Blume, Director of the Institute of Legal Science at the University of Copenhagen, explains the details.

The Public Authorities Registers Act was amended by the legislature in late May and published as law no. 346 on June 6. As the government achieved a consensus in preparing the legislation by discussion with opposition parties and interested organizations, the bill passed smoothly through the legislature.

The main purpose of the new law is to make the control of public files less bureaucratic. With the rapid spread of personal computers in the public sector, the former approval system had become too time-consuming.

The main new rules are as follows:

Central and local government (chapt. 2A)

Files containing ordinary data and some files containing confidential data may now be established without a statutory instrument. But files established according to these new rules must still be reported to the Data Surveillance Authority (DSA) - the Data Protection Authority.

Local government (section 7.4)

Until now, a local authority wishing to join a system shared with other local authorities must have had that decision approved by a meeting of the local elected council. The new law permits the decision to be taken by the council's administration.

Central government (chapter 2A)

Until now, the establishment of a central government personal data file has required:

1. a decision by a minister
2. a special statutory instrument, and

3. approval by the DSA.

The new law still requires a decision by a Minister when a central government personal data file is established, even if the data is not confidential.

But the new law exempts from the requirement of a statutory instrument:

- central government ordinary personal data files
- files containing identity data, such as a Personal Identification Number, and data concerning payments to and from a public authority
- other specific files which the Minister of Justice may also exempt from the requirement for a statutory instrument after DSA approval.

Confidential and sensitive data

However, public sector personal data files which contain confidential or sensitive information will still need to pass the above establishment procedure, including a special statutory instrument.

As a result of the new law, The Public Authorities Registers Act now covers three types of data:

- 1 ordinary data
- 2 data which must be kept confidential by a civil servant eg. tax records
- 3 data of a sensitive nature, for example, health and criminal records

This categorization is not ideal for helping the public's understanding of the new law.

Medical Files (Sections 13 and 14)

The rules on access to medical files have now been changed. Until now, access was available only via a doctor. Now it will be available by the data subject directly and the individual will also be entitled to a printout from the file.

Professor Peter Blume is the editor of *Nordic Studies in Information Technology and Law*, published by Kluwer in its Computer/Law Series ISBN 90-6544-506-4