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COMMITTEE OF EXPERTS ON DATA PROTECTION (CJ-PD)



Information Document

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The Danish Public Authorities' Registers Act. (Consolidated)

This is a restatement of the Danish Public Authorities' Registers Act, No. 294, 8 June 1978, as amended by Act No. 383, 10 June 1987.

Part I.

Scope of the Act.

1.-(1) This Act shall apply to EDP registers that are operated on behalf of the public administration and contain personal data.

(2) By 'EDP registers' shall be understood registers or other systematized records for which electronic processing of data is used.

(3) For the purpose of this Act 'personal data' shall mean data that are referable to identifiable individuals even if such referral presupposes knowledge of personal number, registration number or any like means of specific identification.

(4) This Act shall not apply to EDP registers exclusively containing legal source material (legal information systems) forming part of the Central Government Legal Information System and which are accessible to the general public.

(5) Upon hearing the Data Surveillance Authority (hereinafter referred to as the DSA), the Minister for Justice may, when it is deemed unobjectionable, grant leave for other legal information systems to be exempt in whole or in part from the provisions of this Act. To protect the privacy of registered persons, the Minister for Justice may attach conditions to the grant of any such leave.

2. Upon consultation with the Minister for Justice, the minister concerned may by order provide that this Act shall apply in whole or in part to registers kept for specified companies, partnerships, institutions, associations, etc. that cannot be classified as part of the public administration, provided that the operating expenses of such entities are mainly covered by central or local government funds or in so far as by or pursuant to statutory provision they are empowered to make decisions on behalf of central or local governments. The minister concerned shall give directions for such registers in accordance with the rules of Sections 4 and 5 of this Act.

3.-**(1)** Upon hearing the DSA, the minister concerned may by order provide that this Act shall apply to other registers containing personal data and being kept for the authorities and companies etc. referred to in subsection (1) of Section 1 and in Section 2 of this Act.

(2) Upon hearing the DSA, the minister concerned may by order provide that the whole or part of this Act shall apply correspondingly to EDP registers being kept for the authorities and companies etc. referred to in subsection (1) of Section 1 and in Section 2 of this Act, and which contain data on business enterprises etc.

Part 2.

Establishing of Registers.

4.-**(1)** Registers to be kept for a central government authority shall be established only as approved by the minister concerned in consultation with the Minister for Finance.

(2) Prior to a register becoming operative, directions on the structure and operation of the register in question conforming with the provisions thereon in Parts 3 to 6 of this Act shall be given by the minister concerned or by any party authorised by the minister to give such directions.

(3) The provisions of subsections (1) and (2) hereof shall apply correspondingly to pooling of registers compiled for different purposes, except where such pooling is effected solely for extraction for statistical or scientific purposes.

5.-**(1)** Prior to approval or directions being given as referred to in Section 4 of this Act, the DSA shall be heard.

(2) Where a subordinate authority has been authorised to give directions as referred to in subsection (2) of Section 4 of this Act, and the DSA has not seen fit to accede to draft directions submitted, the matter shall be referred to the minister concerned, who shall make the final administrative decision.

6.-(1) Establishing of registers to be kept for a local government authority shall be subject to decision made at a meeting of the local council concerned, including the Metropolitan Council.

(2) Prior to a register becoming operative, directions on the structure and operation of the register in question conforming with the provisions laid down thereon in Parts 3 to 6 of this Act shall be given by the local council or by the local authority concerned.

(3) Prior to decision or directions being made or given as referred to in subsections (1) and (2) hereof, the DSA shall be heard. Where the DSA does not see fit to accede to a proposal submitted, the matter shall be referred to the Minister for Finance, who shall make the final administrative decision.

(4) The provisions of subsections (1) to (3) hereof shall apply correspondingly to pooling of registers compiled for different purposes, except where such pooling is effected solely for extraction for statistical or scientific purposes.

7.-(1) Participation in or link-up with a register or a system of registers designed to serve local authorities in more than one local district shall be subject to approval of the register or system of registers by the Minister for Finance and to directions on the structure and operation of the register or system of registers in question, conforming with the provisions thereon in Parts 3 to 6 of this Act, given by the Minister for Finance or by another minister as decided by the Minister for Finance.

(2) Prior to approval or directions being given as referred to in subsection (1) hereof, the DSA shall be heard.

(3) The provisions of subsections (1) and (2) hereof shall apply correspondingly to pooling of registers established for different purposes, except where such pooling is effected solely for extraction for statistical or scientific purposes.

(4) Participation in or link-up with a register or a system of registers as referred to in subsection (1) hereof by a local authority shall be subject to decision made at a meeting of the local council concerned. Any such decision by

a local council shall forthwith be reported to the DSA, stating any special terms and conditions governing such participation or link-up.

8.-(1) Directions as referred to in subsection (2) of Section 4, subsection (2) of Section 6, and subsection (1) of Section 7 of this Act, and any amendment thereto shall immediately upon issue be sent to the DSA.

(2) Any direction given in respect of a register or a system of registers shall be accessible to members of the general public on application at the offices of the authority or authorities responsible for the registers and of the DSA, except to the extent that secrecy shall be required for reasons of implementation of prescribed checking, control, and safeguarding measures or where other public interest is the overriding consideration.

(3) Upon hearing the DSA, the Minister for Justice may by order provide that specific types of registers shall be exempt from the provisions of subsections (2) and (3) of Section 4, cf. Section 5, subsections (2)-(4) of Section 6, and subsections (1)-(3) of Section 7 of this Act.

(4) Without prejudice to the provisions of subsection (2) of Section 4, subsection (2) of Section 6, and subsection (1) of Section 7 of this Act, the DSA may allow that issue of directions for a specific register be omitted when according to the nature of the register such issue is deemed to be unobjectionable.

Part 3.

Registration of Data and Safe Custody.

9.-(1) Only such data shall be registered as are clearly relevant to the purpose of the authority concerned. Other data relevant to the purposes of another authority may be registered provided the register is blocked in such manner that such other data can be used only by that other authority.

(2) Data on political matters not accessible to the general public shall not be registered. Other data of a purely private nature relating to individuals, including data on race, religious belief, colour of skin; on membership of organisations; on sexual or criminal matters; and on health, essential social problems, or excessive use of intoxicants and the like, shall not be registered, except where required for the purposes of the register in question.

(3) Registered data that because of their obsolescence or otherwise have lost their relevancy for the purposes of the register in question, shall be

expunged. Continually operated registers shall be adapted for up-dating of data as appropriate.

(4) Upon hearing the DSA, the Minister for Justice may allow copies of registers to be deposited for safe custody in archives subject to conditions specified by the Minister.

10. Directions applying to a register may lay down that a registered party shall be advised of his registration. Such notification shall advise the registered party of his right to obtain information from the register by virtue of the provisions of Sections 13 to 15 of this Act.

11. Appropriate checking and control shall be implemented to ensure that incorrect or misleading data are not registered. Data that prove to be incorrect or misleading shall be expunged or corrected as soon as possible.

12.-**(1)** Appropriate safeguards shall be implemented to ensure that no data be wrongfully used or brought to the notice of an unauthorised party.

(2) Such safeguards shall, where required, apply also to copies and transcripts (extracts) of the register, including such copies and transcripts (extracts) as have been passed on to other authorities.

(3) In the case of registers containing data of special interest to foreign powers, measures shall be taken to ensure that such registers can be removed or destroyed in the event of war or warlike circumstances.

Part 4.

A Registered Party's Right of Access to Data on Himself.

13.-**(1)** Upon application made by a registered party, the authority responsible for the register in question shall as soon as possible inform him of the data registered on himself.

(2) If a registered party on whom data as referred to in subsection (2) of Section 9 of this Act are registered, applies for transcripts (extracts) of such data, he shall at intervals fixed in the directions be sent such transcripts (extracts). However, this shall apply only if the registered data are not in other manner brought to his notice. In the case of hospital registers and other registers of patients or of ill-health or diseases, the provision of subsection (4) hereof

shall apply. Rules may be laid down on payment for transcripts (extracts) as referred to in clause 1 hereof.

(3) Directions applying to a register may lay down that the registered party shall, at specified intervals, be sent transcripts (extracts) of the data registered on him, or that the registered party shall be entitled to file application to that effect. Rules may be laid down on fees payable for such transcripts (extracts).

(4) In the event that a party registered in a hospital register or other register of patients or of ill-health or diseases, wants to be apprised of the data registered on him, he shall file application to that effect with his physician, who shall then as soon as possible apply to the authority responsible for the register in question. That authority shall as soon as possible advise the physician of the data registered on the patient, so that the physician can pass on the data to him.

(5) The provisions of subsections (1) and (2) hereof shall not apply if it is found that the registered party's interest in knowing the data in question ought to be overridden by public or private interests, including the interests of the registered party himself. Where such considerations apply to only part of the data in question, the registered party shall be apprised of the rest of the data.

(6) The provisions of subsections (1)-(4) hereof shall not apply to registers that are compiled solely for extraction for statistical purposes. In the case of other registers, provision for exemption from the freedom of access to data by virtue of subsections (1) and (2) hereof may be laid down if the provision of subsection (5) hereof may be assumed to result in applications as above referred to being generally rejected.

(7) Where a registered party has been apprised of data by virtue of the provisions of subsections (1), (3) and (4) hereof, he shall not be entitled to apply again for a period of twelve months from the most recent date of information received, except where he can prove any special interest in such application.

14.-(1) Information given pursuant to subsection (1), cf. subsection (5), of Section 13 of this Act, shall on demand be given in writing, always provided that where appropriate, because of considerations for the party, it may be given in the form of oral information on the contents of the data.

(2) Information on data as provided for in subsection (4) of Section 13, shall always be given the registered party by the physician concerned and may be given in the form of oral information. The provision of subsection (5) of Section 13 of this Act shall apply correspondingly.

15. Any dispute arising as to the right to obtain information by virtue of subsections (1), (2), (4), (5), and (7) of Section 13, Section 14, and under directions laid down pursuant to subsections (2), (3), and (6) of Section 13 of this Act, may be submitted to the DSA. DSA decisions in this respect cannot be referred to other administration authority for review.

Part 5.

Passing-on of Data

to Private Individuals, Business Enterprises, Etc.

16.-(1) Data as listed in subsection (2) of Section 9 of this Act when referable to identifiable persons shall not be passed on to private individuals or business enterprises etc.

(2) However, passing-on of data as referred to in subsection (1) hereof shall be allowed if

- 1^o the party concerned has consented thereto;
- 2^o passing-on is prescribed by statute or provision laid down pursuant to statute;
- 3^o passing-on is effected to safeguard private or public interests clearly overriding the interests giving cause for secrecy, including the interests of the party to whom the data relate;
- 4^o passing-on is required for the performance by an individual or an enterprise of any public assignment; or
- 5^o passing-on is required for carrying out of scientific or statistical investigation of paramount importance to society at large.

(3) Consent, as referred to in head 1^o of subsection (2) hereof, shall be communicated in writing and shall contain information on

- 1^o what types of data may be passed on;
- 2^o whom the data may be passed on to; and
- 3^o how the data may be used by the stated recipient.

(4) Any consent given shall lapse at the latest on the expiry of a period of twelve months.

(5) Identification data and data on diagnoses etc. in hospital registers and other registers of patients or of ill-health or diseases may be passed on to physicians for use in specific research projects. Follow-up inquiries with the registered patients shall be made only to the extent that permission is given by the physicians who have treated the patients concerned.

(6) In addition, data for use in research or planning may be passed on from registers as referred to in subsection (5) hereof, subject to approval given by the National Health Service of Denmark and to specified terms and conditions.

(7) Data that have been passed on for use in statistics or research shall not be passed on by the recipients.

17.-(1) Registered data other than those referred to in subsection (2) of Section 9 of this Act shall not be passed on to private individuals or enterprises etc.

(2) The data referred to in subsection (1) hereof may, however, be passed on to the extent laid down in Section 16 of this Act, or where the data are already available to the general public.

(3) For use in any specific legal matter, isolated data as referred to in subsection (1) hereof may be passed on to private individuals or enterprises etc. who can prove that their legal interest in obtaining the data in question clearly overrides the considerations of secrecy otherwise applicable to such data, always provided that data that are subject to specific statutory rules on secrecy shall not be passed on.

(4) Data as referred to in subsection (1) hereof may be passed on for use in research.

(5) In addition, data as referred to in subsection (1) hereof may be passed on to private individuals or enterprises etc. in special cases, subject to prior consent given by the DSA when such passing-on because of the nature of the data, their number, and the purpose of the passing-on is deemed to be unobjectionable. The DSA may specify more detailed terms and conditions. DSA decisions in this respect cannot be referred to other administration authority for review.

18. From registers compiled solely with a view to extraction for statistical purposes or as part of a scientific investigation, data referable to identifiable individuals shall not be passed on without special authority, always provided that upon application made in each particular instance, the DSA may, subject to specific terms and conditions, allow such data to be passed on to private registers compiled solely for statistical or scientific purposes. DSA decisions in this respect cannot be referred to other administration authority for review.

19. The authority responsible for a register may lay down terms and conditions for the passing-on of data as provided in this present Part 5 of this Act,

including terms to the effect that the data shall be used for specific purposes only. Such passing-on for the purpose of pooling with registers not falling within the provisions of the Danish Private Registers etc. Act shall be allowed only after prior consultation with the DSA.

20. The minister concerned may lay down rules on fees payable for handing-over of data.

Part 6.

Passing-on of Data to Public Authorities.

21.-(1) Registered data as referred to in subsection (2) of Section 9 of this Act shall not be passed on to other public authority.

(2) However, passing-on of data as referred to in subsection (1) hereof shall be allowed if

- 1^o the party concerned has consented thereto;
- 2^o passing-on is prescribed by statute or provision laid down pursuant to statute;
- 3^o passing-on is effected to safeguard private or public interests clearly overriding the interests giving cause for secrecy, including the interests of the party to whom the data relate;
- 4^o passing-on is required for the performance of the activity of an authority or necessary for a decision to be made by the authority; or
- 5^o passing-on is required for carrying out of scientific or statistical investigation of paramount importance to society at large.

(3) Apart from the instances referred to in subsection (2) hereof, other registered data may be passed on to a public authority only where the data are already available to the general public or where the data must be deemed to be of material importance for the activity of the authority or for a decision to be made by the authority, cf. however clause 2 of subsection (1) of Section 9 of this Act.

(4) Consent under the provision of head 1^o of subsection (2) hereof shall meet the requirements of subsection (3) of Section 16 of this Act. Any consent given shall lapse at the latest on the expiry of a period of twelve months.

(5) From registers compiled solely with a view to extraction for statistical purposes or as part of a scientific investigation, data referable to identifiable individuals shall not be passed on without special authority, always provided that

upon application made in each particular instance, the DSA may allow such data to be passed on to registers compiled solely for statistical or scientific purposes. DSA decisions in this respect cannot be referred to other administration authority for review.

Part 7.

Surveillance of Registers.

22.-(1) The Data Surveillance Authority (in this Act referred to as the DSA), consisting of a Council and a Secretariat, shall exercise surveillance over any register to which this Act applies. The DSA shall further exercise the functions assigned to it by the provisions of the Private Registers' (etc.) Act.

(2) The DSA shall of its own motion or upon complaint made by a registered party, ensure that any register as referred to in subsection (1) hereof has been established and is operated in conformity with the provisions of this Act and of the directions given pursuant to this Act.

23. The DSA Council, which shall be established by the Minister for Justice, shall consist of a chairman who shall have the qualifications required for appointment as judge, and of six other members. Members and alternates for these shall be appointed to hold office for periods of four years at a time.

24. The day-to-day activity of the DSA shall be attended to by the Secretariat, which shall be headed by a manager.

25. The Minister for Justice shall lay down rules of procedure for the DSA Council and detailed rules on distribution of work between the DSA Council and Secretariat.

26.-(1) The authority or authorities responsible for any register falling under this Act and the keeper of any such register shall upon demand furnish the DSA with all particulars of importance to the DSA.

(2) Members and staff of the DSA shall at all times against production of proper identification papers and without Court warrant be admitted to any and all premises from which the register in question is administered or can be used and to premises where the register in question or the technical facilities for its use are installed, stored, or used.

(3) The DSA shall report to the authority or authorities responsible for any register falling under this Act and to the minister concerned on any contravention of this Act or of the directions given, and generally on any defect found. The DSA shall be informed of any measure taken by the authority concerned as a consequence of the report made by the DSA.

27. The DSA shall be entitled at all times to submit to the authority by whom directions have been given, proposals for amendments to existing directions. The provisions of subsection (2) of Section 5, and clause 2 of subsection (3) of Section 6 of this Act shall apply correspondingly.

28.-(1) The DSA shall submit an annual report on its activities to the Folketing. The report shall be publicized.

(2) The DSA shall further be entitled to publicize any opinion given by the DSA under the provisions of subsection (5) of Section 1, subsection (1) of Section 5, subsection (3) of Section 6, subsection (2) of Section 7, subsection (3) of Section 8, and Section 19; any report made by virtue of subsection (3) of Section 26; and any proposal submitted by virtue of Section 27 of this Act. The provision of clause 2 of subsection (2) of Section 8 of this Act shall apply correspondingly.

Part 8.

Offence and Penalty Provisions.

29.-(1) Where other enactment does not prescribe more severe punishment, any person who commits an offence as stated in the list set out below shall be liable on conviction to a fine or detention:-

- 1^o disregard of conditions stipulated in any consent given pursuant to s.16-(2)(1^o);
- 2^o infringement of s.16-(5)(clause 2) or s.16-(7);
- 3^o disregard of conditions stipulated by virtue of s.16-(6), s.17-(5), s.18, and s.19.

(2) Any direction given by virtue of Part 2 of this Act may provide that infringement of any provision of such direction shall be punishable by a fine.

(3) Where an offence is committed by a limited liability company, a co-operative society or the like, liability to a fine may be imposed on the company etc. as such.

Part 9.

Commencement and Transitional Provisions etc.

30.-(1) This Act shall come into operation on 1 January 1979.

(2) In the case of any register or system of registers the operation of which dates from before the commencement of this Act, the provisions of this Act shall not apply until twelve months after the commencement of this Act. At the latest six months after the commencement of this Act, draft directions on the structure and operation of any register as hereinbefore referred to, conforming with the provisions of Parts 3 to 6 of this Act, shall be submitted to the DSA. The provisions of subsection (2) of Section 5, and of clause 2 of subsection (3) of Section 6 of this Act shall apply correspondingly. The Minister for Justice may extend the above time-limits for specified registers.

(3) In the case of any register which is operative or in process of being compiled at the commencement of this Act and from which it is not possible without substantial alteration to technical systems to provide transcripts (extracts) of registered data, the provisions of subsections (1) and (3) of Section 13 of this Act shall not have effect until three years after the commencement of this Act.

31. This Act shall not apply to registers kept for the police or defence intelligence agencies.

32. This Act shall not apply to registers kept for the Faeroese Home Rule Authorities or for the National Government Authorities in the Faeroe Islands. This Act may by Royal Decree be made to apply to National Government Authorities' registers in the Faeroe Islands, subject to such variations as circumstances peculiar to the Faeroe Islands may require.

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Sections 3 and 4 of Act No. 383, 10 June 1987 (amending the Public Authorities' Registers Act, 1978) provide as follows:-

3.-(1) This Act shall come into operation on 1 April 1988. However, the provision of head 5^o of Section 2 of this Act (cf. subsection (2) of Section 13 of the

consolidated Act, on transcripts) shall have effect only as and when the Minister for Justice shall have so decided.

(2)

(3) In the case of public authorities' registers operative before the commencement of this Act, amendments to ensure that the directions comply with the provisions of Section 2 of this Act shall be made at the latest twelve months after the commencement of this Act. The Minister for Justice may extend the time-limit in respect of specified registers.

4.-(1)

(2) Section 2 of this Act shall not apply to registers kept for Home Rule Authorities or for National Government Authorities in the Faeroe Islands and Greenland. Section 2 of this Act may by Royal Decree be made to apply to registers kept for National Government Authorities in the Faeroe Islands and Greenland, subject to such variations as circumstances peculiar to the Faeroe Islands and Greenland may require.

Ministry of Justice, 2 October 1987

ERIK NINN-HANSEN

/ Asbjørn Jensen