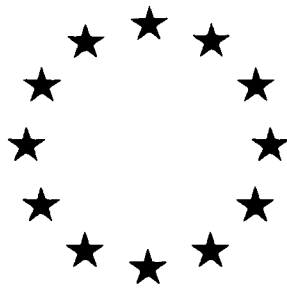




COE213067



COUNCIL
OF EUROPE

CONSEIL
DE L'EUROPE

Strasbourg 27 January 1989

CJ-PD (89) 4

COMMITTEE OF EXPERTS ON DATA PROTECTION

(CJ-PD)

DATA PROTECTION ACT

1988

NETHERLANDS

Information Document

Act of 28th December 1988, providing rules for the protection of privacy in connection with personal data files (Data Protection Act) (Bulletin of Acts, Orders and Decrees 1988, 665)

We, Beatrix, by the Grace of God Queen of the Netherlands,
Princess of Orange-Nassau, etc. etc. etc.

Greetings to all who shall see or hear these presents! Be it known:
Whereas we have considered that for the protection of privacy in connection with personal data files effect should be given to Article 10, paragraphs 2 and 3, of the Constitution;
We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

PART. 1. INTRODUCTORY PROVISIONS

Section 1

For the purposes of this Act and the provisions based upon it:

personal data means any information relating to an identified or identifiable individual;

personal data file means any organized collection of personal data relating to different persons which is operated by automated means or is systematically disposed in such a way as to facilitate access to the data therein contained;

controller means the party with control over a personal data file;

processor means the party operating all or part of the hardware used for holding a personal data file of which that party is not the controller;

issue of data from a personal data file means the disclosure or making available of personal data where such data are wholly or mainly derived from data included in that personal data file or obtained by processing such data either by itself or in conjunction with other data;

issue of data to a third party means the issue of data from a personal data file to a person or institution outside the organization of the controller, except where such issue is to the processor or to the data subject;

code of conduct means a set of rules or recommendations regarding personal data files adopted by one or more organizations, which are representative of the sector which they cover, in the interest of the protection of privacy;

Our Minister means Our Minister of Justice;

Registration Chamber means the Registration Chamber established under section 37.

Section 2

1. This Act shall not apply to:

- a. personal data files which are by their nature intended for personal or domestic use;
- b. personal data files which are solely intended for use in public supply of information by the press, radio or television;
- c. books and other written publications and catalogues thereof;
- d. personal data files held in an archive within the meaning of the Archives Act 1962 (Bulletin of Acts, Orders and Decrees 313).

2. This Act shall not apply to public registers established by an Act of Parliament.

3. This Act shall not apply to:

- a. personal data files held by or on behalf of the intelligence and security services to which the Intelligence and Security Services Act refers;
- b. personal data files maintained for the purpose of the execution of the functions of the police as described in section 28 of the Police Act (Bulletin of Acts, Orders and Decrees 1957, 244).

Section 3

1. Recommendations for General Administrative Orders under this Act shall be made by Our Minister. Where an Order also concerns another of Our Ministers the recommendation shall be made jointly by Our Minister and that other minister.

2. The Registration Chamber shall be consulted regarding the draft text of an Order.

PART 2. GENERAL PROVISIONS

Section 4

1. A personal data file shall be set up for a specific purpose which can reasonably be deemed to be relevant to the interests of the controller.
2. The purpose of a personal data file may not be in conflict with the law, the maintenance of public order or morality.

Section 5

1. A personal data file shall contain only such personal data as have been obtained legitimately and are in accordance with the purpose for which the file has been set up.
2. The controller shall take such steps as are necessary to ensure the accuracy and completeness of the personal data included.

Section 6

1. The personal data included in a file shall be used only for such objectives as are compatible with the purpose of the file.
2. Within the organization of the controller data from a personal data file may be issued only to persons entitled to receive such data in the course of their work.

Section 7

1. Within one year of this section entering into force rules shall be laid down by General Administrative Order concerning the inclusion in a personal data file of information on any individual's religious beliefs or philosophy of life, race, political persuasion, sexuality or intimate private life and of personal information of a medical, psychological, criminal or disciplinary nature.
2. The rules to which subsection 1 above refers may differ from one type of file to another.

3. Within three years of the General Administrative Order to which subsection 1 above refers entering into force a Bill regulating the matter to which that subsection refers shall be submitted to the States General. The Registration Chamber shall be consulted regarding the text of that Bill.

4. Before making its recommendations regarding a General Administrative Order or Bill as mentioned in this section the Registration Chamber shall give all persons the opportunity of submitting objections or comments in writing.

Section 8

A controller shall take the necessary technical and organizational measures to render secure any data file over which he has control against loss of or interference with the data contained therein and against unauthorized access to or amendment or issue of such data. This same obligation shall rest upon a processor in respect of the hardware or that section thereof which he operates.

Section 9

1. The following subsections shall apply, without prejudice to other statutory rights, where any person suffers damage as a result of actions incompatible with the requirements of or pursuant to this Act for the protection of the interests of data subjects and prospective data subjects.

2. Where the damage suffered does not constitute a material loss the aggrieved party shall be entitled to fair compensation.

3. The controller of a personal data file shall be liable for any loss or damage resulting from failure to comply with the requirements to which subsection 1 above refers in relation to that file. The processor shall be liable for any loss or damage resulting from his actions.

Section 10

1. Where any person suffers or is in danger of suffering damage through acts of the controller or processor of a personal

data file which are incompatible with the requirements of or pursuant to this Act the Court may, on application from such a person, prohibit such acts on the part of the controller or processor and order the controller or processor to repair the consequences of such acts.

2. An application as mentioned in subsection 1 above may also be made by a legal person with full legal powers whose purpose and activity comprise the protection of the interests of persons who suffer or are in danger of suffering damage through acts of the controller or processor of a data file.

PART 3. ISSUE OF DATA TO A THIRD PARTY

Section 11

1. Data from a personal data file shall be issued to a third party only if such issue follows from the purpose of the file, under a statutory requirement or with the consent of the data subject.

2. Data may be issued to a third party, on request, for research or statistical purposes or on the grounds of urgent and important considerations, where this does not have a disproportionate adverse effect on the privacy of the data subjects.

3. The issue of data under subsections 1 and 2 above shall not take place where confidentiality is a requirement of office or profession or is a statutory requirement.

4. Where the data subject is a minor under the age of sixteen or has been placed under guardianship, the consent of the data subject shall be replaced by the consent of his legal representative.

Section 12

1. Where the consent of the data subject or of his legal representative is required for the issue of data from a personal data file such consent may be given only in writing.

2. Such consent may relate only to a single case or to a limited category of cases and must be precisely defined in the document in which it is contained.

3. Such consent may be withdrawn in writing at any time.

Section 13

1. This section shall apply to personal data files held wholly or partly for the purpose of this activity by a natural or legal person who gathers and issues personal data to third parties, on a commercial basis, other than with the consent of the data subjects or, in the cases mentioned in section 11 (4), of their legal representatives.
2. Personal data files as mentioned in subsection 1 above shall include only personal data which have been checked and found to be accurate.
3. Data from a personal data file as mentioned in subsection 1 above shall be issued to a third party only at his request. Such a request shall specify the purpose for which the data requested are to be used.
4. Such issue shall not take place if:
 - a. the purpose for which it is requested is in conflict with the law, the maintenance of public order or morality;
 - b. the issue of data is not reasonably consonant with that purpose;
 - c. it would have a disproportionate adverse effect on the privacy of the data subject.
5. The controller of a personal data file as mentioned in subsection 1 above shall keep a record of each issue of data to a third party for at least one year after the issue has taken place unless he has reasonable grounds for assuming that this does not serve the interest of the data subject.

Section 14

1. Personal information consisting only of names, addresses, post codes and other such information needed for communication purposes may be issued to third parties from personal data files other than those to which section 13 (1) refers in circumstances other than those to which section 11 (1,2) refers. Sections 11 (3) and 13 (3,4) shall then apply mutatis mutandis.
2. The controller shall refrain from issuing such data at the request of the data subject or, in the cases mentioned in section 11 (4), of his legal representative.

PART 4. CODES OF CONDUCT AND SPECIAL REQUIREMENTS

Section 15

1. Any organization or organizations, having adopted a code of conduct, may apply to the Registration Chamber for a declaration that in the Chamber's judgement the code concerned conforms with the provisions of or pursuant to this Act and meets reasonable requirements for the protection of the privacy of data subjects.
2. The Chamber shall consider such an application only if in its judgement the applicant or applicants are representative of the sector concerned, that sector is precisely defined in the code and the code has been drawn up with due care and notably in adequate consultation with organizations of interested parties.
3. Before reaching a decision on an application which it has seen fit to consider the Chamber shall give all persons the opportunity of submitting objections or comments in writing.
4. The Chamber shall publish the declaration and the code of conduct to which it relates in the Netherlands Government Gazette.
5. A declaration as mentioned in subsection 1 above shall remain in force for the period for which the code of conduct to which it relates is intended to remain in force, subject to a maximum of five years after the issue of the declaration.
6. Such a declaration shall not be binding on the Courts.
7. When the Chamber makes known its decision on an application it shall give its reasons for reaching that decision. There shall be no procedure under administrative law for appealing against such a decision.

Section 16

1. Three years after section 15 above has entered into force more detailed regulations in respect of a particular sector may be made by General Administrative Order governing the matters regulated by sections 4 to 6, 8 and 11 to 14.
2. In its annual reports the Registration Chamber shall indicate to what extent it considers the implementation of subsection 1 above to be desirable.

3. Before making any recommendation regarding the text of a General Administrative Order as mentioned in subsection 1 above the Chamber shall give all persons the opportunity of submitting objections or comments in writing.

PART 5. PERSONAL DATA FILES IN THE AREAS OF GOVERNMENT, EDUCATION, HEALTH CARE AND THE SOCIAL SERVICES

Section 17

This part shall apply to personal data files held by:

- a. central government, provincial and municipal authorities and other public bodies, including the services, institutions and enterprises for which they are responsible;
- b. institutions, designated by General Administrative Order, which are charged with the implementation of functions under public law;
- c. institutions and organizations, designated by General Administrative Order, in the fields of education, health care and social services.

Section 18

1. A personal data file as mentioned in section 17 above shall be established only where this is essential for the effective execution of the functions of the controller.
2. Such personal data files shall contain only such personal data as are required by the purpose of the file.
3. Data from such files may be issued, on request, to persons or bodies with a function under public law where such persons or bodies require that data for the execution of their function and this does not have a disproportionate adverse effect on the privacy of the data subjects. Section 11 (3) shall apply mutatis mutandis.

Section 19

1. Every personal data file as mentioned in section 17 shall be subject to regulations as defined in section 20.
2. The regulations and any amendment or withdrawal thereof

shall be made public and shall be available for inspection by any person in accordance with provisions to be laid down by General Administrative Order.

3. The controller of the personal data file to which the regulations relate shall inform the Registration Chamber in writing of the nature of the file and of the fact that the regulations are available for inspection, giving his name and address.

4. The controller shall inform the Registration Chamber within four weeks of any change in his name or address.

Section 20

1. The regulations to which each personal data file as mentioned in section 17 is subject shall include a description of the way in which the data file operates.

2. The document shall in any event clearly indicate:

- a. the purpose of the data file;
- b. the categories of persons concerning whom information is included in the data file;
- c. the types of information which are included in the data file and the way in which they are obtained;
- d. the circumstances in which personal data are removed from the data file;
- e. the categories of persons or bodies to whom or to which data from the data file may be issued;
- f. the types of data which may be issued to the persons or bodies mentioned under e. above;
- g. the methods of direct access to the data file;
- h. any associations between the data file and any other collection of data;
- i. the manner in which data subjects or their legal representatives may obtain information on and, where appropriate, secure the correction of data concerning them;
- j. the manner in which data subjects or their legal representatives may obtain notification of the issue of data concerning them;
- k. the principal features of the management of the file.

Section 21

The controller, the processor and all others involved in the operation of a personal data file shall comply with the provisions of the regulations made public in accordance with section 19 (2).

Section 22

1. A General Administrative Order may be made containing provisions to the effect that section 19 shall not apply to personal files specified therein which meet requirements laid down therein.
2. Provisions as mentioned in subsection 1 above shall in any event be made in respect of:
 - a. accounting and financial management systems;
 - b. staffing and payroll systems;
 - c. other records systems than those mentioned under a. and b. above which form part of the internal management of organizations;
 - d. subscription records;
 - e. records of members and supporters;
 - f. other personal data files containing no information other than names, addresses, post codes and other such information needed for communication purposes.

PART 6. PERSONAL DATA FILES IN THE AREA OF INDUSTRY AND THE PROFESSIONS AND IN OTHER AREAS

Section 23

This Part shall apply to personal data files not covered by section 17.

Section 24

1. Every personal data file to which this Part applies shall be registered with the Registration Chamber.
2. Such registration shall take place through the submission of the relevant form, the requirements for which shall be laid down by Our Minister.
3. The information to be supplied on the form shall be determined by General Administrative Order and may relate only to such matters as are mentioned in section 20 (2). The name and address of

the controller of the file shall also be given on the form.

4. Notice of the registration shall be made public and a copy of the form shall be available for inspection by any person in accordance with regulations to be laid down by General Administrative Order.

Section 25

1. The controller of a registered personal data file shall inform the Registration Chamber in writing and within four weeks of any change in his name or address.

2. Section 24 shall apply mutatis mutandis where the other information supplied is amended or supplemented or the data file is terminated, except that only the change or supplementation or termination need be notified.

Section 26

The controller, the processor and all others involved in the operation of a personal data file shall act in relation to that file in accordance with the information supplied at the time of registration.

Section 27

A General Administrative Order may be made containing provisions to the effect that sections 24 and 25 shall not apply to personal data files specified therein which meet requirements laid down therein. Section 22 (2) shall apply mutatis mutandis.

PART 7. RIGHTS OF INFORMATION AND CORRECTION

Section 28

1. The controller of a personal data file shall notify every person on whom personal data have been recorded in that file for the first time, within one month, that this has been done. Such notification shall be given in writing and shall include the purpose of the file and the name and address of the controller.

2. The requirement to which subsection 1 above refers shall not apply:
a. if the data subject concerned is aware or can reasonably

- b. if it is clearly in the interests of the data subject that no such written notification be given;
- c. where this is necessitated in the interests as mentioned in section 30.

Section 29

1. The controller of a personal data file shall, on request from any person and within one month of receiving the request, inform that person in writing whether personal data concerning him are contained in the file.
2. Where such data are contained in the file the controller shall, within one month of receiving the request, supply the data subject with a full statement thereof, with information on their source, should the data subject request this.
3. Where this is clearly in the interests of the person concerned the controller shall comply with a request as mentioned in this section not in writing but in another manner appropriate to those interests.
4. The controller shall take adequate steps to verify the identity of any person making a request as mentioned in this section.
5. Where the person concerned is a minor under the age of sixteen or has been placed under guardianship, the requests as mentioned in subsections 1 and 2 above shall be made by his legal representative. The information to which these subsections refer shall likewise be given to the legal representative.

Section 30

The controller of a personal data file may refuse to comply with a request as mentioned in section 29 where this is necessitated in the interests of:

- a. the security of the state;
- b. the investigation of criminal offences and the prosecution of offenders;
- c. the economic and financial interests of the state and other public bodies;
- d. inspection, monitoring, or supervision by or on behalf of

government bodies or other bodies with functions under public law; e. vital interests of persons other than the applicant, including the controller.

Section 31

1. Any person receiving information under section 29 on personal data held concerning him may apply in writing to the controller of the data file requesting their correction, supplementation or removal where such data are factually incorrect, are incomplete or irrelevant in terms of the purpose of the file or are held in contravention of a statutory provision. Such a request shall specify the changes to be made.
2. Within two months of receiving such a request the controller shall notify the applicant in writing whether or in what respects he has complied or will comply with it. Section 29 (3, 4 and 5) shall apply mutatis mutandis. Where the controller refuses to comply he shall give the reasons for his refusal.
3. The controller shall ensure that a decision to correct, supplement or remove data is implemented without delay.

Section 32

1. The controller of a personal data file shall, on request from any data subject and within one month of receiving the request, inform that person in writing whether data concerning him have been issued to any third party in the year preceding the request.
2. Where data have been issued the controller shall inform the data subject accordingly, in writing, within one month of receiving the request. The controller may supply a notification couched in general terms concerning the nature of the data issued and the person or persons to whom they were issued, where no detailed record has been made and he could reasonably assume that the interests of the data subject would not thereby suffer a disproportionate adverse effect.
3. Sections 29 (3, 4 and 5) and 30 shall apply mutatis mutandis.

Section 33

In the case of personal data files maintained solely for research or statistical purposes:

- a. sections 28 to 31 shall not apply where the results obtained through the use of the data cannot be related to individual natural persons;
- b. section 32 shall not apply to the issue of data to a third party collecting them solely for research or statistical purposes, providing the results obtained through their use cannot be related to individual natural persons.

Section 34

1. Where the controller of a personal data file fails to comply, or does not comply in writing, with a request as mentioned in section 29, 31 or 32, the data subject concerned shall have the right to apply to the district court, in writing, for an order requiring the controller to comply, or to comply in writing, with that request. A data subject considering that his interests have been adversely affected by a notification as mentioned in the second sentence of section 32 (2) shall have the same right.
2. An application as mentioned in subsection 1 above must be made within two months of receipt of the reply of the controller. Where the controller fails to reply within the set period, the application must be submitted within two months of the end of that period.
3. The data subject may also, within the period specified in subsection 2 above, apply to the Registration Chamber requesting its mediation or advice in his dispute with the controller. In such a case an application as mentioned in subsection 1 above may be made up to two months after the data subject has been informed by the Registration Chamber that it does not intend taking further action on the matter.
4. The court may obtain the advice of the Registration Chamber concerning any application made to it under subsection 1 above.
5. The court shall grant the application if it finds it well grounded.
6. Title 12 of the First Book of the Code of Civil Procedure, with the exception of article 429d, paragraph 3, shall come into effect as regards such proceedings as are mentioned in subsections 1 to 5 above simultaneously with this section.

Article 345 of the Code of Civil Procedure shall not apply.
7. Part 3 of Title 5 of the Second Book of the Code of Civil Procedure shall apply mutatis mutandis.
8. The registrar shall forward a copy of the court's judgement to the Registration Chamber.

Section 35

1. Any controller complying with a request under section 31 or who is ordered by the court under section 34 (5) to comply with such a request shall notify any person to whom he has, to his knowledge, issued the data in question during the year preceding the request or since the request was made of the correction, supplementation or removal of that data.
2. The controller shall inform the data subject concerned of the persons whom he has notified in this way.
3. This section shall not apply if the data subject has indicated that he does not require such notification to be made.

Section 36

The controller of a personal data file may require reimbursement of costs incurred in supplying information as mentioned in sections 29 and 31, the fee not exceeding an amount to be determined by or in pursuance of General Administrative Order. Such reimbursement shall be returned in the case of the refusal of a request as mentioned in those sections or where, at the request of the data subject or having been ordered to do so by the court, the controller undertakes the correction, supplementation or removal of data.

PART 8. THE REGISTRATION CHAMBER

Section 37

1. There shall be established a Registration Chamber.
2. The Chamber shall exercise supervision of the operation of personal data files in accordance with this Act and provisions made in pursuance thereof and for the purpose of the protection of privacy in general.

3. The Chamber shall advise Our Minister and, in appropriate cases, Our Minister and Our other ministers also concerned, jointly, both on request and on its own initiative, regarding the implementation of this Act and other associated subjects.
4. The Chamber shall fulfil such other functions as may be entrusted to it by law.
5. The Chamber shall each year submit to Our Minister a public report on its work and findings.

Section 38

1. The Chamber shall have a chairman, two other members and a number, to be determined by Royal Decree on the recommendation of Our Minister, of substitute members and special members.
2. The chairman shall be appointed by Royal Decree, on the recommendation of Our Minister, for a period of six years; his appointment may be renewed. The remaining members and the substitute and special members shall be appointed by Royal Decree, on the recommendation of Our Minister, for periods of four years; their appointment may be renewed only once.
3. In the appointment of the special members every effort shall be made to ensure that the various sectors of society are represented.

Section 39

1. The appointment of members, substitute members and special members shall be terminated by Royal Decree, on the recommendation of Our Minister, as of the first day of the month following that in which they reach the age of sixty-five.
2. Section 11 (with the exception of the provisions in d, 3^o), sections 12 to 13, section 13a (with the exception of subsection 5), sections 13b, 14a, 14b, 14c, 14d (1,2) and 14e of the Judiciary (Organization) Act (Bulletin of Acts, Orders and Decrees 1972, 463) shall apply mutatis mutandis.
3. When section 14d (2) of the Judiciary (Organization) Act is applied the Supreme Court shall give the chairman of the Chamber the opportunity of furnishing information, orally or in writing, concerning a complaint brought before it and to make known his views on the matter.

Section 40

1. The chairman shall receive a salary, the other members payment for the work they carry out and the substitute and special members an attendance allowance, in accordance with regulations to be laid down by General Administrative Order. Section 3 (2) shall not apply in this connection.
2. They shall also receive reimbursement of travelling and subsistence expenses in accordance with the regulations applying to civil servants classed in the highest category for this purpose.
3. The chairman may not without the consent of Our Minister perform any other duties for which remuneration is paid.

Section 41

The Chamber shall be serviced by a secretariat. The appointment, suspension and dismissal of the staff of the secretariat shall be the responsibility of Our Minister, on the recommendation of the chairman.

Section 42

1. The chairman shall direct the work of the Chamber and of its secretariat.
2. A first and a second deputy chairman shall be appointed from among the members of the Chamber by Royal Decree on the recommendation of Our Minister.

Section 43

1. The Chamber shall have a Central Division comprising the chairman and the two other members. Each member may be replaced by a substitute member.
2. The Central Division may establish multi-member and single member divisions for the performance of duties defined by the Central Division.
3. A multi-member division shall have a member or substitute member of the Chamber as its chairman and two special members of the Chamber as its members. A single member division shall consist of one member or substitute member of the Chamber.
4. The Central Division shall appoint the members of the other

divisions. It may appoint another member or substitute member of the Chamber to replace a member or substitute member of the Chamber in a division and another special member to replace a special member in a division.

Section 44

The Central Division shall be responsible for the advisory reports to which section 37 (3) refers and for the annual report. It shall also deal with any matters which it has not assigned to other divisions.

Section 45

1. The Chamber shall be furnished at its request with data from any personal data file.
2. The controller of a personal data file and any persons involved in the operation of a personal data file shall, when required to do so, furnish the Chamber, the officers of the secretariat and any other persons designated for this purpose by the Chamber with all the information and shall give them all the assistance which they require for the execution of their duties.
3. The members, substitute members and special members of the Chamber, the officers of the secretariat and any other persons designated for this purpose by the Chamber shall have access for the execution of their duties to any location where a personal data file or section thereof is situated or from which the file is accessible. They may also examine hardware, software, books and records and have hardware and software demonstrated to them where this may reasonably be required for the execution of their duties.
4. The officers of the secretariat and the other persons to whom subsection 3 above refers may exercise the powers defined in that subsection only with the express and specific authority of the Chamber.
5. If in the reasonable judgement of the Chamber the assistance to which this section refers is not given to an adequate extent such measures as may be necessary may be taken at the expense of the defaulting party.

6. No appeal may be made to a requirement of confidentiality where information or assistance is required in connection with the involvement of the individual concerned in the operation of a personal data file.

Section 46

1. The Chamber may, on its own behalf or at the request of an interested party, which may be a legal person as mentioned in section 10 (2), institute an investigation into the manner in which effect is given to this Act and provisions made in pursuance thereof in respect of a personal data file.

2. Where an investigation is instituted at the request of an interested party the Chamber shall notify that party of its findings, except where to do so would be incompatible with the purpose of the file or the nature of the personal data or would have a disproportionate adverse effect on the vital interests of persons other than the person making the request, including the controller. Where the Chamber does not notify the interested party of its findings it shall send the interested party such notification as it considers advisable.

3. The Chamber may, where its findings give grounds for doing so, make a recommendation to the controller of a personal data file. It shall first give the controller the opportunity of making his views known.

4. There shall be no procedure under administrative law for appealing against a refusal of a request as mentioned in subsection above, a notification as mentioned in subsection 2 above or a recommendation as mentioned in subsection 3 above.

PART 9. INTERNATIONAL ASPECTS

Section 47

1. This Act shall also apply to any personal data file not located in the Netherlands of a controller established in the Netherlands where such a file contains data on persons resident in the Netherlands.

2. Our Minister may, having consulted the Registration Chamber,

exempt a personal data file as mentioned in subsection 1 above from requirements of or pursuant to this Act providing the legislation applying to that file in the country where it is situated provides equivalent protection for the privacy of the data subjects.

Section 48

Our Minister may, having consulted the Registration Chamber, exempt personal data files whose controller is not established in the Netherlands from requirements of or pursuant to this Act providing there are adequate safeguards for the protection of the privacy of the data subjects in relation to that file.

Section 49

1. Any person having access from the Netherlands to a personal data file located outside the Netherlands and to which this Act does not apply shall ensure the security of that access and of the personal data obtained by that means.
2. Data shall not be supplied from the Netherlands to, or obtained in the Netherlands from, any data file in another country to which this Act does not apply where it has been declared by General Administrative Order that such a transfer of data would have a serious adverse effect on the privacy of the persons concerned.

PART 10. PENAL PROVISIONS

Section 50

1. Any person
 - a. having a personal data file in operation in respect of which the provisions of or pursuant to section 19, section 24 or section 25 are not met,
 - b. acting as the processor of a personal data file as mentioned under a. above,
 - c. failing to comply with the provisions of or pursuant to section 49 (2),shall be liable to a category two fine.
2. Any person deliberately committing an act as mentioned in

subsection 1 above shall be liable to a term of imprisonment not exceeding six months or a category three fine.

3. The offences to which subsection 1 above refers shall be summary offences; those to which subsection 2 above refers shall be indictable offences.

4. The investigation of the offences described in this section shall be the responsibility of officers designated under or in pursuance of Article 141 of the Code of Criminal Procedure and of officers of the secretariat of the Registration Chamber designated by Our Minister for this purpose.

PART 11. TRANSITIONAL AND FINAL PROVISIONS

Section 51

Any person concerned with the implementation of this Act who thereby obtains access to information he knows or can reasonably assume to be confidential and who is not anyway bound by an official, professional or statutory requirement of confidentiality in respect of such information shall maintain confidentiality in respect of that information except where disclosure is required by a statutory obligation or in the execution of his duties in the implementation of this Act.

Section 52

The Central Government Personnel Act 1929 (Bulletin of Acts, Orders and Decrees 530) shall be amended as follows:

In section 2 (2) the final full stop shall be replaced by a semi-colon and the following added:

i. the chairman, members, substitute members and special members of the Registration Chamber to which the Data Protection Act refers.

Section 53

The National Ombudsman Act (Bulletin of Acts, Orders and Decrees 1981, 35) shall be amended as follows:

A. in section 1 (3) the final full stop shall be replaced by a semi-colon and the following added:

h. the Registration Chamber to which the Data Protection Act refers.

B. in section 1 (4) the words "subsection 3, under b-g" shall be replaced by the words "subsection 3, under b-h".

Section 54

1. This Act, with the exception of Parts 5, 6 and 10, shall enter into force at a date to be determined by Royal Decree, but not later than six months after the promulgation of this Act.
2. Parts 5, 6 and 10 shall enter into force at a date to be determined by Royal Decree, but not later than one year after the promulgation of this Act.
3. Parts 5, 6 and 10 shall not apply to personal data files already in existence at the date mentioned in subsection 2 above for a period of six months after that date.
4. It may be determined by General Administrative Order that this Act does not apply to personal data files designated in the Order which are established by or pursuant to an Act of Parliament and are in existence at the date mentioned in subsection 1 above. Such an Order shall be made only if in Our view a further statutory provision is required, in connection with the introduction of this Act, in respect of those personal data files. Unless withdrawn earlier, such an Order shall lapse three years after entering into force, except where a Bill proposing a statutory provision as mentioned in the preceding sentence has been submitted to the States General before then.
5. Section 3 (2) shall not apply to a General Administrative Order as mentioned in subsection 4 above and in section 36, the latter only when the order is made before the date mentioned in subsection 1 above.
6. Section 28 shall apply mutatis mutandis to personal data which are contained in a personal data file at the date mentioned in subsection 1 above, except that the notification with regard to these data shall be given within six months after that date.

Section 55

This Act may be cited as: The Data Protection Act.

We order and command that this Act shall be published in the Bulletin of Acts, Orders and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at The Hague, the 28th day of December 1988

Beatrix

The Minister of Justice,
F. Korthals Altes

The Minister for Home Affairs,
C.P. van Dijk

Published, the 5th day of January 1989

The Minister of Justice,
F. Korthals Altes