

Council of Europe
Conseil de l'Europe



Strasbourg, 22 September 1992

0601
9213443

Restricted
CJ-PD (92) 17

**PROJECT GROUP ON DATA PROTECTION
(CJ-PD)**

PUBLIC AUTHORITIES' REGISTERS (CONSOLIDATION) ACT

**Consolidation Act No. 654 of 20 September 1991
issued by the Ministry of Justice**

DENMARK

-1-

PUBLIC AUTHORITIES' REGISTERS (CONSOLIDATION) ACT.

Consolidation Act No. 654 of 20 September
1991 issued by the Ministry of Justice.

Modtaget i
Registertilsynet
27 APR. 1992
J.NR. 1992-009-004
Bilag

Public Authorities' Registers (Consolidation) Act.

This Act consolidates the provisions relating to public authorities' registers, cf. Consolidation Act No. 621 of 2 October 1987, with the amendments following from section 11 of Act No. 192 of 29 March 1989 and Act No. 346 of 6 June 1991.

Part 1

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 of 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 of 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 of Justice may attach conditions to the grant of any such leave.

2. Upon consultation with the Minister of 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 Establishment 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 of 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) The establishment of registers to be kept for a local government authority shall be subject to decision made at a meeting of the local council concerned.

(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 of 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 of 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 of Finance or by another minister as decided by the Minister of 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) The municipal council or any other body acting on behalf of the municipal council may decide that the municipality shall participate in or link up with a register or system of register of the type mentioned in subsection (1). Such decision shall be notified to the DSA within 4 weeks with information about any special terms for 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.

Part 2 a
Exception for certain types of registers from
the directions requirement, etc.

8.a - (1) Registers operated for a central government authority which do not contain data of a confidential nature shall be exempt from the provisions laid down in section 4 (2) and (3), cf. section 5.

(2) In the registers mentioned in subsection (1) above identification data, including personal registration numbers, as well as information about payments to and from a public authority may be registered without directions being laid down.

(3) A central government authority which establishes a register without register directions, cf. subsection (1) above shall within 4 weeks after the establishment give notification of the establishment of the register to the DSA with indication of the purpose of the register, the group of persons covered, type of data and size.

(4) The DSA may decide that directions for the register shall be laid down taking into account the purpose of the register, the group of persons covered, type of data and scope of the register.

8.b - (1) Registers operated for a municipal authority which do not contain data of a confidential nature shall be exempt from the provisions laid down in section 6 (2) - (4) and section 7 (1) - (3).

(2) In the registers mentioned in subsection (1) above identification data, including personal registration numbers, as well as information about payments to and from a public authority may be registered without directions being laid down.

(3) The competent municipal council may irrespective of the provision in section 6 (1) decide that the registers mentioned in subsection (1), cf. subsection (2) shall be established subject to a decision made by municipal committees or by the municipal administration.

(4) Prior to the taking into operation of a register established by a single municipal authority covered by subsection (1), cf. subsection (2), the authority setting up the register shall prepare a description of the purpose of the register, the group of persons covered, the data contained and the size of the register which may form the basis for drawing up the survey mentioned in subsection (5) below.

(5) Each quarter the municipal council shall draw up a survey of any new registers established within the municipality without directions. The survey shall comprise a description of the purpose of the individual registers, the group of persons covered, the data contained and the size. Within 4 weeks after the expiry of the 3-months period this survey shall be sent in to the DSA.

(6) The Minister of Finance shall approve the establishment of a joint municipal register covered by subsection (1), cf. subsection (2), and shall within 4 weeks after such approval notify the DSA of the register indicating the purpose, group of persons covered, data contained and the size.

(7) The DSA may decide that directions for the register shall be laid down taking into account the purpose of the register, the group of persons covered, type of data and scope of the register.

8 c. The DSA may decide that notifications and submission of surveys under section 8 (3) and section 8 (5) - (6) shall take place in a prescribed manner, including the use of special forms drawn up by the DSA.

8 d. Pooling of registers containing confidential data, cf. section 8 a (2) and section 8 b (2) may not take place without directions. However, this shall not apply to pooling which is effected solely for extraction for statistical or scientific purpose or with a view to updating identification data and payment data.

8 e. The Minister of Justice may after having consulted the DSA lay down rules to the effect that certain types of register are exempted from the provisions laid down in section 4 (2) and (3), cf. section 5, section 6 and section 7 (1) - (3). However, this shall not apply to registers containing data on purely private matters, cf. section 9 (2).

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 of Justice may allow copies of registers to be deposited for safe custody in archives subject to conditions specified by the Minister.

10.--(1) Directions applying to a register may lay down that a registered party shall be advised of his registration.

(2) As regards registers containing data as mentioned in section 9 (2) the Minister of Justice may after having consulted the DSA lay down rules to the effect that the authority responsible for the register shall within 4 weeks of the registration notify any person who is registered for the first time in the register.

(3) Notifications under subsections (1) and (2) above shall include information on the registered person's right to obtain data from the register under the provisions laid down in sections 13 to 15.

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.

(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) 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.

(5) The provisions of subsections (1)-(3) 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 (4) hereof may be assumed to result in applications as above referred to being generally rejected.

(6) Where a registered party has been apprised of data by virtue of the provisions of subsections (1) and (3) hereof, he shall not be entitled to apply again for a period of six 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 (4), 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.

15. Any dispute arising as to the right to obtain information by virtue of subsections (1), (2), (4) and (6) of section 13, section 14, and under directions laid down pursuant to subsections (2), (3) and (5) 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° the party concerned has consented thereto;
- 2° passing-on is prescribed by statute or provision laid down pursuant to statute;
- 3° 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° passing-on is required for the performance by an individual or an enterprise of any public assignment; or
- 5° 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° of subsection (2) hereof, shall be communicated in writing and shall contain information on

- 1° what types of data may be passed on;
- 2° whom the data may be passed on to; and
- 3° 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) Data that have been passed on for use in statistics or research shall not be passed on by the recipient.

16 a - (1) With the oral or written consent from the patient data on the patient may be passed on from hospital registers and other registers on patients or diseases to the general practitioner chosen by the patient or to a physician who is treating the person concerned.

(2) From the registers mentioned under subsection (1) above identification data and information on diagnoses, etc. may also be passed on to physicians with a view to being used for concrete research projects. Subsequent contact to registered persons may only take place to the extent that the physicians who have treated the persons concerned have given their consent.

(3) Furthermore, subject to approval from the National Health Board and to specified terms data may be passed on from the registers mentioned under subsection (1) with a view to their being used in connection with research or planning activities.

(4) Data passed on with a view to being used for statistical or research purposes may not be further passed on.

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° the party concerned has consented thereto;
- 2° passing-on is prescribed by statute or provision laid down pursuant to statute;
- 3° 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° 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° 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 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 Register's (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 of 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 of 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 (4) of section 8a, subsection (7) of section 8b, section 8e 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° disregard of conditions stipulated in any consent given pursuant to s.16-(2)(1°);
- 2° infringement of s.16-(5), s.16a (2) (clause 2) and s.16a (4); or
- 3° disregard of conditions stipulated by virtue of s.16a(3), 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 of 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 Home Rule Authorities or National Government Authorities in the Faroe Islands. This Act may by Royal Decree be put into force made to apply to National Government Authorities' registers in the Faroe Islands, subject to any deviations warranted by the special conditions in the Faroe Islands.

Sections 3 and 4 of Act No. 383, 10 June 1987 provide as follows:

3.--(1) This Act shall come into operation on 1 April 1988. However, the provision of head 5° of section of this Act (cf. subsection (2) of section 13 of the Consolidation Act, on transcripts) shall have effect only as and when the Minister of Justice shall have so decided.

(2) (on the Private Registers Etc. Act)

(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 of Justice may extend the time-limit in respect of specified registers.

4.-- (1) (on the Private Registers Etc. Act)

(2) Section 2 of this Act (Act No. 383, 10 June 1987, amending the Public Authorities' Registers Act, 1978), shall not apply to registers kept for the Home Rule Authorities or National Government Authorities in the Faroe Islands and Greenland. Section 2 of this Act may by Royal Decree be put into force for registers kept for National Government Authorities subject to any variations warranted by the special conditions in the Faroe Islands and Greenland.

Sections 2 and 3 of Act No 346, 6 June 1991 provide as follows:-

2. This Act shall come into operation on 1 September 1991.

3. This Act shall not apply to registers kept for the Home Rule Authorities or National Government Authorities in the Faroe Islands and Greenland. Section 1 of this Act may by Royal Decree be put into force for registers kept for National Government Authorities subject to any deviations warranted by the special conditions in the Faroe Islands and Greenland.

Ministry of Justice, 20 September 1991

HANS ENGELL

/John Vogter