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Act on supplementary provisions to the regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the Data Protection Act)<sup>1</sup>

WE MARGRETHE THE SECOND, by the Grace of God, Queen of Denmark make known that: Folketinget (the Danish Parliament) has passed and We have granted Our Royal Assent to the following Act:

**Chapter I**  
**General provisions**

Part 1

*Material scope of the Act*

1.-(1) This Act supplements and implements Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the General Data Protection Regulation), see schedule 1 of this Act.

(2) This Act and the General Data Protection Regulation shall apply to all processing of personal data carried out, in full or in part, by the means of automatic data processing, and to any other non-automatic processing of personal data that are or are intended to be contained in a filing system. However, this Act and the General Data Protection Regulation shall not apply in the cases mentioned in points b) - d) of Article 2(2) of the General Data Protection Regulation and section 3 of this Act.

(3) Any rules governing the processing of personal data in other legislation that falls within the scope of the General Data Protection Regulation regarding special rules for the processing of personal data shall take precedence over the rules laid down in this Act.

2.-(1) Sections 6-8, section 10 and section 11(1) of this Act and points a) – c) of Article 5(1), Article 6, Article 7(3), first and second sentence, Articles 9 and 10 and Article 77(1) of the General Data Protection Regulation shall also apply to the manual disclosure of personal data to another administrative authority. In accordance with Part 10 of this Act, the Data Protection Agency (*Datatilsynet*) monitors disclosure as referred to in the first sentence of this subsection.

(2) This Act and the General Data Protection Regulation further apply to the processing of data concerning enterprises, etc., if this processing is carried out for credit information agencies. The same provision shall apply to the processing of data concerning enterprises comprised by section 26(1), para. 1).

(3) Part 4 of this Act shall also apply to the processing of data concerning enterprises, etc., in accordance with section 1(1).

(4) This Act and the General Data Protection Regulation shall apply to any processing of personal data in connection with video surveillance.

(5) This Act and the General Data Protection Regulation shall apply to the data of deceased persons for a period of 10 years following the death of the deceased.

(6) In consultation with the competent minister, the Minister of Justice may lay down rules to the effect that the provisions of this Act and the General Data Protection Regulation shall apply, in full or in part, to the data of deceased persons for a period longer or shorter than that specified in subsection (5).

(7) In other cases than those mentioned in subsection (2), the Minister of Justice may lay down rules to the effect that the provisions of this Act shall apply, in full or in part, to the processing of data concerning enterprises, etc. that is performed for private persons or entities.

(8) In other cases than those mentioned in subsection (3), the competent minister may lay down rules to the effect that the provisions of this Act shall apply, in full or in part, to the processing of data concerning enterprises, etc. that is performed on behalf of public administrative authorities.

**3.-(1)** This Act and the General Data Protection Regulation shall not apply where this will be contrary to Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms or Article 11 of the EU Charter on Fundamental Rights.

(2) This Act and the General Data Protection Regulation shall not apply to the processing of data performed on behalf of or by the intelligence services of the police and the national defence.

(3) This Act and the General Data Protection Regulation shall not apply to the processing of data performed as part of the parliamentary work of the Danish Parliament (Folketinget).

(4) This Act and the General Data Protection Regulation shall not apply to the processing of data covered by the Act on information databases operated by the mass media.

(5) This Act and Chapters II-VII and IX of the General Data Protection Regulation shall not apply to information databases that exclusively include already published periodicals or sound and image programmes covered by paragraph 1 or 2 of section 1 of the Media Liability Act, or parts thereof, provided the data are stored in the information database in the original version published. However, the provisions of Articles 28 and 32 of the General Data Protection Regulation shall apply.

(6) This Act and Chapters II-VII and IX of the General Data Protection Regulation shall not apply to information databases that exclusively include already published texts, images and sound programmes covered by paragraph 3 of section 1 of the Media Liability Act, or parts thereof, provided the data are stored in the information database in the original

version published. However, the provisions of Articles 28 and 32 of the General Data Protection Regulation shall apply.

(7) This Act and Chapters II-VII and IX of the General Data Protection Regulation shall not apply to manual files of cuttings from published, printed articles exclusively processed for journalistic purposes. However, the provisions of Articles 28 and 32 of the General Data Protection Regulation shall apply.

(8) This Act and Chapters II-VII and IX of the General Data Protection Regulation shall not apply to the processing of data that otherwise takes place exclusively for journalistic purposes. However, the provisions of Articles 28 and 32 of the General Data Protection Regulation shall apply. The first and second sentences shall also apply to the processing of data for the sole purpose of artistic or literary expression.

(9) In consultation with the competent minister, the Minister of Justice may lay down rules to the effect that personal data which are processed in specified IT systems and kept for public administrative authorities, must be stored, in full or in part, exclusively in Denmark.

(10) The Minister of Defence may lay down rules to the effect that this Act and the General Data Protection Regulation shall not apply, in full or in part, to the processing of personal data by the Defence in connection with the international operations of the Defence.

## **Part 2**

### *Geographical scope of the Act*

4.-(1) This Act and any rules issued by virtue of this Act shall apply to the processing of personal data performed as part of activities carried out on behalf of a data controller or data processor that is established in Denmark, regardless of whether the processing takes place in the EU.

(2) This Act and any rules issued by virtue of this Act shall further apply to processing carried out on behalf of Danish diplomatic representations.

(3) This Act and any rules issued by virtue of this Act shall apply to the processing of the personal data of data subjects located in Denmark carried out by a data controller or data processor that is not established in the EU, if the processing activities are related to:

- 1) offering goods or services to such data subjects who are in Denmark, regardless of whether payment from the data subject is required; or
- 2) the monitoring of the behaviour of such data subjects insofar as their behaviour takes place in Denmark.

## **Chapter II**

### *Rules on processing of data*

## **Part 3**

### *Processing of data*

5.-(1) Personal data must be collected for specified, explicit and legitimate purposes and may not be further processed in a manner that is incompatible with those purposes.

(2) To ascertain whether processing for another purpose is compatible with the purpose for which the personal data were originally collected, see subsection 1, the data controller shall according to Article 6(4) of the General Data Protection Regulation take into account aspects such as:

- 1) any link between the purposes for which the personal data have been collected and the purposes of the intended further processing;
- 2) the context in which the personal data have been collected, in particular regarding the relationship between data subjects and the controller;
- 3) the nature of the personal data, in particular whether special categories of personal data are processed, see Article 9, or whether personal data related to criminal convictions and offences are processed, see Article 10;
- 4) the possible consequences of the intended further processing for the data subjects; and
- 5) the existence of appropriate safeguards, which may include encryption or pseudonymisation.

(3) Regardless of subsections (1) and (2), in consultation with the Minister of Justice and within the scope of Article 23 of the General Data Protection Regulation, the competent minister may lay down more detailed rules to the effect that public authorities may further process personal data for another purpose than that for which they were originally collected, irrespective of the compatibility of the purposes. The first sentence of this subsection shall not apply to the processing of data pursuant to section 10. In respect of health data and genetic data mentioned in Article 9(1) of the General Data Protection Regulation that have been collected pursuant to section 7(3) of this Act or under Danish healthcare legislation, the first sentence of this subsection shall only apply to the extent that the purpose of the further use of these data is compatible with the purpose for which these personal data were originally collected.

**6.-(1)** The processing of personal data may take place if at least one of the conditions of points a) – f) of Article 6(1) of the General Data Protection Regulation is complied with.

(2) If point a) of Article 6(1) of the General Data Protection Regulation is applied in connection with the offering of information society services direct to children, the processing of personal data concerning a child is lawful, provided the child is no younger than 13.

(3) If the child is under 13, the processing is only lawful if and to the extent that consent is given or approved by the holder of parental responsibility for the child.

**7.-(1)** The prohibition against processing sensitive personal data covered by Article 9(1) of the General Data Protection Regulation shall not apply in cases where the conditions for processing personal data laid down in points a), c), d), e) or f) of Article 9(2) of the General Data Protection Regulation have been complied with.

(2) The processing of data covered by Article 9(1) of the General Data Protection Regulation may take place if the processing is necessary for the purposes of meeting and respecting the data controller's or the data subject's labour law obligations and specific rights, see point b) of Article 9(1) of the General Data Protection Regulation.

(3) The processing of data covered by Article 9(1) of the General Data Protection Regulation may take place if the processing is necessary for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment, or the management of

medical and health care services, and where those data are processed by a health professional subject under law to the obligation of professional secrecy, see point h) of Article 9(1) of the General Data Protection Regulation.

(4) The processing of data covered by Article 9(1) of the General Data Protection Regulation may take place if the processing is necessary for reasons of substantial public interest, see point g) of Article 9(2) of General Data Protection Regulation. The supervisory authority shall give its authorisation for this purpose if the processing pursuant to the first sentence of this subsection is not carried out on behalf of a public authority. Authorisation given by virtue of the second sentence of this subsection may lay down more detailed terms for the processing.

(5) In other cases than those mentioned in subsections (1) - (4), in consultation with the Minister of Justice and within the scope of the General Data Protection Regulation, the competent minister may lay down more detailed rules regarding the processing of personal data covered by Article 1(9) of the General Data Protection Regulation.

**8.-(1)** No data about criminal offences may be processed on behalf of a public administrative authority, unless such processing is necessary for the performance of the tasks of the authority.

(2) The data referred to in subsection (1) may not be disclosed to any third party. Disclosure may, however, take place where:

- 1) the data subject has given explicit consent to such disclosure;
- 2) disclosure takes place for the purpose of safeguarding private or public interests which clearly override the interests of secrecy, including the interests of the person to whom the data relate;
- 3) disclosure is necessary for the performance of the activities of an authority or required for a decision to be made by that authority; or
- 4) disclosure is necessary for the performance of tasks for a public authority by a person or an enterprise.

(3) Private individuals or entities may process data about criminal offences if the data subject has given explicit consent. Processing may also take place if necessary for the purpose of safeguarding a legitimate interest and this interest clearly overrides the interests of the data subject.

(4) The data mentioned in subsection (3) may not be disclosed without the explicit consent of the data subject. However, disclosure may take place without consent for the purpose of safeguarding public or private interests, including the interests of the person concerned, which clearly override the interests of secrecy.

(5) The processing of data in the cases regulated by subsections (1) - (4) may otherwise take place if the conditions laid down in section 7 are satisfied.

**9.-(1)** Data covered by Article 9(1) and Article 10 of the General Data Protection Regulation may be processed where the processing is carried out for the sole purpose of operating legal information systems of significant public importance and the processing is necessary for operating such systems.

(2) Data covered by subsection (1) may not subsequently be processed for any other purpose. The same shall apply to the processing of other data carried out solely for the

purpose of operating legal information systems according to Article 6 of the General Data Protection Regulation.

(3) The supervisory authority may lay down specific conditions concerning the processing operations mentioned in subsection (1). The same shall apply to the data mentioned in Article 6 of the General Data Protection Regulation processed solely in connection with the operation of legal information systems.

**10.**-(1) Data as mentioned in Article 9(1) and Article 10 of the General Data Protection Regulation may be processed where the processing takes place for the sole purpose of carrying out statistical or scientific studies of significant importance to society and where such processing is necessary in order to carry out these studies.

(2) The data covered by subsection (1) may not subsequently be processed for other than scientific or statistical purposes. The same shall apply to processing of other data carried out solely for statistical or scientific purposes under Article 6 of the General Data Protection Regulation.

(3) The data covered by subsections (1) and (2) may only be disclosed to a third party with prior authorisation from the supervisory authority when such disclosure:

1) is made for the purpose of processing outside the territorial scope of the General Data Protection Regulation, see Article 3 of the General Data Protection Regulation;

2) relates to biological material; or

3) is made for the purpose of publication in a recognised scientific journal or similar.

(4) The supervisory authority may lay down general terms for the disclosure of data covered by subsections (1) and (2), including for disclosure that does not require authorisation under subsection (3). The supervisory authority may further lay down more detailed terms for the disclosure of data under subsection (3).

(5) Irrespective of subsection (2), in consultation with the Minister of Justice, the Minister of Health may lay down rules to the effect that data covered by subsections (1) and (2) which have been processed for the purpose of carrying out statistical and scientific health-care studies may subsequently be processed for other than scientific or statistical purposes where such processing is necessary for safeguarding the vital interests of the data subject.

**11.**-(1) Public authorities may process data concerning identification numbers with a view to unique identification or as file numbers.

(2) Private individuals and entities may process data concerning identification numbers where:

1) this follows from the law; or

2) the data subject has given consent in accordance with Article 7 of the General Data Protection Regulation; or

3) the processing is carried out solely for scientific or statistical purposes or if it is a matter of disclosing an identification number where such disclosure is a natural element of the ordinary operation of enterprises etc. of the type in question and the disclosure is of decisive importance for unique identification of the data subject, or the disclosure is demanded by a public authority; or

4) the conditions laid down in section 7 are satisfied.

(3) Irrespective of the provision laid down in paragraph 3 of subsection (2), an identification number may not be made public unless consent has been given in accordance with Article 7 of the General Data Protection Regulation.

**12.-**(1) The processing of personal data in an employment context as covered by Article 6(1) and Article 9(1) of the General Data Protection Regulation may take place where the processing is necessary for the purpose of observing and respecting the employment law obligations and rights of the controller or of the data subject as laid down by other law or collective agreements.

(2) The processing of data as mentioned in subsection (1) may also take place where the processing is necessary to enable the data controller or a third party to pursue a legitimate interest that arises from other law or collective agreements, provided the interests or fundamental rights or freedoms of the data subject are not overridden.

(3) The processing of personal data in an employment context may take place on the basis of consent given by the data subject in accordance with Article 7 of the General Data Protection Regulation.

**13.-**(1) An enterprise may not disclose data concerning a consumer to another enterprise for the purpose of direct marketing or use such data on behalf of another enterprise for this purpose unless the consumer has given explicit consent. Consent shall be obtained in accordance with the rules laid down in section 10 of the Danish Marketing Practices Act.

(2) However, the disclosure and use of data as mentioned in subsection (1) may take place without consent in the case of general data on customers which form the basis for classification into customer categories, and if the conditions of point f) of Article 6(1) of the General Data Protection Regulation are complied with.

(3) Data of the type mentioned in Article 9(1) of the General Data Protection Regulation or section 8 of this Act may not be disclosed or used pursuant to subsection (2).

(4) Before an enterprise discloses data concerning a consumer to another enterprise for the purpose of direct marketing, or uses the data on behalf of another enterprise for this purpose, it must check in the CPR register whether the consumer has filed a statement to the effect that he does not want to be contacted for the purpose of marketing activities.

(5) Data controllers who sell lists of groups of persons for direct marketing purposes or who print addresses or distributes messages to such groups on behalf of a third party may only process:

- 1) data concerning name, address, position, occupation, e-mail address, telephone and fax number;
- 2) data contained in trade registers which according to law or provisions laid down by law are intended for public information; and
- 3) other data if the data subject has given explicit consent.

(6) Consent as required by subsection (5) must be obtained in accordance with section 10 of the Danish Marketing Practices Act.

(7) The processing of data as mentioned in subsection (5) may not, however, include data as mentioned in Article 9(1) of the General Data Processing Regulation or section 8 of this Act.

(8) The Minister of Justice may lay down further restrictions of the access to disclose or use certain types of data according to subsection (2).

(9) The Minister of Justice may lay down further restrictions than those referred to in subsection (7) on the access to process certain types of data.

**14.** Data covered by this Act may be transferred to be archived under the rules laid down in the legislation on archives.

#### **Part 4**

##### *Disclosure to credit information agencies of data on debts to public authorities*

**15.-(1)** Data concerning debts to public authorities may be disclosed to credit information agencies according to the provisions laid down in this Part of the Act.

(2) Data of the character referred to in Article 9(1) or Article 10 of the General Data Protection Regulation may not be disclosed to credit information agencies.

(3) Confidential data that are disclosed according to the rules of this Part of the Act shall not be considered accessible to the general public as a consequence of the disclosure.

**16.-(1)** Data concerning debts to public authorities may be disclosed to a credit information agency where

- 1) it follows from laws or provisions laid down according to law or
- 2) the total amount of debt is due and payable and in excess of DKK 7,500, whereas this amount may not include debts covered by an agreement for extension of the time for payment or payment by instalments that is observed, however see subsection (2) and (3) below.

(2) It is a requirement for disclosure under subsection (1)(2) that the total debt is administered by the same debt collection authority.

(3) It is a further requirement for disclosure under subsection (1)(2) that

- 1) the debt can be recovered by distraint and that two reminders of payment have been sent to the debtor,
- 2) execution has been levied or attempted to be levied in respect of the claim,
- 3) the claim has been established by a final and conclusive judgment or
- 4) the public authority has obtained the debtor's written acknowledgement of the overdue debt.

**17.-(1)** The public authority must give the debtor notice in writing before such data are disclosed. The disclosure may not take place earlier than four weeks after this notice has been given.

(2) The notice referred to in subsection (1) must include information stating

- 1) what data the authority intends to disclose,
- 2) the credit information agency to which the disclosure will take place,
- 3) when the disclosure will be carried through and



4) pointing out that disclosure will not take place if payment of the debt is effected before the disclosure, or if an extension of the time for payment is granted or an agreement on payment by instalments is concluded and observed.

**18.-(1)** The competent minister may lay down more detailed rules on the procedure in relation to disclosure of data to credit information agencies concerning debts to public authorities and may in that connection lay down rules to the effect that data concerning certain forms of debt to public authorities may not be disclosed or may only be disclosed if further requirements than those set out in section 16 are satisfied.

## **Part 5**

### *Credit information agencies*

**19.** A person who wishes to carry on business involving the processing of data for assessment of financial standing and creditworthiness for the purpose of disclosure of such data (credit information agency) must obtain authorisation to do so from the Data Protection Agency prior to commencing such processing as set out in section 26(1), para. 2).

**20.-(1)** Credit information agencies may only process data which by their nature are of importance for the assessment of financial standing and creditworthiness.

(2) Credit information agencies may not process such data as those referred to in Article 9(1) or Article 10 of the General Data Protection Regulation.

(3) Personal data concerning conditions that indicate lack of creditworthiness and are more than five years old may not be processed unless in the particular case it is evident that the conditions are of decisive importance for the assessment of the data subject's financial standing and creditworthiness.

(4) Articles 12 – 19 of the General Data Protection Regulation must be observed in the processing of data concerning enterprises etc. in case such data are processed for credit information agencies.

**21.-(1)** Data concerning financial standing and creditworthiness may only be disclosed to subscribers in writing. The credit information agency may, however, provide summary data verbally or in a similar manner in case the inquirer's name and address are recorded and stored for at least six months.

(2) Publications issued by credit information agencies may only contain data in a summary form and only be distributed to persons or enterprises that are subscribers to notices from the agency. The publications may not contain data concerning the civil registry numbers of the data subjects.

(3) Summary data concerning indebtedness may only be disclosed if such data originate from the Danish Official Gazette, have been reported by a public authority under the rules laid down in Part 4 above or are concerned with indebtedness to the same creditor exceeding DKK 1,000 and the creditor has either obtained the data subject's written acknowledgement of an overdue debt or legal proceedings have been initiated against the debtor. Information about a finally approved debt rescheduling scheme may, however, not be disclosed. The rules referred to in the first and second sentences shall moreover apply to

the disclosure of summary data concerning indebtedness in connection with the preparation of broader credit assessments.

(4) Disclosure of summary data concerning the indebtedness of individuals may only take place in such a manner that the data cannot form the basis of assessment of the financial standing and creditworthiness of other persons than the individuals concerned.

### **Chapter III**

#### *The rights of data subjects*

#### **Part 6**

##### *Restrictions of the rights of data subjects*

22.-(1) The provisions of Article 13(1) – (3), Article 14(1) – (4), Article 15 and Article 34 of the General Data Protection Regulation shall not apply if the data subject's interest in this information is found to be overridden by essential considerations of private interests, including the consideration for the data subject himself.

(2) Derogations from Article 13(1) – (3), Article 14(1) – (4), Article 15 and Article 34 of the General Data Protection Regulation may also be allowed if the data subject's interest in obtaining this information is found to be overridden by essential considerations of public interests, including in particular:

- 1) national security;
- 2) the defence;
- 3) public security;
- 4) the prevention, investigation, detection or prosecution of criminal offences or the enforcement of criminal penalties, including the safeguarding against and the prevention of threats to public security;
- 5) other important objectives related to the protection of the general public interest of the European Union or of a Member State, in particular important economic or financial interests of the European Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
- 6) the protection of judicial independence and judicial proceedings;
- 7) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
- 8) monitoring, inspection or regulatory functions including functions of a temporary nature related to the exercise of public authority in the cases referred to in paragraphs 1) – 5) and 7);
- 9) the protection of the rights and freedoms of the data subject or of others;
- 10) the enforcement of civil law claims.

(3) Data which are processed on behalf of a public administrative authority in the course of its administrative procedures may be exempted from the right of access under Article 15(1) of the General Data Protection Regulation to the same extent as under the rules of sections 19 - 29 and section 35 of the Open Administration Act.

(4) Articles 13 - 15 of the General Data Protection Regulation shall not apply to personal data processed on behalf of the courts when the courts are acting in their judicial capacity.

(5) Articles 15, 16, 18 and 21 of the General Data Protection Regulation shall not apply if the processing of data takes place exclusively for scientific or statistical purposes.

(6) Article 34 of the General Data Protection Regulation shall not apply where the supply of such information to data subjects may specifically be assumed to impede the investigation of criminal offences. Any decision to apply the first sentence of this subsection may be made only by the police.

**23.** The obligation to provide information under Article 13(3) and Article 14(4) of the General Data Protection Regulation shall not apply in cases where public authorities further process personal data for another purpose than the purpose for which they were collected, and the further processing takes place on the basis of rules laid down under section 5(3) of this Act. The first sentence of this subsection shall not apply when the further processing takes place for the alignment or combination of personal data for control purposes.

## **Chapter IV**

### *Provisions supplementary to Chapter IV of the General Data Protection Regulation*

#### **Part 7**

##### *Duty of confidentiality for data protection officers*

**24.** Data protection officers designated under points b) and c) of Article 37(1) of the General Data Protection Regulation may not without justification disclose or exploit data into which they have obtained insight in connection with the exercise of their duties as data protection officers.

#### **Part 8**

##### *Accreditation of certification bodies*

**25.** The Data Protection Agency and the national accreditation body appointed in conformity with Regulation (EC) no. 765/2008 of 9 July 2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Council Regulation (EEC) no. 339/93, have powers to grant accreditation to certification bodies under the provisions of points a) and b) of Article 43(1) of the General Data Protection Regulation.

## **Chapter V**

### *Processing authorisation*

#### **Part 9**

##### *Authorisation to process data*

**26.-(1)** Before a data processor initiates processing to be carried out for a private data controller, authorisation has to be obtained from the Data Protection Agency where

- 1) the processing of data is carried out for the purpose of warning others against having business relations or accepting employment with a data subject,
- 2) the processing is carried out for the purpose of commercial disclosure of data for the assessment of financial standing and creditworthiness or
- 3) the processing is carried out exclusively for the purpose of operating legal information systems.

(2) The Minister of Justice may lay down rules on exemptions from the provisions of subsection (1) above.

(3) The Minister of Justice may lay down rules to the effect that before the initiation of processing other than the processing referred to in subsection (1) above, authorisation has to be obtained from the Data Protection Agency, including for processing carried out for a public authority.

(4) In connection with its grant of authorisation under subsection (1) or (3) above, the Data Protection Agency may establish requirements for the way data are processed to protect the privacy of the data subjects.

(5) Before the introduction of alterations to the processing referred to in subsection (1) or (3), authorisation from the Data Protection Agency must be obtained again in case the alterations are substantial.

## **Chapter VI**

### *Independent supervision authorities*

## **Part 10**

### *The Data Protection Agency*

**27.-(1)** The Data Protection Agency, which consists of a Council and a Secretariat, is responsible in conformity with Chapters VI and VII of the General Data Protection Regulation for monitoring any processing operation covered by this Act, the General Data Protection Regulation and other legislation that falls within the scope of the Regulation's special rules on the processing of personal data. See however Part 11 of this Act. The Data Protection Agency shall carry out its functions with complete independence.

(2) The day-to-day business of the Data Protection Agency shall be dealt with by the Secretariat headed by a Director.

(3) The Minister of Justice shall appoint the Data Protection Council, consisting of a chairman who must be a high court judge or supreme court judge, and of seven additional members. The Minister for Industry and Business and the Minister for Public Innovation shall appoint one member each out of the seven additional members referred to in the first sentence. The Minister of Justice may appoint substitutes to five members, and the Minister for Industry and Business and the Minister for Public Innovation may appoint one substitute each. The chairman, the members and their substitutes shall be appointed for a term of four years. Reappointment may take place two times. The appointment of the chairman, the members and their substitutes shall be based on their professional qualifications.

(4) The Council shall determine its own rules of procedure and the specific rules governing the distribution of work between the Council and the Secretariat.

(5) The appointment of the chairman, members and substitutes to the members is conditional upon their having obtained security clearance and their security clearance being maintained throughout the entire term of their service.

(6) The office as chairman, member or substitute shall expire at the end of the period of service or upon voluntary resignation.

(7) The chairman and members and their substitutes may solely be dismissed in case of serious professional misconduct or if they no longer meet the requirements for performing their duties.

(8) The staff of the Secretariat and the chairman of the Data Protection Council and its members and their substitutes may only have sideline activity to the extent that it is compatible with the exercise of the duties of their position or office.

(9) The Data Protection Agency represents the supervisory authorities of the European Data Protection Council in accordance with Chapter VII, Sections 1 and 2 of the General Data Protection Regulation.

**28.** The opinion of the Data Protection Agency shall be obtained when Bills, Executive Orders, Circulars or similar general regulations of importance for the protection of privacy in connection with the processing of personal data are being drafted.

**29.**-(1) The Data Protection Agency may demand being given all information of importance for its activities, including for the decision of whether a particular matter falls within the provisions of the General Data Protection Regulation and this Act.

(2) The members and staff of the Data Protection Agency shall at any time against appropriate proof of identity and without any court warrant have access to all premises from where a personal data processing operation is carried out. If required, the police must provide assistance with securing such access.

**30.**-(1) The decisions of the Data Protection Agency may not be brought before any other administrative authority.

(2) The Data Protection Agency may bring issues concerned with infringement of this Act and the General Data Protection Regulation before the court to be considered under the rules of the administration of civil justice.

**31.** If a decision has not been adopted concerning the adequacy of the level of protection under Article 45 of the General Data Protection Regulation, the Data Protection Agency may in exceptional cases prohibit, restrict, or suspend the transfer to a third country or an international organisation of special categories of data comprised by Article 9(1) of the General Data Protection Regulation.

**32.**-(1) The Data Protection Agency may ensure that a data processing operation that takes place in Denmark is lawful even if the processing in question is subject to the legislation of another Member State. The provision of section 29 above shall also apply.

(2) The Data Protection Agency may disclose information to supervisory authorities of other Member States to the extent that it is necessary in order to ensure compliance with the provisions of this Act, the General Data Protection Regulation or the data protection legislation of the Member State in question.

**33.** The Data Protection Agency may publish its statements and decisions. Such publication shall be subject to the provision in section 22 of this Act.

**34.** The Data Protection Agency and the Danish Court Administration shall cooperate to the extent required to fulfil their obligations, particularly through the exchange of all relevant information.

**35.** The Minister of Justice may lay down specific rules to the effect that the Data Protection Agency and the Court Administration will have wider powers than those set out in Article 58(1), (2) and (3) of the General Data Protection Regulation.

**36.-(1)** The Data Protection Agency may order that applications for authorisation under this Act and amendments to this Act may be or must be submitted in a specifically indicated manner.

(2) The Minister of Justice may, under the provisions of this Act, lay down rules on the payment of fees for the submission of applications for authorisation and amendments to authorisations, including rules on the amount of such fees, and set the requirement that no authorisation will be granted until payment for it has been effected.

(3) The Minister of Justice may lay down rules on the payment of fees according to Article 57(4) of the General Data Protection Regulation.

(4) The Minister of Justice may lay down rules prescribing that communication to the Data Protection Agency concerning the General Data Protection Regulation and this Act must be transmitted by digital means. The Minister of Justice may in that connection lay down specific rules on digital communication, including the use of specified IT systems, special digital formats and digital signatures, etc. The Minister of Justice may moreover lay down specific rules on the rejection of communications that have not been transmitted in a digital format and on exemptions from such rules. Finally, the Minister of Justice may lay down rules to specify when a digital message will be considered to have been received.

## **Part 11**

### *Supervision of the courts*

**37.-(1)** The Court Administration shall carry out supervision in accordance with Chapters VI and VII of the General Data Protection Regulation of the processing of data carried out for the courts when they do not act in their capacity of courts.

(2) In respect of other processing of data, the decision must be made by the relevant court. An interlocutory appeal against the decision may be lodged with a higher court. For special courts or tribunals whose decisions cannot be brought before a higher court, an interlocutory appeal against the decision referred to in the first sentence of this subsection may be lodged with the high court in whose district the court is located. The time allowed to

lodge an appeal is four weeks from the day when the decision was notified to the individual concerned.

**38.** The Court Administration's exercise of supervision according to section 37 above shall be subject to the provisions of sections 29 and 34. Decisions made by the Court Administration are final.

## **Chapter VII**

### *Legal remedies, liability, penalties and final provisions*

#### **Part 12**

##### *Legal remedies, liability and penalties*

**39.**-(1) The data subject or the data subject's representative may lodge a complaint with the competent supervisory authority about the processing of data concerning the data subject, as prescribed by Article 77 of the General Data Protection Regulation.

(2) Decisions made by the supervisory authorities or their failure to consider a complaint from a data subject or their lack of reporting can be brought before the courts by the data subject or the data subject's representative to be considered under the rules of the administration of civil justice as set out in Article 78 of the General Data Protection Regulation.

(3) The data subject or the data subject's representative may bring issues of whether data controllers or data processors comply with this Act before the courts to be considered under the rules of the administration of civil justice as set out in Article 79 of the General Data Protection Regulation.

**40.** Any person who has suffered a material or non-material loss as a consequence of an unlawful processing activity or any other processing contrary to the provisions of this Act and the General Data Protection Regulation shall be entitled to compensation according to Article 82 of the General Data Protection Regulation.

**41.**-(1) Unless a higher penalty must be imposed under other legislation, a person shall be liable to a fine or imprisonment for a term not exceeding six months if that person infringes the provisions on

1) the data controller's and the data processor's obligations under Articles 8, 11, 25 - 39, 42 or 43 of the General Data Protection Regulation,

2) the certification body's obligations under Article 42 or 43 of the General Data Protection Regulation,

3) the supervisory body's obligations under Article 41(4) of the General Data Protection Regulation,

4) the fundamental principles of processing, including the conditions for consent set out in Articles 5 – 7 and 9 of the General Data Protection Regulation,

5) the rights of data subjects under Articles 12 – 22 of the General Data Protection Regulation or

6) the transfer of personal data to a recipient in a third country or an international organisation under Articles 44 – 49 of the General Data Protection Regulation.

(2) The same penalty shall be imposed on anyone who

- 1) infringes section 5(1) and (2), section 6, section 7(1) – (4), section 8, section 9(1) and (2), section 10(1) – (4), sections 11 and 12, section 13(1) – (7), section 20, section 21 or section 26(1) and (5),
- 2) infringes Article 10 of the General Data Protection Regulation, unless the infringement is subject to section 8,
- 3) prevents the supervisory authority from gaining access under Article 58(1),
- 4) fails to comply with an order or a provisional or definitive limitation of processing or the supervisory authority's suspension of the transfer of data under Article 58(2) of the General Data Protection Regulation,
- 5) fails to comply with an order from the supervisory authority as referred to in Article 58(2) of the General Data Protection Regulation,
- 6) fails to comply with the Data Protection Agency's requirements according to section 29(1) or section 32(1), second sentence, read with section 29(1) of this Act,
- 7) prevents the Data Protection Agency from gaining access under section 29(2) or section 32(1), second sentence, read with section 29(2) or
- 8) fails to comply with the Data Protection Agency's decisions under the Act in other respects or sets aside the Data Protection Agency's terms of authorisation according to the Act.

(3) Article 83(2) of the General Data Protection Regulation must be complied with when penalties are imposed according to subsections (1) and (2) above.

(4) Anyone who violates section 24 shall be punished with a fine unless a higher penalty must be imposed according to other legislation.

(5) Penalties in the form of a fine or imprisonment for a term not exceeding six months may be prescribed by rules issued in pursuance of this Act.

(6) Companies etc. (legal persons) may incur criminal liability according to the rules of Part 5 of the Criminal Code. Irrespective of section 27(2) of the Criminal Code, public authorities and institutions etc. that are subject to section 1(1) or (2) of the Public Administration Act may be punished for infringements committed in their performance of activity that does not correspond to or cannot be considered equal to activity carried through by private entities.

(7) The period of limitation for infringement of the General Data Protection Regulation, this Act or rules issued in pursuance of this Act is five years.

**42.-(1)** Where an infringement of this Act or the General Data Protection Regulation or rules issued in pursuance of this Act is estimated not to result in a penalty higher than a fine, the Data Protection Agency may indicate by a fixed penalty notice that the case may be settled without legal proceedings, if the party who committed the infringement admits to being guilty of the infringement and declares acceptance of a fine indicated in the fixed penalty notice within a specified time limit, which may be extended upon request.

(2) The rules of the Administration of Justice Act on the requirements for the content of an indictment and on the right of an accused to remain silent shall also apply to a fixed penalty notice.

(3) Where a fine is accepted, any further prosecution shall be discontinued.



**43.** Anyone who operates or is engaged in the activity referred to in section 26 above or stores personal data as a private data processor may if convicted of a criminal offence be deprived of the right to operate such activity in case the offence committed gives reason to suspect an imminent risk of abuse. In other respects, section 79(3) and (4) of the Criminal Code shall apply.

## Part 13

### **Final provisions**

**44.**-(1) The competent minister may in exceptional cases, within the scope of the General Data Protection Regulation's special rules on the processing of personal data and upon negotiation with the Minister of Justice lay down specific rules on the processing of data carried out for entities in public administration.

(2) The Minister of Justice may within the scope of the General Data Protection Regulation's special rules on the processing of personal data lay down specific rules on specified types of processing carried out for private data controllers, including rules to the effect that certain types of data may not be processed.

**45.** The Minister of Justice may lay down rules necessary to implement decisions issued by the European Union in order to implement the General Data Protection Regulation or rules that are necessary for the application of the legal acts issued by the European Union in the area of the General Data Protection Regulation.

**46.**-(1) This Act shall enter into force on 25 May 2018.

(2) Act no. 429 of 31 May 2000 on the Processing of Personal Data shall be repealed.

**47.** In respect of processing for which authorisation has been granted before this Act enters into force according to section 50(1), para. 2), 3) and 5) of Act No. 429 of 31 May 2000 on the Processing of Personal Data as amended most recently by Act No. 426 of 3 May 2017, such authorisation shall be in force after the commencement of this Act until replaced by a new authorisation according to section 26(1) of this Act.

**48.** This Act shall not extend to the Faroe Islands and Greenland.

Done at Amalienborg, this 23rd May 2018

Under Our Royal Hand and Seal

MARGRETHE R.

/ Søren Pape Poulsen

1)

Regulation No. 679 of 27 April 2016 of the European Parliament and of the Council on the protection of natural persons in connection with the processing of personal data and on the free exchange of such data and on the repeal of Directive 95/46/EC (the General Data Protection Regulation), Official Journal of the European Union 2016, No. L 119, page 1, is included as a Schedule to the Act. According to Article 288 of the TFEU, a Regulation applies directly in each of the Member States. The reproduction of the Regulation in the Schedule to the Act has thus been included for practical reasons exclusively and does not affect the Regulation's direct force and effect in Denmark.