Strasbourg 18 September 1978

COMMITTEE OF EXPERTS ON DATA PROTECTION

Act No. 293, 8 June 1978

PRIVATE REGISTERS ACT, 1978

(Denmark)

Information document

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PRIVATE REGISTERS ACT, 1978

WE MARGRETHE THE SECOND BY THE Grace of God Queen of Denmark do hereby make known:

The Folketing have passed and WE have given Our Royal Assent to the following Act:

Part 1

Scope of the Act

1.- (1) Registration comprising personal data where electronic data processing is used and systematic registration comprising private or financial data on any individual, institution, association or business enterprise or other data on any personal matter that may reasonably be demanded to be withheld from members of the general public, shall be permitted only subject to the provisions of Parts 1 and 2 of this Act.

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

2.- (1) This Act shall not apply to registration made on behalf of a public authority or registration otherwise falling under the provisions of the Public Authorities' Registers Act, or however Part 5 of this Act.

(2) This Act shall not apply to registration made solely for scientific or statistical purposes or for use in biographical research or for publication in ordinary works of reference.

Part 2

Business Enterprises Etc

3.- (1) Any enterprise, trader, institution, association or the like shall be entitled to register data as referred to in Section 1 of this Act only to the extent that registration of such data is a natural part of the normal operation of any enterprise etc of the type in question.

(2) Data on race, religious belief, colour of skin; on political, sexual, or criminal matters; on health, excessive use of intoxicants and the like shall not be registered save as provided by other enactment. However, registration shall be permitted of data given by the individual concerned or
obtained with his consent and in circumstances where the individual concerned must be aware that such data will be registered. A further condition is that the enterprise etc must of necessity need to possess the data in question to be able to legitimately attend to the interests of the enterprise etc or of others.

(3) Registers shall not be established for the purpose of warning others against doing business with or employing or serving any party registered save upon prior licence given by the Data Surveillance Authority (in this Act referred to as the 'DSA').

(4) Licence by virtue of subsection (3) hereof may be given subject inter alia to non-registration of specific types of data and to the provisions of Part 3 of this Act being applied to the whole or part of the register in question.

(5) After consultation with the DSA, the Minister of Justice may order that the provisions of Part 3 of this Act shall apply to the whole or part of specified registers, and that specific types of data shall not be stored on such registers.

4.- (1) No data registered on race, religious belief, colour of skin; on political, sexual or criminal matters; on health, excessive use of intrinsics and the like, shall be passed on without the consent of the party registered or of any party authorised to act on his behalf, save as provided by other enactment.

(2) Other data registered may be passed on without the consent of the party registered only to the extent that passing-on without such consent is a natural part of the normal operation of any enterprise etc of the type in question. However, data on circumstances existing more than five years previously shall not be passed on without consent, save where clearly it is of overriding importance for the purpose of the matter to be elucidated that such data be passed on on where passing-on is authorised by other enactment.

(3) The provisions of subsection (2) hereof shall not apply to passing-on effected solely for scientific or statistical purposes. The provision of subsection (1) hereof shall not apply to passing-on of data on health effected solely for scientific or statistical purposes.

5.- (1) Where an enterprise etc upon request made by a party registered refuses to delete or correct any data indicated to be incorrect or misleading, or to delete data not permitted to be registered, or where such request made by a party registered has been left unanswered by the enterprise for four weeks, the party registered shall be entitled to submit his request to the DSA, who shall decide whether or not the data in question shall be deleted or corrected.
(2) The DSA may order the enterprise to give written notification of the rectification to any party that has been informed of the data in question during the six-month period immediately preceding the lodging of request with the enterprise by the party registered. At the same time, the enterprise shall inform the party registered of the names of parties who have been notified as provided in clause 1 of this subsection.

6.- (1) In registers where electronic data processing is used (EDP registers), any data that because of obsolescence or otherwise has lost its relevancy for the purpose of the register in question shall be deleted.

(2) Continually operated EDP registers shall be adapted for updating of data as required.

(3) Enterprises etc shall operate a checking and control system sufficient to ensure that incorrect or misleading data are not entered on an EDP register. Data that prove to be incorrect or misleading shall be deleted or corrected as soon as possible.

(4) Safeguards shall be implemented as required to ensure that no data on an EDP register be wrongfully used or brought to the notice of an unauthorised party.

7. The provisions of Section 6 shall apply also where the register is subject to electronic data processing outside Denmark.

Part 3

Credit Information Bureaux

8. Prior to commencement of business, any party intending to carry on the business of registering data for assessment of financial solidity and credit-worthiness for the purpose of passing on such data to third party (Credit Information Bureau) shall file application for registration with the DSA.

9.- (1) Credit Information Bureaux shall be entitled to register and pass on only such data as by their nature are relevant for assessment of financial solidity and credit-worthiness.

(2) Data of the types referred to in subsection (2) of section 3 shall not be registered or passed on.

(3) Data on circumstances prejudicial to credit-worthiness and existing more than five years previously shall not be registered or passed on, save where in any particular instance the circumstance in question is clearly of overriding importance for assessment of the financial solidity and credit-worthiness of the party concerned.
10.- (1) Any party in respect of whom entry is made in any particular register for the first time of data other than name, address, description, trade or profession, or of data other than such as can be seen from the Danish Official Gazette or can be obtained as of right from the Central Register of Enterprises and Establishments shall at the latest four weeks after such registration be notified thereof by the Credit Information Bureau concerned. Such notification shall inform the party registered of his right to obtain data from the register in question by virtue of the provisions of Section 11 of this Act.

(2) After consultation with the DSA, the Minister of Justice may order that types of data other than those referred to in subsection (1) hereof may be registered without any obligation on the part of the registering office in question to notify as prescribed in subsection (1) hereof.

11.- (1) The Credit Information Bureau shall at all times within four weeks of any request made by the party registered inform him of the contents of such data and assessments as the office within the last foregoing six months has passed on to third party and also of such other data as the office at the time of the making of the request has on its index cards, punched cards, magnetic tapes, or in other processed form, including the contents of any assessment existing in respect of the party registered.

(2) Where the Bureau has further material on the party registered, he shall be notified of the existence of such further material and be given an indication of the type of material. He shall be apprised of his right to inspect through personal application at the Bureau.

(3) The party registered shall not be entitled to demand to be told the source of any data registered, of however Section 14 of this Act.

(4) The party registered shall be entitled to demand that notification by the Bureau as set out in subsection (1) hereof be given in writing. The Minister of Justice shall lay down rules on fees payable for written notification.

12.- (1) Data on financial solidity and credit-worthiness shall be given only in writing, of however subsections (1) and (2) of Section 11 of this Act, provided that where inquiry is made by a subscriber, the Bureau concerned may give summary data either orally or in like manner, always provided that the name and address of the inquirer are taken down and kept for at least six months.

(2) Publications issued by a Credit Information Bureau shall contain data in summary form only, and shall be distributed only to persons or enterprises subscribing to information from the office. Such publications shall not set out the personal number of any party registered.
13. Any data or assessment that proves to be incorrect or misleading shall be deleted from the register or corrected as soon as possible.

14. Where any data or assessment that proves to be incorrect or misleading has been passed on the Bureau shall forthwith give written notice of the rectification to the party registered and to any third party who has received the data or assessment during the six months immediately preceding the date when the Bureau became aware of the matter. The party registered shall also be informed of any third party who has been informed as mentioned in clause 1 of this section, and of the source of the data or assessment.

15.- (1) Where a party registered requests the deletion or correction of any data or assessment, indicating these to be incorrect or misleading, or requests the deletion of data not permitted to be registered or passed on, the Bureau shall reply in writing as soon as possible and not later than four weeks from receipt of such request.

(2) Where the office refuses to delete or correct as requested, the party registered shall, within four weeks from receipt of the reply made by the Bureau or from expiration of the time limit for replying laid down in subsection (1) hereof, be entitled to submit his request for review to the DSA, who shall decide whether or not deletion or correction shall be made. The provisions of Section 14 of this Act shall apply correspondingly.

(3) Any reply by the Bureau as referred to in subsection (2) hereof shall inform the party registered of his right to submit his request for review to the DSA and of the time limit for such submission.

16. Transfer or surrender in any manner whatsoever of registers shall be permitted only to Credit Information Bureaux registered with the DSA, and such transfer or surrender shall be reported to the DSA without undue delay.

Part 4

Direct Mail Agencies

17.- (1) Enterprises that sell addresses of groups of people, institutions, associations or enterprises, or that undertake for third party to fill envelopes or to distribute literature intended for such groups, shall be permitted to register only:

1. name, address, description, trade or profession,

2. unrestricted data from Central Register of Enterprises and Establishments, and

3. data on leisure interests and similar criteria for break-down into generally acknowledged groups.
(2) Data on race, religious belief, colour of skin; on political, sexual or criminal matters; on health, excessive use of intoxicants and the like, shall not be registered. The Minister of Justice may further limit the right to register specified types of data.

18.-(1) A Direct Mail Agency shall delete from its registers data on any party who in writing requests the Agency so to do.

(2) Where request as referred to in subsection (1) hereof is made to any party appearing as sender, that party shall pass on the request to the Agency concerned.

19. Where an association etc leaves any list of members with an Agency for the purpose of distribution of literature etc on behalf of the association etc, the Agency shall not without the consent of the association pass on such list of members to third party, nor shall the Agency use it for distribution of literature etc on behalf of third party.

Part 5

EDP Service Agencies

20.-(1) An enterprise that on behalf of third party including any public authority, performs electronic processing of data as referred to in Section 1 of this Act, shall file prior application for registration with the DSA.

(2) An enterprise as referred to in subsection (1) hereof shall not without the consent of the owners of the register use the data received for other purpose than performance of the processing stipulated in the underlying agreement, and shall not allow the data to be stored or processed with third party or outside Denmark.

(3) An enterprise as referred to in subsection (1) hereof, shall implement safeguards as required to ensure that the data in question are not wrongfully used or brought to the notice of an unauthorised party.

Part 6

Registration and electronic data processing outside Denmark

21.-(1) Data that as provided in subsection (2) of Section 3 of this Act are not permitted to be registered in Denmark, shall not be collected for the purpose of registration outside Denmark. Systematic collection of data other than those hereinbefore referred to for the purpose of registration outside Denmark shall be subject to licence given by the DSA, provided always that registration in Denmark would require application for registration with the DSA or licence given under the provisions of this Act.
(2) Handing over for electronic data processing outside Denmark of registers storing data as referred to in subsection (2) of Section 3 of this Act shall be subject to prior licence given by the DSA. This provision shall apply also to systematic collection for the purpose of electronic data processing outside Denmark of data as referred to in subsection (2) of Section 3 of this Act. The provision of clause 1 of this subsection shall not apply to a register which is found in Denmark solely for the purpose of undergoing electronic data processing.

(3) Licence under subsections (1) and (2) hereof shall be granted only where in the opinion of the DSA handing over to third party outside Denmark will not cause material weakening of such protection of the party registered as is intended to be ensured by the provisions of this Act.

(4) For the purpose of performance of international agreements or otherwise for the furtherance of international collaboration on regulation of the type of enterprise dealt with by this Act, the Minister of Justice may order that the provisions of clause 2 of subsection (1) and of subsection (2) hereof shall not apply vis-à-vis other specified countries or specified types of registers. Such exemption shall be ordered only after prior consultation with the DSA and provided that such exemption will not cause material weakening of such protection of the party registered as is intended to be ensured by the provisions of this Act.

Part 7

Surveillance and penalties etc

22.- (1) The DSA shall supervise compliance with the provisions of this Act and with any rule laid down by virtue of this Act, and thus also of its own motion or upon complaint made by a party registered ensure that the register in question has been established and is operated in compliance with the provisions of this Act and with any rule laid down by virtue of this Act.

(2) The DSA shall be entitled to demand disclosure of any and all information of relevancy to its performance of its duties, including for the purpose of deciding whether or not any matter shall be subject to the provisions of this Act.

(3) In respect of any activity which is subject to application for registration or to the provisions of subsection (3) of Section 3, of Section 21, or to any provision laid down in pursuance of subsection (5) of Section 3 of this Act, 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.
23.-(1) The DSA shall be authorised to order that registration or passing-on not permitted under the provisions of this Act shall be discontinued, and that existing registers kept in contravention of the provisions of this Act or in contravention of an order made under this Act shall be erased.

(2) The DSA shall be authorised to order an enterprise etc to delete or correct any data not permitted to be registered, or found by the DSA to be incorrect or misleading.

(3) The DSA shall be authorised to order any person or enterprise etc to delete or correct any data registered prior to the commencement of this Act and not permitted to be registered under the provisions of this Act, or found by the DSA to be incorrect or misleading.

(4) The DSA shall be authorised to prohibit the use of a specified procedure for collection or passing-on of data if in the opinion of the DSA the procedure in question creates a substantial risk that incorrect or misleading data or data not permitted to be registered or passed on will be registered or passed on.

(5) The DSA shall be authorised to order an enterprise etc to implement specified measures for checking and control to ensure that incorrect or misleading data or data not permitted to be registered or passed on are not and will not be registered or passed on, and also measures to ensure that registered data are not wrongfully used or brought to the notice of an unauthorised party.

24. For the purpose of performance of international agreements or otherwise for the furtherance of international collaboration on checking and control of the type of enterprise dealt with by this Act, the Minister of Justice may lay down rules on, inter alia, the relationship between the DSA and foreign surveillance authorities; on duty of notification for registration; on erasure of registers; and to the effect that the provision of subsection (3) of Section 22 of this Act shall apply also to activity of a type other than that dealt with by that provision.

25. Decisions made by the DSA in pursuance of this Act shall not be submitted for review to other administrative authority.

26.- (1) The DSA shall be authorised to lay down rules on form and contents of notifications and applications as referred to in this Act.

(2) The Minister of Justice may lay down rules on fees payable for notifications, applications, and licences as referred to in this Act.
27.- (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 to lenient imprisonment:

1° infringement of s.3(2) and (3); s.4(1) and (2); s.5(2) clause 2; s.6; ss.8 and 9; s.10(1); s.11(1), (2) and (4); ss.12-14; s.15(1), (2) clause 2, and (3); ss.16-20; and s.21(1) and (2);

2° failure to comply with a decision made by the DSA pursuant to s.5(1) or s.15(2) clause 1;

3° failure to meet demands made by the DSA pursuant to s.22(2);

4° disregard of a stipulation or of terms and conditions subject to which a licence is given pursuant to the provisions of this Act or to any rule laid down by virtue of this Act, or

5° failure to comply with a mandatory or prohibitory order given pursuant to the provisions of this Act or to any rule laid down by virtue of this Act.

(2) Any direction laid down by virtue of this Act may provide that contravention of any provision of such direction shall be punishable either by a fine or by a fine or lenient imprisonment.

(3) Where an offence as hereinbefore listed 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.

28. Any person who carries on or is employed by an enterprise as referred to in subsection (3) of Section 3, in Sections 8 and 20 of this Act, may when convicted of an offence be deprived of the right to carry on or be employed by such enterprise, provided the offence committed gives reasonable ground to fear that it will lead to abuse. Otherwise, subsection (1) clause 3, and subsections (2) and (3) of Section 79 of the Danish Penal Code shall apply.

Part 8
Commencement and Transitional Provisions

29.- (1) This Act shall come into force on 1 January 1979.

(2) The provisions of paragraph 3 of subsection (1) of Section 1 of Act No. 63, 3 March 1948, on assistance in legal matters and on collection and detection activities etc shall cease to have effect.
30.-(1) In the case of EDP registers the operation of which dates from before the commencement of this Act, the provision of Section 6 of this Act shall not apply until twelve months after the commencement of this Act.

(2) Any Credit Information Bureau existing at the commencement of this Act, and any enterprise that at the commencement of this Act undertakes electronic data processing for third party as referred to in Section 20 of this Act, shall apply for registration at the latest three months after the commencement of this Act.

(3) In relation to any person or enterprise etc that at the commencement of this Act is registered by a Credit Information Bureau, subsection (1) of Section 10 of this Act shall apply when any data is registered for the first time after the commencement of this Act, and any such person or enterprise etc shall be apprised accordingly.

(4) Any enterprise that at the commencement of this Act undertakes registration as referred to in subsection (3) of Section 3 of this Act, and any party who carries on business as referred to in subsections (1) and (2) of Section 21 of this Act, shall apply for licence so to do at the latest three months after the commencement of this Act.

31. This Act does not extend to the Faeroe Islands.

Given at Christiansborg Palace, Copenhagen, Denmark, this eighth day of June One thousand nine hundred and seventy-eight.

Under Our Royal Hand and Seal

Margrethe R

LS