

Danish Legislation on Archives and Personal Data

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Danish National Archives

8.-(1) The authorities shall ensure safeguarding of considerations with respect to archives, including that records are kept in a satisfactory manner.

(2) The authorities shall ensure that records stored on electronic media be kept in such a manner that they can be transferred to public archives.

(3) When records are transferred to public archives the responsibility for their future preservation shall pass to the said public archives.

9. After having obtained an opinion from the Danish Data Protection Agency, the Minister for Culture may determine to lay down regulations on public archives' safe keeping of material of the nature covered by the Act on Processing of Personal Data.

10.-(1) To safeguard archival interests, the Minister for Culture shall lay down rules concerning the handling, preservation and disposal of the records of State authorities.

(3) The Minister for Culture is empowered to authorise the National Archivist to lay down more detailed regulations concerning the preservation and disposal of public records.

(4) The State Archives shall supervise the compliance with the rules.

Accessibility to public records

22.-(1) Archival units created or provided by the public administration and the courts of law and which have been transferred to public archives, are accessible when the archival units are 20 years old, cf., however, sections 23-25, 27 and 28 below.

Accessibility to public records

23.-(1) Archival units containing information of a private, including financial, nature about private individuals are accessible when they are 75 years old.

Accessibility to public records

28.-(1) The parochial records kept by the Established Church and the recognised denominations, South Jutland person registers and civil marriage books, which have been transferred to the State Archives, are accessible when they are 50 years old.

(2) Death and burial registers, which are transferred to the State Archives, are accessible when they are 10 years old.

(3) The National Archivist may determine a limitation in the access to records which are younger than 100 years in very special circumstances.

Restricted access records

30.-(1) Any person may request permission to use restricted access records, cf. Part 6 above.

(2) In connection with an application for permission under subsection (1) above, the purpose of the intended use of the information for which access is requested shall be notified.

Restricted access records

31. The National Archivist or any person authorised by him may in concrete cases grant permission for use of documents, archival units or groups of archival units which have been transferred to the State Archives before the expiry of the accessibility time-limits, cf., however, sections 33-45 below.

Restricted access records

34. Permission by virtue of sections 31 [...]above requires consent from the Danish Data Protection Agency, if the archival unit is transferred by an authority in the public administration and

1. contains information about individual persons' strictly private affairs, and earlier processing of the information has been covered by Act on Processing of Personal Data;or
2. the information comes from an electronic data processing register which has been kept for the public administration.

Use of public records

40. Anyone who is granted access to use records subject to restricted access must not make unauthorized publishing, disclosure or use of confidential information that has thereby come to the notice of the person in question.

Information shall be deemed confidential where so defined by law or any other valid provision or where it shall otherwise be necessary hold it in confidence to protect private or public interests.

Use of public records

- **41.-(1)** After having obtained an opinion from the Danish Data Protection Agency, the Minister for Culture shall lay down rules on conditions for using information of the type covered by Act on Processing of Personal Data

Special terms

41.(2) The authorities mentioned in sections 31-35 above may in connection with compliance with applications for access to records determine to lay down special terms for the use of records subject to restricted access.

(3) Terms are laid down on the basis of the nature of the information to which access is granted; and the purpose indicated for the use, cf. section 30(2) above.

Special terms

- (4) Terms to be stipulated may include the following
 - 1) that information about a private, including financial, nature about private individuals is not disclosed;
 - 2) that no contact is taken to persons who are mentioned in the material to which access is given, or to their next-of-kin;
 - 3) that the documents, etc., are not reported in their entirety; and
 - 4) that no copying is made.

51.-(1) Any person who contravenes section 40 above or the conditions set out in pursuance of section 41 above shall be liable to a fine or imprisonment for a term not exceeding six months.

(2) Any person who contravenes the provisions of sections 16, 17, 48 or 50 above shall be liable to a fine.

Data Protection Act

5. - (1) Data must be processed in accordance with good practices for the processing of data.

(2) Data must be collected for specified, explicit and legitimate purposes and further processing must not be incompatible with these purposes. Further processing of data which takes place exclusively for historical, statistical or scientific purposes shall not be considered incompatible with the purposes for which the data were collected.

Data Protection Act

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

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

- 1) this follows from law or regulations; or
- 2) the data subject has given his explicit consent; 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 companies, etc. of the type mentioned and the disclosure is of decisive importance for an unambiguous identification of the data subject or the disclosure is demanded by an official authority.

Data Protection Act

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

General Data Protection Regulation

53. Special categories of personal data which merit higher protection should be processed for health-related purposes only where necessary to achieve those purposes for the benefit of natural persons and society as a whole, in particular in the context of the management of health or social care services and systems, including processing by the management and central national health authorities of such data for the purpose of quality control, management information and the general national and local supervision of the health or social care system, and ensuring continuity of health or social care and cross-border healthcare or health security, monitoring and alert purposes, or for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, based on Union or **Member State law** which has to meet an objective of public interest, as well as for studies conducted in the public interest in the area of public health. Therefore, this Regulation should provide for harmonised conditions for the processing of special categories of personal data concerning health, in respect of specific needs, in particular where the processing of such data is carried out for certain health-related by persons subject to a legal obligation of professional secrecy. Union or Member State law should provide for specific and suitable measures so as to protect the fundamental rights and the personal data of natural persons. Member States should be allowed to maintain or introduce further conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health. However, this should not hamper the free flow of personal data within the Union when those conditions apply to cross-border processing of such data.

Article 89

1. Processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner.

2. Where personal data are processed for scientific or historical research purposes or statistical purposes, Union or **Member State law** may provide for **derogations** from the rights referred to in Articles 15, 16, 18 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

3. Where personal data are processed for archiving purposes in the public interest, Union or **Member State law** may provide for **derogations** from the rights referred to in Articles 15, 16, 18, 19, 20 and 21 subject to the conditions and safeguards referred to in paragraph 1 of this Article in so far as such rights are likely to render impossible or seriously impair the achievement of the specific purposes, and such derogations are necessary for the fulfilment of those purposes.

4. Where processing referred to in paragraphs 2 and 3 serves at the same time another purpose, the derogations shall apply only to processing for the purposes referred to in those paragraphs.