

## **Personal Data Ordinance (1998:1191);**

issued 3 September 1998.

The Government prescribes the following.

### *Introductory provisions*

#### **Section 1**

This Ordinance provides supplementary regulations concerning such processing of personal data as is subject to the Personal Data Act (1998:204).

### *Supervisory authority*

#### **Section 2**

The Data Inspection Board is the supervisory authority under the Personal Data Act (1998:204).

### *Notification to the Data Inspection Board*

#### **Section 3**

The duty of notification under Section 36, first paragraph, of the Personal Data Act (1998:204) does not apply to the processing of personal data

1. that is undertaken pursuant to an authority's obligation under Chapter 2 of the Freedom of the Press Act to provide official documents,
2. that is undertaken by the archive authority pursuant to the provisions of the Archives Act (1990:782) or the Archives Ordinance (1991:446),
3. that is governed by specific regulations in a statute or ordinance in other cases than those mentioned in items 1 and 2.

#### **Section 4**

The duty of notification under Section 36, first paragraph, of the Personal Data Act (1998:204) does not apply to processing of personal data in running text.

#### **Section 5**

The duty of notification under Section 36, first paragraph, of the Personal Data Act (1998:204) does not apply to processing of sensitive personal data that is performed under Section 17 of the Personal Data Act. Nor does the duty of notification apply to the corresponding processing by such an organisation of other kinds of personal data than sensitive personal data.

#### **Section 6**

The Data Inspection Board may issue regulations on exemptions from the duty of notification under Section 36, first paragraph, of the Personal Data Act (1998:204) for such types of processing as will not be likely to result in improper intrusion of personal integrity.

#### **Section 7**

The Data Inspection Board shall, by means of automated processing, maintain a register of the processing of personal data notified to the Inspection under Section 36, first paragraph, of the Personal Data Act (1998:204).

*Exemptions from the prohibition on processing of sensitive personal data*

**Section 8**

Over and above the specifications in Sections 15–19 of the Personal Data Act (1998:204), sensitive personal data may be processed by a public authority in running text if the data have been submitted in a specific case or are necessary for the handling thereof. Ordinance (2001:582).

*Processing of information concerning criminal offences, etc.*

**Section 9**

The Data Inspection Board may as regards automated processing of personal data issue regulations on exemptions from the prohibition in Section 21 of the Personal Data Act (1998:204) for persons, other than authorities, to process personal data concerning legal offences that comprise crime, judgments in criminal cases, coercive penal procedural measures or administrative deprivation of liberty. The Data Inspection Board may also decide in individual cases on exemptions from the prohibition. Ordinance (2001:582).

*Prior checking*

**Section 10**

The following automated processing of personal data shall, irrespective of whether they are subject to the duty of notification under Section 36 of the Personal Data Act or not, be notified for preliminary review to the Data Inspection Board not later than three weeks in advance:

1. processing of sensitive personal data for research purposes without consent of the person registered and which have not been approved by a research ethics committee in accordance with Section 19, second paragraph of the Personal Data Act (1998:204),
2. processing of personal data concerning hereditary disposition derived from genetic investigation.

The first paragraph does not apply to such processing of personal data as is governed by specific regulations in a statute or ordinance. Ordinance (2001:582).

**Section 11**

As regards such processing as is notified to it pursuant to Section 10 of this ordinance or special regulations on prior checking in another statute or ordinance, the Data Inspection Board shall make a specific decision as to whether or not measures are to be taken by reason of the notification. Ordinance (2001:751).

*Transfer of personal data to third countries*

**Section 12**

A municipality or county council may transfer to a third country personal data included in:

1. a register and as referred to in Chapter 15, Section 2 of the Secrecy Act (1980:100);
2. a notice convening a meeting of a council or a committee;
3. an announcement of a council meeting; or

4. the approved minutes of a council or committee meeting.

Personal data that can be directly connected to the registered person may not be transferred. However, this prohibition does not apply to personal data concerning an elected representative if the data relate to his or her commission. Neither does the prohibition apply if:

1. other personal data concerning the registered person are not of the kind referred to in Sections 13 or 21 of the Personal Data Act (1998:204); and
2. there is no reason to assume that there is a risk of violation of the registered person's personal integrity as a result of the transfer.

Personal identity numbers and coordination numbers may never be transferred.

The provisions in paragraphs 1-3 also apply to federations of local authorities. In such cases, council also refers to the councils or directorates of federations of local authorities and committee refers to such a body as is referred to in Chapter 3, Section 25, paragraph 2 of the Local Government Act (1991:900). Ordinance (2001:582).

### **Section 13**

Personal data may be transferred to a third country:

1. if and to the extent that the Commission of the European Communities has established that the country has an adequate level of protection for personal data pursuant to Article 25.6 of Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data; or
2. if the personal data are transferred pursuant to an agreement that contains such standard contractual clauses as the Commission, in accordance with Article 26.4 of the Directive, has decided offer sufficient safeguards with respect to the protection of the privacy and fundamental rights and freedoms of individuals and as regards the exercise of the corresponding rights.

The Commission decisions referred to in paragraph 1, subsection 1, are listed in appendix 1 of this ordinance. The appendix specifies that some of the decisions apply only to transfers to the recipients specified in the decisions.

The Commission decisions referred to in paragraph 1, subsection 2, are listed in appendix 2 of this ordinance. Ordinance (2002:142).

### **Section 14**

The Data Inspection Board may issue regulations on exemptions from the prohibition in Section 33 of the Personal Data Act (1998:204) on the transfer to a third country of personal data which are undergoing processing and on the transfer to a third country of personal data for processing if there are sufficient safeguards with respect to the protection of the registered person's rights. Under the same conditions and in individual cases, the Data Inspection Board may also make a decision on exemptions from the prohibition. Ordinance (2001:582).

### *Sector agreements*

### **Section 15**

The Data Inspection Board shall at the request of an organisation that represents a substantial part of the controllers of personal data within a particular line of business or within a

particular sector issue an opinion on proposals for agreements as regards processing of personal data within the line of business or sector (sector agreement).

An opinion under the first paragraph shall relate to the compatibility of the sector agreement with the Personal Data Act (1998:204) and other statutes or ordinances governing the processing of personal data in question.

The Inspection shall, before it issues its opinion, if appropriate ensure that organizations that represent the persons registered have been given an opportunity to express their views on the proposals for a branch agreement. Ordinance (2001:582).

### *Authorization*

#### **Section 16**

The Data Inspection Board may on matters concerning automated processing of personal data issue further regulations on

1. the cases in which processing of personal data is permitted,
2. the requirements which are imposed on the controller of personal data,
3. the cases in which the use of personal identity numbers is permitted,
4. what a notification or application to a controller of personal data should contain,
5. which information should be provided to the registered persons and how the information should be provided,
6. notification to the Inspection and the procedure when notified information has been altered. Ordinance (2001:582).

### *Support to persons who are registered abroad*

#### **Section 17**

A person who is resident in Sweden and who is or may be assumed to be registered in a register subject to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in a country that has acceded to the Convention, may submit to the Data Inspection Board a request for support of the kind referred to in Article 14, Item 2 of the Convention. The Data Inspection Board shall pass on the request for protection by natural persons in automatic data processing of personal data to the other country.

The request should contain information about

1. name, address and other details necessary to identify the person who makes the request,
2. the register to which the request relates or the person who is responsible for the register,
3. the purpose of the request. Ordinance (2001:582).

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This Ordinance enters into force on 24 October 1998, upon which the Data Ordinance (1982:480) ceases to apply. However, the Data Ordinance still applies in those cases where the Data Act (1973:289) shall be applied in accordance with the implementation and transitional rules for the Personal Data Act (1998:204).

## **Appendix 1**

The Commission of the European Communities has announced the following decisions pursuant to Article 25.6 of Directive 95/46/EC of the European Parliament and the Council. Decisions 1 and 2 specify that these decisions only apply to transfers to certain specified recipients in each state.

<b>State</b>	<b>Decision</b>
United States	1. Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the Safe Harbor Privacy Principles and related frequently asked questions issued by the US Department of Commerce.
Canada	2. Commission Decision of 20 December 2001 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided by the Canadian Personal Information Protection and Electronic Documents Act.
Switzerland	3. Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland.
Hungary	4. Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Hungary. Ordinance (2002:142).

## **Appendix 2**

The Commission of the European Communities has announced the following decisions pursuant to Directive 95/46/EC of the European Parliament and of the Council.

1. Commission Decision of 15 June 2001 on standard contractual clauses for the transfer of personal data to third countries pursuant to Directive 95/46/EC of the European Parliament and of the Council.
2. Commission Decision of 27 December 2001 on standard contractual clauses for the transfer of personal data to processors established in third countries pursuant to Directive 95/46/EC of the European Parliament and of the Council. Ordinance (2002:142).