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94th Congress
2d Session

COMMITTEE PRINT

LAWS ON THE CONFIDENTIALITY OF CENSUS RECORDS IN WESTERN EUROPE, CANADA, AND JAPAN


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FOR THE USE OF THE

COMMITTEE ON POST OFFICE AND
CIVIL SERVICE
UNITED STATES SENATE

DOCUMENTS

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CONTENTS

	Page
Foreword	V
Canada	1
France	23
Germany [Federal Republic]	25
Great Britain	29
Italy	41
Japan	43
The Netherlands	45
Sweden	47

FOREWORD

Few documents in the possession of the Federal Government offer the detailed and accurate description of the American people afforded by the records of the decennial censuses of population. For that reason, census records have become the focus of extreme interest for historians, genealogists, and a wide range of researchers drawn from the social and scientific disciplines.

During the 94th Congress, the Senate Committee on Post Office and Civil Service conducted hearings on two legislative proposals, S. 3279 and H.R. 10686, to ensure the continued availability of census records to historians and other legitimate researchers. More specifically, these bills required the transfer of population census records from the Bureau of the Census to the National Archives within fifty years of the census, with release of the records after seventy-five years.

Concerns about the legislation raised by the Bureau of the Census and others soon made it apparent that benefits gained from the release of census records could be easily offset by a loss of credibility for the census, as well as damage to the reputations of individual citizens.

Faced with this very sincere conflict of values, the Committee turned to the Library of Congress to ask for an accounting of those laws used by other major industrial nations of the world for the protection and release of confidential census information. This document is the result of the Library's research.

On September 21, 1976, the Committee ordered H.R. 10686 reported, after substantially amending the bill in an effort to maintain those safeguards necessary for the protection of the American people. All concerns were not fully met, however, as demonstrated by the fact that the Senate Committee on Government Operations, to which the bill was similarly referred, laid the measure aside for more study.

It is reasonably certain that some form of H.R. 10686 will again be introduced in the next Congress for further consideration. With that in mind, then, this compilation of comparative law has been printed at my request for the use of the Senate.

Senator GALE W. MCGEE,
Chairman, Post Office and Civil Service Committee.

LAWS ON THE CONFIDENTIALITY OF CENSUS RECORDS
IN WESTERN EUROPE, CANADA, AND JAPAN

Prepared by Members of the Staff

July 1976



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OFFICE OF THE
LAW LIBRARIAN OF CONGRESS

July 23, 1976

Attention: Art Eck

Dear Senator McGee:

Your request of June 30, 1976 was referred to the Law Library by the Congressional Research Service for the preparation of a compilation of laws and regulations on the availability of census records adopted by major industrialized countries in Western Europe, as well as Canada and Japan.

We hope that the enclosed report, prepared by members of the Law Library staff, will be of assistance.

If we can be of further service, please call on us.

Sincerely,

Carleton W. Kenyon

Carleton W. Kenyon
Law Librarian

Enclosure

The Honorable
Gale W. McGee
Chairman, Committee on Post Office
and Civil Service
United States Senate
Washington, D. C. 20510

CANADA

Statistics Canada is the statistics bureau responsible for taking the census of the population of Canada and the census of agriculture of Canada. It is also responsible for promoting and developing integrated social and economic statistics concerning the whole of Canada and each of the provinces as well as for coordinating plans for the integration of such statistics. The *Instruction Booklet* which accompanies the census questions given to individuals contains the following paragraph:

"Nobody outside DBS will see your questionnaire.

The only people who will ever see census questionnaires are employees of the Dominion Bureau of Statistics who have taken an oath of secrecy to ensure that all census information remains strictly confidential. Under a law passed by Parliament, no other indivdual, no other government department, has access to your personal information.

The material so collected is put on microfilm and stored by the Bureau and is never given to any other agency no matter how many years have passed, and every effort is made to prevent the detection of any identity from the figures that are published in reports and studies."

Copies of the following materials are enclosed:

Statistics Act, 1970–71–72 Can. Stat. c. 15

Designating the Ministry of Industry, Trade and Commerce to act as Minister for purposes of the Act Regulation, SOR/71–487, 105 Can. Gaz. Pt. 11, 1702 (September 16, 1971)

Dominion Bureau of Statistics. Instruction Booklet. 1971 census of Canada.

Questions for 1976 census order, P.C./74–2721, 108 Can. Gaz. Pt. 1, 4807–4831 (December 10, 1974)

[Prepared by (Mrs.) Jean V. Swartz, Senior Legal Specialist, American-British Law Division, Law Library, Library of Congress, July 1976.]

79-109—76——2

Passed in the session held in the nineteenth-twentieth-twenty-first years of the Reign of Her Majesty Queen Elizabeth II.

Third Session of the Twenty-Eighth Parliament

Begun and held at Ottawa on the eighth day of October, 1970 and prorogued on the sixteenth day of February, 1972.

His Excellency the Right Honourable Roland Michener, Governor General.

19–20 ELIZABETH II

CHAPTER 15

An Act respecting statistics of Canada

[*Assented to 11th February, 1971*]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Statistics Act*.

INTERPRETATION

Definitions

2. In this Act,

"*Department*"

(*a*) "department" or "departments of government" means any department, branch, bureau or other division of the Government of Canada or of the government of a province or any agency of either;

"*Minister*"

(*b*) "Minister" means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council to act as the Minister for the purposes of this Act; and

"*Respondent*"

(*c*) "respondent" means a person in respect of whom or in respect of whose activities any report or information is sought or provided pursuant to this Act.

STATISTICS CANADA

Statistics bureau

3. There shall continue to be a statistics bureau under the Minister, to be known as Statistics Canada, the duties of which are

(*a*) to collect, compile, analyse, abstract and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and condition of the people;

(*b*) to collaborate with departments of government in the collection, compilation and publication of statistical information, including statistics derived from the activities of those departments;

(*c*) to take the census of population of Canada and the census of agriculture of Canada as provided in this Act;

(*d*) to promote the avoidance of duplication in the information collected by departments of government; and

(*e*) generally, to promote and develop integrated social and economic statistics pertaining to the whole of Canada and to each of the provinces thereof and to coordinate plans for the integration of such statistics.

Chief Statistician

4. (1) The Governor in Council may appoint an officer called the Chief Statistician of Canada, hereinafter called the "Chief Statistician", to be the deputy of the Minister for the purposes of this Act and to hold office during pleasure.

Duties

(2) The Chief Statistician shall, under the direction of the Minister,

(*a*) advise on matters pertaining to statistical programs of the departments and agencies of the Government of Canada, and confer with such departments and agencies to that end; and

(*b*) supervise generally the administration of this Act and control the operations and staff of Statistics Canada.

Report to Minister

(3) In each fiscal year the Chief Statistician shall report to the minister with regard to the activities of Statistics Canada in the preceding fiscal year, and the report made hereunder shall be included in the Minister's annual report to Parliament as a separate part thereof.

Temporary employees

5. (1) The Minister may employ, from time to time, in the manner authorized by law, such commissioners, enumerators, agents or other persons as are necessary to collect for Statistics Canada such statistics and information as he deems useful and in the public interest relating to such commercial, industrial, financial, social, economic and other activities as he may determine, and the duties of such commissioners, enumerators, agents or other persons shall be those duties prescribed by the Minister.

Public servants

(2) The Minister may, for such periods as he may determine, use the services of any employee of the public service of Canada in the exercise or performance of any duty, power or function of Statistics Canada or officer of Statistics Canada under this or any other Act, and any person whose services are so used shall, for the purposes of this Act, be deemed to be a person employed under this Act.

Contracted services

(3) Any person retained under contract to perform special services for the Minister pursuant to this Act and the employees and agents of such persons shall for the purposes of this Act be deemed to be persons employed under this Act while performing such services.

Oath of office

6. (1) The Chief Statistician and every person employed or deemed to be employed pursuant to this Act shall, before entering upon his duties, take and subscribe the following oath or affirmation:

I, _____, do solemnly swear (or affirm) that I will faithfully and honestly fulfil my duties as an employee of Statistics Canada in conformity with the requirements of the *Statistics Act*, and of all rules and instructions thereunder and that I will not without due authority in that behalf disclose or make known any matter or thing that comes to my knowledge by reason of my employment.

Attestation

(2) The oath or affirmation set out in subsection (1) shall be taken before such person, and returned and recorded in such manner, as the Minister may direct.

Rules and instructions

7. The Minister may, by order, prescribe such rules, instructions, schedules and forms as he deems requisite for conducting the work and business of Statistics Canada, the collecting, compiling and publishing of statistics and other information and the taking of any census authorized by this Act.

No discrimination

8. (1) The Governor in Council shall not, nor shall the Minister, in the execution of the powers conferred by this Act, discriminate between individuals or companies to the prejudice of any such individuals or companies.

Use of sampling methods

(2) Notwithstanding anything in this Act, the Minister may authorize the use of sampling methods for the collection of statistics.

Arrangements with provincial governments

9. (1) The Minister may enter into any arrangement with the government of a province providing for any matter necessary or convenient for the purpose of carrying out or giving effect to this Act, and in particular for all or any of the following matters:

(*a*) the execution by provincial officers of any power or duty conferred or imposed on any officer pursuant to this Act;

(*b*) the collection by any provincial department or provincial officer of any statistical or other information required for the purpose of this Act; and

(*c*) the supplying of statistical information by any provincial department or provincial officer to the Chief Statistician.

Provincial officers

(2) All provincial officers executing any power or duty conferred or imposed on any officer pursuant to this Act, in pursuance of any arrangement entered into under this section, shall, for the purposes of the execution of that power or duty, be deemed to be employed under this Act.

Agreements with provincial governments

10. (1) The Minister may, with the approval of the Governor in Council and subject to this section, enter into an agreement with the government of a province for the exchange with, or transmission to, a statistical agency of the province of

(*a*) replies to any specific statistical inquiries;

(*b*) replies to any specific classes of information collected under this Act; and

(*c*) any tabulations and analyses based on replies referred to in paragraph (*a*) or (*b*).

Type of statistical agency

(2) An agreement with a province for the purposes of this section shall apply only in respect of a statistical agency of the province.

(*a*) that has statutory authority to collect the information that is intended to be exchanged or transmitted pursuant to such an agreement from a respondent who is subject to statutory penalties for refusing or neglecting to furnish information to the agency or for falsifying information furnished by him to the agency;

(*b*) that is prohibited by law from disclosing any information of a kind that Statistics Canada, its officers and employees would be prohibited from disclosing under section 16, if the information were furnished to Statistics Canada; and

(*c*) whose officers and employees are subject to statutory penalties for the disclosing of any information of the kind described in paragraph (*b*), subject to exceptions authorized by law that are substantially the same as those provided under section 16.

Nonapplication of agreement

(3) Except in respect of information described in subsection (3) of section 16, no agreement entered into under this section applies to any reply made to or information collected by Statistics Canada or an agency of the government of a province before the date that the agreement was entered into or is to have effect, whichever is the later date.

Informing respondent

(4) Where any information, in respect of which an agreement under this section applies, is collected by Statistics Canada from a respondent, Statistics Canada shall, when collecting information, advise the respondent of the names of any statistical agencies with which the Minister has an agreement under this section and to which the information received from the respondent may be communicated under that agreement.

Joint collection of information

11. (1) The Minister may enter into an agreement with any department or any municipal or other corporation for the exchange of information collected jointly with such department or corporation from a respondent and for subsequent tabulation or publication based on such information.

Agreement

(2) An agreement under subsection (1) shall provide that

(*a*) the respondent shall be informed that the information is being collected, jointly on behalf of Statistics Canada and the department or corporation, as the case may be, by a notice to that effect; and

(*b*) the agreement shall not apply in respect of any respondent who gives notice in writing to the Chief Statistician that he objects to the sharing of the information between Statistics Canada and the department or corporation, as the case may be.

What exchange may include

(3) An exchange of information pursuant to this section may, subject to subsection (2), include replies to original inquiries and supplementary information provided by a respondent to Statistics Canada and the department or corporation jointly collecting the information.

Access to records

12. A person having the custody or charge of any documents or records that are maintained in any department or in any municipal office, corporation, business or organization, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, shall grant access thereto for those purposes to a person authorized by the Chief Statistician to obtain such information or such aid in the completion or correction of such information.

Evidence of appointment

13. Any letter purporting to be signed by the Minister, the Chief Statistician or any person who may be authorized by the Minister for such purpose, and giving notice of any appointment or removal of, or setting forth any instructions to, any person employed in the execution of any duty under this Act is evidence of such appointment, removal or instructions, and that such letter was signed and addressed as it purports to be.

Presumption

14. Any document or paper, written or printed, purporting to be a form authorized for use in the taking of a census or the collection of statistics or other information, or purporting to set forth any instructions relating thereto, that is produced by any person employed in the execution of any duty under this Act as being such form or as setting forth such instructions, shall be presumed to have been supplied by the proper authority to the person so producing it, and is evidence of all instructions therein set forth.

Remuneration

15. (1) The Minister shall, subject to the approval of the Governor in Council, cause to be prepared one or more tables setting forth the rates of remuneration or allowances for commissioners, enumerators and other persons employed under this Act, which may be a fixed sum, a rate per diem or a scale of fees, together with allowances for expenses.

Condition of payment

(2) Full remuneration or allowance shall not be paid to any person referred to in subsection (1) for any service performed in connection with this Act until the service required of such person has been faithfully and entirely performed.

SECRECY

Prohibition against divulging information

16. (1) Subject to this section and except for the purposes of a prosecution under this Act,

(*a*) no person, other than a person employed or deemed to be employed under this Act, and sworn under section 6, shall be permitted to examine any identifiable individual return made for the purposes of this Act; and

(*b*) no person who has been sworn under section 6 shall disclose or knowingly cause to be disclosed, by any means, any information obtained under this Act in such a manner that it is possible from any such disclosure to relate the particulars obtained from any individual return to any identifiable individual person, business or organization.

Exception to prohibition

(2) The Minister may, by order, authorize

(*a*) the particulars of any information obtained in the course of administering this Act to be communicated to a statistical agency of a province pursuant to an agreement under section 10; and

(*b*) the particulars of any information collected jointly with a department or corporation pursuant to an agreement under section 11 to be communicated to the department or corporation that was party to the collecting of the information.

Idem

(3) The Chief Statistician may, by order, authorize the following information to be disclosed:

(*a*) information collected by persons, organizations or departments for their own purposes and communicated to Statistics Canada before of after this section comes into force, but such information when communicated to Statistics Canada shall be subject to the same secrecy requirements to which it was subject when collected and may only be disclosed by Statistics Canada in the manner and to the extent agreed upon by the collector thereof and the Chief Statistician;

(*b*) information relating to a person or organization in respect of which disclosure is consented to in writing by the person or organization concerned;

(*c*) information relating to a business in respect of which disclosure is consented to in writing by the owner for the time being of the business;

(*d*) information available to the public under any statutory or other law;

(*e*) information relating to any hospital, mental institution, library, educational institution, welfare institution or other similar non-commercial institution except particulars arranged in such a manner that it is possible to relate such particulars to any individual patient, inmate or other person in the care of any such institution;

(*f*) information in the form of an index or list of

(i) the names and locations of individual establishments, firms or businesses,

(ii) the products produced, manufactured, processed, transported, stored, purchased or sold, or the services provided, by individual establishments, firms or businesses in the course of their business, or

(iii) the names and addresses of individual establishments, firms or businesses that are within specific ranges of numbers of employees or persons engaged or constituting the work force; and

(*g*) information relating to any carrier or public utility.

Definitions

(4) In this section,

"*Carrier*"

(*a*) "carrier" means any person or association of persons that owns, operates or manages an undertaking that carries or moves persons or commodities by any form of land, sea or air transport; and

"*Public utility*"

(*b*) "public utility" means any person or association of persons that owns, operates or manages an undertaking

(i) for the supply of petroleum or petroleum products by pipeline,

(ii) for the supply transmission or distribution of gas, electricity, steam or water,

(iii) for the collection and disposal of garbage or sewage or for the control of pollution,

(iv) for the transmission, emission, reception or conveyance of information by any telecommunication system, or

(v) for the provision of postal services.

Information is privileged

17. (1) Except in respect of a prosecution under this Act, any return made to Statistics Canada pursuant to this Act and any copy of the return in the possession of the respondent is privileged and shall not be used as evidence in any proceedings whatever, and no person sworn under section 6 shall by an order of any court, tribunal or other body be required in any proceedings whatever to give oral testimony or to produce any return, document or record with respect to any information obtained in the course of administering this Act.

Application of section

(2) This section applies in respect of any information that Statistics Canada is prohibited by this Act from disclosing or that may only be disclosed pursuant to an authorization under subsection (2) or (3) of section 16.

POPULATION CENSUS AND AGRICULTURE CENSUS

Population census

18. (1) A census of population of Canada shall be taken by Statistics Canada in the month of June in the year 1971, and every fifth year thereafter in a month to be fixed by the Governor in Council.

Counts of electoral divisions

(2) The census of population shall be taken in such a manner as to ensure that counts of the population are provided for each federal electoral district of Canada, as constituted at the time of each census of population.

Decennial census

(3) A reference in any Act of the Parliament of Canada or in any order, rule or regulation or in any contract or other document made thereunder to a decennial census of population shall, unless the context otherwise requires, be construed to refer to the census of population taken by Statistics Canada in the year 1971 or in any tenth year thereafter.

Agriculture census

19. A census of agriculture of Canada shall be taken by Statistics Canada.

(*a*) in the year 1971 and in every tenth year thereafter; and

(*b*) in the year 1976 and in every tenth year thereafter, unless the Governor in Council otherwise directs in respect of any such year.

Census questions

20. (1) The Governor in Council shall by order prescribe the questions to be asked in any census taken by Statistics Canada under section 18 or 19.

Publication

(2) Every order under subsection (1) shall be published in the *Canada Gazette* not later than thirty days after it is made.

Nonapplication

(3) This section does not apply to any census that may be taken by Statistics Canada under section 18 or 19 in the year 1971.

GENERAL STATISTICS

General statistics

21. Without limiting the duties of Statistics Canada under section 3 or affecting any of its powers or duties in respect of any specific statistics that may otherwise be authorized or required under this Act, the Chief Statistician shall, under the direction of the Minister, collect, compile, analyse, abstract and publish statistics in relation to all or any of the following matters in Canada:

(*a*) population;
(*b*) agriculture;
(*c*) health and welfare;
(*d*) law enforcement, the administration of justice and corrections;
(*e*) government and business finance;
(*f*) immigration and emigration;
(*g*) education;
(*h*) labour and manpower;
(*i*) commerce with other countries;
(*j*) prices and the cost of living;

(*k*) forestry, fishing, and trapping;
(*l*) mines, quarries and wells;
(*m*) manufacturing;
(*n*) construction;
(*o*) transportation, storage and communication;
(*p*) electric power, gas and water utilities;
(*q*) wholesale and retail trade;
(*r*) finance, insurance and real estate;
(*s*) public administration;
(*t*) community, business and personal services; and
(*u*) any other matters prescrlbed by the Minister or by the Governor in Council.

Acquiring statistical data

22. In lieu of or in addition to using agents or employees for the collection of statistics under this Act, the Minister may prescribe that a form be sent to a person from whom information authorized to be obtained under this Act is sought, and such person shall answer the inquiries thereon and return the form and answers to Statistics Canada properly certified as accurate, not later than the time prescribed therefor by the Minister and indicated on the form or not later than such extended time as the Minister in his discretion may allow.

Returns under Income Tax Act

23. (1) For the purposes of this Act and subject to subsection (1) of section 16,

(*a*) the Chief Statistician or any person authorized by him to do so may inspect and have access to any returns, certificates, statements, documents, or other records obtained on behalf of the Minister of National Revenue for the purpose of the *Income Tax Act*, and

(*b*) the Minister of National Revenue shall cause such returns, certificates, statements, documents, or other records to be made available to the Chief Statistician or person authorized by him to inspect such records,

in such manner and at such times as the Governor in Council may prescribe upon the recommendation of the Minister and the Minister of National Revenue.

Return of exports and imports from Customs

(2) For the purposes of this Act and subject to subsection (1) of section 16, the Minister of National Revenue shall cause to be sent to the Chief Statistician returns of imports and exports into and from Canada and details of the means of transportation used therefor, in such manner and at such times as the Governor in Council may prescribe upon the recommendation of the Minister and the Minister of National Revenue.

CRIMINAL STATISTICS

Courts to furnish criminal statistics

24. The clerk of every court of tribunal administering criminal justice, or where there is no clerk, the judge or other functionary presiding over such court or tribunal shall, at such times, in such manner and respecting such periods as the Minister may direct, fill in and transmit the schedules he receives relating to the criminal business transacted in such court or tribunal.

Wardens and sheriffs

25. The warden of every penitentiary and reformatory and the sheriff of every county, district or other territorial division shall, at such times, in such manner and respecting such periods as the Minister may direct, fill in and transmit the schedules he receives relating to the prisoners committed to any penitentiary, reformatory or gaol under his charge or within his jurisdiction.

Records

26. Every person who is required to transmit any schedules mentioned in section 24 or 25 shall from day to day make and keep entries and records of the particulars to be comprised in such schedules.

Pardons

27. The Solicitor General of Canada shall cause to be filled in and transmitted to the Chief Statistician, at such times and respecting such periods as the Minister may direct, such schedules as the Minister may prescribe relating to the cases in which the prerogative of mercy has been exercised.

Desertion or false declaration

28. Every person who, after taking the oath set out in subsection (1) of section 6,

(*a*) deserts from his duty, or wilfully makes any false declaration, statement or return in the performance of his duties,

(*b*) in the pretended performance of his duties, obtains or seeks to obtain information that he is not duly authorized to obtain, or

(*c*) contravenes subsection (1) of section 16

is guilty of an offense and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

False of unlawful information

29. Every person who, without lawful excuse,

(*a*) refuses or neglects to answer, or wilfully answers falsely, any question requisite for obtaining any information sought in respect of the objects of this Act or pertinent thereto that has been asked of him by any person employed or deemed to be employed under this Act, or

(*b*) refuses or neglects to furnish any information or to fill in to the best of his knowledge and belief any schedule or form that he has been required to fill in, and to return the same when and as required of him pursuant to this Act, or knowingly gives false or misleading information or practices any other deception thereunder.

is, for every such refusal or neglect, or false answer or deception, guilty of an offense and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both.

Refusal to grant access to records

30. Every person

(*a*) who, having the custody or charge of any documents or records that are maintained in any department or in any municipal office, corporation, business or organization, from which information sought in respect of the objects of this Act can be obtained or that would aid in the completion or correction thereof, refuses or neglects to grant access thereto to any person authorized for the purpose by the Chief Statistician, or

(*b*) who otherwise in any way wilfully obstructs or seeks to obstruct any person employed in the execution of any duty under this Act

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

Leaving notice at house

31. The leaving by an enumerator, agent or other person employed or deemed to be employed under this Act, or the delivery by the post office at any house of any schedule or from purporting to be issued pursuant to this Act, and having thereon a notice requiring that it be filled in and signed within a stated time by the occupant of the house, or in his absence by some other member of the family, is, as against the occupant, a sufficient requirement so to fill in and sign the schedule or form notwithstanding that the occupant is not named in the notice, or personally served therewith.

Leaving notice at office

32. The leaving by an enumerator, agent or other person employed or deemed to be employed under this Act, at the office or other place of business of any person or the delivery by the post office to any person or his agent, of any schedule or form purporting to be issued pursuant to this Act, and having thereon a notice requiring that it be filled in and signed within a stated time is, as against the person, a sufficient requirement so to fill in and sign the schedule or form, and if so required in the notice, to mail the schedule or form within a stated time to Statistics Canada.

Disclosing secret information

33. Every person who, after taking the oath set out in subsection (1) of section 6,

(*a*) willfully discloses or divulges directly or indirectly to any person not entitled under this Act to receive the same any information obtained by him in the course of his employment that might exert an influence upon or affect

the market value of any stocks, bonds or other security or any product or article, or

(*b*) uses any such information for the purpose of speculating in any stocks, bonds or other security or any product or article

is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Personation of Statistics Canada employee

34. Every person who

(*a*) personates an employee of Statistics Canada for the purpose of obtaining information from any person, or

(*b*) represents himself to be making an inquiry under the authority of this Act when he is not an officer, employee or agent of Statistics Canada,

is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

Application of fines

35. All fines imposed pursuant to this Act belong to Her Majesty in right of Canada and shall be paid to the Receiver General.

Limitation

36. Any proceedings by way of summary conviction in respect of an offense under this Act may be instituted at any time within two years after the time when the subject matter of the proceedings arose.

REPEAL

Repeal of Statistics Act, R.S., c. 257

37. The *Statistics Act*, chapter 257 of the Revised Statutes of Canada, 1952, is repealed.

Transitional

38. (1) Notwithstanding the repeal of the Act referred to in section 37, Statistics Canada and the Chief Statistician of Canada may continue to be referred to as the Dominion Bureau of Statistics and the Dominion Statistician, respectively, in any inquiries, returns, forms or documents issued by Statistics Canada after the commencement of this Act.

Expiration

(2) This section expires four years after the commencement of this Act.

References to D.B.S. in other instruments

39. Whenever the Dominion Statistician or the Dominion Bureau of Statistics is mentioned or referred to in any Act of the Parliament of Canada or in any order, rule or regulation or in any contract or other document made thereunder, there shall in each and every such case, unless the context otherwise requires, be substituted the Chief Statistician of Canada or Statistics Canada, as the case may be.

Revised Statutes

40. A reference in this Act to any Act that is repealed and replaced by the Revised Statutes of Canada, 1970, or to any provision of such an Act, shall, after the coming into force of those Revised Statutes, be read as regards any transaction, matter or thing subsequent thereto as a reference to the corresponding Act or provision included in those Revised Statutes.

Commencement

41. This Act shall come into force on a day to be fixed by proclamation.

[From the Canada Gazette—Part II, vol. 105, No. 19, Oct. 13, 1971]

SOR/71-487

Statistics Act—Designating the Minister of Industry, Trade and Commerce to Act as Minister for Purposes of the Act

P.C. 1971-1961—September 16, 1971

His Excellency the Governor General in Council, on the recommendation of the Prime Minister, pursuant to section 2 of the Statistics Act, is pleased hereby to designate the Minister of Industry, Trade and Commerce, a member of the Queen's Privy Council for Canada, to act as the Minister for the purposes of the said Act.

THE CANADA GAZETTE

PART II

OTTAWA, *Wednesday, October 13, 1971.*

STATUTORY ORDERS AND REGULATIONS 1971, NUMBERS 476 TO 509

ORDER IN COUNCIL

P.C. 1974-2721—December 10, 1974

His Excellency the Governor General in Council, on the recommendation of the Minister of Industry, Trade and Commerce, pursuant to subsection 20(1) of the Statistics Act, is pleased hereby to prescribe the questions to be asked in the 1976 Census to be taken by Statistics Canada under sections 18 and 19 of the Act as follows:

1. In the Population Census:

(*a*) questions 1 to 6 listed in Schedule "A" to be asked of all households in Canada;

(*b*) questions H1 to H7 listed in Schedule "A" to be asked of the head of every household; and

(*c*) questions 7 to 12 listed in Schedule "A" to be asked of persons 15 years of age and over in one-third of the households only.

2. In the Agriculture Census, all questions listed in Schedule "B".

1971 Census of Canada

INSTRUCTION BOOKLET: DOMINION BUREAU OF STATISTICS

Steps to Follow When Completing Your Census Questionnaire

1. Study the example of a completed portion of a census questionnaire appearing on the other side of this page.
2. List all members of your household on page 2 of the questionnaire. (You'll find instructions on one of the questionnaire cover pages, showing who should be included as a member of your household and who should not.)
3. Answer all relevant questions on pages 2, 3, 4 and 5 of the questionnaire.
4. Pages 6 and 7 refer to Person 1 on your list; pages 8 and 9 to Person 2, etc. These pages must be completed in the order in which the names have been listed on page 2.
5. If you received a return envelope with your questionnaire, mail your completed form in this envelope on June 1. If you did not receive a return envelope, keep the questionnaire in a safe place until the Census Representative returns to collect it.
6. If you are still puzzled by a question after reading the instructions, call our Telephone Assistance Service. The numbers to call are listed on one of the questionnaire cover pages and all calls are toll-free.

Note.—There is no need to read all the instructions in this booklet. But if you have difficulty with any question, refer to the information given opposite the appropriate Question number in this booklet.

WHAT THE CENSUS IS ALL ABOUT

Nearly every country in the world takes a complete inventory of its population at regular intervals. This operation is called a census.

Municipal, provincial and federal governments, business, industry and many other agencies and organizations in Canada need to know the conditions that actually exist at a specific point in time so that they can plan adequately for the future.

The quality of living we have and the needs and wants of Canadians are measured in a full-scale census every ten years.

The information you give us will help us to find out:

What kind of people live in Canada.
What types of families we have.
What our homes are like.
How we earn our living.
Many other aspects of financial, social and economic life in Canada.

Facts like these become statistics when they have been brought together and combined into tables of numbers. But without your help on Census Day, these facts will never be available.

Statistics tell us

That in 1966 Canada's population was 20,014,880—an increase of almost two million over 1961.

That 29 percent of Canadian families lived in apartments or flats in 1966, as compared to only 25 percent in 1961.

That, in the age group of 65 and over, women outnumbered men by 106,436 in 1966.

The vast array of reliable information that comes from a census can help governments, businessmen and many other organizations to develop programmes that will help you. A country without a census would be like a business firm that did not take inventory. It would be operating in the dark.

All planning—from factory production to road-building to old age pensions—depends on statistics.

Nobody outside DBS will see your questionnaire

The only people who ever see census questionnaires are employees of the Dominion Bureau of Statistics who have taken an oath of secrecy to ensure that all census information remains strictly confidential. Under a law passed by Parliament, no other individual, no other government department, has access to your personal information.

Why are your personal names required?

Your name is required only to avoid such errors as counting "Mary Tremblay" as male, counting the same person twice or even missing someone altogether.

Why do we ask about your home?

Because federal, provincial and municipal governments need to know the details about existing housing if they are to plan effectively to deal with housing shortages or rising rents or the availability of money for mortgages. Business, industry and institutions of all kinds need this information to serve you in the best and least expensive way.

Why do we ask about your income?

DBS is not interested in any individual's income as such and, in fact, is prohibited by law from disclosing any personal information, about anyone to anyone outside of DBS—including other government departments. But it must add up statistical totals and averages on income because these figures have many important uses.

Income levels are probably the most important single indicator of a country's economic health. They are used in planning social insurance, pension plans and welfare programmes. Income statistics will enable industries to plan new factories in areas where the market justifies it; banks and stores will know which areas can support new branches. Policies and programmes tailored to fit Canadian needs and requirements can be developed.

To find out about Canada, we must first find out about its people. We're counting on you to count on June 1.

1976 Population and Housing Census Questionnaire

Question 1. Print the names of usual residents of this dwelling on June 1, 1976:
(a) who are present in this dwelling,
(b) or temporarily away (such as on business, at school, in hospital, etc.).
Include persons with no other home.
For definitions and order of listing, see Instruction Booklet.

Persons 1 to 6

Last name First name Initial

Question 2. Relationship to Head of Household: The HEAD of household is: EITHER the husband OR wife; the parent where there is one parent only, with unmarried children; or any member of a group sharing a dwelling equally.

"Other" should include grandchild, uncle, aunt, nephew, niece, in-laws such as brother-in-law or daughter-in-law, etc., employee, partner, lodger, employee's wife, lodger's son, etc. Fill one circle only or specify

Person 1:
- Head of household.
- Son or daughter of head.
- Father or mother of head.
- Brother or sister of head.
- Other (specify).

Person 2:
- Wife or husband of head.
- Son or daughter of head.
- Father or mother of head.
- Brother or sister of head.
- Other (specify).

Persons 3–6:
- Son or daughter of head.
- Father or mother of head.
- Brother or sister of head.
- Other (specify).

Question 3. Sex:

Fill one circle only—Persons 1 to 6.

Male Female

Question 4. Marital Status:

Fill one circle only—Persons 1 to 6

- Single (never married).
- Now married.
- Widowed.
- Divorced.
- Separated.

Question 5. Mother Tongue: Language First spoken and Still Understood.

Fill one circle only or specify—Persons 1 to 6

- English.
- French.
- German.
- Italian.
- Ukrainian.
- Other (specify).

Question 6. Date of Birth, Month and Year of Birth.

Please print—Persons 1 to 6

Month Year

Month of Birth.

Fill one circle only

Persons 1 to 6

January to May.
June to December.

Year of Birth

Decade (Such as the 1970's, 1960's, 1950's, etc.).

Fill one circle only

Persons 1 to 6

197–	193–	189–
196–	192–	188–
195–	191–	187–
194–	190–	186–

Actual year (in decade)
Fill one circle only

Persons 1 to 6

0	**5**
1	**6**
2	**7**
3	**8**
4	**9**

Questions H1 to H7 should preferably be answered by the HEAD of the household.

Note that a DWELLING is a separate set of living quarters with a PRIVATE ENTRANCE from outside or from a common hallway or stairway inside the building.

See definition in Instruction Booklet.

Question H1. Are there more than 6 persons in this dwelling?

Yes No

List 6 persons only on this form. Use the additional form provided to list other household members. If no additional form was provided, see Instruction Booklet.

Question H2. Is there anyone left out of QUESTION 1 because you were not sure whether he or she should be listed?

Yes No

For example, a student, a lodger who also has another home, a new baby still in hospital, or a former occupant of this household who has become a patient in a hospital or sanatorium within the past 6 months.

If "Yes," print name(s) here and the reason:

Name: Reason:

Question H3. How many visitors or other persons who have a usual home elsewhere in Canada stayed overnight on May 31/June 1?

None	6
1	7
2	8
3	9
4	10 or more.
5	

Question H4. At what telephone number can your household be reached?

No telephone.

Question H5. Do you enter your living quarters:

By a separate private entrance from outside?
Through a common hall or passageway?
Through someone else's living quarters?

Question H6. Is this dwelling:

Owned or being bought by you (or a member of this household)?
Rented (even if no cash rent is paid to the landlord)?

Question H7. See Drawings of Types of Dwellings in Instruction Booklet.
Is this dwelling a:

(*a*) Single House—a single dwelling not attached to any other structure and surrounded on all sides by open space?

(*b*) Semi-Detached or Double House—one of two dwellings attached side by side but not attached to any other structure and surrounded on all sides by open space?

(*c*) Duplex—one of two dewllings, one above the other, not attached to any other structure and surrounded on all sides by open space?

(*d*) Row House—one of three or more dwellings joined side by side but not having any other dwellings either above or below?

(*e*) Apartment or Multiple Dwelling—a dwelling unit in a duplex attached in a row, a triplex, quadruplex or apartment building or a dwelling in a non-residential structure or in a house that has been converted?

(*f*) House Attached to a Nonresidential Structure—a dwelling unit attached to another structure at ground level (such as a store, etc.) but separated from it by a common wall running from ground to roof?

(g) Mobile Home (designed and constructed to be transported on its own chassis and capable of being moved on short notice)?

(*h*) Other Movable Dwelling (such as a tent, travel trailer, railroad car or houseboat)?

Please Print the Names of Persons 1, 2 and 3 in the same order as listed in Question 1 on page 2.

Persons 1 to 6

Last name First name Initial

Question 7. Are you 15 years of age or older (i.e. born before June 1, 1961)?

No: End here for this person.

Yes: Complete Questions 8 to 12.

Question 8. Elementary, Secondary and Post-Secondary Training (See Instruction Booklet for each question).

(*a*) What is the highest grade or year of elementary or secondary school you ever attended?

Fill one circle only

Persons 1 to 6

No schooling.
Kindergarten:

1	8
2	9
3	10
4	11
5	12
6	13
7	

(*b*) How many years of university level education have you completed? Include university transfer courses of community colleges and CEGEPs (general).

Persons 1 to 6

None
1 year or less
2 years
3 years
4 years
5 years
6 years or more

(*c*) How many years of post-secondary non-university training at an educational institution have you completed? (e.g. teachers' college, nursing school, community college (vocational and technical), CEGEP (professional), etc.).

Persons 1 to 6

None
1 year or less
2 years
3 years or more

Question 9. Have you attended an educational institution at any time since last September?

Persons 1 to 6

No: Skip to Question 10.
Yes: full-time.
Yes: part-time, day or evening.

What kind of educational institution was it?

Elementary or secondary.
University.
Post-secondary non-university.

Question 10. What degrees, certificates or diplomas have you ever obtained? (See Instruction Booklet.)

Persons 1 to 6

None.
Secondary (high) school graduation certificate.
Non-university certificate or diploma (e.g. obtained at teachers' college, nursing school, community college, CEGEP).
University certificate or diploma below bachelor level.
Bachelor degree(s).
Degree in medicine, dentistry, or veterinary medicine (M.D., D.D.S. or D.M.D., or D.V.M.).
Master's degree(s).
Earned doctorate (e.g. Ph. D.).

Question 11. Activity in Labour market (including family farm or business).

(*a*) Last week how many hours did you work for pay or in your own farm, business or professional practice?

Persons 1 to 6

None.
1–14.
15–19.
20 or more.

(*b*) Last week how many hours did you help without pay in the operation of a family business or farm? (Do not include volunteer work or housework in own home.)

Persons 1 to 6

None.
1–14.
15–19.
20 or more.

(*c*) Last week did you have a job from which you were on temporary lay-off?

Persons 1 to 6

No Yes

(*d*) Last week did you have definite arrangements to report to a new job at a future date?

Persons 1 to 6

No Yes

(*e*) Last week did you have a job from which you were absent for all or part of the week because of illness, strike, vacation, training courses, etc.?

Persons 1 to 6

No Yes

(*f*) Did you look for work last week? For example, contact a Canada Manpower Centre, check with employers, place or answer newspaper ads, etc.

Persons 1 to 6

No: Skip to Question 12.
Yes.
Were you available to start work last week?
No Yes.

Question 12. Where did you live 5 years ago on June 1, 1971?

Fill one circle only

Persons 1 to 6

Same dwelling.
Different dwelling in SAME city, town, village or municipality.
Outside Canada.
Different city, town, village or municipality in Canada.
Print its name below.
City, town, village, municipality, etc.
County Province

Important: If outside city or town limits, specify name of suburban municipality and not main city or town.

II.—Questions Recommended for Inclusion in the 1976 Census of Agriculture

QUESTION AND REASONS FOR INCLUSION

Section I—Operator, June 1, 1976

1. Name and address of the farm operator?

For identification purposes to ensure completeness of coverage, and also for the preparation of a mailing list for sample agricultural surveys conducted inter-censally by Statistics Canada.

Section II—Location, Area, Tenure and Value, June 1, 1976

2. Location?
3. What is the total area of all land you operate?

Questions 2 and 3 are required for measuring the accuracy of the farm land coverage of the census, and to enable a real identification of the resulting statistics. Question 4 provides the only national source of farm tenure data for use in various economic and land use adjustment studies. Similarly, Question 5 provides the only national source of data on capital investment in agricultural land.

4. Tenure summary:
   (a) Area owned?
   (b) Area rented or leased from others?
5. Market value of buildings and land?

Section III—Area of Field Crops, 1976

Enter the acreage seeded or to be seeded for harvest in 1976 of the following:

The questions of Sections III and IV (Questions 6 to 36) provide the only source of national cropland data on acreages sown to various types of crops for small areas within provinces, and for farms classified by size, tenure, economic class, type of farm, etc. They also provide benchmark data for estimating crop acreages in inter-censal years.

6. Spring sown wheat.
7. Durum wheat.
8. Winter wheat.
9. Oats for grain.
10. Barley.
11. Mixed grains.
12. Fall rye for grain.
13. Spring rye for grain.
14. Buckwheat.
15. Dry field peas.
16. Dry field beans.
17. Corn for grain.
18. Corn for ensilage or fodder.
19. Alfalfa and alfalfa mixtures cut or to be cut for hay, ensilage or seed
20. All other tame hay cut or to be cut for hay, ensilage or seed.
21. Oats to be cut for green feed, hay or ensilage.
22. Other fodder crops.
23. Flaxseed.
24. Soybeans for beans.
25. Sunflowers for seed.
26. Rapeseed.
27. Mustard seed.
28. Potatoes grown mainly for sale.
29. Tobacco.
30. Sugar beets for sugar.
31. Other field crops (safflower, hops, etc.).

Section IV—Other Areas

Enter the area in 1976 of the following:

32. Vegetables grown mainly for sale.

33. Tree fruits (25 or more trees bearing or non-bearing).
34. Strawberries, raspberries, grapes, grown mainly for sale.
35. Nursery products, cut flowers and dry bulbs grown out of doors mainly for sale.
36. Greenhouses and mushroom houses.
37. Improved land for pasture or grazing.
38. Summer fallow.
39. Other improved land.
40. Woodland.
41. Other unimproved land.
42. Total of questions 6 to 41.

Section V—Livestock on this Holding, June 1, 1976

The questions in Sections V and VI provide livestock and poultry inventories for small areas as well as benchmark information for estimating livestock and poultry numbers inter-censally. The census provides the only detailed analytical data for farms classified by size of livestock herd and size of poultry flock, as well as size, tenure, type and economic class of farm. Questions 46 and 47 provide essential data used in the estimation of milk production. Questions 48 and 49 make possible a classification of dairy farms according to the type of market in which milk was sold.

Cattle

43. Total cattle and calves
    (a) Cows and heifers, 2 years and over.
    (b) Heifers, 1 year and under 2.
    (c) Steers, 1 year and over.
    (d) Bulls, 1 year and over.
    (e) Calves, under 1 year.
44. Cows and heifers, 2 years and over, milking or to be milked?
45. Heifers, 1 year and under 2 being raised mainly for milk production?

Milk produced yesterday

46. How many cows and heifers were milked yesterday?
47. How many pounds of milk were produced yesterday?

Milk shipments, May 1976

48. Did you ship milk and/or cream to a milk plant or creamery in May?
49. Where did you ship most of your milk and/or cream in May? (Fluid milk plant, industrial milk plant, creamery for butter).

Pigs

50. Total pigs (all ages)
    (a) Pigs, 6 months and over.
    (b) Pigs, 3 months and under 6 months.
    (c) Pigs, under 3 months.
51. Of the pigs 6 months and over how many are sows kept for breeding purposes?

Sheep

52. Total sheep and lambs
    (a) Lambs, under 1 year.
    (b) Ewes, rams and wethers, 1 year and over.
53. Kind and number of other livestock (horses, goats, rabbits, chinchillas).

Section VI—Poultry, June 1, 1976

(See preceding Section V.)

Hens and chickens

54. Total chickens (hens, pullets, chicks etc. Include broilers).
55. Hens and pullets kept or intended for laying:
    (a) Hens and pullets, 5 months and over, kept for laying.
    (b) Pullets and pullet chicks, under 5 months, intended for laying.

56. Other chickens kept or intended for meat production under quota:
    (a) Broilers, including cornish (all ages).
    (b) Roasters (all ages).
57. All other hens and chickens.
58. Turkeys (all ages).
59. Geese (all ages).
60. Ducks (all ages).

Section VII—Machinery and Equipment, June 1, 1976

The census provides the only information on the extent of mechanization of farms for small areas, as well as a measure of technological change over time.

Enter number and present market value for the following.

61. Automobiles.
62. Motor trucks.
63. Tractors (other than garden tractors).
64. Grain combines:
    (a) Self-propelled.
    (b) Pull-type.
65. Swathers:
    (a) Self-propelled.
    (b) Other.
66. Pick-up hay balers.
67. Forage crop harvesters.
68. Milking machines.
69. Bulk milk tank.
70. Value of other machinery and equipment.
71. Total value of all machinery and equipment.

Section VIII—Hired Agricultural Labour

The questions on hired agricultural labour provide a measure of the paid labour input into farming. These data are used by agricultural, labour and manpower researchers and administrators.

72. Total weeks of paid labour hired during the past 12 months.
73. How many paid agricultural workers do you now employ on a year round basis?

Section IX—Off-Farm Work During the Past 12 Months

This question is required to provide data on the extent of off-farm work performed by farmers over a period of time. They are of particular significance when tabulated for farms of different sizes and other characteristics such as economic class.

74. How many days did you (the operator) work off this holding at paid agricultural and non-agricultural work during the past 12 months?

Section X—Residence and Type of Organization

Question 75 identifies farmers by the period of residence on their farms during the year, and identifies non-resident operators. These data provide a measure of the changing modes of living in agricultural areas, and are related to the requirements for municipal and other services.

Information on type of farm organization enables measurements of change in the corporate structure of farms and of the characteristics of farms with differing corporate structures. The information is of value also in appraising various farm capital formation methods.

75. How many months did you (the operator) live on this holding during the past 12 months?
    (9–12 months; 5–8 months; 1–4 months; Did not live on this holding)
76. Mark (x) the *one* box which best describes your holding:
    1. ☐ An individual or family farm (excluding partnerships & corporations).
    2. ☐ A partnership (with a written agreement).
    3. ☐ An institution or community pasture. Or a legally constituted company—
    4. ☐ with the shares owned mostly by you and your family, *or*
    5. ☐ with the shares owned mostly by some other person(s) or business.
    6. ☐ Other—Please specify type.

Section XI—Value of Agriculture Products Sold During 1975

The value of agriculture products sold provides the means of classifying farms by economic class.

77. What was the total value of agriculture products sold during 1975?

Under $1,200
$1,200–2,499
$2,500–4,999
$5,000–9,999
$10,000–14,999
$15,000–24,999
$25,000–34,999
$35,000–49,999
$50,000–74,999
$75,000–99,999
$100,000 or more.

FRANCE

The pertinent provision on the confidentiality of census information in France is included in Article 6 of Law No. 51–711 of June 7, 1951,[1] on Obligations, Coordination, and Secrecy in Statistical Matters:

> *Art. 6.* Subject to the provisions of Articles 29 and 89 of the Code of Criminal Investigation, individual information appearing in the questionnaire provided with the certification specified in Article 2, and referring to personal or family life and, in general, to facts or actions of a private character, shall not be the subject of any communication by the depository service.
>
> Individual information of an economic or financial character, appearing in the questionnaire provided with the certification specified in Article 2, shall not in any case be used for fiscal control or economic repression. The depository agencies of this kind of information shall not be bound by the obligations prescribed, especially by Article 31 of the Law of July 31, 1920, as amended by Article 30 of Law No. 45–0195 of December 31, 1945, and by Article 15, paragraph 2, of Ordinance No. 45–1483 of June 30, 1945.
>
> The functionaries of the public services and organizations called upon to serve as intermediaries for inquiries under the conditions established by Article 4 shall be subject to professional secrecy and to the sanctions specified by Article 378 of the Criminal Code.

Professional secrecy is enforced by Decree No. 476 of February 16, 1942,[2] on the Oath and Professional Secrecy of the Personnel of the National Office of Statistics. According to this enactment, all employees must take the oath, which is administered by the judge of the local tribunal, before starting their jobs, as stated in the following Articles:

> *Art. 1.* * * *
>
> (3) I swear to fulfill my functions well and with fidelity and to strictly respect professional secrecy.
>
> *Art. 3.* The employees and all functionaries of all grades of the National Office of Statistics, including employed women, service boys, doorkeepers, and temporary personnel, are compelled to [observe] professional secrecy under the penalties determined by the Criminal Code or by special laws.

The Criminal Code in Article 378 [3] also provides for the punishment of persons who divulge professional secrets, which according to the above legislation applies to the obligation to keep statistical secrets as well:

> *Art. 378.* Physicians, surgeons and officers, pharmacists, midwives, and other persons to whom secrets have been confided by reason of their temporary or permanent position, and who

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[1] *Journal officiel* [official law gazette of France, hereafter cited as J.O.], June 8, 1951, p. 6013.
[2] J.O., March 20, 1942, p. 1096.
[3] Dalloz, *Code pénal* (Paris, 1974–1975).

> reveal such secrets, except for cases in which they are compelled or authorized to reveal [such] by law, shall be punished by imprisonment from one to six months and by a fine of 50,000 to 300,000 francs.

However, Decree No. 52–1059 of September 15, 1952,[4] on the Application of Law No. 51–711 of June 1951,[5] authorized one exception to the principle of professional secrecy in Article 15:

> *Art. 15.* Within the limits of Article 6, paragraph 2, of the Law of June 7, 1951, the communication [of secrets] shall be authorized, [but] the individual information stated in the said Article shall not be communicated except through a decision agreed upon by the ministers in charge of the investigation office and the National Institute of Statistics and Economic Studies.
>
> The administrations benefiting from these communications shall not themselves communicate them [the secrets] to any person.

Under no circumstances are persons or legal entities allowed to refuse to furnish, within the time prescribed, the information required by the census officials, under penalty of fines up to 50,000 francs.[6]

The Bureau of General Statistics of France, which historically was under the supervision of the Department of Commerce,[7] after many transformations was organized by Articles 32 and 33 of Law No. 46–854 of April 27, 1956,[8] as the National Institute of Statistics and Economic Studies. The statistics, when deposited in the Archives of France, have the same legal status as any document in the Archives and therefore cannot be reproduced without prior authorization.[9] Decree No. 52–219 of February 27, 1952,[10] amending the status established on January 12, 1898, subjected the right of communication to certain rules, i.e., the documents deposited in the national Archives that are less than 50 years old cannot be searched without the prior approval of the minister or the authority which deposited them.

What information, if any, regarding privacy and disclosure is provided to the respondents at the time the data are collected could not be ascertained.

[Prepared by Dr. Virgiliu Stoicoiu, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, July 1976.]

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[4] J.O., September 17, 1952, p. 9112.
[5] *Supra* note 1.
[6] Arts. 3 and 7 of Law No. 51–711 of June 7, 1951, *supra* note 1; Art. 5 of the Decree of April 15, 1946, J.O., April 16, 1946, p. 3204.
[7] *See* Decree of April 3, 1840, Dalloz, 2 *Répertoire de droit public et administratif* 890 (Paris, 1959).
[8] Dalloz, 1946 *Recueil Dalloz Sirey* 207, Législation.
[9] Decree of February 20, 1809, Dalloz, 1 *Encyclopedie juridique* 95 (1958).
[10] Dalloz, 1952 *Bulletin législatif* 158 (Paris).

FEDERAL REPUBLIC OF GERMANY

In the Federal Republic of Germany, individual information required and obtained by the Federal Statistical Office (Das Statistische Bundesamt), including census information, is considered confidential. Divulgence of such information is prohibited under threat of punishment by fine or deprivation of liberty.

Federal statutory legislation includes the following:

(1) Gesetz über eine Volks-, Berufs- ünd Arbeitsstättenzählung (Volkszählungsgesetz 1970) vom 14. April 1969 (*Bundesgesetzblatt* [hereafter cited as BGB1.] 1969, I, p. 292) (Law Concerning the Population, Profession, and Place-of-Work Census (Census Law of 1970) of April 14, 1969).

This Law provides, *inter alia*, that individual census information may be provided to federal and state agencies only without mentioning the names and addresses of the persons concerned (Sec. 8(2) of the Law). It further provides that persons doing work at agencies dealing with census and other statistical information must keep such information confidential. An integral translation of this Law appears in the *Appendix*.

(2) Gesetz über die Statistik für Bundeszwecke (StatGes) vom 3. September 1953 (BGB1. 1953, I, p. 1314) (Law Concerning Statistics for Federal Purposes of September 3, 1953).

Part VI of this Law is entitled "The Duty of Secrecy." Unless otherwise provided by statutory order, all individul information concerning personal or material circumstances and provided for federal statistics is to be kept secret (Sec. 12 of the Law). If, and to the extent, this has been permitted in the statutory order concerning the particular statistics, the Federal Statistical Office, the statistical offices of the laender, and other authorities and offices in the statistics field have the duty and are authorized on request to provide individual information to the highest federal and laender authorities having jurisdiction over the subject matter (Sec. 12(2) of the Law). However, publications may not contain individual statistical information in the meaning of this Law (Sec. 12(4)).

Title VII contains provisions on penalties and fines for divulging statistical information to be kept secret under this Law. They range from fines up to 10,000 DM and/or to deprivation of liberty for a term of up to 2 years. However, criminal prosecution is originated only at the request of the aggrieved person (Secs. 13–14 of the Law).

No legal sources could be found on the question of how old census records with no contemporary significance are made available to genealogical, historical, and medical researchers. Likewise, no official sources were uncovered to answer the question of what information regarding privacy and disclosure is provided to the respondents at the time the data are collected.

[Prepared by Dr. Armins Rusis, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, July 1976.]

APPENDIX

Translation From the German

Law Concerning the Population, Profession, and Place-of-Work Census (1970 Population-Census Law) of April 14, 1969 (Gesetz über eine Volks-, Berufs- und Arbeitsstättenzählung (Volkszählungsgesetz 1970) vom 14 April 1969 (*Bundesgesetzblatt* [hereafter cited as BGB1.] 1969, I, p. 292).

The Bundestag (Federal Diet) has, with the approval of the Bundesrat (Federal Council), adopted the following Law:

SECTION 1

(1) As of May 27, 1970, a population and profession census, as well as [one] of non-agricultural places of work and enterprises (census of places of work) shall be carried out.

(2) Provisional building censuses and repeated inquiries to examine the reliability of the results shall be admissible.

SECTION 2

The population and profession census shall cover, with respect to the entire population:

1. The name, address, sex, date of birth, religious affiliation, citizenship, family status, status within the household or the family, and housewife status;
2. Training;
3. Further lodging or permanent, or permanent at one's disposal, habitation place, main or secondary lodging;
4. Address of the place of work or place of training, means of transportation used, and amount of time required for commuting, and in case motor vehicles were used, also the distance;
5. Source of preponderant subsistence, participation in business activities, line of business of the exercised business activities, position within the profession, military service relationship, agricultural and non-agricultural secondary activities, and weekly worktime.

SECTION 3

With respect to the representative selection of ten percent of the German population within the framework of the population and profession census, there shall be furthermore ascertained:

1. [One's] own domicile or the domicile of the father or the mother on September 1, 1939; arrival in the territory where this Law is effective; identification card for expellees and refugees;
2. Year of conclusion of marriage, former marriage, number and years of birth of all live-born children born in wedlock;
3. Kind and duration of practical professional training; duration and main professional branch of training at special professional, professional and higher professional schools and at technological colleges;

4. Profession and kind of activities exercised, the year of leaving former gainful work;

5. In the case of self-employed persons, the number of persons employed [by them], as well as of the wage and salary recipients in the case of dependent, gainfully employed persons, the kind of managerial or supervisory activities; the amount of monthly income from gainful employment;

6. Possession of acreages which are used agriculturally, or beginning with 0.5 hectare, used horticulturally by the direct owner.

SECTION 4

The place-of-work census shall include:

1. In the case of places of work and business enterprises:

(a) the name, address, and kind of establishment, the kind of activities exercised, or the nature of the scope of activities at the place of work and the business undertaking;

(b) the number of employed persons within the establishment according to sex and position; the number of male and female part-time employees, home workers, and foreign employees;

(c) the total amount of the wages and salaries of the preceding calendar year;

2. For main establishments and single establishments, in addition to the data under clause 1, the legal category of the business undertaking;

3. For main establishment, in addition to the data under clauses 1 and 2, the number of branch establishments and the kind of activities carried out by them.

SECTION 5

[The following] shall have the duty to provide information:

1. for the population and profession census: all persons who have reached majority or minors who have their own household, also for minor or handicapped household members; for persons in community shelters, institutions, or similar installations, also the managers of these installations; furthermore, the owners of real estate; the owners or managers of buildings or their representatives;

2. for the place of work census: the owner or manager of the places of work and enterprises.

SECTION 6

(1) Any German from the full 18th to the end of the 65th year of age shall have the obligation to perform the honorary activity of census-taker. Anyone who cannot be expected to perform such activity because of health or other important reasons shall be exempt.

(2) The census-takers shall be entitled and obligated to make the entries themselves, insofar as this is necessary to fulfill the purpose of the census and the persons having the duty to provide the information give their consent.

SECTION 7

(1) The Federal Republic, the laender, the communes and the commune associations, and other bodies of public law shall have the

obligation, on the request of the census agencies, to make their employees available for census-taking activities.

(2) Vitally important activities of public services may not be interrupted by this obligation.

SECTION 8

(1) The census lists of the population, profession, and place-of-work census may be compared with the respective documentation of the communes; the statements concerning first and last names, dates of birth, and addresses may be used for the correction of police registers; the same applies to the addresses of places of work for the correction of the lists of enterprises.

(2) Individual information concerning the facts registered pursuant to Sections 2, 3, and 4 may be provided for administrative purposes by the statistical agencies to the jurisdictionally competent, highest federal and state agencies and the offices and persons indicated by them, [however] without mentioning the names of the persons concerned. Transmittal [of such information] for taxation purposes shall be out of the question. For scientific purposes, transmittal of individual information, with the exception of the information pursuant to Section 4, clause 1, letter c, by statistical agencies shall be permissible without mentioning the names and addresses.

(3) Communes and commune associations may obtain access to individual information concerning facts pursuant to Sections 2, 3, and 4, with the exception of the information pursuant to Section 4, clause 1, letter c, for the purpose of regional planning, as well as city building.

(4) Individual information concerning facts registered pursuant to clause 1, letter c, may be published without mentioning the names and addresses.

(5) The provisions of Sections 12 and 13 of the Law Concerning Statistics for Federal purposes [of September 3, 1953] shall be applicable, as the case may be, to persons who are employed by agencies to which individual information is provided.

SECTION 9

The Federal Republic shall grant to the laender, for the equalization of overcharges imposed upon them and the communes by this Law, an allocation of funds in the amount of 1.30 DM for each inhabitant. The resident population which the Federal Statistical Office determines for May 27, 1970, shall be governing. The allocation of funds shall be paid in three equal installments on July 1, 1970, July 1, 1971, and July 1, 1972.

SECTION 10

This Law, with the exception of the question concerning the military service relationship mentioned in Section 2, clause 5, shall be effective in accordance with Section 13, paragraph 1, of the Third Transition Law of January 4, 1952 (BGBl. I, p. 1), also in the Land Berlin.

SECTION 11

This Law shall become effective on the day after its promulgation.

[Translated by Dr. Armins Rusis, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, July 1976.]

GREAT BRITAIN

The Registrar General is responsible for taking the census[1] and records and registers in his custody are deposited in the General Register Office.

Under the Public Records Act, 1958[2] public records are available for public inspection after 30 years. Public records are defined in the act as being "records of any office, commission or other body or establishment whatsoever under Her Majesty's Government in the United Kingdom." [3]

However, certain records are excluded from the definition of public records and they are registers or certified copies of registers which are kept or deposited in the Office of the General Register "under or in pursuance of any enactment whether past or future which provides for the registration of births, deaths, marriages or adoptions." [4]

There is no specific mention as to whether the information which is gathered by the Registrar General in connection with the census is available to the public after 30 years.

[Prepared by (Mrs.) Audrey F. Glover, Legal Specialist, American-British Law Division, Law Library, Library of Congress, July 1976.]

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[1] Copy of Census Act, 1920, 10 & 11 Geo. 5, c. 41 and the Regulation made thereunder, is attached.
[2] Public Records Act, 1958, 6 & 7 Eliz. 2, c. 51, as amended by Public Records Act, 1967, c. 44, § 5.
[3] *Id.* § 10 and Sched. 1, 2(1)(b).
[4] *Id.* § 10 and Sched. 1, 2(2)(b).

THE CENSUS ACT OF 1920

(10 & 11 Geo. 5 c. 41)

An Act to make provision for the taking from time to time of a Census for Great Britain or any area therein and for otherwise obtaining Statistical Information with respect to the Population of Great Britain

[16th August 1920]

Northern Ireland

This Act does not apply; see s. 10 (2), *post.*

1. Power to direct taking of census

(1) Subject to the provisions of this Act, it shall be lawful for His Majesty by Order in Council from time to time to direct that a census shall be taken for Great Britain, or for any part of Great Britain, and any Order under this section may prescribe—

(*a*) the date on which the census is to be taken; and

(*b*) the persons by whom and with respect to whom the returns for the purpose of the census are to be made; and

(*c*) the particulars to be stated in the returns:

Provided that—

(*i*) an order shall not be made under this section so as to require a census to be taken in any part of Great Britain in any year unless at the commencement of that year at least five years have elapsed since the commencement of the year in which a census was last taken in that part of Great Britain; and

(ii) no particulars shall be required to be stated other than particulars with respect to such matters as are mentioned in the Schedule to this Act.

(2) Before any Order in Council is made under this section, a draft thereof shall be laid before each House of Parliament for a period of not less than twenty days on which that House has sat, and, if either House before the expiration of that period presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of a new draft Order: Provided that, if by part of any such Order it is proposed to prescribe any particulars with respect to any of the matters mentioned in paragraph six of the Schedule to this Act, that part of the Order shall not have effect unless both Houses by resolution approve that part of the draft, or, if any modifications in that part are agreed to by both Houses, except as so modified.

(3) Any Order in Council made under this section may be revoked, amended or varied by a subsequent Order.

NOTES

Great Britain. I.e., England, Wales and Scotland, see the Union with Scotland Act 1706, preamble, Art. I, Vol. 6, pp. 501, 502, and the Wales and Berwick Act 1746, s. 2, Vol. 32, title Statutes.

Laid before Parliament. Orders under this section are subject to the provisions of the Statutory Instruments Act 1946, Vol. 32, title Statutes. Documents within the description in s. 1 (2) of that Act are known as statutory instruments. Orders under this section are (if the proviso to sub-s. (2) of this section is *not* applicable) subject to s. 6 (2) of that Act, with the result that the period of twenty days is extended to one of forty days; where however the proviso to sub-s. (2) of this section is applicable, *i.e.*, where the order or part thereof is subject to affirmative resolution, s. 6 of that Act has no application.

Order in Council under this section. The Census Order 1970, S.I. 1970 No. 481, provides for the taking of a census of the population of Great Britain on the 25th April 1971.

2. Duty of Registrar-General to carry out census, and provision for expenses

(1) It shall be the duty of the Registrar-General to make such arrangements and do all such things as are necessary for the taking of a census in accordance with the provisions of this Act and of any Order in Council or regulations made thereunder, and for that purpose to make arrangements for the preparation and issue of the necessary forms and instructions and for the collection of the form when filled up.

(2) The Registrar-General in the exercise of his powers and in the performance of his duties under this Act or under any Order in Council or regulations made thereunder, shall be subject to the control of, and comply with any directions given by, [the Secretary of State].

(3) Any expenses incurred with the sanction of the Treasury by [the Secretary of State] or the Registrar-General in connection with the taking of a census or otherwise in connection with the exercise of his powers or the performance of his duties under this Act shall be defrayed out of moneys provided by Parliament.

NOTES

The words in square brackets in sub-ss. (2) and (3) were substituted by virtue of the Secretary of State for Social Services Order 1968, S.I. 1968 No. 1699.

Registrar-General. See the Registration Service Act 1953, s. 1, p. 1055, *post.*

Order in Council. See s. 1, *ante*, and the note thereto.

Regulations under this Act. See s. 3, *post.*

3. Regulations with respect to proceedings for taking census

(1) For the purpose of enabling any Order in Council directing a census to be taken to be carried into effect, [the Secretary of State] may make regulations—

(*a*) providing for the division of the county into districts for the purpose of the census and the appointment of persons to act in those districts in connection with the census;

(*b*) requiring superintendent registrars, registrars, overseers and assistant overseers of the poor, relieving officers for poor law unions, collectors of the poor rate, and such other persons as may be employed for the purpose of the census, to perform such duties in connection with the taking of the census as may be prescribed;

(*c*) requiring persons employed for the purpose of the census to make a statutory declaration with respect to the performance of their duties, and authorising any superintendent registrar or registrar to take such a declaration;

(*d*) requiring the chief officers of public or charitable institutions, or of any other institutions prescribed by the regulations, to make returns with respect to the inmates thereof;

(*e*) requiring information to be given to the persons liable to make returns by the persons with respect to whom the returns are to be made;

(*f*) with respect to the forms to be used in the taking of a census;

(*g*) making provisions with respect to any other matters with respect to which it is necessary to make provision for the purpose of carrying into effect the provisions of the Order in Council.

(2) Every regulation made under this section shall be laid before both Houses of Parliament as soon as may be after it is made, and, if an address is presented to His Majesty by either House within the next subsequent twenty days on which that House has sat next after any such regulation is laid before it praying that the regulation may be annulled, His Majesty in Council may annul the regulation, and it shall thenceforth be void, but without prejudice to the validity of anything done thereunder.

NOTES

The words in square brackets in sub-s. (1) were substituted by virtue of the Secretary of State for Social Services Order 1968, S.I. 1968 No. 1699.

Order in Council directing a census to be taken. See s. 1, *ante.*

Overseers; relieving officers; poor rate. Outside London, overseers were abolished and their powers disposed of to various authorities (normally to rating authorities, *i.e.*, the councils of county boroughs, non-county boroughs and urban and rural districts), by the Rating and Valuation Act 1925, s. 62, p. 36, *ante*, and the

Overseers Order 1927, S.R. & O. 1927 No. 55. In London, other than in the City, metropolitan borough councils became overseers for each parish in their boroughs under the London Government Act 1899, s. 11(1) (repealed); see now as to the rating authorities in London, the General Rate Act 1967, s. 1, p. 75, *ante*. In the City of London the common council are the overseers; see the City of London (Union of Parishes) Act 1907, s. 11, p. 20, *ante*.

The poor law has been superseded by a system of benefits under the National Assistance Act 1948, Part III (see s. 1 of that Act, Vol. 23, p. 638) and the Ministry of Social Security Act 1966, Vol. 23, p. 695.

The poor rate is now superseded by the general rate (except in the City of London); the general rate is collected by the rating authorities, who have superseded the overseers (see above; see the General Rate Act 1967, ss. 1 and 2, pp. 75, 76, *ante*.

For the present law relating to rating and valuation in England and Wales, see the General Rate Act 1967, p. 72, *ante*.

Statutory declaration. I.e., a declaration under the Statutory Declarations Act 1835, Vol. 12, p. 804; see the Interpretation Act 1889, s. 21, Vol. 32, title Statutes.

Laid before Parliament. Regulations under this section are now subject to the provisions of the Statutory Instruments Act 1946, Vol. 32, title Statutes. Documents within the description in s. 1(2) of that Act are to be known as statutory instruments. Ss. 4(3), 5(2) of that Act make provision for copies of instruments to be laid before Parliament, normally before they came into operation, and for the extension of the period of twenty days to one of forty days.

Regulations under this section. The Census Regulations 1970, S.I. 1970 No. 776.

4. Preparation of reports and abstracts

(1) The Registrar-General shall, as soon as may be after the taking of a census, prepare reports on the census returns, and every such report shall be printed and laid before both Houses of Parliament.

(2) The Registrar-General may, if he so thinks fit, at the request and cost of any local authority or person, cause abstracts to be prepared containing any such statistical information, being information which is not contained in the reports made by him under this section and which in his opinion it is reasonable for that authority or person to require, as can be derived from the census returns.

NOTES

Registrar-General. See the Registration Service Act 1953, s. 1, p. 1055, *post*.

Local authority. Note the power of the Secretary of State to direct the taking of a local census to be taken on the application of a local authority, see s. 6 (1), *post*, and as to the local authorities to whom that section applies, see sub-s. (3) of that section; as to expenses of local authorities, see s. 7, *post*.

5. Preparation of statistics in respect of periods between one census and another

It shall be the duty of the Registrar-General from time to time to collect and publish any available statistical information with respect to the number and condition of the population in the interval between one census and another, and otherwise to further the supply and provide for the better co-ordination of such information, and the Registrar-General may make arrangements with any Government Department or local authority for the purpose of acquiring any materials or information necessary for the purpose aforesaid.

NOTES

Statistical information. Information obtained under the Population (Statistics) Act 1938, p. 1003, *post*, may be used for the purposes of this section although, in general, such information, where it relates to any particular person, may not be divulged; see s. 4 (2) of that Act, p. 1004, *post*.

Registrar-General. See the Registration Service Act 1953, s. 1, p. 1055, *post*.

6. Provision with respect to local census

(1) If an application is made to [the Secretary of State] by a local authority to which this section applies asking that a census may be taken for the whole or any part of the area of the authority, or for an area consisting of the whole or any part of that area and of the whole or any part of an adjoining area, [the Secretary of State] may, if he thinks fit, submit the application to His Majesty, and His Majesty may by Order in Council, if it appears to His Majesty expedient

so to do for the purpose of facilitating the due performance by the local authority of its statutory duties, direct that a census shall be taken for the area specified in the application, or for any part of that area.

(2) The provisons of this Act with respect to the taking of a census for Great Britain (other than the provision with respect to the interval between one census and another) shall, subject to such exceptions, modifications and adaptations as may be specified in the Orders, apply to the taking of a census under this section.

(3) The local authorities to which this section applies are the common council of the City of London, metropolitan borough councils, the councils of counties, the councils of boroughs, and urban district councils:

Provided that, without prejudice to the power of any other authority being a local authority to which this section applies to make an application under this section, an application may be made by the council of a county and an order may be made under this section with respect to the whole of the area of the council, including the areas of any authorities which are local authorities for the purposes of this section.

NOTES

The words in square brackets in sub-s. (1) were substituted by virtue of the Secretary of State for Social Services Order 1968, S.I. 1968 No. 1699.

Local authority. As to defrayal of expenses of a local authority see s. 7, *post*, and note sub-s. (3) of this section.

Great Britain. See the note to s. 1, *ante.*

Common council of the City of London. I.e., "the mayor aldermen and commons of the city of London in common council assembled"; see the City of London (Various Powers) Act 1958, s. 5, Vol. 20, p. 398.

Metropolitan borough councils. This is to be construed as a reference to London borough councils; cf. the London Government Act 1963, s. 4(2), Vol. 20, p. 454.

Councils of counties. The administrative counties in England and Wales are those specified in the Local Government Act 1933, Sch. 1, Part I, Vol. 19, p. 577 (see s. 1(1), (2)(*a*) of that Act, Vol. 19, p. 402), as amended and as affected by orders made under the Local Government Act 1958, s. 23(1) (repealed); see the note to Sch. 1 to the Act of 1933, Vol. 19, p. 580.

Councils of boroughs. The county boroughs in England and Wales are those specified in the Local Government Act 1933, Sch. 1, Part II, Vol. 19, p. 577 (see s. 1 (1), (2)(*b*) of that Act, Vol. 19, p. 402), as amended and as affected by orders made under the Local Government Act 1958, s. 23(1) (repealed); see the note to Sch. 1 to the Act of 1933, Vol. 19, p. 580; non-county boroughs are those specified in the Local Government Act 1933, Sch. 1, Part III, Vol. 19, p. 578 (see s. 1(2)(*c*) of that Act, Vol. 19, p. 402), as amended and as affected by orders made under the Local Government Act 1958, s. 23(1) (repealed); see the note to Sch. 1 to the Act of 1933, Vol. 19, p. 580.

Urban district councils. Urban sanitary authorities were renamed as urban district councils by the Local Government Act 1894, s. 21, Vol. 19, p. 328; non-county boroughs were originally included in the term "urban district councils" but this is no longer the case; see the Local Government Act 1933, s. 1(2)(*d*), Vol. 19, p. 402.

Orders under this section. No local census under this section had been ordered up to 20th January 1971.

7. Expenses of local authorities

Any expenses incurred in connection with the taking of a census under this Act in pursuance of an application made by a local authority, including the publication of any reports or returns relating to the census, shall be paid by the local authority by which the application for the census was made, and any expenses so incurred, and any other expenses incurred by a local authority under this Act, shall be defrayed in the case of the common council of the City of London and a metropolitan borough out of the general rate, in the case of a county council as expenses for general county purposes, and in the case of other councils as expenses incurred in the administration of the Public Health Acts, 1875 to 1908.

NOTES

Application by a local authority. See s. 6, *ante*; the local authorities entitled to apply for a local census are specified in sub-s. (3) of that section.

Common council of the City of London. See the note to s. 6, *ante.*

Metropolitan borough. See the note "Metropolitan borough councils" to s. 6, *ante.*

County council. See the note "Councils of counties" to s. 6, *ante.*

General county purposes. For the meaning of this expression see the Local Government Act 1933, s. 180(1)(*a*), Vol. 19, p. 502.

Public Health Acts 1875 to 1908. For the Acts citable by this collective title, see the Introductory Note to the Public Health Act 1875, Vol. 26, p. 41; but those Acts are largely repealed; see now by virtue of the Interpretation Act 1889, s. 38(1), Vol. 32, title Statutes, the Public Health Act 1936, Vol. 26, p. 189.

8. Penalties

(1) If any person—

(*a*) refuses or neglects to comply with or acts in contravention of any of the provisions of this Act or any Order in Council or regulations made under this Act; or

(*b*) being a person required under this Act to make a statutory declaration with respect to the performance of his duties, makes a false declaration; or

(*c*) being a person required by an Order in Council or regulations made under this Act to make, sign, or deliver any document, makes, signs, or delivers, or causes to be made, signed, or delivered a false document; or

(*d*) being a person required in pursuance of any such Order in Council or regulations to answer any question, refuses to answer or gives a false answer to that question;

he shall for each offence be liable on summary conviction to a fine not exceeding ten pounds.

(2) If any person—

(*a*) being a person employed in taking a census, without lawful authority publishes or communicates to any person otherwise than in the ordinary course of such employment any information acquired by him in the course of his employment; or

(*b*) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

he shall be guilty of a misdemeanor, and shall on conviction be liable to imprisonment with or without hard labour for a term not exceeding two years or to a fine, or to both such imprisonment and fine.

NOTES

Refuses. The fact that the Census Regulations 1965, S.I. 1965 No. 1267, contained two questions to which a respondent was not required to fill in answers, but which were to be answered by the enumerator on information supplied by the head of the household, was held in *Turner* v. *Midgley*, [1967] 3 All E.R. 601, not to afford a defence to refusal to fill in others, and also that the enumerator's help was available to fill up the form prescribed under the regulations.

Person required . . . to make a statutory declaration. See s. 3(1)(*c*) *ante*, and the note "Statutory declaration" to that section.

False declaration; false document. See the note "False entry; . . . certificate" to the Non-parochial Registers Act 1840, s. 8, p. 982, *ante*.

Summary conviction. Summary jurisdiction and procedure are now mainly governed by the Magistrates' Courts Acts 1952 and 1957 and by certain provisions of the Criminal Justice Act 1967, Vol. 21, pp. 181, 316, 363.

Not exceeding ten pounds. The maximum fine which may be imposed under sub-s. (1) on summary conviction was increased to £50 by the Criminal Justice Act 1967, s. 92 (1) and Sch. 3, Part I, Vol. 8, pp. 634, 652.

Course of his employment. As to the meaning of this expression, see 25 Halsbury's Laws (3rd Edn.) 539 *et seq.*

Publishes. The ordinary meaning of this word is to "make public"; see *Boucicault* v. *Chatterton* (1876), 5 Ch.D. 267, C.A., at p. 281, *per* Brett, J.; and see also *McFarlane* v. *Hulton*, [1899] 1 Ch. 884. It seems clear that the expression is used here in that sense and not in the special sense that it bears in the law of libel. Cf. the definition of "publishes" in the Obscene Publications Act 1959, s. 1 (3), Vol. 8, p. 479.

Hard labour. Hard labour was abolished by the Criminal Justice Act 1948, s. 1 (2), Vol. 8, p. 339, and enactments conferring power to sentence to imprisonment with hard labour are to be construed as conferring power to sentence to imprisonment for a like period.

Order in Council. See the note to s. 1, *ante*.

Regulations. See the note to s. 3, *ante*.

9. (*Applies to Scotland.*)

10. Short title and extent

(1) This Act may be cited as the Census Act, 1920.
(2) This Act shall not extend to Ireland.

MATTERS IN RESPECT OF WHICH PARTICULARS MAY BE REQUIRED

1. Names, sex, age.
2. Occupation, profession, trade or employment.
3. Nationality, birthplace, race, language.
4. Place of abode and character of dwelling.
5. Condition as to marriage, relation to head of family, issue born in marriage.
6. Any other matters with respect to which it is desirable to obtain statistical information with a view to ascertaining the social or civil condition of the population.

THE BIRTHS AND DEATHS REGISTRATION ACT 1926

(16 & 17 Geo. 5 c. 48)

An Act to amend the law relating to certification of deaths and the disposal of the dead [15th December 1926]

Northern Ireland. This Act does not apply; see s. 13 (2), *post.*

1. Prohibition of disposal except on registrar's certificate or coroner's order

(1) Subject as hereinafter provided, the body of a deceased person shall not be disposed of before a certificate of the registrar given in pursuance of this Act or an order of the coroner has been delivered to the person effecting the disposal:

Provided that it shall be lawful for the person effecting the disposal by burial of the body of any deceased person, if satisfied by a written declaration in the prescribed form by the person procuring the disposal that a certificate of the registrar or order of the coroner has been issued in respect of the deceased, to proceed with the burial notwithstanding that the certificate or order has not been previously delivered to him.

(2) Any person contravening the provisions of this section shall be liable on summary conviction to a fine not exceeding ten pounds.

[STATUTORY INSTRUMENTS 1970 No. 776]

CENSUS

THE CENSUS REGULATIONS 1970

Made	15th May 1970
Laid before Parliament	28th May 1970
Coming into Operation	15th June 1970

The Secretary of State for Social Services in exercise of his powers under section 3(1) of the Census Act 1920(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Census Regulations 1970, and shall come into operation on 15th June 1970.

Interpretation

2. (1) In these regulations, unless the context otherwise requires—

"the Act" means the Census Act 1920;

"assistant census officer" means an officer appointed under regulation 5(1)(*b*);

"the census" means the census directed to be taken by the Census Order 1970(b); (hereinafter referred to as "the Census Order");

"census day" means 25th April 1971;

"census district" means a district so referred to in regulation 3;

"census night" means the night of 25th to 26th April 1971;

"census officer" means an officer appointed under regulation 5(1)(*a*);

"census supervisor" means an officer appointed under regulation 4;

"enumeration district" means a district so referred to in regulation 3;

"enumerator" means an officer appointed under regulation 5(1)(*c*);

"prescribed person" means a person required by the Census Order to make a return;

(2) Any reference in these regulations to a numbered regulation or schedule shall, unless the context otherwise requires, be construed as a reference to the regulation or schedule bearing that number in these regulations.

(3) The Interpretation Act 1889(a) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Census district and enumeration districts

3. For the purpose of the census the Registrar General shall divide England and Wales into census districts, and shall divide each census district into enumeration districts.

Appointment of census supervisors

4. For the purpose of the census the Registrar General may appoint census supervisors who shall perform the duties assigned to them under the Act and these regulations.

Appointment of other officers

5.—(1) For the purpose of the census the Registrar General may—

(a) appoint, or authorise a census supervisor to appoint, a census officer for each census district;

(*b*) appoint, or authorise a census officer to appoint, such number of assistant census officers for each census district as the Registrar General may determine;

(*c*) appoint, or authorise a census officer or assistant census officer to appoint, an enumerator for each enumeration district.

(2) The officers appointed under this regulation shall perform the duties assigned to them under the Act and these regulations.

Instructions by the Registrar General

6. The Registrar General may give to officers appointed under regulations 4 and 5 or may authorize a census supervisor, census officer or assistant census officer to give, such instructions as the Registrar General may consider necessary for the performance of the duties assigned to them under the Act and these regulations and any such instructions shall be complied with by any officer to whom they are given.

Undertakings

7. Every census supervisor, census officer, assistant census officer and enumerator and every person assisting any such officer in the performance of his duties shall, before performing any duties, give an undertaking in the form set out in Schedule 1 faithfully to perform his duties under the Act and these regulations.

Forms of return

8. (1) The form of return to be made by a prescribed person mentioned in column (1) of Schedule 2 shall be the form set out in Schedule 3 which bears the identification particulars appropriate to his case shown in column (2) of Schedule 2, and a prescribed person shall comply with the instructions contained in such form.

(2) The Registrar General may cause any such form to be translated into Welsh and such translation may be used for the purposes of the census.

Provision of forms and other documents for enumerators

9. Every census officer shall enter in the enumeration books provided by the Registrar General such particulars as the Registrar General may require, and shall, before census day, provide every enumerator appointed to act for an enumeration district within his census district with an enumeration book, a sufficient number of forms of return and such other forms or documents as may be necessary for the purpose of the census.

Delivery of forms of return

10. (1) The enumerator shall, within such period as may be specified by the Registrar General, deliver—

(*a*) to the head, or person for the time being acting as the head, of every private household occupying a dwelling or part of a dwelling mentioned in Group I in Schedule 1 to the Census Order, form H or form W in Schedule 3;

(*b*) to the manager, chief resident officer or other person for the time being in charge of any premises mentioned in Groups II or III in Schedule 1 to the Census Order and to the person appointed for the purposes of article 5(3) of the Census Order in any premises mentioned in Group IV in that Schedule, the number of forms L and P or of forms L and Pw in Schedule 3 as the enumerator shall estimate to be required.

(2) The enumerator shall, on delivering each form, enter thereon such particulars as the Registrar General may require and shall, if so requested by any prescribed person or by any person acting on his behalf, give such explanations as are reasonably necessary to enable the prescribed person to make a proper return.

(3) An enumerator shall be deemed to have fulfilled the obligation placed upon him to deliver a form of return under this regulation if he hands it to the person mentioned in paragraph (1) of this regulation or to some responsible person acting on behalf of that person or if he leaves the form at the dwelling or premises where persons are to be enumerated.

(4) The Registrar General shall make such arrangements as he thinks fit for the delivery—

(*a*) of forms S, F and P or Pw in Schedule 3, as may be appropriate to the case in accordance with Schedule 2, to the captain, master or other person in charge of a vessel mentioned in Group V in Schedule 1 to the Census Order and to the person appointed for the purposes of article 5(3) of the Census Order in any vessel mentioned in Group IV in that Schedule;

(*b*) of a form P in Schedule 3 to every person mentioned in Group VI in Schedule 1 to the Census Order.

(5) The person to whom forms are delivered under paragraph (1)(*b*) or paragraph (4)(*a*) of this regulation shall deliver a form P or Pw, as the case may be, to every prescribed person on the premises or vessel who is capable of completing the form, after having caused to be entered on each such form the address of the premises or the name of the vessel, as the case may be, as required by article 5(3) of the Census Order:

Provided that a manager or other person in charge of premises mentioned in Group II in Schedule 1 to the Census Order, who has arranged for the form of return with respect to a person incapable of completing it himself to be completed by a relative or other person accompanying him, shall deliver for that purpose a form P or Pw, as the case may be, to the said relative or other person.

Personal returns

11. (1) Any member of a private household or other person mentioned in Group I in Schedule 1 to the Census Order being a person aged 16 years or over on census day, who is capable of completing a form of return and is not himself the head or the person for the time being acting as the head of that household, may make a personal return if he complies with the procedure prescribed in the following paragraphs of this regulation.

(2) Subject to the foregoing paragraph a person claiming to make a personal return (hereinafter called "the applicant"), or a person acting on his behalf, shall apply to the enumerator for a separate form of return; or if the applicant cannot for any reason obtain a form of return from the enumerator he, or a person acting on his behalf, may apply to the census officer for such a form.

(3) The enumerator or census officer, as the case may be, shall issue to the applicant, or the person acting on his behalf, form P or Pw in Schedule 3 and shall if so requested, give such explanations as are reasonably necessary to enable the applicant to make a proper return.

(4) The prescribed person who would otherwise have to make a return in respect of the applicant on form H or W, as the case may be, shall enter on that form no particulars relating to the applicant other than his name and the relationship in which he stands to the prescribed person.

Collection of returns

12. (1) Where under regulation 10(5) forms P or Pw have been delivered to persons mentioned in article 5(2) of the Census Order, the person responsible for delivering the forms shall collect the completed forms on the day after census day or as soon thereafter as is reasonably practicable.

(2) The enumerator shall on the day after census day, or as soon thereafter as is reasonably practicable, collect all forms of return delivered by him and all separate forms of return issued in accordance with regulation 11 to persons within his enumeration district, and shall examine each return and satisfy himself that the entries thereon are properly and sufficiently made, and shall make all such inquiries as are reasonably necessary for that purpose.

(3) The Registrar General shall make such arrangements as he thinks fit for the collection of completed forms of return made by persons in vessels mentioned in Groups IV and V in Schedule 1 to the Census Order and by persons in places mentioned in Group VI in that Schedule.

Particulars to be obtained by enumerators

13. (1) For the purpose of obtaining the particulars required to be stated in item 17 in Schedule 2 to the Census Order the enumerator shall, when delivering or collecting form H or W, make such inquiries as are reasonably necessary to enable him to complete the panel headed "To be completed by enumerator" on the form.

(2) When delivering forms of return under regulations 10(1)(*b*) the enumerator shall make such inquiries as are reasonably necessary to ascertain the nature of the premises, and in the case of premises in Group II in Schedule 1 to the Census Order the number of rooms in the premises, and shall enter the information on form L.

Further duties of enumerators

14. (1) The enumerator shall within such period as may be specified by the Registrar General—

(*a*) enter in the enumeration book and in any forms of return collected by him such particulars as the Registrar General may require; and

(*b*) deliver to the census officer the enumeration book and all returns collected by him.

(2) If required to do so by the census officer or assistant census officer, the enumerator shall make such inquiries as may be reasonably necessary to secure the completion of any incomplete return.

Further duties of census officers

15. (1) The census officer or, if so directed by him, the assistant census officer shall examine the enumeration books delivered to him under the foregoing regulation, and where it appears to him that any book is incomplete he shall require the

enumerator to take such steps as may be reasonably necessary to complete the book and to send it duly completed to the census officer within a time to be specified by the census officer.

(2) When so directed by the Registrar General, the census officer shall send all completed enumeration books relating to enumeration districts within his census district, together with the returns delivered to him by enumerators or assistant census officers, to the Registrar General.

Replacement of census supervisor, census officer, assistant census officer or enumerator

16. (1) Where in the opinion of the Registrar General any census supervisor or census officer is unable to perform his duties in connection with the census, the Registrar General may appoint some fit and proper person in his place to perform such duties.

(2) Where in the opinion of the census officer any assistant census officer or enumerator is unable to perform his duties in connection with the census, the census officer may appoint some fit and proper person in his place to perform such duties.

Giving of information

17. (1) Every prescribed person shall give to the enumerator such information as he may reasonably require for the performance of his duties under these regulations, and every other person in respect of whom it is the duty of a prescribed person to make a return shall give to that prescribed person such information as he may reasonably require for that purpose.

(2) Otherwise than in accordance with these regulations no person shall use, publish or communicate to any other person any information given under the Census Order and these regulations.

Safe custody of forms and documents

18. A person having custody, whether on his own behalf or on behalf of any other person, of any forms of return, enumeration books or other documents containing confidential information relating to the census shall keep such forms, books and other documents in such manner as to prevent any unauthorised person having access thereto.

Revocation

19. The Census Regulations 1965(a) are hereby revoked.

SCHEDULE 1 (Regulation 7)

Form of Undertaking to be made by Certain Persons

I, ---------- being
*a person appointed in accordance with the Census Regulations 1970 to act as *census supervisor/*census officer/*assistant census officer/*enumerator
*a person assisting ---------- for the purposes of the census,
hereby undertake and promise faithfully to perform the duties imposed by the Census Act 1920, and the Census Regulations 1970 so far as applicable to me, and to fulfill all the obligations required of me by the Act and Regulations, and I hereby state that I have read and understand the provisions hereunto annexed of section 8 of the Act as amended by Schedule 3 to the Criminal Justice Act 1967(b), and regulation 18 of the Regulations.

Signed ----------
In the presence of ----------

Section 8 of the Census Act 1920 as amended, is as follows:—

"8.—(1) If any person—

(*a*) refuses or neglects to comply with or acts in contravention of any of the provisions of this Act or any Order in Council or regulations made under this Act; or

(*b*) being a person required under this Act to make a statutory declaration with respect to the performance of his duties, makes a false declaration; or

(*c*) being a person required by any Order in Council or regulations made under this Act to make, sign, or deliver any document, makes, signs, or delivers, or causes to be made, signed, or delivered a false document; or

(*d*) being a person required in pursuance of any such Order in Council or regulations to answer any question, refuses to answer to gives a false answer to that question;

he shall for each offence be liable on summary conviction to a fine not exceeding fifty pounds.

*Strike out words which do not apply.

(2) If any person—

(*a*) being a person employed in taking a census, without lawful authority publishes or communicates to any person otherwise than in the ordinary course of such employment any information acquired by him in the course of his employment; or

(*b*) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

he shall be guilty of a misdemeanour, and shall on conviction be liable to imprisonment with or without hard labour, for a term not exceeding two years or to a fine, or to both such imprisonment and fine."

Regulation 18 of the Census Regulations 1970 is as follows:—

"18. A person having custody, whether on his own behalf or on behalf of any other person, of any forms of return, enumeration books or other documents containing confidential information relating to the census shall keep such forms, books and other documents in such manner as to prevent any unauthorised person having access thereto."

SCHEDULE 2 (Regulation 8)

(1) *Prescribed Persons*	(2) *Identification Particulars of Form*
(*a*) The head or person for the time being acting as the head of every private household in England.	The form entitled "H Form For Private Households".
(*b*) The head or person for the time being acting as the head of every private household in Wales (including Monmouthshire).	The form entitled "W Form For Private Households".
(*c*) The manager, chief resident officer or other person in charge of any premises mentioned in Groups II or III in Schedule 1 to the Census Order and the person appointed for the purposes of article 5(3) of the Census Order in any premises mentioned in Group IV in that Schedule.	The form entitled "L Form For Hotels, Boarding Houses, Hospitals, Schools and Institutions etc.".
(*d*) The person appointed for the purposes of article 5(3) of the Census Order in any vessel mentioned in Group IV in Schedule 1 to the Census Order.	The form entitled "F Form For H.M. Ships".
(*e*) The captain, master or other person in charge of any vessel mentioned in Group V in Schedule 1 to the Census Order.	The form entitled "S Form For Vessels (other than H.M. Ships)".
(*f*) Any person in England mentioned in column 2 in Groups II, III, IV, V or VI in Schedule I to the Census Order.	The form entitled "P Form For Making A Personal Return".
(*g*) Any person in Wales (including Monmouthshire) mentioned in column 2 in Groups II, III, IV, V or VI in Schedule 1 of the Census Order.	The form entitled "Pw Form For Making A Personal Return".
(*h*) Any person in England making a personal return under Regulation 11.	The form entitled "P Form For Making A Personal Return".
(*i*) Any person in Wales (including Monmouthshire) making a personal return under Regulation 11.	The Form entitled "Pw Form For Making A Personal Return".

ITALY

There are a number of instances in which the Italian law provides for preserving office secrets, such as in the case of information gathered by the Census Bureau.

Although the law governing the Census Bureau and its activities makes it a punishable offense for anyone to refuse to provide the Central Institute of Statistics or other agencies or public institutions delegated by the Institute with information necessary for the general census or other similar activities of a more restricted nature and scope, it does make the disclosure of such information a criminal offense unless the request for such disclosure is made by a court decision and is necessary for the said court's proceedings.[1]

Article 19 of Law No. 1285 of May 27, 1929,[2] as amended, states the following:

> *Art. 19.* All information gathered on the occasion of inquiries and similar investigations ordered by the Central Institute of Statistics, either directly or by the way of public institutions or agencies commissioned for such purposes by this Institute, shall be bound by [a policy of] the most scrupulous office secrecy and shall not be disclosed in any way except in a depersonalized and collective fashion and in such a manner as to avoid individual references in any form.
>
> Such information, [however,] may be given only to the courts as a result of a court decision or court ordinance issued during, and necessary for, such court's proceedings.
>
> Whoever for reasons of his office comes to know about information of a personal character and discloses it to others or uses it for private reasons shall be subject to a fine up to 240,000 liras[3] without prejudice to [other] penalties provided for in the Penal Code.[4]

On the other hand, the Italian Penal Code provides for several instances in which the disclosure of prohibited information may be punishable. The most specific and comprehensive of such offenses is given in Article 262 of the Code, which reads as follows: "Whoever reveals information the disclosure of which is forbidden by the competent authorities shall be punished by imprisonment for not less than 3 years . . . [remainder irrelevant]." [5]

[Prepared by Kemal Vokopola, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, Spetember 1974.]

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[1] 6 *Enciclopedia del diritto* 710 ff (Milano, 1960).
[2] 2 *Lex* 1257 ff (Roma, 1929).
[3] *Supra* note 1, at 716.
[4] Decree No. 1250 of October 21, 1947, which provided for the increase of fines imposable for such offenses, empowered the courts to raise such fine penalties and/or convert them into arrest when not promptly complied with (Arts. 24, 26, 78, 135, and 588 of the Italian Code of Criminal Procedure) (2 *Lex* 1814 ff (Roma, 1947)).
[5] *Codice Penale e Codice di Procedura Penale* 308 (Firense, 1973).

JAPAN

The subject of national population census and the availability of census records is governed by the Statistics Law of 1947.[1] Pertinent provisions of this Law are as follows:

Article 2. The designated statistics described in this Law shall mean those which have been prepared or sponsored by the government or public corporation and which have been designated and notified to the public by the Director of the Administrative Management Agency.

Article 3. 1. The investigation to be made with the purpose of compiling the designated statistics (hereinafter cited as the investigation of the designated statistics) shall be conducted in accordance with this Law, and not with provisions of other laws.

2. The matters necessary for conducting the investigation of the designated statistics besides the provisions of this Law shall be governed by ordinances.

3. [Omitted.]

Article 4. 1. The national population census which is undertaken by the government and designated and notified to the public by the Director of the Administrative Management Agency shall be called "Kokusei Chosa."

2. The Kokusei Chosa shall be undertaken every ten years. However, it may be undertaken in the simplified method every five years after the previous Kokusei Chosa.

3. At the interval of the period mentioned in the preceding paragraph, the temporary census may be undertaken with the approval of the Director of the Administrative Management Agency.

Article 14. The secret matters of the person, legal person or other organization found as the result of the investigation of the designated statistics shall be safeguarded.

Article 15. 1. No person shall use investigation cards collected for the purpose of compiling the designated statistics except for the statistical purpose.

2. The provisions of the preceding paragraph shall not apply when the purpose of its use is published with the approval of the Director of the Administrative Management Agency.

Article 19–2. In case a member of the Administrative Management Agency, statistical officer, or other person engaging in the business of the investigation of the designated statistics, or enumerator, or person formerly in services of this kind, discloses or steals the secret matters of the person, legal person or other organization found in the performance of his duty, he shall be subject to a penal servitude not exceeding one year or a fine not exceeding five thousand yen.

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[1] Law No. 18, March 26, 1947, as last amended by Law No. 99, June 15, 1968.

In Japan, national population census is one of the designated statistics as mentioned in the Statistics Law. The availability of census records, however, is restricted under Article 14 of the above Law. At the present time, no statute requiring the public disclosure of census records is under legislative consideration.[2]

[The report was prepared by Dr. Sung Yoon Cho, Senior Legal Specialist, Far Eastern Law Division, Law Library, Library of Congress, Washington, D.C., July 1976.]

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[2] "The interim report on the protection of privacy resulting from the use of computers by administrative agencies," *Jurisuto*, No. 589 (15 June 1975), p. 30. At present there is no general law requiring the public disclosure of government information as such. There are two specific laws (the Family Registration Law and the Immovables Registration Law) which require the public disclosure of information found in the registration of family affairs and immovable property, respectively.

THE NETHERLANDS

The Census Law [1] is the basic law concerning census matters. The following articles of this law provide for making the records available and for the protection of the people interviewed.

Art. 4. The results of a general census, a partial or random sampling investigation [*deel of steekproefonderzoek*] or a test count [*proeftelling*] are made public insofar as this is useful for practical use [*praktijk*] or knowledge [*wetenschap*] according to the judgment of the Director-General of Statistics.

Art. 5. The Director-General of Statistics makes available to the municipal governments those data collected in a general census which are necessary to examine whether the persons entered in the "registers of persons" [*persoonsregisters*] specified in Article 1, paragraphs 2, are entered in those [registers] legitimately, and whether all eligible persons are entered in those registers.

Art. 6. [*par.*] *1.* The Director-General of Statistics is charged with the preparation and organization of collecting the data under Articles 1, 2 or 3, the statistical compilation of those data and the determination and publication of the results thereof.

Art. 6. [*par.*] *2.* The Director-General of Statistics performs these activities insofar as they are necessary for the examination specified in Article 5, in accordance with the Head of the State Inspectorate of the Population Registers.

Art. 9. With respect to each general census, further provisions are given in a general administrative decree, [after having been] heard by the Central Commission for Statistics. Apart from other provisions which we deem necessary, the following will be regulated:

a. * * *

b. * * *

c. the times are determined at which the data collected in the general census, insofar as they concern names and addresses of persons, should be destroyed.

[remainder irrelevant]

Art. 12. Anyone who is charged with any activity for the implementation of the present law is bound to secrecy of all that has come to his knowledge when performing these activities, except insofar as the performance of this task arising from this law requires disclosure.

As required in Article 9 of the above-mentioned law for the census of 1970/71, the Decree concerning the General Census and House Count of 1971 [2] was issued, which, as its title indicates, deals not only with the census but also with the count of houses. The secrecy concerning the information obtained applies to both the census and the

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[1] Law of July 9, 1970, *Staatsblad van het Koninkrijk der Nederlanden* [official law gazette of the Netherlands, hereafter cited as Stb.] 323 (replacing the Law of April 22, 1879, Stb. 63).

[2] Decree of September 29, 1970, Stb. 446, as amended.

house count. The secrecy required in the law and in the decree are general and are only set aside to fulfill the tasks assigned in the decree.

The following articles of this decree pertain to the present subject matter:

Art. 10. The results of the general house count are made public insofar as this is useful for practical use or knowledge according to the judgment of the Director-General of Statistics.

Art. 11. The Director-General of Statistics makes available to the municipal government the data requested by that municipal government concerning the nature of the living quarters and the subjects mentioned in Article 7, under b-e, which are collected in the general house count with respect to the houses situated in that municipality.

Art. 12. The Director-General of Statistics is charged with the preparation and organization of collecting data under Article 7, the statistical compilation of those data and the determination and publication of the results thereof.

Art. 14. Anyone who is charged with any activity with respect to the general house count for the implementation of this decree is bound to secrecy of all that has come to his knowledge when performing these activities, except insofar as the performance of the task, which with respect to the general house count arises for him from the implementation of this decree, requires disclosure.

Art. 19. The data collected in the general census and the general house count, which concern names and addresses of persons, shall be destroyed before March 1, 1975.

This article has been amended twice. Originally it read that only 90% of the data had to be destroyed by a certain date. This was deliberately changed to read now that all data must be destroyed. According to the explanation for the change, this was done to ensure the protection of privacy, even at the cost of losing the possibility to conduct important statistical measurement with respect to changes that occur in the course of time. The second change was to move the date up from March 1, 1974, to March 1, 1975. This was due to several delays in processing the data.

[Prepared by Joyce Darilek, Legal Specialist, European Law Division, Law Library, Library of Congress, July 1976.]

SWEDEN

I. The Central State Agency

The Statistika Centralbyrån is the central Swedish state agency for the compilation, coordination, and distribution of statistical information. The history of this bureau dates back to 1858,[1] and the current statutory provisions for its organization and operation are found in an instruction of June 4, 1971 (*Svensk Författningssamling* [hereafter SFS] 1971: 383). A large number of statistical publications are published by the bureau. The more important of these publications are listed in the standard bibliographies of European statistical resources,[2] and more detailed guides to statistical publications exist which deal only with Sweden.[3]

II. The General Censuses

A general census is taken every fifth year in Sweden. The latest was for the year of 1970, and the statutory provisions for this census are found in the Statute of March 20, 1970, on the General Census of the Population and of Housing (SFS 1970: 74). This Statute is supplemented by a Regulation of the same date on the 1970 Census of the Population and Housing (SFS 1970: 75). The kind of information requested by the census takers for this census was somewhat similar to what has been required in the United States.

On the other hand, the Statute of March 12, 1972, on the 1972 General Census of [public and privately owned] enterprises (SFS 1973: 42) established a census in which the amount of information requested seems to be more extensive than is usual in this country. This census, according to the Statute's Section 1, applies to:

1. corporations and business associations;
2. anyone who engaged in business activities during the year of 1972 or during any part of that year;
3. technical and financial associations within any branch of business life together with associations of employers and trade unions, provided that such association or organization employed paid help during the year of 1972, or during any part of that year;
4. state authorities [which engage in business activities];
5. municipal authorities, [the associations of municipal authorities] Svanska kommunalförbundet, and Svenska landstingsförbundet together with any other organization for cooperation between municipal authorities;
6. general pension organizations, general insurance organizations, approved unemployment insurance organizations, and any other organization or institution which is subject to supervision by the state [such as a charitable organization].[4]

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[1] Statistika Centralbyrån, *Statistika Centralbyrån 100 år* (Stockholm, 1959). English summary, p. 142–151. Illustration of keypunch machine used for the 1920 census on p. 90.

[2] Judith Blake *and* Jerry J. Donovan, *Western European Censuses, 1906.* An English language guide. (1971). *See also:* U.S. Library of Congress. Census Library Project, *National Census and Vital Statistics in Europe, 1918–1939.* (1948).

[3] Erland Adolf Gerhard von Hofsten, *Vägvisare i svensk statistik* (7th ed. Stockholm, 1971).

[4] Translated and summarized by Finn Henriksen.

Section 2 of the Statute specifically states the information which the Statistika Centralbyrån may request under the threat of an injunction, namely:

1. the name, address, registration number [for enterprises], person number [similar to Social Security number], or similar information for the purpose of identification;
2. the legal form under which the enterprise is pursued and the name[s] of the owner[s];
3. the kind of business activities (divided by branches) engaged in;
4. the period during which the business activities were pursued, and if for only a part of 1972, then the reason why;
5. the dates of the fiscal year for accounting;
6. incomes and expenditures divided up into accounts for different kinds of incomes and expenditures;
7. the balance sheets and the worth of the assets and liabilities;
8. the number of employees, their distribution by age, and the number of working hours.

Section 2 states finally that information should be given separately for each kind of business activity (divided by branches) in the cases in which an enterprise engages in different kinds of business activities.

III. Unauthorized Disclosures

The Statute of March 12, 1973, on the 1972 General Census of Enterprises (SFS 1973:43), summarized above, provides further regarding unauthorized disclosures:

> *Sec. 6.* Anyone from the Statistika Centralbyrån or from another public authority who has acquired information as described in this statute is prohibited from disclosing such information without proper authorization. Anyone who violates this prohibition intentionally or with gross negligence should be sentenced to pay a fine or to be imprisoned for up to 1 year. Public prosecution should take place only upon complaint or if such prosecution is found necessary to protect the interests of the general public.

Provisions prohibiting unauthorized disclosures in a way similar to the above are found in most Swedish legislation requesting the submission of information to statistical authorities. However, the effect of these prohibitions is to some extent counteracted by the Swedish concept of freedom of information with respect to information contained in the public record.

IV. Confidentiality Versus Freedom of Information

The Swedish Freedom of the Press Act, Tryckfrihetsforordningen, which dates back to 1766 and which is part of the Swedish Constitution, in Chapter 2 establishes the principle that the general public has access to all public records. The term "public record" is understood to include magnetic tapes and punched cards, but not internal working papers used within a state department. The Freedom of the Press Act allows specific subject areas to be kept secret, but such exceptions must be made by statutes and have to be kept within narrow limits.[5] Most of these exceptions are brought together in one

single enactment called the Sekretesslagen of May 28, 1937 (SFS 1937:249).[6] However, it may be stated in very general terms that secrecy or confidentiality is secured less frequently than seems to be the case in the United States.

It may be difficult in an individual situation to determine whether statistical source materials in this context should be considered a part of the public record or not. However, Section 16 of the Sekretesslagen expressly requires that state and municipal authorities keep statistical source materials with information on individual persons, corporations, or other private units secret for 20 years. The interested persons or units may waive this right to privacy. It is also lawful to publish the materials in such form that renders the identification of individual persons or units impossible.[7]

Other important provisions in the Sekretesslagen on the taking of a census include Section 11, which protects the secrecy of the criminal registers, and Section 13, which partially protects the information contained in the registers for vital statistics and the information contained in the general registers for persons (folkregister) that includes all living Swedes.

Section 17 of the Sekretesslagen protects the secrecy of information given to the tax authorities, such as the income tax return, but the provision does not prohibit the regular publication of the exact amounts of individual assessments for income and net wealth taxes.[8]

Sections 18–20 and 25 allow a limited, 20-years' secrecy for a number of subject areas, such as bank secrecy, workmen's compensation, certain information received by the public employment service.

A more detailed discussion of the very complex questions relating to the Swedish Sekretesslagen has not been attempted. A good annotated edition of the Statute is available in the Swedish language, however, and it includes a bibliography of the relevant literature.[9]

V. Electronic Data Processing

Sweden (and the other North European Countries)[10] have for many years manually kept data banks for all living persons, for all business enterprises, for all real estates, and the like. The availability of EDP has made it possible to integrate such date banks and to make many new uses of the information contained in them. It has also created a strong fear that such use of EDP should lead to wholesale invasions of the privacy of individual citizens. Sweden has long been a leader in the use of EDP within the public sector,[11] and it has also contributed a statute [12] which seems to offer the individual reasonable protection, although it is still too early to pass any final judgment on this matter.

[Prepared by Dr. Finn Henriksen, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, September 1974.]

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[5] Hilding Eek, "Protection of News Sources by the Constitution" *in* 5 *Scandinavian Studies in Law* 9-25 (1961).

[6] *Sveriges Rikes Lag* B 302 (95th ed. Stockholm, 1971).

[7] Owe Salomonsson, *Offentliga data* 146 ff (Stockholm, 1971).

[8] Harvard University. International Program in Taxation, *Taxation in Sweden* 50–51 (1959).

[9] Robert Malmgreen and others. *Sveriges Grundlagar* B 183–B 220 (11th ed. Stockholm, 1971).

[10] *Deutsche Stiftung für Entwicklungsländer* (Report of a seminar on population statistics and the use of computers with special reference to population censuses) 2 vols. (Doc. No. 457 S 8/69) (Berlin, 1969). *Reporters note:* This publication is in English.

[11] *Supra* note 7, at 168 ff.

[12] *See* the *Appendix* for a translation of the Data Bank Statute of May 11, 1973 (SFS 1973:289).

SUPPLEMENTARY REPORT

The above report of September 1974 is still up-to-date, except that the Statute and Regulations on the 1970 General Census of the Population and Housing, cited on page 2 above, have been replaced by the somewhat similar Statute of March 6, 1975, on the 1975 General Census of the Population and Housing (SFS 1975: 55). Also, Section 16 of the 1975 Statute is practically identical to Section 6 of the 1970 Statute translated on page 4 above.

[Prepared by Dr. Finn Henriksen, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, July 1976.]

The Swedish Data Bank Statute (1973:289) of May 11, 1973 [1]

The *Data Bank Statute*, given at Stockholm's Castle May 11, 1973—

Introductory Provisions

Sec. 1. The following terms in this Statute are understood to mean: information on a person: information with respect to a private person;

Register of persons: a register, list or other notations which are maintained with the help of automatic data processing [2] and which contain information on persons in such a way that the information can be related to the person referred to by the information;

Registered person: a private person about whom information is contained in the register of persons;

Registrar-accountable: anyone on whose behalf the register is maintained, provided that he also has control over the register.

On Permits, etc.

Sec. 2. Establishing or continuing a register of persons without permission from the Data Inspection Board is prohibited.

The above Subsection shall not apply to registers of persons which were established in accordance with a decision by the King in Council or by the Legislature. However, the Data Inspection Board should be heard before such a decision is made.

Sec. 3. Permission by the Data Inspection Board to establish and to continue a register of persons shall be granted if there is no reason to assume that, with due observance of the regulations in Sections 5 and 6, undue encroachment on the privacy of the individuals registered will arise.

In judging whether or not undue encroachment on privacy will arise, the kind and the amount of information on persons which should be stored in the register, and the attitude to the register which is taken by, or which may be assumed to be taken by, those who may become registered in the register, should be considered separately.

Sec. 4. Permission to establish and to continue a register of persons which contains information that anyone has been suspected of, or sentenced for, a crime or has served time for a criminal judgment or has been made the subject of another sanction as a consequence of a crime or the subject of coercive action in accordance with the Child Welfare Act (1960:97), the Temperance Act (1954:579), the Statute on Provisions of Psychiatric Treatment in Detention in Certain Cases (1966:293), the Statute on Treatment of Certain Psychiatrically Disturbed Persons (1967:940), the Statute on Measures to Prevent Danger to the Public from Associality (1964:450), and the Statute on Aliens (1954:193) may not be granted to a person other than an authority responsible by law or statute for keeping a record of such information, unless there are extraordinary reasons therefor.

Permission to establish and to continue a register of persons which contains information on the sickness or the state of health of anyone or information that anyone has received social welfare assistance, has been treated by the public for alcoholism or the like, or has been made the subject of the provisions in the Child Welfare Act or in the Statute on Aliens, may not be granted to a person

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Sweden, Utrikesdepartementet, *Computers and Privacy* (Stockholm, 1972). This typed memorandum is an English summary of the commission report which led to the enactment of the Data Bank Statute, and it contains the text of the original draft to the Statute.

Jan Freese, "The Swedish Data Act," *Current Sweden*, No. 4 (1973).

Robert Skole, "Sweden enacts privacy law," *Electronics* 72–73 (1973).

A broad Scandinavian discussion of the subject may be found in 53 *Nordisk Administrativt Tidsskrift* 141–172 (Fall 1972).

[2] Translator's Note: The Scandinavian term "automatic data processing" today means practically the same as electronic data processing. However, automatic data processing includes both mechanical, electro-magnetic and electronic data processing. Equipment for the strictly mechanical manipulation of punched cards was marketed in Scandinavia by the English Powers Corporation, and this equipment was considered competitive with the original line of electro-magnetic IBM (Hollerith) equipment. However, the later generations of electronic data processing equipment have made both the mechanical and the electro-magnatic equipment obsolete.

other than an authority responsible by law or statute for keeping a record of such information, unless there are extraordinary reasons therefor.

Permission to establish and to continue a register of persons which contains information on the political or religious views of anyone may be granted only where there are special reasons therefor. However, this shall not prevent an association from keeping a record about its own members.

Sec. 5. In connection with the granting of a permit to establish and to continue a register of persons, the Data Inspection Board shall issue regulations with respect to the purpose of the register and with respect to the information on persons which may be entered into the register. Permits which are based on the existence of extraordinary reasons should be made limited in duration.

Sec. 6. When a permit to establish and to continue a register of persons has been granted and to the extent that this is needed to protect against undue encroachment on the privacy of individuals, the Data Inspection Board shall issue regulations with respect to:

(1) obtaining information for the register of persons;
(2) carrying out electronic data processing;
(3) technical equipment;
(4) processing of information on persons in the register in regard to automatic data processing;
(5) information [sent] to persons affected;
(6) information on persons which may be made available;
(7) distribution and other use of information on persons;
(8) storage and weeding out of information on persons; and
(9) control and security.

Regulations on the distribution of information may not, however, restrict the duties of authorities under the Freedom of the Press Act.

Sec. 7. The provisions in Sections 5 and 6 on the duties of the Data Inspection Board to issue regulations apply also with respect to the registers of persons mentioned in Section 2, Subsection 2, unless the King in Council or the Legislature has issued [specific] instructions relating to these matters.

The Duties of the Registrar-Accountable

Sec. 8. If there is reason to suspect that information on persons is incorrect, the registrar-accountable shall, without delay, take the necessary steps to ascertain the correctness of the information and, if needed, have it corrected or deleted from the register.

If information to be corrected or deleted has been released to [anyone] other than the individual registered, the registrar-accountable shall, at the request of the individual registered, notify the recipient with respect to the correction or deletion. The Data Inspection Board may under extraordinary circumstances relieve the registrar-accountable of this duty of notification.

Sec. 9. The registrar-accountable should undertake what is necessary to complete a register of persons if the information on persons with regard to the purpose of the register must be regarded as incomplete, or if a register of persons which constitutes a record of persons contains no information on a person who, with regard to the purpose of the register, must be expected to be included in it. Such completion must always be undertaken if the incompleteness may cause undue encroachment on [anyone's] privacy or a risk of the loss of rights.

Sec. 10. The registrar-accountable shall at the request of a registered person as soon as possible inform him of the information of a person concerning him in the register. When a registered person has been so informed, new information need not be given to him until twelve months later.

Information in accordance with Subsection 1 shall be given free of charge. However, the Data Inspection Board may under extraordinary circumstances allow that a charge be made for specific kinds of information on persons.

The provision in Subsection 1 does not apply to information which, pursuant to law or statute or the decision of an authority, may not be delivered to the individual registered.

Sec. 11. Information on persons in a register of persons may not be released if there is reason to assume that the information will be used for electronic data processing without permission in accordance with this statute. If there is reason to assume that information on a person will be used for electronic data processing abroad, the release may take place only after permission from the Data Inspection Board. Such permission should be granted only if it may be assumed that release of the information will not cause undue encroachment on the privacy of anyone.

The Statute on Certain Restrictions of the Right to Publish Public Records (1937:249) applies to the question of prohibiting authorities from making information on persons available.

Sec. 12. The registrar-accountable shall notify the Data Inspection Board if he ceases to maintain a register of persons. The Board decides under these circumstances how the register should be dealt with.

Sec. 13. The registrar-accountable or any person who has dealt with a register of persons may not reveal without authorization what he has learned from it about the personal circumstances of an individual.

If personal information has been released in accordance with such regulations pursuant to Sections 6 and 18 that limit the right of the recipient to pass it [such information] on, the recipient or any person who in his behalf has dealt with the information may not reveal without authorization what he has learned about the personal circumstances of an individual.

Sec. 14. Information from an automatic data processing recording which is provided for the purpose of judicial or administrative proceedings shall be added to the relevant file in readable form, unless extraordinary circumstances make this impracticable.

Supervision

Sec. 15. The Data Inspection Board sees to it that automatic data processing does not cause undue encroachment on [anyone's] privacy.

In conjunction with this supervision care shall be taken that no greater inconvenience be caused than is inevitable.

Sec. 16. For the purpose of its supervision the Data Inspection Board shall be granted admission to premises where automatic data processing is carried out or where computers or equipment or records for automatic data processing are kept. The Data Inspection Board shall further be granted access to documents and other records which relate to automatic data processing and to arrange for operation of the data processing computer or equipment.

Sec. 17. The registrar-accountable shall deliver to the Data Inspection Board the information and particulars concerning the automatic data processing which the Board requires for its supervision. This applies also to a person who on behalf of the registrar-accountable is in charge of a register of persons.

Sec. 18. If undue encroachment of privacy arises through a register of persons or its use, or if there are reasons to believe that such encroachment may occur, the Data Inspection Board shall amend as needed the previously issued regulations or issue new regulations in this respect, such as indicated in Sections 5 and 6. The Data Inspection Board may issue with respect to the registers mentioned in Section 2, Subsection 2, regulations such as those mentioned to the extent that such regulations do not come into conflict with decisions by the King in Council or by the Legislature.

If protection against undue encroachment of privacy cannot be attained by other means, the Board shall cancel the previously granted permit.

Sec. 19. Anyone who has dealt with a matter relating to a permission or with notification or supervision under this Statute may not without authorization reveal what he has learned about the personal circumstances of an individual or about professional or business secrets.

Penalties and Damages, etc.

Sec. 20. Anyone who willfully or negligently:

(1) establishes or continues to maintain a register of persons without permission under this Statute, when such permission is required;

(2) violates a regulation issued pursuant to Sections 5, 6 or 18;

(3) releases information on persons in violation of Section 11;

(4) violates the provisions of Sections 12 or 13;

(5) gives incorrect information when fulfilling an obligation as stated in Section 10;

(6) gives incorrect information with respect to Section 17; or

(7) violates the provision of Section 19;

shall be sentenced to pay a fine or to a term of imprisonment not to exceed one year.

Public prosecution for the offenses referred to in Sections 13 and 19 may be instituted only if the person aggrieved so requests or if the prosecution is called for from a public point of view.

Sec. 21. Anyone who unlawfully procures access to records for automatic data processing or who unlawfully makes changes in, or deletions from, such records or the registers for such records shall be sentenced for such data infringement

to pay a fine or to imprisonment not to exceed two years, provided that the act is not punishable under the Penal Code.

Liability for an attempt or preparation [to commit] the crime described in Subsection 1 should be determined in accordance with Chapter 23 of the Penal Code. However, liability should not be established if the crime would have been considered a misdemeanor had it been committed.

Sec. 22. If a register of persons has been established or continued without permission under this Statute when such permission was required, the register shall by judgment be declared as forfeited, unless this would be clearly unreasonable.

Sec. 23. The registrar-accountable shall pay compensation to an individual registered for damage caused to him through incorrect information concerning him in the register of persons. When assessing the damages, the suffering caused and the various circumstances of other than a purely pecuniary significance shall be taken into consideration.

Sec. 24. If the registrar-accountable, or the person who on behalf of the registrar-accountable is in charge of the register, fails to grant access to premises or documents pursuant to Section 16 or fails to give information pursuant to Section 17, the Data Inspection Board may impose a financial penalty. The same applies if the registrar-accountable does not fulfill his obligations pursuant to Sections 8, 9 or 10.

Sec. 25. An appeal against a decision by the Data Inspection Board may be lodged with the King in Council. The Attorney General shall plead to protect the interests of the general public.

Interim Regulations

This Statute shall take effect on July 1, 1973. However, the provisions in Sections 2–14, 18, 20 Number (1) to (5), 21–23 and 24 shall not take effect before July 1, 1974.

If a register of persons, which according to the Statute may not be established or continued without permission, has been established before July 1, 1974, it may be continued until an application for permission has been finally examined, provided that the application is made before January 1, 1975. The kinds of information on persons in the register and the purposes for which the information taken therefrom is used may be changed or extended only after notification to the Data Inspection Board. The provision on punishment in Section 20 shall apply to any violation of this provision.

The Swedish Data Bank Regulation of May 11, 1973[1]

It has pleased his Majesty, the King, to order that:

Sec. 1. An application for a permit to establish or to continue a register of persons pursuant to the Data Bank Statute (1973:289) shall be submitted to the Data Inspection Board.

If the King in Council or the Legislature has decided to establish a register of persons, the authority [designated] as the registrar-accountable shall report this as soon as possible to the Board.

Sec. 2. The application or report mentioned in Section 1 shall be submitted in duplicate, and it shall contain or indicate:

(1) the name, postal address and telephone number of the registrar-accountable;

(2) the name of the registrar of persons;

(3) the purpose of the register;

(4) the complete inventory of the information which shall be subjected to automatic data processing, and a detailed description of the origin [of the information] and the means by which the information will be collected;

(5) the processing to be performed with automatic data processing, and the procedures for this processing;

(6) a complete inventory of the information to be made available and a detailed description of its destination and the circumstances under which it will be distributed;

(7) a description of the technical equipment which primarily shall be used and information concerning where this equipment is installed;

(8) the means by which the registered person could gain access to the information which includes information about him, and whether or not such information should be subject to a fee;

(9) how and when the correction of incorrect information in the register shall be made;

(10) how records for automatic data processing shall be preserved and how and when weeding shall be undertaken;

(11) how records for automatic data processing shall be stored;

(12) how information may be replaced if the records for automatic data processing are destroyed;

(13) what other provisions for safety have been planned;

(14) to which extent the use of the computer, the data processing equipment and the terminal [and the like] should be registered.

Sec. 3. If the application is incomplete, the Board shall request the applicant to submit supplementary documentation within a certain time limit, failing which he risks having the application decided on the basis of the incomplete information in the application.

Sec 4. When the Data Inspection Board responds pursuant to Section 2, Subsection 2, in the Data Bank Statute (1973:289), the evaluation of the register should be based on the same criteria as used in the evaluation of applications.

Sec. 5. The National Archives shall be consulted with respect to questions on the preservation and weeding out of information on persons to be recorded for automatic data processing by a [public] authority.

Sec. 6. When decisions pursuant to Sections 5, 6, 7 or 18 in the Data Bank Statute (1973:289) are made, a copy of the decision shall be sent to the Attorney General.

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Jan Freese, "The Swedish Data Act," *Current Sweden*, No. 4 (1973).

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A broad Scandinavian discussion of the subject may be found in 53 *Nordisk Administrativt Tidsskrift* 141–172 (Fall 1972).

Sec. 7. Further regulations in implementation of the Data Bank Statute (1973: 289) are to be issued by the Data Inspection Board.

This regulation shall take effect on July 1, 1973.

By January 1, 1974, at the latest, registrar-accountable authorities shall notify the Data Inspection Board regarding any registers of persons which were established in accordance with a decision of the King in Council or by the Legislature before July 1, 1973.

[Translated by Finn Henriksen, Senior Legal Specialist, European Law Division, Law Library, Library of Congress, September 1973.]

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