

# 英美資訊法簡介

## 英國

自1978年至1985年間，歐洲已有幾個國家分別訂定「資訊保護與隱私權法」，其中的保護對象包含自然人與法人。英國的情形則和其他國家不同，在1978年有關資訊保護的「寧得普報告」中提出，「資訊保護主體」的範圍，除了自然人之外，應該將由自然人組成的「協會團體」納入保護。但由於解釋過於泛濫，終不為1984年英國資訊保護法所採納，因該法明訂，「資訊乃是消息的集合，此種資訊須生存之自然人能證明為其所有，或資訊使用人能證明為其所有者，方受本法保護」。

### 1984年資訊保護法 (Data Protection Act 1984)

#### PART I PRELIMINARY

##### Section

- 1 Definition of 'data' and related expressions
- 2 The data protection principles
- 3 The Registrar and the Tribunal

#### PART II

##### REGISTRATION AND SUPERVISION OF DATA USERS AND COMPUTER BUREAUX

##### Registration

- 4 Registration data users and computer bureaux
- 5 Prohibition of unregistered holding etc of personal data
- 6 Applications for registration and for amendment of registered particulars
- 7 Acceptance and refusal of applications
- 8 Duration and renewal of registration
- 9 Inspection etc of registered Particulars

##### Supervision

- 10 Enforcement notices
- 11 De-registration notices
- 12 Transfer prohibition notices

## Appeals

- 13 Right of appeal
- 14 Determination of appeals

## Miscellaneous and supplementary

- 15 Unauthorised disclosure by computer bureau
- 16 Powers of entry and inspection
- 17 Disclosure of information
- 18 Service of notices
- 19 Prosecutions and penalties
- 20 Liability of directors etc

## **PART III**

### **RIGHTS OF DATA SUBJECTS**

- 21 Right of access to personal data
- 22 Compensation for inaccuracy
- 23 Compensation for loss or unauthorised disclosure
- 24 Rectification and erasure
- 25 Jurisdiction and procedure

## **PART IV**

### **EXEMPTIONS**

- 26 Preliminary
- 27 National security
- 28 Crime and taxation
- 29 Health and social work
- 30 Regulation of financial services etc
- 31 Judicial appointments and legal professional privilege
- 32 Payrolls and accounts
- 33 Domestic or other limited purposes
- 34 Other exemptions
- 35 Examination marks
- 35A Information about human embryos, etc
- 36 General duties of Registrar
- 37 Co-operation between parties to Convention
- 38 Application to government departments and police

- 39 Data held, and services provided, outside the United Kingdom
- 40 Regulations, rules and orders
- 41 General interpretation
- 42 Commencement and transitional provisions
- 43 Short title and extent

## SCHEDULES

### Schedule 1—The Data Protection Principles

#### Part I — The Principles

#### Part II—Interpretation

### Schedule 2—The Data Protection Registrar and the Data Protection Tribunal

#### Part I —The Registrar

#### Part II—The Tribunal

### Schedule 3—Appeal Proceedings

### Schedule 4—Powers of Entry and Inspection

## 美國

早在美國創國之初，其開國元勳就已深切體認滿足人民知的權利之重要性。然而，由於當時新成立合眾國所面臨內憂外患之險惡局勢，美國總統為執行聯邦憲法所賦予之三軍統帥權，不得不對行政部門所擁有資訊之散布加以限制，尤其是在涉及國防或外交事務方面。一九三〇年代中期，由於「經濟大蕭條」所引起之危機，遂採取管制整體經濟措施，設置許多具有廣泛管制權力之行政機構。而為進一步控制該機構之活動，乃有1946年行政程序法之制定，希望藉由公開及公正之行政程序，來保障受管制者之權益。又於，1966年制定資訊自由法。其相關的法律包括：

Administrative Procedure Act of 1946

Freedom of Information Act of 1966

Privacy Act of 1974

Freedom of Information Act of 1974

Government in the Sunshine act of 1976

Freedom of Information Act of 1984

Freedom of Information Reform Act of 1986

### **1986年資訊自由改革法（Freedom of Information Reform Act of 1986）**

1801 Short title

1802 Law enforcement

1803 Fees and fee waivers

1804 Effective dates

## 參考書目

- 1.資訊法論 494.59023/7234
- 2.資訊立法之研究 494.59023/8072
- 3.Computer law update 1990 R343.71099/C737
- 4.Computer software protection and semiconductor chips 346.0482/S381
- 5.Information law 342.0853/B826 V.1
- 6.Legal protection of computer program and data 346.0482/M645