

Act No. 571, 19 December 198

THE DANISH PUBLIC  
ADMINISTRATION ACT.

Ministry of Justice,  
Copenhagen, 1987.

**The Danish Public Administration Act**

We, Margrethe the Second, By the Grace of God Queen of Denmark,  
Do Hereby Make Known:

The Folketing has passed and We by our Assent have affirmed the below Act:

Part I.

General Scope of the Act.

1.-(1) This Act shall apply to all branches of the public administration.

(2) Upon consultation with the Minister for Justice, the minister concerned may by order provide that this Act shall apply in whole or in part to specified companies, partnerships, institutions, associations etc. that cannot be classified as part of the public administration, provided that the operating expenses of such entities are mainly covered by central or local government funds or in so far as by or pursuant to statutory provision they are empowered to make decisions on behalf of central or local governments. Further, the minister concerned may by order lay down more detailed rules on filing etc. of documents and on secrecy.

2.-(1) This Act shall apply to consideration of matters in which a decision has been or will be made by an administration authority.

(2) The provisions on disqualification in Part 2 of this Act shall apply also to consideration of matters on the making of contracts and the like civil law agreements.

(3) The provisions of Part 8 of this Act shall apply to all activity exercised by the public administration.

(4) Upon consultation with the Minister for Justice, the minister concerned may by order provide that provisions of this Act other than those referred to in Parts 2 and 8 of this Act shall in whole or in part apply to administration activity other than that referred to in subsection (1) of this Section.

Part 2.

Disqualification.

3-(1) Any person acting within the public administration shall be disqualified relative to any specific matter if

- 1<sup>o</sup> such person is himself particularly interested personally or financially in the outcome of the matter or represents or previously in the selfsame matter represented any person who is thus interested;
- 2<sup>o</sup> such person's husband or wife, any person related by blood or marriage in the direct line of ascent or descent or in the collateral branch as close as a first cousin, or any other closely attached person, is particularly interested personally or financially in the outcome of the matter or represents any person who is thus interested;
- 3<sup>o</sup> such person takes part in the management of or otherwise is closely related to any company, partnership, association or other private legal entity particularly interested in the outcome of the matter;
- 4<sup>o</sup> such matter concerns a complaint about or exercise of the control or supervision of another public authority, and such person previously when serving with that other authority assisted in making the decision or in implementing the measures relating to such matter; or
- 5<sup>o</sup> circumstances other than those referred to in heads 1<sup>o</sup>-4<sup>o</sup> of this subsection are likely to lead to any doubt about such person's impartiality.

(2) No person as referred to in subsection (1) of this Section shall be disqualified if, as a consequence of the nature or strength of his interest, of the nature of the matter, or of his functions in connection with consideration of the matter, no risk may be assumed to exist that the decision to be made may be affected by extraneous considerations.

(3) No person disqualified relative to any specific matter shall be allowed to decide, to take part in deciding, or otherwise to assist in the consideration of the matter in question.

4-(1) The provisions of Section 3 of this Act shall not apply if it would be impossible or attended with substantial difficulties or misgivings to arrange for another person to act in his stead in considering the matter.

(2) The provisions of Section 3 of this Act shall apply to members of a collegiate administration authority even where a substitute cannot be called in.

However, this provision shall not apply if members of the authority would not form a quorum or if substantial misgivings about the authority's composition would result if the member could not attend its meetings, and if consideration of the matter cannot be stayed without material damage to public or private interests.

(3) Regardless of the provisions of Section 3 of this Act, any member of a collegiate administration authority may take part in seconding of members to specific duties, even if his own name is put forward. The provisions of Section 3 of this Act shall not apply to decision-making by local government councils on remuneration etc. of their own members.

5. Upon consultation with the Minister for Justice, the minister concerned may by order lay down rules for specific sectors of the administration, defining in more detail the scope of Sections 3 and 4 of this Act.

6.-**(1)** Any person as referred to in subsection (1) of Section 3 of this Act who has notice of circumstances as referred to in that subsection shall as soon as possible advise his superior within the authority thereof, except where it is evident that such circumstance is immaterial. A member of a collegiate administration authority shall advise that authority.

**(2)** Disqualification shall be decided by the authority referred to in subsection (1) of this Section.

**(3)** The person concerned must not himself take part in considering or deciding his own disqualification, cf. however subsections (1) and (2) of Section 4 of this Act. This shall not apply where other provision is made in pursuance of a statutory enactment.

### Part 3.

#### Guidance and Representation etc.

7.-**(1)** An administration authority shall to the extent required give guidance and assistance to any person who enquires of them in matters within their purview.

**(2)** Any written enquiry that does not concern the purview of the administration authority to whom it has been sent, shall as far as possible be forwarded to the proper authority.

8.-(1) At any time during consideration of a matter, any party thereto may arrange for himself to be assisted or represented by others. However, when it is of importance to the making of a decision, the authority may demand that the party attend in person.

(2) Clause one of subsection (1) of this Section shall not apply where it is found appropriate that the party's interest in his right to be assisted or represented shall give way to regard had to material public or private interests, or where other provision has been laid down by Statute.

#### Part 4.

##### Party Access to Files.

##### Right to Access to Files.

9.-(1) Any party to a matter in which a decision has been or will be made by an administration authority, may demand to be apprised of the documents of the matter. The request shall state the matter the documents of which the party concerned wants to be apprised of.

(2) Provisions on secrecy applying to persons acting in public service or duty shall not limit the duty to grant access to files as provided by this Part of this Act.

(3) The provisions of this Part of this Act shall not apply to matters of criminal prosecution of infringements of the law, cf. however Section 18 of this Act.

##### Scope of Access to Files.

10-(1) Subject to the exceptions set out Sections 12-15 of this Act, the right of any party to access to files shall comprise

1<sup>o</sup> all documents relating to the matter in question, including duplicate copies of letters issued by the authority concerned, provided such letters must be assumed to have reached the addressee; and

2<sup>o</sup> entries in journals, registers, and other lists concerning the documents of the matter in question.

(2) However, any person applying for or having applied for employment or promotion in public service may demand to be apprised only of the documents etc. that concern his own circumstances.

### Stay of Proceedings.

11.-(1) If, while a matter is pending, a party applies for access to files and such application shall be granted under the provisions of this Act, proceedings in the matter shall be stayed until the party concerned has been given an opportunity to acquaint himself with the documents.

(2) However, the provision of subsection (1) of this Section shall not apply if a stay of proceedings will cause a decision in the matter to be out of a statutory time limit or if it is found appropriate that the party's interest in a stay of proceedings shall give way to regard had for material public or private interests contrary to such stay.

### Exempt Documents.

12.-(1) The right of access to files shall not apply to an authority's internal case material. Such internal case material shall be deemed to be

- 1<sup>o</sup> any document prepared by an authority for its own use in considering a matter;
- 2<sup>o</sup> correspondence between units within one and the same authority; and
- 3<sup>o</sup> correspondence between a local government council and its committees departments and other administrative bodies, or between these bodies.

(2) Regardless of the provision of subsection (1) of this Section, information on facts in a matter, materially important to the making of a decision in the matter and contained exclusively in internal case material, shall be given as provided by the rules laid down in this Part of this Act.

13. Regardless of the provisions of Section 12 of this Act, the right of access to files shall comprise internal case material available in final form if

- 1<sup>o</sup> the documents render exclusively the substance of the authority's final resolution on its decision in a matter;
- 2<sup>o</sup> the documents render exclusively information that the authority was under duty to make a note of pursuant to the Danish Access to Public Administration Files Act; or
- 3<sup>o</sup> the documents are self-contained instruments prepared by an authority for the purpose of procuring evidentiary or other clarity with respect to the facts of a matter.

14.-(1) The right of access to files shall not apply to:

- 1<sup>o</sup> Records of meetings of the Council of State, minutes of meetings of ministers and documents prepared by an authority for use at such meetings.
- 2<sup>o</sup> Documents exchanged in connection with the secretarial function of one authority on behalf of another authority.
- 3<sup>o</sup> Documents prepared in connection with consideration of proposals for adoption by the European Community or relating to interpretation and construction of or compliance with EC rules.
- 4<sup>o</sup> Correspondence between authorities and outside experts for use in court proceedings or in deliberations on possible legal proceedings.

(2) Regardless of the provision of subsection (1) of this Section, information on the facts of a matter, materially important to the making of a decision in the matter and contained exclusively in the documents referred to in subsection (1) of this Section, shall be given as provided by the rules laid down in this Part of this Act.

#### Exempt Information.

15.-(1) The right of access to files may be further limited to the extent it is found appropriate that the party's interest in being able to use knowledge of documents in the matter to protect his interests shall give way to regard had to the material interests of the party concerned or to other material private or public interests, including

- 1<sup>o</sup> the security of the State and the defence of the realm;
- 2<sup>o</sup> Danish foreign policy and Danish external economic interests, including relations with foreign powers and international institutions;
- 3<sup>o</sup> prevention and clearing-up of any infringement of the law, prosecution of offenders, execution of sentences and the like, and protection of persons accused, of witnesses and others in matters of criminal or disciplinary prosecution.
- 4<sup>o</sup> implementation of public supervision, control, regulation and planning activities and of measures planned under taxation law; and
- 5<sup>o</sup> protection of public financial interests, including interests relating to public commercial activities.

(2) Where the provisions of subsection (1) of this section apply to only part of a document, the party requesting disclosure shall be apprised of the rest of the contents of that document.

#### Decisions on Access to Files.

16.-(1) Decision on whether and in what form an application for access to files shall be granted shall be made by the authority otherwise charged with deciding the principal matter in question.

(2) The authority shall as soon as possible decide if such application shall be granted. If an application has not been granted or rejected within ten days of receipt thereof by the authority concerned, the authority shall inform the applicant of its reasons for not so doing and also of the date when its decision may be expected to be forthcoming.

(3) If it is important for a party's ability to protect his interests that he be handed a transcript or an office copy of any document in the matter, his application for such transcript or office copy shall be granted. However, this provision shall not apply if the nature of documents, their number or form dictate otherwise. The Minister for Justice shall lay down rules on fees payable for transcripts and office copies.

(4) Separate appeal from decisions on matters of access to files shall lie to the authority designated to deal with appeals from a decision in the principal matter to which the application for access relates. The provision of Section 11 shall apply correspondingly.

(5) The minister concerned may by order lay down rules derogating from the provisions of subsection (1) and clause one of subsection (4) of this Section.

17. If the right of appeal from a decision in a principal matter is limited in time and an application for access to files is submitted after a decision in the principal matter has been communicated to the party concerned but before expiry of the time limited for appeal, the authority may decide that the time limit be suspended. If so, the time limited for appeal shall resume from the date when access to files is granted or denied, extending it for not less than fourteen days. Any other person notified in writing of the decision in the principal matter and entitled to appeal shall also be notified of the date of expiry of the extended time limit for appeal.



Access to Files in Criminal Matters.

18.--(1) When a criminal matter has been decided, any party thereto may demand to be apprised of any document in the matter provided that such demand is reasonably founded on the necessity of protecting the interests of the party concerned, and always provided that regard had to prevention, clearing-up, and prosecution of any infringement of the law or special regard had to protection of accused persons, witnesses or others do not indicate otherwise. The provisions of Sections 12-14 of this Act shall apply correspondingly.

(2) The provision of subsection (1) of this Section shall not apply to office copies of entries in court records concerning the criminal matter and to documents in the matter that have been adduced in court. The same shall apply to office copies of entries in court records and to documents adduced in court relating to other criminal matters cited in the hearing of the matter.

(3) Decision on whether and in what form an application for access to files may be granted under the provisions of subsection (1) of this Section shall be made by the authority that made the administrative decision in the criminal matter. Appeal from such decision shall lie to the superior administration authority concerned. The Minister for Justice shall lay down rules on payment of fees for transcripts and office copies.

Part 5.

Hearing of Parties.

19.--(1) If a party to a matter cannot be assumed to have notice that an authority is possessed of specific information on the facts of a matter, no decision shall be made until the authority has notified that party of such information and has given him an opportunity to make a statement. However, this provision shall apply only if the information is unfavourable to the party concerned and essential to the making of a decision in the matter. The authority may fix a time limit for submission of such statement by the party concerned.

(2) The provision of subsection (1) of this Section shall not apply if

- 1<sup>o</sup> according to the nature of the information and the merits of the matter the making of a decision on the available basis must be deemed to be unobjectionable;
- 2<sup>o</sup> a stay of proceedings will cause a decision in the principal matter to be out of a statutory time limit;

- 3° it is found appropriate that the party's interest in a stay of proceedings shall give way to regard had to material public or private interests contrary to such stay;
- 4° in respect of the information in question the party concerned is not entitled to access to files under the rules contained in Part 4 of this Act;
- 5° the contemplated decision will affect a wider, unspecified class of persons, enterprises etc., or if otherwise communication of the information to the party concerned will be attended by substantial difficulties; or
- 6° special provisions are laid down by Statute, securing the party the right to acquaint himself with the grounds for the contemplated decision and to make a statement in the matter before a decision is made.

(3) Upon consultation with the Minister for Justice, the minister concerned may by order lay down rules to the effect that specified fields of administrative decisions in which the provisions of heads 1° or 5° of subsection (2) of this Section will generally be applicable, shall not fall within the provision of subsection (1) of this Section.

20.-(1) In matters where the authority, upon request made by a party, may vary its decision, the authority may omit to hear the party concerned if the nature of the matter and regard had to the party concerned make it appropriate.

(2) If hearing of a party has been omitted by virtue of the provision of subsection (1) of this Section, the decision shall be accompanied by the information that otherwise the party should have been given under the provision of Section 19. The party shall at the same time be informed of his right to apply for the matter to be re-considered. The authority may fix a time limit for submission of an application for re-consideration.

(3) Where the right of appeal from a decision to another administration authority is subject to a time limit and an application for re-consideration of the matter is submitted in time, the appeal time limit shall be suspended. If so, the time allowed for appeal shall resume from the date when the fresh decision shall have been communicated to the party concerned, extending it for not less than fourteen days.

#### Right to Make Statements.

21.-(1) Any party to a matter may at any time of the proceedings demand that

the making of a decision in the matter be stayed until the party concerned has made a statement in the matter. The authority may fix a time limit for submission of a statement as aforesaid.

- (2) The provision of subsection (1) of this Section shall not apply if
- 1<sup>o</sup> a stay of proceedings will cause a decision in the principal matter to be out of a statutory time limit;
  - 2<sup>o</sup> it is found appropriate that the party's interest in a stay of proceedings shall give way to regard had to material public or private interests contrary to such stay; or
  - 3<sup>o</sup> any special statutory provision is found, securing for the party the right to make a statement in the matter before a decision is made.

#### Part 6.

##### Giving of Grounds, etc.

22. A decision communicated in writing shall be accompanied by grounds, except where the decision is in every particular in favour of the party concerned.

23.-(1) Any person who has been notified of a decision by word of mouth may demand that written grounds for the decision be given, except where the decision is in every particular in favour of the person concerned. An application for written grounds shall be submitted to the authority concerned within fourteen days of the party concerned being notified of the decision.

(2) An answer shall as soon as possible be given to an application for written grounds submitted by virtue of the provisions of subsection (1) of this Section. If the application is not answered within fourteen days of receipt of the application by the authority concerned, the authority shall inform the applicant of its reason for not answering and also of the date when its answer may be expected to be forthcoming.

24.-(1) Grounds given for a decision shall set out references to the rules of law on which the decision is based. To the extent that under such rules the decision is based on administrative discretion, the grounds shall also state the main considerations that were decisive in the exercise of discretion.

(2) Grounds given shall further, if necessary, briefly state such facts in the matter as were deemed to be of paramount importance in making the decision.

(3) The contents of the grounds given may be limited to the extent it is found appropriate that the party's interest in being able to use knowledge thereof to protect his interests shall give way to regard had to material interests of the party concerned or to other material private or public interests, cf. Section 15 of this Act.

Part 7.

Guidance on Appeal.

25.-(1) Any decision delivered in writing from which appeal lies to another administration authority shall be accompanied by written guidance on the right to appeal, stating where to appeal and informing of the procedure for lodging of appeal, including any time limit for so doing. However, this does not apply if the decision is in every particular favourable to the party concerned.

(2) Upon consultation with the Minister for Justice, the minister concerned may by order lay down rules to the effect that in specified fields of administrative decisions where special conditions are found, guidance on appeal may be omitted or be effected in manner different from that referred to in subsection (1) of this Section.

26. Any decision from which appeal lies exclusively to the courts of law, subject to a statutory time limit for institution of appeal proceedings, shall be accompanied by information to that effect.

Part 8.

Professional Secrecy etc.

Professional Secrecy.

27.-(1) Any person acting within the public administration is bound by professional secrecy, cf. Section 152 and Sections 152c-152f of the Danish Criminal Code, whenever information is designated as confidential by Statute or other legally binding provision or whenever it is otherwise necessary to keep the information secret to protect material public or private interests, including in particular

- 1<sup>o</sup> the security of the State and the defence of the realm;
- 2<sup>o</sup> Danish foreign policy and Danish external economic interests, including relations with foreign powers and international institutions;

- 3<sup>o</sup> prevention and clearing-up of any infringement of the law, prosecution of offenders, execution of sentences and the like, and protection of persons accused, of witnesses and others in matters of criminal or disciplinary prosecution;
- 4<sup>o</sup> implementation of public supervision, control, regulation and planning activities and of measures planned under taxation law;
- 5<sup>o</sup> protection of public financial interests, including interests relating to public commercial activities;
- 6<sup>o</sup> the interests of individual persons or private enterprises or societies in protecting information on their personal or internal, including financial, circumstances; and
- 7<sup>o</sup> the financial interests of individual persons or private enterprises or societies in protecting information on technical devices or processes or on business or operation procedures and policies.

(2) Any person acting within the public administration may be ordered to maintain professional secrecy in respect of any particular piece of information only when secrecy is required to protect material public or private interests as listed in subsection (1) of this Section.

(3) An administration authority may bind a person outside the public administration to secrecy in respect of any confidential information passed on by the authority to the person concerned without the authority being obliged to do so.

(4) Where rules on secrecy are provided by virtue of the provision of subsection (2) of Section 1 of this Act, or secrecy by virtue of the provision of subsection (3) of this Section is enjoined, Section 152 and Sections 152c-152f of the Danish Criminal Code shall apply correspondingly to any infringement of such rules or enjoinders.

#### Passing-on of Information to Other Administration Authority.

28.-(1) Information on any individual's strictly private circumstances, including information on race, religious belief and colour of skin, on membership of political or other societies, on sexual behaviour, criminal offences, on health, and on severe social problems and drug abuse and the like, shall not be passed on to another administration authority.

(2) Information as referred to in subsection (1) of this Section may however be passed on if

- 1<sup>o</sup> the person concerned has accepted that such information be passed on;
- 2<sup>o</sup> any provision laid down by or in pursuance of a statutory enactment orders the passing-on of such information;
- 3<sup>o</sup> regard had to the protection of private or public interests clearly overrides the interests for which secrecy is prescribed, including the interest of the person to whom the information relates; or
- 4<sup>o</sup> passing-on is required for consideration of the matter in question or is required for performance by an administration authority of its duties of supervision and control.

(3) Apart from the instances referred to in subsection (2) of this Section, other confidential information may be passed on to another administration authority only when the information must be assumed to be of essential importance to the performance of that other authority's activities or for a decision to be made by that other authority.

(4) Acceptance as referred to in head 1<sup>o</sup> of subsection (2) of this Section shall be given in writing and shall state what type or types of information may be passed on, to whom the information may be passed on, and for what purpose. The requirement that acceptance shall be in writing may be derogated from if the nature of the matter or circumstances otherwise make it appropriate.

(5) Acceptance as referred to in head 1<sup>o</sup> of subsection (2) of this Section shall lapse not later than twelve months after having been given.

(6) Any local administrative body that by Statute has been granted independent status shall be deemed to be a separate administration authority as referred to in subsections (1) and (3) of this Section.

29.-(1) In matters raised by application, information on the applicant's strictly private circumstances shall not be collected from other branches of the public administration or from any other administration authority.

- (2) The provision of subsection (1) of this Section shall not apply if
  - 1<sup>o</sup> the applicant has consented to such collection of information;
  - 2<sup>o</sup> any provision laid down by or in pursuance of other statutory enactment prescribes otherwise; or
  - 3<sup>o</sup> regard had to the special interests of applicant or third party clearly overrides the applicant's interest against collection of such information.

30. Confidential information collected exclusively with a view to statistical extraction or as part of a scientific research programme shall not be passed on to an administration authority for other use.

31.-(1) To the extent that an administration authority is entitled to pass on information it shall at the request of another administration authority pass on such information if it is important to the performance of the other authority's activities or for a decision to be made by the other authority.

(2) However, the provision of subsection (1) of this Section shall not be applicable if passing-on will cause the delivering authority a work-load out of all proportion to the receiving authority's interest in obtaining the information.

32. Any person acting within the public administration shall not in that capacity obtain confidential information that has no relevance to the performance of his duties.

#### Part 9.

##### Commencement. Other Statutes, etc.

33. This Act shall come into operation on 1 January 1987. However, the provisions of Sections 19 and 20 and of Part 6 of this Act shall not apply to local government authorities until 1 January 1989.

34. Any provision laid down by or in pursuance of other statutory enactment and giving stricter rules on disqualification than those laid down by the provisions of Part 2 of this Act shall be retained.

35.-(1) The provisions of Part 4 of this Act shall apply to documents prepared or received by an administration authority on or after 1 October 1964. The provisions of Section 18 of this Act shall not apply to criminal matters decided before the commencement of this Act.

(2) Part 4 of this Act shall however apply to factual information contained in documents prepared or received by an administration authority before 1 October 1964 if the documents have been included in a matter that has been or is being considered by an administration authority after the said date and if the information has been or is materially important in deciding the matter.

(3) The provisions of other statutory enactments on party access to administration files shall be retained. However, this provision shall not apply where the requirements for granting of access to files are stricter than those laid down in Part 4 of this Act, always provided that they have come into operation on or after 1 October 1964.

36. Provisions laid down by or in pursuance of other statutory enactments in which the requirements made to the contents of grounds given are stricter than those consequential upon the provisions of Section 24 of this Act shall be retained.

37. This Act shall not apply to matters relating to Faeroese or Greenlandic affairs but may by Royal Decree be made to apply to such matters, subject to such modifications as circumstances peculiar to the Faeroese Islands and Greenland may require. However, this provision shall apply only to matters that have been or are being considered by National Government Authorities.

Given at Amalienborg Palace,

this nineteenth day of December One thousand nine hundred and eighty-five.

Under Our Royal Hand and Seal,

MARGRETHE R.

/ Erik Ninn-Hansen