

Act on Internet Domains Specifically Allocated to Denmark

1. The purpose of this Act is

- 1) to promote dynamic and high-quality development in the Danish Internet community by providing availability, transparency, efficiency and security in relation to Internet domains specifically allocated to Denmark,
- 2) to ensure the basis for self-regulation in the Danish Internet community, and
- 3) to lay down the framework for registration and use of Internet domain names.

2. Internet domains specifically allocated to Denmark shall belong to the Danish State.

3.-(1) The Internet domain .dk shall be managed according to the provisions of this Act.

(2) The Minister for Science, Technology and Innovation may lay down rules prescribing that other Internet domains specifically allocated to Denmark shall be managed according to the rules of this Act, or that the Internet domains in question shall be used in other ways, or that an Internet domain shall be used for test purposes for a limited period.

(3) The Minister for Science, Technology and Innovation may grant exemptions from the provisions of this Act when an Internet domain is to be used for test purposes for a limited period, cf. subsection (2).

4.-(1) The Minister for Science, Technology and Innovation may decide that the National IT and Telecom Agency should issue a public invitation to tender for the administration of one or more Internet domains governed by the rules of this Act.

(2) The Minister for Science, Technology and Innovation shall lay down specific rules for the public invitation to tender. Such rules may include the following:

- 1) what Internet domains should be included in the tender,
- 2) duration of the appointment and renewal of the licence,
- 3) award procedure, including any initial round seeking expressions of interest, tender documents, implementation of the tender process, and rules specifying the conditions for tendering,
- 4) minimum requirements,
- 5) the criteria to be considered important in evaluating tenders submitted, including a comparison between the tenders,
- 6) tenderer behaviour that may restrict or is intended to restrict competition in connection with the tender process,
- 7) compensation and sanctions for violating rules prescribed for the tender process, by way of exclusion from the tender process, revocation of licences already issued, and penalties,
- 8) regulation of the situation that a public invitation to tender fails to attract tenders that satisfy the rules stipulated for participating in the tender process or the minimum requirements specified for tenders, including rules to the effect that the National IT and Telecom Agency will take over responsibility for the administration until a registry can be appointed, or that the Internet domain will not be used,
- 9) that participants in the public invitation to tender should pay the costs involved in the National IT and Telecom Agency's preparation and implementation of the tender process,

- 10) principles for allocating the costs involved in the Complaints Board's activities between several registries, cf. section 13(2), and
- 11) deposit.

(3) On the basis of the public invitation to tender, the National IT and Telecom Agency shall appoint a registry who has submitted a tender satisfying the rules stipulated for participating in the tender process, to administer the Internet domain(s) included in the tender.

(4) If the Minister for Science, Technology and Innovation determines, under subsection (2), no. 8, or section 20(2), no. 2, that the National IT and Telecom Agency should take over responsibility for the administration, the Minister may lay down rules to the effect that sections 6, 18 and 19 shall not apply, in whole or in part, to the National IT and Telecom Agency's administration.

5.-(1) On the basis of the public invitation to tender, cf. section 4, the National IT and Telecom Agency shall issue a licence to administer the Internet domain(s) included in the tender to the entity appointed as registry under section 4(3).

(2) The National IT and Telecom Agency shall lay down the following terms in the licence for the registry's administration:

- 1) Terms in accordance with the tenders submitted.
- 2) Terms corresponding to the minimum requirements specified in section 4(2).

6.-(1) The registry shall have a broad representation of participants from the Danish Internet community, including private users, professional users and the Internet industry (providers).

(2) The registry shall have sufficient professional and financial resources to be able to administer Internet domains in accordance with this Act.

(3) The registry shall not carry on activities other than administration under this Act. The registry's activities shall not be carried on for profit.

(4) In its administration, the registry shall:

- 1) promote development of the Internet community, cf. section 1, no. 1, and
- 2) show cost consciousness in its decisions.

(5) The registry shall draw up statutes for itself and its activities.

(6) The registry shall annually prepare a review on its activities.

(7) The registry shall ensure that business conditions etc. which are of importance to registration and use of Internet domain names are publicly available on the registry's website.

(8) The registry shall hold public consultations about significant changes in business conditions etc. that are of importance to registration and use of Internet domain names.

(9) The registry shall prepare an annual report and let this be audited. As a minimum, the annual report shall be prepared and audited in accordance with the rules of the Danish Financial Statements Act for enterprises falling within the scope of accounting class B.

(10) The registry shall submit the audited and approved annual report to the National IT and Telecom Agency. The annual report must be received by the Agency within five months after the end of the accounting year.

(11) The registry's statutes and any amendments therein, cf. subsection 5, shall be approved by the Minister for Science, Technology and Innovation.

7.-(1) The registry shall ensure a stable, secure and continuous operation of, and connection to, the name servers of the Internet domain(s) that fall within the registry's administration.

(2) The registry shall set up, maintain and ensure the integrity of a name database containing relevant information about the individual subdomains at the level directly under the Internet domain(s) that fall within the registry's administration. As a minimum, the name database shall contain information about the registrant's identity and information capable of identifying the registrant's name server.

(3) The registry shall set up, maintain and ensure the integrity of, and access to, a name server database containing an extract of relevant information, cf. subsection (2).

(4) The registry shall enter into an escrow agreement with a third party on depositing information from the name database and name server database. The registry shall submit to the escrow agent on a daily basis a copy of the databases.

(5) The registry shall submit to the National IT and Telecom Agency a copy of the escrow agreement when this has been entered into, including any amendments therein.

8.-(1) The registry shall set up and update a database containing information about the name, address and telephone number of the registrants.

(2) The registry shall ensure that the information about the names, addresses and telephone numbers of the registrants is publicly available.

(3) When requested by a registrant, the registry shall ensure that the name, address and telephone number of the person in question are not made publicly available, cf. subsection (2), if this information is exempted from publication under other legislation. However, it will be possible to pass on the information to the Complaints Board appointed under section 13 in connection with the processing of specific cases, and to other parties, to the extent justified under other legislation.

9.-(1) The registry may assign the administration, wholly or in part, including technical operation, to one or more subcontractors.

(2) The registry shall ensure that the administration assigned to other parties under subsection (1) is performed in conformity with this Act, provisions laid down in pursuance of section 11(1), and terms specified in licences issued according to section 5(1).

10.-(1) The registry may assign the registration process, wholly or in part, including the handling of applications and modifications on behalf of applicants and registrants, to registrars.

(2) The registry shall publish a list of approved registrars.

(3) For Internet domains falling within the registry's administration, the registry may specify business conditions and terms for any registrars used.

11.-(1) For Internet domains falling within the registry's administration, the registry shall specify business conditions and terms for registrants.

(2) Business conditions and terms as mentioned in subsection (1) may include:

- 1) Compulsory use.
- 2) Use of Internet domain names.
- 3) Withdrawal.

(3) The registry shall make decisions regarding compliance with business conditions and terms specified pursuant to subsection (1).

(4) A new business condition about the introduction of compulsory use as mentioned in subsection (2), no. 1, may not enter into force for Internet domain names registered when the business conditions took effect until, at the earliest, five years after the date on which the business conditions were specified.

12.-(1) Registrants must not register and use Internet domain names contrary to good domain name practice.

(2) Registrants must not register and maintain registrations of Internet domain names solely for the purpose of selling or renting to other parties.

13.-(1) The Minister for Science, Technology and Innovation shall appoint a Complaints Board for Internet Domain Names governed by this Act, cf. section 3. In its activities, the Complaints Board shall be independent of the registry and the Minister.

(2) The registry or registries appointed under section 4(3) shall pay the expenses of establishing and running the Complaints Board and shall make secretarial assistance available to the Board.

(3) The Complaints Board shall consist of three members and three substitutes, to be appointed by the Minister for Science, Technology and Innovation following consultation with the Board. In appointing members of the Complaints Board, the Minister for Science, Technology and Innovation will consider it important that the overall Board should represent theoretical and practical legal expertise, including expertise regarding name and trademark rights.

(4) The Minister for Science, Technology and Innovation shall appoint a further two members and two substitutes with business- and consumer-related expertise, who shall assist in dealing with cases bearing on non-commercial users or registrants and in dealing with cases involving principles. The chairman of the Complaints Board shall decide when cases are of a nature that involves principles. Representatives of consumer and business interests shall be appointed after consultation with the organisations of the consumers and the business community.

(5) Members shall be appointed for periods of four years.

(6) The Minister for Science, Technology and Innovation shall appoint the chairman of the Complaints Board among the members of the Board. The chairman shall be a High Court Judge or Judge of the Supreme Court.

14.-(1) The registry or registries appointed pursuant to section 4(3) shall specify rules for the Complaints Board's activities and case handling, including rules about the following:

- 1) charging of fees for cases dealt with by the Complaints Board,
- 2) deadlines for lodging complaints about decisions made by the registry,
- 3) that the Complaints Board should draw up rules of procedure, and
- 4) that fees for cases where the Board agrees with the complainant, in whole or in part, shall be paid back.

(2) Fees according to subsection (1), no. 1, shall not exceed the costs involved in the Complaints Board's handling of cases. The fee for non-commercial users or registrants shall not exceed the fee fixed according to the Consumer Complaints Act.

(3) Rules laid down under subsection (1) shall be approved by the Minister for Science, Technology and Innovation.

15.-(1) The following issues may be lodged with the Complaints Board:

- 1) Disputes between registrants and third parties.
- 2) Disputes between registrants and the registry.
- 3) Complaints about the registry's decisions under section 11(3).

(2) A complaint may be lodged by any person who has an individual and significant interest in the outcome of the case, and may also be lodged by the registry.

(3) The Complaints Board may decide:

- 1) to suspend, withdraw or transfer a domain name registered and used contrary to section 12, business conditions and terms specified under section 11(1), or contrary to other legislation, and
- 2) to uphold, cancel, change or remit the registry's decision.

16.-(1) The decisions of the Complaints Board are binding and cannot be brought before any administrative authority.

(2) The decision of the Complaints Board may be brought before the courts within eight weeks after the date on which the decision was communicated to the party concerned.

(3) If the decision of the Complaints Board is brought before the courts, the Board may give this a suspensive effect.

17.-(1) In connection with the registry's cessation due to expiry of the appointment period, or because the licence is withdrawn under section 20(1), the registry shall ensure that the administration can continue to the widest possible extent as before.

(2) The registry shall transfer all information, free of charge, about existing agreements with registrants, including information in the databases held in escrow pursuant to section 7(4), to the new registry.

(3) If the registry goes into bankruptcy, the existing agreements with the registrant shall pass to the new registry.

(4) The new registry shall be subrogated to the agreements concluded by the previous registry with registrants of the Internet domain names falling within the administration. Subrogation under the first sentence hereof shall take effect from the date of transfer stated in the licence issued pursuant to section 5(1), pursuant to the Minister's decision under section 20(2), no. 2, or pursuant to rules laid down under section 4(2). From the date of transfer, the previous registry shall be discharged from its obligations under these contractual relationships.

18.-(1) When the registry's administration ceases, the registry shall be subjected to liquidation proceedings. Sections 121-125 and 127 of the Danish Companies Act shall apply, subject to subsections (2)-(5).

(2) The National IT and Telecom Agency shall appoint one or more liquidators.

(3) The final liquidation financial statements, cf. section 122 of the Danish Companies Act, shall be submitted to the National IT and Telecom Agency. The financial statements shall be available for inspection by the public at the National IT and Telecom Agency.

(4) The liquidation amount shall be distributed for purposes that will benefit the Danish Internet community. The financial statements shall include a list of beneficiaries in connection with the final liquidation, showing the amounts paid and the specific purposes.

(5) The registry's auditor shall make a statement as to whether the liquidation amount has been spent as prescribed by the statutes. The statement shall be submitted to the National IT and Telecom Agency.

19. With effect from the date of transfer referred to in section 17(4), the new registry shall be subrogated in pending cases before courts and complaints boards regarding the previous registry and registrants. However, this shall not apply to cases without significance to the new registry's administration.

20.-(1) The National IT and Telecom Agency may revoke a licence if the registry, grossly or repeatedly, violates the Act or terms specified in a licence issued under section 5(1).

(2) If the National IT and Telecom Agency revokes a licence, cf. subsection (1), the Minister for Science, Technology and Innovation may decide:

- 1) that an invitation to tender should be issued, cf. section 4,
- 2) that the National IT and Telecom Agency should take over responsibility for the administration until a registry can be appointed, or
- 3) that the Internet domain should not be used for a certain period.

21.-(1) The National IT and Telecom Agency shall charge a fee for the administration if the Agency takes over responsibility for the administration by virtue of a situation as mentioned

in section 20(2), no. 2, or by virtue of provisions laid down by the Minister for Science, Technology and Innovation under section 4(2).

(2) The Minister for Science, Technology and Innovation shall lay down specific rules for fees as mentioned in subsection (1) and rules for extraordinary payment.

22.-(1) The National IT and Telecom Agency may require that the registry should supply all information and all material deemed relevant for administration of this Act.

(2) The National IT and Telecom Agency may request information from the registry for the purpose of publishing statistics, including the total number of registered domain names and the number of complaints.

23.-(1) The National IT and Telecom Agency shall carry out supervision to check compliance with section 6(1)-(10), section 7, section 8(1), section 9(2), section 10(2), section 11(1) and (4), section 13(2), section 14(1) and (2), section 17, section 18(3) and (5), and section 19, as well as terms specified in licences issued under section 5(1).

(2) The National IT and Telecom Agency may issue orders requiring the registry to comply with the provisions referred to in subsection (1) as well as terms specified in licences issued under section 5(1).

24. The National IT and Telecom Agency may impose enforcement fines on the registry for the purpose of enforcing actions or omissions under section 7(1)-(4), section 8(1), and section 17(1) and (2), that the registry is required to undertake.

25.-(1) Complaints against decisions made by the National IT and Telecom Agency under section 20(1), section 23(2), and section 24, and the administration of cases in connection therewith may be brought before the Telecommunications Complaints Board by the registry.

(2) The Telecommunications Complaints Board may require the parties to give all information deemed relevant for the purpose of processing cases.

(3) When making decisions, the Telecommunications Complaints Board may issue orders to the registry.

26. Decisions made by the National IT and Telecom Agency pursuant to section 4(3) and section 5 and pursuant to rules issued under section 4(2) cannot be brought before other administrative authorities.

27.-(1) This Act shall come into force on 1 July 2005.

(2) This Act, rules laid down under section 14 and the business conditions and terms laid down under section 11 shall also apply to registrations of Internet domain names made before the coming into force of the Act.

(3) Notwithstanding subsections (1) and (2), section 12(2) shall not apply until 1 July 2010 in respect of Internet domain names registered before the coming into force of the Act.

28.-(1) During the period from the coming into force of this Act until a registry has been appointed and established for the first time for administration of the Internet domain name .dk, Dansk Internet Forum (DIFO) shall administer the Internet domain .dk. During this period, DIFO shall draw up rules specifying the purposes for which payment may be made in case of liquidation, cf. section 6(5). Such rules shall be approved by the Minister for Science, Technology and Innovation under section 6(11).

(2) In connection with the first appointment of a registry of the Internet domain name .dk under section 4(3), DIFO, in case the appointed registry is not DIFO, shall be subject to the provisions of sections 17-19. Payment according to section 18(4) shall be subject to the

condition that rules specifying the purposes for which payment may be made have been established, cf. section 6(5), and that the rules have been approved by the Minister for Science, Technology and Innovation under section 6(11).

(3) During the period from the coming into force of this Act until a Complaints Board for Internet Domain Names has been appointed for the first time, cf. section 13(1), and until rules have been established for the Complaints Board's activities and case handling, cf. section 14(1), the previous complaints board, the Complaints Board for Domain Names, shall remain operative.

29. This Act shall not apply to the Faroe Islands and Greenland.