

Act No. 572, 19 December 1985,

# **THE DANISH ACCESS TO PUBLIC ADMINISTRATIVE DOCUMENTS ACT<sup>1</sup>**

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 following Act:

## **Chapter 1** *Scope*

### **Section 1**

1. This Act shall apply to all activity exercised by public administrative authorities, but see also Sections 2 and 3.

2. This Act shall also apply to

- 1) any public utility generating, transmitting, or distributing electricity at voltages of 500 volts or more;
- 2) any company, institution, association etc. which supplies natural gas;
- 3) any collective district heating plant falling under the Danish Heating Act which has a capacity over 10 MJ/s.

3. After consulting with the Minister for Justice, the minister concerned may stipulate that this Act shall apply also to specified companies, 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 to the extent that they are empowered by law or provisions laid down pursuant thereto to make decisions on behalf of central or local governments. The minister concerned may also lay down more detailed rules on document filing etc..

### **Section 2**

1. This Act shall not apply to criminal justice cases. Section 6 alone shall apply to matters concerning the appointment or promotion of public servants.

2. This Act shall apply to legislative matters, including appropriation acts, provided that the Bill in question has been presented to the Folketing.

### **Section 3**

1. After consulting with the Minister for Justice, the minister concerned may stipulate that specified authorities or fields of administrative responsibility or types of documents, requests for access to documents in respect of which could normally be refused under Sections 7-14 of this Act, shall be exempt from the provisions of this Act.

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<sup>1</sup> The Act shall enter into force on 1 January 1987, in accordance with Section 17.

2. The minister concerned may stipulate that, after a certain number of years, a right of access shall be granted in respect of specified documents that are not otherwise subject to the right of access to administrative documents under this Act.

## **Chapter 2**

### *Right of access to administrative documents*

#### **Section 4**

1. Subject to the exceptions in Sections 7-14 of this Act, any person may ask to see documents received or issued by an administrative authority in the course of its activity. An administrative authority may allow wider access to documents unless this is prohibited under the rules on secrecy, etc.

2. Subject to the exceptions in Sections 7-11 and 14 of this Act, any person whose personal circumstances are referred to in a document may ask to see such references. This right shall not apply where the considerations referred to in Section 13 or consideration for the person requesting disclosure or for others are of overriding importance.

3. Any request made under the provisions of paragraphs 1 and 2 shall specify the documents or case in which the person requesting access is interested.

#### **Section 5**

1. The right of access to administrative documents shall apply to

1) all documents relating to the matter in question, including duplicate copies of letters issued by the authority concerned, provided that such letters can be assumed to have reached the addressee; and

2) entries in journals, registers, and other lists relating to the documents on the matter in question.

2. The right of access to administrative documents shall not apply to registers or other systematic records processed electronically, with the exception of the records referred to in point 2 of paragraph 1.

3. The minister concerned may stipulate that the public shall have access to information stored in electronic databases etc. to which the Danish Public Authorities' Registers Act does not apply. The Order may stipulate the fees payable.

Duty to make notes etc.

#### **Section 6**

1. Any authority receiving verbal information on the facts of a case to be decided by an administrative authority which could affect the outcome of the case, or learning of such information in another way, shall record the substance of the information. This shall not apply if the information is already contained in the case documents.

2. The Minister for Justice may lay down rules for certain fields of administration regarding the keeping, etc. of reports prepared or received electronically.

3. After consulting with the Minister for Justice, the minister concerned may lay down rules on the duty to make notes for specific groups of cases concerning the exercise of administrative activity other than that referred to in paragraph 1.

### **Chapter 3**

#### *Exceptions to the right of access to administrative documents*

Case documents subject to exemption

#### **Section 7**

1. The right of access to files shall not apply to an authority's internal working documents. Internal working documents shall include

- 1) any document prepared by an authority for its own use;
- 2) correspondence between units within the same authority, and
- 3) correspondence between a local council and its committees, departments and other bodies, or between those bodies.

#### **Section 8**

Notwithstanding Section 7, the right of access to files shall include internal working documents in their final form if

- 1) the documents contain only the substance of the authority's final decision on the outcome of a case;
- 2) the documents contain only information that the authority had a duty to record pursuant to Section 6;
- 3) the documents are self-contained instruments drawn up by an authority to provide proof or clarity concerning the actual facts of a case, or
- 4) the documents contain general guidelines for the consideration of certain types of cases.

#### **Section 9**

1. Notwithstanding Section 7, any person whose health is the subject of a hospital case record shall be entitled to have access to that record.

2. The right of access may, however, be limited to the extent it is considered appropriate that the person's interest in access should give way to overriding considerations for the person himself or for other private interests.

Other documents subject to exemption

#### **Section 10**

The right of access to files shall not apply to:

- 1) 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) correspondence between ministries on legislation, including appropriation acts;
- 3) documents drawn up in connection with considering proposals for decisions to be taken by the European Community or to do with the interpretation of or compliance with EC rules;
- 4) documents exchanged in connection with one authority acting as a secretariat for another authority;
- 5) correspondence between authorities and outside experts for use in court proceedings or in deliberations on possible legal proceedings;
- 6) material gathered as a basis for compiling public statistics or scientific research.

Disclosure of factual information

### **Section 11**

1. Where factual information, in documents covered by Section 7 and points 1-5 of Section 10 is of material importance to the case in question, the information shall, notwithstanding those provisions, be disclosed pursuant to the general provisions of this Act.
2. After consulting with the Minister for Justice, the minister concerned may stipulate that the obligation under paragraph 1 shall not apply to specific groups of cases on the performance of actual administrative activities.

Information subject to exemption

### **Section 12**

1. The right of access to administrative documents shall not apply to
  - 1) information on an individual's private or financial circumstances;
  - 2) information on technical devices or processes or on business or operating procedures and policies or the like, to the extent that it is of significant financial importance to the person or enterprise concerned that the request be refused.
2. Where paragraph 1 applies only to part of a document, the party requesting access shall be allowed to see the remaining contents of the document.

### **Section 13**

1. The right of access to documents may be limited to the extent necessary to protect considerations for
  - 1) State security and the defence of the realm;
  - 2) Danish foreign policy and Danish external economic interests, including relations with foreign powers and international institutions;
  - 3) preventing and investigating any infringement of the law, prosecuting offenders, executing sentences and protecting the defendant, witnesses and others in criminal or disciplinary prosecutions;

- 4) carrying out public supervisory, regulatory and planning activities and measures planned under tax law;
- 5) protecting public financial interests, including interests relating to public commercial activities, and
- 6) protecting private and public interests where the special nature of the matter means that secrecy is required.

2. Where the considerations mentioned in paragraph 1 apply only to part of a document, the party requesting access shall be allowed to see the remaining contents of the document.

Relationship to the obligation to maintain secrecy

#### **Section 14**

The obligation to disclose information shall be limited by special provisions on the obligation to maintain secrecy laid down by law or pursuant to laws applicable to persons employed as public servants or elected to public office. It shall not apply with regard to the ordinary obligation to maintain secrecy under the Danish Criminal Code, the Danish Public Administration Act and civil service legislation.

### **Chapter 4**

*Considering and deciding on requests for access to administration files*

#### **Section 15**

1. Where a request is made for access to documents on a case in which a decision has been or will be made by an administrative authority, that authority shall decide whether to grant the request or not. In other cases, the decision whether to grant access to documents shall fall to the administrative authority holding the document.
2. Appeals against decisions in respect of requests for access to documents may be submitted to the authority designated as the appeals authority for the decision or for the general handling of the case to which the request relates.
3. The minister concerned may lay down rules derogating from paragraphs 1 and 2.

#### **Section 16**

1. The authority concerned shall decide as soon as possible whether to grant a request, and whether the person requesting access shall be given access to the documents on site, or sent a transcript or office copy.
2. If an application has not been granted or rejected within ten days of its receipt by the authority concerned, the authority shall inform the applicant of the reasons for this and also of the date when a decision can be expected.
3. The Minister for Justice shall lay down rules on the fees payable for transcripts and office copies.

### **Chapter 5**

*Entry into force, relationship to other legislation, etc.*

## **Section 17**

1. This Act shall enter into force on 1 January 1987.
2. Act No 280 of 10 June 1970 on access to public administrative documents shall be repealed.
3. This Act shall not apply to documents drafted or received by an administrative authority before 1 January 1971. However, factual information contained in such documents shall be subject to the right of access to documents under this Act if the documents have been included in a case that has been or is being considered by an administrative authority after that date and if the information is or has been of material importance in deciding the case. Section 8(4) shall apply to documents used after this Act enters into force. Section 9 shall apply to hospital records set up after this Act enters into force and for additions to existing records made after the entry into force. Access to public documents in accordance with Section 1(2) shall not apply to documents drafted or received by the companies, institutions, associations, etc. mentioned in the provision prior to the entry into force of this Act.
4. Provisions in other laws on access to documents held by public administrative authorities shall be retained, irrespective of whether they give more limited access to documents than that provided under this Act.

## **Section 18**

This Act shall not apply to cases relating to matters in the Faeroes or Greenland but may be applied to such cases by Royal Decree with the derogations required by the special circumstances in the Faeroes and Greenland. However, this shall apply only to cases that are or have been considered by National Government Authorities.

*Given at Amalienborg Palace, 19 December 1985*  
Under Our Royal Hand and Seal,  
MARGRETHE R.

/Erik Ninn-Hansen