

The Danish Act on Parental Responsibility

We, MARGRETHE THE SECOND, by the Grace of God Queen of Denmark, hereby make known: Folketinget has passed and We have provided the following Act with Our Royal Assent:

Chapter 1

Introductory provisions

1. Children and young people under 18 are subject to custodial care, unless they are married.
2. (1) The holder of custody is obligated to care for the child and can make decisions regarding the child's personal circumstances based on the child's needs and interests.
(2) Children have the right to care and security. Children must be treated with respect for their person and must not be exposed to corporal punishment or other humiliating treatment.
(3) Parents with custody can dispose of the child's income to a reasonable extent for the child's maintenance and with due consideration for their and the child's position.
3. (1) If the parents have joint custody, they must agree on significant decisions regarding the child. The parent with whom the child lives can make decisions about general day-to-day matters relating to the child, including where in Denmark the child will have his or her habitual place of residence.
(2) If the parents have joint custody but disagree about the custody, they both have to give their consent for the child to leave the country, including travels to Greenland or the Faroe Islands. They also have to give their consent if the child's stay abroad, in Greenland or the Faroe Islands is extended beyond the agreed, presumed or specified duration, unless an agreement has been made according to section 17(1), second sentence, or section 25.
4. Decisions made pursuant to the Act will be based on the child's best interests.
5. (1) In all matters relating to the child, the child's own views must be taken into consideration, depending on the child's age and maturity.

Chapter 2

Custody

Holders of custody

6. (1) If the parents are married to each other at the time of the child's birth, or if they marry later, they will have joint custody.
(2) If the parents are separated at the time of the child's birth, the mother will, however, have sole custody unless:
 - 1) the separated husband is recognised as the father of the child or his paternity is established by a court judgement or
 - 2) the parents have submitted a declaration according to section 7(1)1; see, however, section 7(2).
(3) If the parents have been married to each other within the ten months immediately preceding the birth of the child, they have joint custody.
7. (1) Parents who are not married to each other have joint custody if
 - 1) they, according to the Children Act section 2(1), section 14, subsection (1) or (3), or section 19, cf. section 14, subsection (1) or (3), have submitted a declaration that they will jointly care for and assume responsibility for the child, or
 - 2) they have made an agreement about joint custody according to section 9.

(2) This shall not, however, apply if the declaration in subsection (1)1 has been submitted without the fulfilment of the conditions of section 448(f) of the Danish Administration of Justice Act regarding the processing of cases of custody in Denmark.

(3) If a man is considered to be the father of a child by recognition or because paternity has been established by a court judgment, the parents have joint custody if they have or have had a joint address according to the Danish national register within the ten months immediately preceding the birth of the child.

(4) In cases other than those mentioned in subsections (1)-(3) the mother has sole custody.

8. If the parents share custody, they will continue to have this right even if they have ceased marital relations or have been separated or divorced, or if their marriage has been annulled.

9. Parents can agree to have joint custody. The regional state administration must be notified of the agreement in order for it to be valid. If a custody case has been brought before the court, notification can be made to the court.

10. Parents who have joint custody but do not live together can agree that one of them is to have sole custody. The regional state administration must be notified of the agreement in order for it to be valid. If a custody case has been brought before the court, notification can be made to the court.

11. If non-cohabiting parents with joint custody disagree about custody, the court will decide whether joint custody is to continue or whether one of the parents is to have sole custody. The court can only terminate joint custody for compelling reasons.

12. If an agreement is made under section 10 or a decision is made under section 11 granting sole custody to one of the parents, joint custody will be reinstated if married parents, including separated parents, resume or continue marital relations.

Transfer of custody

13. (1) Parents can agree to transfer custody from one parent to the other. The regional state administration must be notified of the agreement in order for it to be valid. If a custody case has been brought before the court, notification can be made to the court.

(2) Custody can be transferred to an individual or individuals other than the parents, by an agreement approved by the regional state administration. Custody can be transferred to a married couple jointly, including the other parent and his/her spouse. If a custody case has been brought before the court, the court can approve the agreement.

14. (1) On the request of a parent who does not have custody, the court can order joint custody or transfer custody to this parent.

(2) The court can change an agreement under section 13(2) or can change a decision under section 15.

Death

15. (1) If the parents have joint custody and one of them dies, the surviving parent will continue to have custody. If, at the time of the death, the child's place of residence was not with the surviving parent, another person can apply to be awarded custody in connection with the death. The application can only be granted if it is not considered in the child's best interests for the surviving parent to continue to have custody. If the child's place of residence was with the

surviving parent at the time of the death, and if the surviving parent caused the death of the other holder of custody, another person can apply to be awarded custody. The application can only be granted if it is crucial to the child's best interests that the surviving parent does not continue to have custody.

(2) In the event of the death of a parent with sole custody, or in any other circumstance in which a death means that the child has no person with custody for it, a decision will be made as to who should have custody, based on the child's best interests. If the surviving parent applies for custody, the application will be granted unless it is not considered to be in the child's best interests.

(3) In the event that a parent with sole custody caused the death of the other parent, another person can apply to be awarded custody. The application can only be granted if it is crucial to the child's best interests that the surviving parent does not continue to have custody.

(4) Custody can be awarded to a married couple jointly, including the surviving parent and his/her spouse.

16. The holders of custody can appoint an individual or individuals to whom custody should be awarded after their death. The preferential status of the surviving parent according to section 15 will apply regardless of whether other persons are named.

Chapter 3

Child's place of residence and advance notice of impending move

17. (1) If the parents have joint custody and disagree about which parent the child should live with, the court will decide the matter. The court can decide that the child can live with a parent who lives, or wants to live, abroad or in Greenland or the Faroe Islands.

(2) The court can change an agreement or a decision about a child's place of residence.

18. A parent intending to change his or her place of residence or that of the child to another location in Denmark or abroad is required to inform the other parent of this intention not later than six weeks before the impending move.

Chapter 4

Contact, etc.

Contact with parents

19. (1) Attempts should be made to maintain the child's connection with both parents by ensuring that the child has contact with the parent with whom the child does not live (the non-resident parent). Both parents are responsible for ensuring that the child has contact.

(2) The parent with whom the child does not live can apply for contact rights.

(3) If there is no or only an extremely limited amount of contact, the parent with whom the child lives can ask the regional state administration to summon the other parent for a meeting about contact.

Contact with persons other than the parents

20. (1) If one or both parents are dead, contact rights can be granted to the nearest relatives to whom child is closely attached.

(2) If the child does not have contact with the non-resident parent or has only extremely limited contact with this parent, in exceptional circumstances contact rights can be granted to the nearest relatives to whom the child is closely attached.

(3) The child's closest relatives can apply for contact rights.

Decisions regarding contact

21. (1) If the parents disagree about the extent of contact and contact arrangements, they can ask for a decision to be made about the matter and for the necessary conditions regarding contact to be specified.

(2) Contact can be specified for up to 7 out of 14 days.

(3) The regional state administration can make a decision about the child's transport in connection with contact and about the payment of the related costs.

(4) The regional state administration can refuse to grant contact rights and can change or revoke a decision about contact.

Other forms of contact

22. (1) In special cases, a decision may be made about other forms of contact with the child such as phone calls, letters, e-mails, photographs, and similar.

(2) A request for other forms of contact may be made by:

- 1) the parent with whom the child does not live, or
- 2) the child's closest relatives, provided the conditions for granting contact rights set out in section 20 have been met.

(3) Section 21, subsections (1) and (4) may be similarly applied.

Information about the child

23. (1) The parent who does not have custody has the right to request information about the child from schools, daycare facilities, the social and healthcare system, private hospitals, and private GPs and dentists. This parent also has the right to receive documents about the child if such information is available at the schools and daycare institutions. Confidential information about the holder of custody may not be passed on.

(2) The parent who does not have custody has the right to request and receive information about general social activities at the child's school or daycare institution from the school or institution in question, and is entitled to participate in these activities.

(3) The institutions, etc., mentioned in subsections (1) and (2) can refuse to give specific information or hand out documents relating to the child. They can refuse to provide information about activities and deny admission to the activities, if they consider giving the parent admission to such activities would be damaging to the child.

(4) In special cases, at the request of the holder of custody or one of the institutions mentioned in subsections (1) and (2), the regional state administration can withdraw the right of the parent who does not have custody to receive information and documents in accordance with subsection (1), or to receive information about activities and to take part in them pursuant to subsection (2). The decision will take effect from the date on which the institution, etc., is notified of the decision.

Contact with children in care

24. The provisions governing contact and other forms of contact contained in this Act cannot be applied if a child has been put into care outside the home in accordance with Chapter 11 of the Consolidation Act on Social Services.

Decisions about foreign travel

25. Even if parents with joint custody disagree about custody, the regional state administration can decide that one of the parents can take the child abroad or to Greenland or the Faroe Islands for a short period.

Chapter 5

Temporary decisions

Custody and the child's place of residence

26. (1) During a custody case, the authority handling the case can, on request, decide who should have temporary custody or which parent the child should live with temporarily. During a case about the child's place of residence, on request, the authority can decide which parent the child should live with temporarily.

(2) A decision pursuant to subsection (1) will apply until a final enforceable agreement or decision has been made.

(3) A decision made by the regional state administration under subsection (1) will lapse:

- 1) four weeks after it has notified the parties of the conclusion of the case, cf. section 40, unless one of the parties has applied within this time limit for the case to be brought before the court,
- 2) if the case is withdrawn or dismissed after being brought to court, or
- 3) if marital relations are resumed.

27. If the parents have joint custody and a risk exists that one of them will take the child out of the country and thus pre-empt a decision about custody, the Minister for Family and Consumer Affairs, or a person authorised by the minister, can temporarily grant sole custody to the other parent.

28. If the holder or both holders of custody are prevented from making decisions about the child's personal circumstances, the regional state administration will decide where to place custody during the period in which the parents are prevented from making decisions.

Contact, etc.

29. During a case about custody, the child's place of residence, contact or other form of contact, on request, the regional state administration can make a decision about temporary contact or other form of contact. If a custody case has been brought before the court under section 40, and if the court case concerns contact or other form of contact under section 38(2), on request, the court can make a decision about temporary contact or other form of contact.

(2) A decision pursuant to subsection (1) will apply until a final enforceable decision about contact, a temporary decision about contact or an agreement about another form of contact has been made.

(3) In highly exceptional circumstances, the powers conferred by subsection (1) to make a temporary decision can also be exercised by the Minister for Family and Consumer Affairs.

Changes

30. A temporary decision made under sections 26-29 can be changed.

Chapter 6

Case processing

Initiation

31. (1) An application for a decision about custody under sections 11, 14 or 15, about the child's place of residence under section 17, and about contact, etc., under sections 19-22 and section 25 must be submitted to the regional state administration.

(2) The regional state administration will call the parties to a meeting unless the application relates exclusively to a decision regarding other forms of contact under section 22.

(3) The regional state administration need not call the parties to a meeting if it is considered unnecessary or inappropriate.

Child welfare counselling and family mediation

32. (1) The regional state administration must offer parents and children child welfare counselling or family mediation in cases of disagreement about custody, the child's place of residence or contact.

(2) In other circumstances, the regional state administration can offer child welfare counselling or family mediation if there is a special need.

(3) The regional state administration need not offer child welfare counselling or family mediation under subsection (1) if it is considered unnecessary or inappropriate.

Child welfare consultations

33. (1) The regional state administration can initiate child welfare consultations in cases about custody, the child's place of residence and contact.

(2) If the regional state administration has initiated a child welfare consultation, this must be completed before the case can be brought before the court under section 40.

The child's perspective

34. (1) The child's views must be taken into consideration during a case about custody, the child's place of residence or contact by giving the child the opportunity to make its views and opinions known. Information about the child's perspective can be gained through personal interviews, statements from child welfare consultants or other ways that shed light on the child's point of view.

(2) The obligation to directly take the child's views into consideration in the case does not apply if this is deemed to be damaging to him or her or considered unnecessary given the circumstances of the case.

The child's right to contact the regional state administration

35. A child who has reached the age of 10 can ask the regional state administration to call the parents to a meeting about custody, the child's place of residence or contact.

Declaration from the parents in certain cases

36. (1) Before approving a custody agreement under section 13(2) or making a decision about custody under section 15(2), the regional state administration must obtain a declaration from the parent who does not have custody.

(2) Before making a decision about contact under section 20(2), the regional state administration must obtain a declaration from the parent who does not have contact or has only extremely limited contact.

(3) A declaration need not be obtained under subsection (1) or (2) if this is considered to be damaging to the child or would disproportionately delay the case.

Custody after death

37. Under section 15, the regional state administration makes decisions about custody in the event of death. The regional state administration will bring the case before the court if so requested by a party within four weeks of the party's being informed about the decision.

Decisions about contact, etc.

38. (1) The regional state administration makes decisions about contact and other forms of contact subject to sections 19-22 and section 25.

(2) If a case about custody under section 11 or about the child's place of residence under section 17 is brought to court under section 40, each parent may apply for a decision also to be made during the court proceedings about issues regarding contact and other forms of contact under section 21, cf. section 19, and sections 22 and 25. The same applies during a case under section 14(1), when an unmarried father has not had custody and the case is brought before the court for the first time.

39. An application for a change in contact or other forms of contact can be refused if there has been no significant change in circumstances.

Concluding the processing of a case and bringing it before the court

40. (1) The regional state administration can conclude a case about custody under section 11 or section 14 or about the child's place of residence under section 17 if agreement has not been reached regarding custody or place of residence. The regional state administration will bring the case before the court if so requested by a party within four weeks of the party's being informed about the conclusion of the case. This does not apply if the case has been concluded because the party in question failed to attend a meeting at the regional state administration.

(2) On the application of one of the parties, the regional state administration can conclude a case and bring it before the court if:

- 1) the parties have been counselled at a meeting at the regional state administration without reaching agreement about custody or the child's place of residence, and the parties or one of the parties does not want child welfare counselling or family mediation, or if child welfare counselling or family mediation has ended without agreement being reached, or
- 2) the party in question has attended a meeting whereas the other party has failed to appear despite being called in twice.

(3) In special circumstances, on application, the regional state administration can conclude the case and bring it before the court although the conditions of subsection (1) or (2) have not been met.

Appeals, etc.

41. (1) In accordance with the provisions of this Act, decisions made by the regional state administration can be appealed to the Minister for Family and Consumer Affairs, cf. however, subsections (2) and (3).

(2) Appeals may not be lodged against decisions made under section 37 and section 40, subsections (1) and (2), decisions granting applications under section 40(3), and decisions refusing applications under section 46(2), cf. subsection (1).

(3) Decisions made according to section 23(3) can be appealed to the regional state administration. This does not apply to decisions made by the healthcare system, however. A decision made by the regional state administration cannot be brought before a higher administrative authority. On application, however, the Minister for Family and Consumer Affairs can decide to process a case if the case is deemed to be fundamentally or significantly important.

Powers

42. The Minister for Family and Consumer Affairs can lay down rules:

- 1) for the processing of cases about custody, the child's place of residence, contact, etc.,
- 2) for the processing of cases regarding the transport of the child in connection with contact, including the parents' payment of the related costs,
- 3) about supervised contact,
- 4) about the notification of custody agreements,
- 5) about child welfare counselling, child welfare consultations and family mediation and
- 6) about the processing of appeals.

Chapter 7

Work agreements

43. If a child or young person under custody, cf. section 1, with the permission of the holder of custody, has independently undertaken to perform a service or other personal work enabling him to maintain himself, the young person in question, if aged 15 or over, can personally terminate the agreement and undertake work of a similar nature, unless the holder of custody decides otherwise.

44. The holder of custody can terminate an agreement to perform a service or other personal work entered into by the young person if necessary in the interests of the upbringing or welfare of the child or young person. However, as far as possible, the agreement should be terminated with an appropriate period of notice and, where reasonable, compensation should be made to the other party.

Chapter 8

International agreements and international jurisdiction

45. (1) The government can sign agreements with other states concerning the relationship between the rules of Danish law and the rules of foreign law governing custody, place of residence, contact and other forms of contact. Such agreements will apply in Denmark following the publication of a notice in the Danish Law Gazette ("Lovtidende").

(2) The Minister for Family and Consumer Affairs can furthermore lay down rules for the relationship between Denmark's rules and the rules of other Nordic countries regarding custody, the child's place of residence, contact and other forms of contact.

(3) The Minister for Family and Consumer Affairs can lay down rules for the processing of cases in pursuance of this Act, which is comprised by the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (the Hague convention for the protection of children).

46. (1) The regional state administration can process a case regarding custody, the child's place of residence, contact, etc., providing the conditions of section 448(f) of the Danish Administration of Justice Act have been met.

(2) A refusal by the regional state administration to process a case regarding custody and the child's place of residence according to sections 11, 14, 15 and 17 that does not meet the conditions contained in subsection (1) can be brought before the court, on the application of one of the parties.

Chapter 9

Commencement, etc.

47. (1) This Act comes into force on 1 October 2007.

(2) The Danish act on custody and access, cf. the consolidation act no. 39 of 15 January 2007, will be abolished.

48. Section 6(2)1, section 6(3) and section 7(3) apply only to children born on 1 October 2007 or later.

49. This Act will not apply to the Faroe Islands and Greenland but may, by Royal Decree, become effective for the Faroe Islands and Greenland with such changes as follow from the special circumstances in the Faroe Islands and Greenland.

DONE at Christiansborg Castle, this 6th day of June, 2007.

Under Our Royal Hand and Seal

Margrethe R.

/Carina Christensen