

# The Adoption (Consolidation) Act

An Act to consolidate the Adoption Act, cf. Consolidation Act No. 1041 of 3 August 2018 as amended by Section 4 of Act No. 1711 of 27 December 2018 and Section 1 of Act No. 497 of 1 May 2019.

## Part 1

### Conditions

**1.** - (1) An adoption is granted by an adoption order issued by the Agency of Family Law. However, an adoption order under Section 9 is issued by the National Social Appeals Board.

(2) Where a child is adopted from a foreign country, the adoption order takes effect when the child arrives in Denmark. Where a trial period is stipulated for the adoption, the adoption order will not take effect until such trial period has ended. In case of special circumstances, the Agency of Family Law may dispense with the provision in the second sentence above.

**2.** An adoption may only be granted where, based on the examinations carried out, it is presumed to be in the best interests of the person whose adoption is sought, and this person is either to be raised by the adopter or has been raised by the adopter or where there are other special reasons for the adoption.

**3.** An adoption order cannot be granted for adoption of one's own child.

**4.** An adoption order can only be granted to a person who has attained the age of 25. Where warranted by special reasons, an adoption order may be granted to a person who has attained the age of 18.

**4 a.** - (1) If the person whose adoption is sought has not yet attained the age of 18, the adoption may only be granted if the applicant has been approved as an adopter; cf. Sections 25 a and 25 b below.

(2) Approval is not required for the adoption of a spouse's or partner's child or according to rules laid down by the Minister for Social Affairs and the Interior in cases where the adopter is closely related to or has otherwise a close connection to the adopted child or its parents.

**5** - (1) Persons who are married or cohabiting partners can only adopt together with their spouse or partner, except in the cases stated in Section 5 a(2) below, unless such person's spouse or partner is missing or, by reason of insanity, mental deficiency or any similar condition, is incapable of managing his or her own affairs.

(2) Only spouses or partners can adopt together.

**5 a.** - (1) A spouse may adopt the child of his or her spouse (stepchild adoption). Similarly, a partner may adopt the child of his or her partner.

(2) Furthermore, stepchild adoption may be effected of the child of a former spouse or partner. If such marriage was dissolved through divorce or annulment, or if the partners have ceased to be cohabiting, stepchild adoption shall only be possible if the person whose adoption is sought is of full age and capacity.

**6.** - (1) Where the person whose adoption is sought has attained the age of 12, the adoption order should not be granted without the consent of such person, unless obtaining such consent is found to be detrimental to the child.

(2) The consent must be given by personal appearance before the Agency of Family Law or another authority or institution approved under Section 8(1) below. In cases under Section 9 below that are considered by the National Social Appeals Board, the consent must be given by personal appearance before the National Social Appeals Board. Before the child gives his or her consent, the child must attend an interview regarding the adoption, and the child must be advised of the meaning of the adoption.

(3) Where the child has not attained the age of 12, information must be provided about his or her view on the contemplated adoption to the extent the child's maturity and the circumstances of the case so warrant. In making a determination, the child's view on the contemplated adoption must be taken into consideration to the greatest extent possible.

**7** - (1) Adoption of a person who has not attained the age of 18 and is not of full age and capacity requires the consent of the parents.

(2) Where one of the parents does not have custody, is missing or, by reason of insanity, mental deficiency or any similar condition, is incapable of managing his or her own affairs, only the consent of the other parent is required.

(3) If subsection (2) above applies to both parents, the consent of the legal guardian shall be required.

**8.** - (1) Consent under Section 7 above must be provided in writing by personal appearance before the Agency of Family Law or another authority or institution authorised for this purpose by the Minister for Social Affairs and the Interior. The requirement of the consent being provided by personal appearance shall not apply where a parent consents to his or her spouse's or partner's stepchild adoption. In cases under Section 9 below that are considered by the National Social Appeals Board, the consent may be given in writing by personal appearance before the National Social Appeals Board as directed by the National Social Appeals Board.

(2) Consent cannot be accepted before three (3) months after the birth of the child, unless special circumstances prevail.

(3) Prior to accepting consent, the parents (the legal guardian) must receive guidance on the legal effects of the adoption and the consent.

(4) Consent may be provided for the child to be adopted by the person designated by an authority or agency authorised to assist in the adoption of children.

(5) The Minister for Social Affairs and the Interior, or the person so authorised by the Minister, may determine that consent provided before a foreign authority or agency shall have the same legal validity as consent provided before a Danish authority or agency, and may in such case dispense with the rules in subsections (1)-(3) above.

**8 a.** (Repealed)

**9.** - (1) In the event that consent provided in accordance with Section 8 above is revoked, an adoption order may be granted if the consent is revoked unreasonably considering the best interests of the child.

(2) Where the parents refuse to consent under Section 7(1) above, an adoption order may in special cases be granted, with express reference to the best interests of the child.

(3) Adoption may be granted under subsection (2) above if the conditions for taking the child into care in Section 58(1)(i) or (ii) of the Danish Social Services Act are met and it is rendered probable that the parents will permanently be unable to care for the child, and that the adoption is in the best interests of the child considering the continuity and stability of the child's upbringing.

(4) Where the child is placed with a foster family (cf. Section 66(1)(i)-(iii) of the Danish Social Services Act) and the conditions for taking the child into care in Section 58(1) of the Danish Social Services Act are met, adoption may be granted to the foster parents under subsection (2) above, if the child's connection with the foster family is of such a nature that it will be detrimental to the child to break this connection, particularly considering the continuity and stability of the child's upbringing and the child's relation to his or her parents.

**10.** - (1) Where the National Social Appeals Board receives notice from the municipal council that the Children and Young Persons Committee has recommended that under Section 68 e of the Danish Social Services Act a child be adopted without the consent of his or her parents, the National Social Appeals Board will make a decision on the adoption of the child pursuant to Section 9(2)-(4) above if the conditions are met.

(2) In the event that consent provided in accordance with Section 8 above is revoked, the Agency of Family law notifies the National Social Appeals Board which will under Section 9(1) above make a decision on the adoption of the child if the conditions are met.

**11.** - (1) Where the National Social Appeals Board makes a decision under Section 9 above, even if the parents have not consented to the adoption under Section 7(1) above, the National Social Appeals Board will notify the child, the parents, the holder of custody, if this person is not a parent, the legal guardian and the person applying for the adoption.

(2) A decision as mentioned in subsection (1) above must be in writing and be given by the National Social Appeals Board to the persons in question personally or be served on them. The decision must include information about the possibility of having the decision tried by the court and about the time limit in this regard, see subsection (3) below.

(3) Within fourteen (14) days after receipt or service of a decision as mentioned in subsection (1) above, a party may request that the case be tried by the court. The National Social Appeals Board may in special circumstances fix a longer period or extend the time limit before its expiry.

(4) If the National Social Appeals Board receives a request that the decision be tried by the court, the National Social Appeals Board will bring the case before the court according to the rules of Part 43 b of the Danish Administration of Justice Act, unless an adoption order has been issued after the time limit stipulated in subsection (3) above.

(5) If the court upholds the National Social Appeals Board's decision that an order must be granted under Section 9 above or if the court decides that an order may be granted, the National Social Appeals Board cannot grant such order before the time limit for appeal has expired and an appeal has not been launched before the expiry of the time limit. The same applies in case of an appeal of the court's refusal to try the case; cf. Section 475b(4) of the Danish Administration of Justice Act.

**12.** (Repealed)

**13.** From parents whose consent is not required under Section 7(1)-(2) above, a statement must be obtained before a decision is made unless this is found to be seriously detrimental to the child or to cause a disproportionate delay in the proceedings.

**14.** A person who has been placed under guardianship pursuant to Section 5 of the Danish Guardianship Act, or has been declared legally incompetent (cf. Section 6 of the Danish Guardianship Act) may not be adopted unless a statement has been obtained from his or her legal guardian.

**15.** An adoption cannot be granted if any of the persons required to consent to the adoption are making or receiving a payment or any other kind of consideration whatsoever, including compensation for loss of earnings. Any person who is familiar with the circumstances may be required by the Agency of Family Law to provide all information known to them in order to ascertain whether or not any payment or consideration etc. has been made/paid or received etc. as specified in the first sentence above. The same applies to the National Social Appeals Board in adoption cases without consent under Section 9 above.

*Legal assistance*

**15 a.** - (1) During adoption proceedings, the Agency of Family Law may appoint counsel to a child that has attained the age of 3 and is residing in Denmark. However, this does not apply in case of adoption under Section 5 a above, or if the adoption has been arranged by an agency authorised to provide adoption assistance under Section 30 below.

(2) At the same time as the National Social Appeals Board is notified under Section 10(2) above, the Agency of Family Law must appoint counsel to the child. At the same time, the Agency of Family Law must offer the parents and the holder of custody, if this person is not the parent, to have counsel assigned.

(3) During adoption proceedings without consent under Section 9(2)-(4) above, the municipal council must appoint counsel to the child before the case is presented to the Children and Young Persons Committee. At the same time, the municipal council must offer the parents and the holder of custody, if this person is not the parent, and the child's foster parents, if relevant, to have counsel assigned.

(4) With respect to legal fees and compensation for legal expenses, the same provisions apply as in cases where free legal aid has been granted; cf. Part 31 of the Danish Administration of Justice Act.

## Part 2

### *Legal effects*

**16.** - (1) An adoption establishes the same legal relationship between the adopter and the adopted child as exists between parents and their child, and the adopted child and its issue shall have a right to succeed to the property of the adopter and his or her family and the adopter and his or her family shall have a right to succeed to the property of the adopted child as if the adopted child were the adopter's biological child. At the same time the legal relationship between the adopted child and its original family shall be extinguished.

(2) In case of a stepchild adoption under Section 5 a, the adopted child shall obtain the same legal position in relation to the spouses, the former spouses, the partners or the former partners, as if the child were a child of their relationship.

(3) With regard to the name of the adopted child, the rules of the legislation on personal names shall apply.

**17.** An adoption does not confer upon the adopted child any right of succession to entailed estates of whatsoever nature, except where this is specifically provided.

## Part 3

### *Revocation*

**18.** - (1) An adoption may be revoked by the National Social Appeals Board when the adopter and the adopted child so agree. Where one of the parties has been placed under guardianship under Section 5 of the Danish Guardianship Act, or has been declared legally incompetent (cf. Section 6 of the Danish Guardianship Act) a statement from his or her legal guardian shall be obtained.

(2) If the adopted child has not attained the age of 18, the adoption may be revoked under subsection (1) above if the adopter and the original parents of the adopted child agree and the revocation is in the best interests of the child.

(3) If the child has attained the age of 12, the adoption cannot be revoked without the consent of the child. The consent must be provided by personal appearance before the Agency of Family Law or another authority or agency approved under Section 8(1) above. Before the child provides his or her consent, the child must attend an interview regarding the revocation of the adoption, and the child must be advised of the meaning of the revocation.

(4) Where the child has not attained the age of 12, information must be available about its view on the contemplated revocation of the adoption to the extent the child's maturity and the circumstances of the case so warrant. In making a determination, the child's view on the contemplated revocation of the adoption must be taken into consideration to the greatest extent possible.

(5) Where the adopters have died, the National Social Appeals Board may, upon the request of the original parents, revoke the adoption if this is in the best interests of the child. Subsections (3) and (4) above shall apply *mutatis mutandis*.

**19.** - (1) Legal proceedings may be filed to revoke the adoption if the adopter is guilty of serious misconduct towards the child or of persistently failing to discharge his or her parental duties in respect of the child, or if, for any other reason, a revocation is found to be of fundamental importance to the welfare of the adopted child.

(2) Proceedings for a revocation must be instituted by the adopted child. If the child is a minor or, by reason of insanity, mental deficiency or any similar condition, is incapable of managing his or her own affairs, such proceedings must be instituted by the legal guardian of the child, by its original father or mother or by the National Social Appeals Board.

**20.** - (1) If spouses or cohabiting partners have jointly adopted a child, the adoption can only be revoked in respect of both of them.

(2) In the cases mentioned in Section 19 above, the adoption may be revoked even if the misconduct or failure applies to only one (1) of the adopters.

**21.** Where the general provisions of the Danish Administration of Justice Act do not stipulate a venue at which proceedings to revoke an adoption may be instituted, such proceedings shall be instituted at the court determined by the Minister of Justice.

**22.** In the case of a new adoption, any previous adoption shall be deemed to be revoked, but see Section 16(2) above.

**23.** - (1) Where an adoption is revoked, the legal relationship established by the adoption between the adopted child and the adopter and his or her family shall be extinguished. Under special circumstances the court may decide, upon revoking the adoption pursuant to Section 19 above, that the adopter shall pay maintenance to the child.

(2) Where an adoption is revoked under Section 18(2) or (5) above, the child shall be reinstated in the legal relationship with its original family.

(3) In the circumstances described in Section 19 above and having regard to the grounds for the revocation, the age of the child and other circumstances, the court may decide that the child shall be reinstated in the legal relationship with his or her original family.

(4) Where the adoption has been revoked for a person who has attained the age of 18, the National Social Appeals Board or the court may, upon the request of the adopted person, decide that the person in question shall be reinstated in the legal relationship with his or her original family if the original parents consent thereto. If only one of the adopted person's original

parents consents under the first sentence above, it may be determined that the adopted person shall be reinstated in the legal relationship with that family.

(5) Such reinstatement shall involve no changes in the relationship with the original family.

**24.** Prior to the revocation of an adoption under Section 19 above, the court must, to the extent possible, obtain statements from the persons whose consent or statement is required for an adoption order. Nevertheless, under special circumstances, where there is no question of reinstating the child in the legal relationship with its original family, the court may dispense with obtaining such statement.

#### Part 4

##### *Miscellaneous provisions*

**25.** The Minister for Social Affairs and the Interior may lay down rules regarding the consideration of cases under this Act, including

- (i) concerning approval as an adopter;
- (ii) concerning the consideration of adoption cases, including concerning the contents of applications for adoption etc.;
- (iii) concerning the provision of consents to adoption; cf. Sections 6 and 8 above;
- (iv) concerning the National Social Appeals Board's consideration of adoption cases without consent; cf. Section 9 above and
- (v) concerning the consideration of cases regarding decisions for an adoption to proceed.

**25 a. - (1)** The Minister for Social Affairs and the Interior will set up one or more joint councils of adoption which, following examinations carried out by the Agency of Family Law, will decide whether or not an applicant can be approved as an adopter; cf. Section 4 a above.

(2) The joint council of adoption may make a decision to withdraw the approval of an adopter if such adopter no longer fulfils the conditions for approval as an adopter, or if the applicant is otherwise found to be unsuitable to adopt.

(3) The joint council of adoption consists of a member with social training, a lawyer and a medical doctor, one of whom must be employed by the Agency of Family Law.

(4) The members of the joint council of adoption and their substitutes are appointed by the Minister for Social Affairs and the Interior for a period of up to four (4) years at a time.

(5) The joint council of adoption makes its decision by a majority of votes. The Minister for Social Affairs and the Interior lays down the rules of procedure for the joint council of adoption.

**25 b. - (1)** The National Board of Adoption consists of a chairman and a number of other members. The chairman must be a High Court judge or a Supreme Court judge. Minimum five (5) members, including the chairman or one (1) member holding a master's degree in law, must participate in the hearing of each complaint. The Board makes its decisions by a majority of votes. The Minister for Social Affairs and the Interior lays down the rules of procedure for the Board.

(2) The members of the Board and their substitutes are appointed by the Minister for Social Affairs and the Interior for a period of up to four (4) years at a time. A member may be so appointed for a total of eight (8) years. The same applies to a substitute.

(3) The decisions of a joint council of adoption under this Act may be brought before the National Board of Adoption within six (6) months after the decision was made by the joint council of adoption.

(4) The National Board of Adoption supervises the joint council of adoption. The Minister for Social Affairs and the Interior lays down detailed rules for such supervision.

(5) The Minister for Social Affairs and the Interior may assign other tasks to the National Board of Adoption than those mentioned in subsections (3) and (4) above.

(6) In connection with the hearing of cases other than complaints, the National Board of Adoption may seek the advice and assistance of other persons considered to have expert knowledge of or a special interest in the cases heard by the Board.

**25 c. - (1)** Participation in an adoption preparation course is a condition for persons who have not previously adopted a child being approved as adopters.

(2) In compliance with rules laid down by the Minister for Social Affairs and the Interior, the joint council may decide that persons who have previously adopted a child must attend an adoption preparation course in order to be approved again, if this is considered necessary.

(3) The Minister for Social Affairs and the Interior may lay down detailed rules on the contents and organisation of the courses mentioned in subsections (1) and (2) above, including regarding payment.

**25 d. - (1)** Where an adoption is subject to the requirement of approval of the applicant as an adopter (cf. Section 4 a above) the adopter must receive adoption counselling immediately before and after the child to be adopted comes to stay with the adopter in Denmark. However, this does not apply if the adopter is not able to receive counselling out of consideration for the child.

(2) An adopter covered by subsection (1) above who is residing in Denmark may request additional adoption counselling in connection with the adoption.

(3) Subsections (1) and (2) also apply to approved adopters who receive a child in temporary placement under Section 32 a below.

(4) The Minister for Social Affairs and the Interior may lay down detailed rules on the following:

- (i) How counselling under subsections (1) and (2) is to be organised.
- (ii) In what situations the adopter (cf. subsection (1), second sentence) is not to receive counselling.
- (iii) Payment for counselling according to subsection (2) above.

**25 e.** The Minister for Social Affairs and the Interior may agree with the authorities on the Faroe Islands on the relation between the rules for Denmark and the Faroe Islands on adoption. The agreement shall apply in Denmark once promulgated

in the Danish Official Gazette.

**26.** - (1) Upon agreement with a foreign country, it may be determined that the nationals of such country shall only be eligible to adopt or be adopted in Denmark subject to specific conditions set out in a treaty.

(2) Similar provisions may be laid down with regard to the revocation of an adoption where the adopter is not a Danish national.

**27.** - (1) With regard to certain foreign countries, it may be determined, by virtue of a Royal decree, that Danish nationals shall only be eligible to adopt or be adopted in that country subject to specific conditions.

(2) Similarly, it may be determined that an adoption cannot be revoked in a foreign country with effect in Denmark where the adopter is a Danish national.

**28.** - (1) Residents of Denmark may adopt only under the provisions of this Act.

(2) Notwithstanding subsection (1) above, foreign adoption decisions shall be recognised in Denmark when the adoption is effected with a view to the child coming to Denmark for adoption in accordance with the provisions of the Hague Convention of 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption. The Minister for Social Affairs and the Interior may lay down detailed rules in this regard. Furthermore, the Minister for Social Affairs and the Interior may lay down rules to the effect that other foreign adoption decisions shall be recognised in Denmark.

**29.** - (1) Residents of a foreign country may only adopt under the provisions of this Act if the applicant or his or her spouse or partner is a Danish national and adoption is therefore not possible in the applicant's country of residence, and if a Danish adoption order is valid in the country of residence.

(2) Moreover, the National Social Appeals Board may permit an adoption, if the case involves a special connection to Denmark.

(3) However, subsections (1) and (2) above do not apply in case of adoption covered by the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.

**29 a.** - (1) The Minister for Social Affairs and the Interior designates a central authority to undertake the tasks and obligations which it is incumbent on the central authority to undertake pursuant to the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.

(2) The Minister for Social Affairs and the Interior may lay down detailed rules on the activities of the central authority.

**29 b.** - (1) A complaint concerning decisions made by the Agency of Family Law under this Act may be filed with the National Social Appeals Board.

(2) The Minister for Social Affairs and the Interior may lay down detailed rules on the consideration of complaints.

**29 c.** Applications for an adoption order and approval as an adopter must be filed with the Agency of Family Law by means of the digital solution made available by the Agency of Family Law (digital self-service). Applications not filed through digital self-service will be rejected by the Agency of Family Law, but see subsections (2) and (3) below.

(2) If the Agency of Family Law finds that special circumstances exist and that the citizen cannot therefore be expected to use digital self-service, the Agency of Family Law must offer a possibility of filing the application otherwise than through digital self-service under subsection (1) above. The Agency of Family Law decides how an application covered by the first sentence above is to be filed, including whether it is to be filed orally or in writing.

(3) In extraordinary circumstances the Agency of Family Law may refrain from rejecting an application that is not filed through digital self-service in other cases than mentioned in subsection (2) above, if, according to an overall financial assessment, there are obvious advantages for the Agency of Family Law in receiving the application in another way than digitally.

(4) A digital application shall be deemed to be received when available to the Agency of Family Law.

**29 d.** Part 9 and Sections 68 and 70 of the Danish Legal Protection and Administration in Social Matters Act shall apply to the National Social Appeals Board's consideration of cases under this Act.

**29 e.** - (1) For use for the consideration of cases regarding approval of an applicant as an adopter and cases regarding adoption, the Agency of Family Law and the National Social Appeals Board may obtain information from the Central Crime Register on an applicant wishing to adopt.

(2) The Minister for Social Affairs and the Interior may lay down detailed rules on information retrieval by the National Social Appeals Board and the Agency of Family Law under subsection (1) above.

## Part 5

### *International adoption assistance*

#### *Adoption*

**30.** - (1) The Minister for Social Affairs and the Interior may authorise a private organisation to provide adoption assistance in connection with children who are not residing in Denmark, provided that such organisation meets the provisions of Sections 30 a and 30 b hereof and of the regulations laid down in pursuance of Section 30 c (adoption agency).

(2) Authorisation to provide adoption assistance under subsection (1) above is granted for a specific period.

**30 a.** - (1) Adoption assistance as mentioned in Section 30(1) above must be driven by the consideration for the child's best interest and be provided on an ethical and professionally responsible basis in accordance with this Act and the terms stipulated for the adoption agency.

(2) An adoption agency must handle its financial affairs in a prudent way. The agency may not obtain undue financial or other gain in connection with the adoption assistance, nor may it receive payments that are not proportionate with the work performed.

(3) An adoption agency must have the legal, financial and child expert competencies required for providing adoption assistance as well as employees with expertise in and experience with international adoption assistance.

**30 b.** An adoption agency may only carry out aid work relating to adoption assistance.

**30 c.** The Minister for Social Affairs and the Interior may lay down detailed rules on the activities of an adoption agency.

**30 d.** - (1) The Minister for Social Affairs and the Interior decides in which countries an adoption agency may be authorised to provide adoption assistance.

(2) The National Social Appeals Board decides with which foreign authorities, agencies etc. an adoption agency may be authorised to co-operate on adoption assistance. An authorisation granted under subsection (1) above is granted for a specific period, unless this is not necessary in connection with certain authorities, agencies etc.

**30 e.** - (1) An approved adoption applicant must be registered with an agency that has been authorised under Section 30 above in order to adopt a child that is not residing in Denmark.

(2) The Minister for Social Affairs and the Interior may lay down detailed rules in this regard and on the possibility of dispensing with subsection (1) above where an approved adoption applicant has special prior knowledge about the child or the child's relatives, or otherwise in case of special circumstances.

**31.** - (1) Assistance in establishing contact between persons wishing to adopt and a child with a view to adoption and in carrying out an adoption (adoption assistance) may only be provided by the authorities and agencies mentioned in Sections 25, 25 a, 25 b and 30 above.

(2) However, the provision in subsection (1) above does not comprise legal assistance etc. in connection with enquiries with the authorities mentioned or in procuring information required by such authorities.

**31 a.** - (1) When a child has been assigned to an approved adoption applicant with a view to adoption, the National Social Appeals Board will, as soon as possible, make a decision on whether or not to proceed with the adoption.

(2) If the assigned child is not within the scope of the applicant's approval as an adopter, or if there are doubts in this regard, the decision under subsection (1) will be made by the joint council of adoption.

**31 b.** - (1) The National Social Appeals Board supervises the adoption agency's compliance with this Act and the regulations issued under Section 30 c above and the terms stipulated for the agency's activities.

(2) The National Social Appeals Board publishes an annual report on its supervisory activities.

**31 c.** - (1) For use for the supervision under Section 31 b above, any information requested by the National Social Appeals Board must be surrendered by an adoption agency with regard to its affairs of relevance to the supervision.

(2) The National Social Appeals Board may, for use for its supervision, request the adoption agency

- (i) to explain its affairs;
- (ii) to account for its co-operation with foreign authorities, agencies etc.;
- (iii) to forward specific cases concerning adoption assistance;
- (iv) to procure material to illustrate legislation and practice concerning adoption in countries in which it provides adoption assistance and
- (v) to procure information for use for examinations and case reviews of importance to the supervision.

**31 d.** - (1) The National Social Appeals Board makes unannounced visits to an adoption agency when relevant and minimum once annually.

(2) The National Social Appeals Board reviews selected cases processed by an agency when relevant and minimum once annually.

(3) The National Social Appeals Board visits the agency abroad to the extent relevant.

**31 e.** The National Social Appeals Board carries out an ongoing financial supervision of an adoption agency through follow-up on the agency's financial affairs minimum twice annually.

**31 f.** - (1) An adoption agency must notify the National Social Appeals Board of any organisational change, any change in relation to adoption from the countries for which the agency is authorised and any change in relation to the agency's partners; cf. Section 30 d above. This provision shall not apply in case of immaterial changes.

(2) An adoption agency must prepare periodic accounts of the adoption situation and the agency's partners in the countries where the agency provides adoption assistance; cf. Section 30 d above.

**31 g.** The National Social Appeals Board collects information about the adoption proceedings from the adopter when the adoption has been carried out and the adoption assistance has been provided by an adoption agency.

**§ 31 h.** - (1) The National Social Appeals Board may request statements from the National Board of Adoption concerning specific or general circumstances of importance to the supervision of an adoption agency.

(2) The National Board of Adoption must notify the National Social Appeals Board about any matters which the National Board of Adoption believes is or may be of importance to the supervision of an adoption agency.

**31 i.** - (1) If an adoption agency fails to comply with the provisions of this Act, the regulations issued under Section 30 c above or the terms stipulated for the agency's activities, the National Social Appeals Board must issue a warning or an order to the agency or amend the terms stipulated for the agency's activities.

(2) In case of material or repeated failure to comply with the provisions of this Act, the regulations issued under Section 30 c above or the terms stipulated for the agency's activities, the Minister for Social Affairs and the Interior may revoke the agency's authorisation under Section 30(1) above.

**31 j.** The Minister for Social Affairs and the Interior may lay down rules regarding the supervision of an adoption agency.

#### Part 5 a

##### *24-hour care, temporary placement, surrogacy and penalty*

##### *24-hour care*

**32.** - (1) Assistance to take a child under the age of 14 into 24-hour care for a long or indefinite period of time may only be provided by and be received by a public authority or with the prior consent of a public authority.

(2) 24-hour care as mentioned in subsection (1) above may only be advertised by or with the consent of a public authority.

##### *Temporary placement*

**32 a.** - (1) When the National Social Appeals Board has made a decision under Section 10 above to the effect that a child is to be adopted under Section 9 (1)-(3) above, the child is placed with the applicant approved as an adopter who has been selected by the National Board of Adoption to adopt the child. The temporary placement ends when the National Social Appeals Board grants an adoption order under Section 1, second sentence above, or the court delivers judgment to the effect that the decision of the National Social Appeals Board on adoption is revoked and that the period allowed for appeal in this respect has expired.

(2) During the temporary placement, the applicant has custody of the child under Section 7 a(5) of the Danish Act on Parental Responsibility and the duty to support the child.

(3) The Minister for Social Affairs and the Interior may lay down detailed rules on temporary placement under subsection (1) above.

##### *Provision of surrogacy services*

**33.** - (1) Assistance may not be provided or received with a view to establishing contact between a woman and another person desiring that such woman bear a child for such person.

(2) Advertising with a view to establishing such connection as mentioned in subsection (1) above shall not be permitted.

##### *Penalty provisions*

**34.** - (1) Anyone who

(i) fails to observe terms stipulated in an authorisation under Section 30(1) above or fails to comply with rules stipulated under Section 30 c above or

(ii) violates Sections 31, 32 or 33 above

shall be punished with a fine or imprisonment for up to four (4) months.

(2) Anyone who as an intermediary pays for another person's consent to an adoption shall be liable to the same penalty as above.

(3) Regulations issued under Section 30 c above may stipulate a penalty of a fine or imprisonment for up to four (4) months for violation of provisions of such regulations.

(4) Companies, etc. (legal persons) may incur criminal liability in pursuance of the rules of Part 5 of the Criminal Code.

#### Part 6

##### *Commencement provisions etc.*

**35.** This Act shall come into force on 1 October 1972.

**36.** The rules in Section 6(2) and Section 8 shall not apply to consent provided before the Act came into force.

**37.** Part 2 shall apply to:

(i) adoptions taking effect on 1 January 1957 or later;

(ii) adoptions taking effect before 1 January 1957 where pursuant to Section 39(2) above the order has been issued with the legal effects following from Part 2 and

(iii) adoptions taking effect before 1 January 1957 where pursuant to Section 27(2) of Act No. 140 of 25 May 1956 on Adoption the order has been issued with the legal effects following from Section 13 of that Act; cf. Section 12.

(2) Notwithstanding subsection (1)(i) above, the provision of Section 13(2), second sentence, of Act No.140 of 25 May 1956 on Adoption shall apply to adoption orders issued before commencement of the Act with a provision to the effect that the child retains his or her right to succeed to the property of the original family.

**38.** Part 3 shall also apply to adoptions taking effect prior to entry into force of the Act.

**39 - (1)** For adoptions taking effect before 1 January 1957 which are not covered by Section 37(1)(ii) or (iii), Act No. 87 of 26 March 1923 on Adoption shall apply except for Section 13(2) and Sections 18-24.

(2) The National Social Appeals Board may, if the circumstances so dictate, decide that adoptions taking effect before 1 January 1957 shall have the legal effects provided for in Part 2 of this Act.

**40.** When this Act comes into force, Act No. 140 of 25 May 1956 on Adoption shall be repealed.

**40 a. - (1)** The government may conclude agreements with other states on the relation between the adoption rules of Danish and foreign law. Such agreement shall apply in Denmark once promulgated in the Danish Official Gazette.

(2) The Minister for Social Affairs and the Interior may also lay down rules on the relation between the adoption rules of Danish law and the law of other Nordic countries.

**41.** This Act shall not extend to the Faroe Islands and Greenland, but may by Royal decree be made effective for these parts of Denmark subject to such deviations as are dictated by the special circumstances of the Faroe Islands and Greenland.

---

Act No. 494 of 12 June 2009 (adoption without the consent of the parents, stepchild adoption of a registered partner's child from birth etc.) contains the following commencement and transitional provisions:

#### **Section 6**

(1) This Act shall come into force on 1 October 2009, but see subsection (2) below.

(2) Section 1(i) of the Act, Section 1(2) and (3) of the Adoption Act as included in Section 1(ii) of this Act, Section 4, third sentence, of the Adoption Act as included in Section 1(iii) of this Act, Section 8(5) of the Adoption Act as included in Section 1(iv) of this Act, Section 8 a of the Adoption Act as included in Section 1(v) of this Act, and Section 8(8), Section 12(2), Section 13(1), Section 14(2), third sentence, Section 15(7), Section 23(1) and Section 25(1) of the Danish Act on the Right to Leave and Benefits in the event of Childbirth (the Danish Childcare Leave Act) as included and amended by Section 4 of this Act shall come into force on 1 July 2009.

#### **Section 7**

(1-3) (Omitted)

(4) Section 25 b(2) of the Adoption Act, as amended by Section 1(xiii) of this Act shall apply to appointments made after the Act has come into force.

---

Act No. 1525 of 27 December 2014 (cohabiting partners' possibilities of adopting together etc.) contains the following commencement and transitional provisions:

#### **Section 4**

(1) This Act shall come into force on 1 January 2015, but see subsection (2) below.

(2) Section 5(1) of the Adoption Act as amended by Section 1(ii) and (iii) of this Act shall not apply to applications for adoption filed before the commencement of the Act by an applicant who has a partner, the consideration of which has not been completed when the Act comes into force. The rule in Section 5(1) of the Adoption Act shall apply to such applications.

---

Act No. 1740 of 22 December 2015 (a new adoption system etc.) contains the following commencement and transitional provisions:

#### **Section 2**



(1) This Act shall come into force on 1 January 2016.

(2) An adoption agency shall complete the cases concerning assignment of a child for adoption which it has not completed when the Act comes into force. The cases shall be completed according to the rules of Section 31 a of the Adoption Act as included in Section 1(ix) of this Act.

(3) Until 1 April 2016 the National Social Appeals Board may exempt an adopter from the requirement in Section 25 d(1) of the Adoption Act as included in Section 1(vi) of this Act, concerning the receipt of adoption counselling immediately before the child to be adopted comes to live with the adopter in Denmark.

(4) The requirement in Section 25 d(1) of the Adoption Act, as included in Section 1(vi) of this Act, to the effect that an adopter must receive adoption counselling after the child to be adopted has come to stay with the adopter in Denmark shall apply when the child has come to stay with the adopter in Denmark after 30 September 2015.

(5) Authorisations granted under the previously applicable Section 30 of the Adoption Act for providing adoption assistance in connection with children who are not residing in Denmark shall remain in force after the Act comes into force.

---

Act No. 1741 of 22 December 2015 (the National Social Appeals Board as the complaints authority for family affairs) contains the following commencement and transitional provisions:

### **Section 12**

This Act shall come into force on 1 January 2016.

### **Section 13**

(1) Cases being considered by the Minister for Social Affairs and the Interior under one of the Acts mentioned in Sections 1-8, 10 and 11,<sup>1)</sup> that are considered by the National Social Appeals Board and where the cases have not been completed when this Act comes into force shall be completed by the National Social Appeals Board.

(2) Requests for reopening of decisions, including decisions relating to access to documents and information concerning the cases determined by the Minister for Social Affairs and the Interior pursuant to one of the Acts mentioned in Sections 1-8, 10 or 11,<sup>2)</sup> and where the National Social Appeals Board makes a decision in such cases after the commencement of this Act shall be filed with and considered by the National Social Appeals Board.

(3) Subsection (2) shall also apply to other kinds of enquiries in the cases mentioned in subsection (2) above.

(4) Requests for access to documents and information concerning the cases determined by the Minister for Social Affairs and the Interior pursuant to one of the Acts mentioned in Sections 1-8, 10 and 11,<sup>3)</sup> and where the National Social Appeals Board considers such cases after the commencement of this Act shall be filed with and considered by the National Social Appeals Board.

---

Act No. 1711 of 27 December 2018 (Amendments as a result of the Danish Act on the Agency of Family Law and increased focus on the protection of the child in cases under the Danish Act on Parental Responsibility) contains the following commencement and transitional provisions:

### *Commencement*

#### **Section 40**

(1) This Act shall come into force on 1 April 2019, but see subsection (2-4) below.

(2-5) (Omitted)

### *Transitional provisions*

#### **Section 41**

(1-8) (Omitted)

(9) The Agency of Family Law replaces the State Administration in an adoption case without consent which the State Administration has brought before the court under Section 11(4) of the Adoption Act (cf. Consolidation Act No. 1041 of 3 August 2018) and which has not been closed before the commencement of the act.

#### **Section 42**

(Omitted)

#### **Section 43**

(Omitted)

---

Act No. 497 of 1 May 2019 (Continuity and simple procedures for children who are adopted without consent) contains the following commencement and transitional provisions:

### **Section 7**

(1) This Act shall come into force on 1 July 2019.

(2) Adoption cases without consent under Section 9 of the Adoption Act that are being considered by the Agency for Family Law on the commencement of the Act are completed by the National Social Appeals Board. The Agency for Family Law can decide however to complete a pending case if after looking at the merits of each individual case it is in the best interests of the child, including if the case is so close to completion that a transfer to the National Social Appeals Board will result in unreasonable delay of the case. For cases under the second sentence, the rules in force till now shall apply with the amendments that are provided for by Section 1(xiv), Section 2(i) and Sections 4 and 6.

(3) The Act does not apply to adoption cases without consent under Section 9 of the Adoption Act which were brought before the court under Section 11 of the Adoption Act on the commencement of the Act. For such cases, the rules in force till now shall apply.

(4) Rules laid down under Section 25 d(3) and Section 29 b(3) of the Adoption Act; cf. Consolidation Act No. 1041 of 3 August 2018 as amended by Section 4 of Act No 1711 of 27 December 2018 and Section 66 b(6) and Section 68 h of the Act on Social Services; cf. Consolidation Act No. 1114 of 30 August 2018 as amended by Section 1 of Act No. 1530 of 18 December 2018, Section 13 of Act No. 1711 of 27 December 2018 and Section 1 of Act No. 1720 of 27 December 2018 remain in force until they are repealed or replaced by new rules.

*The Ministry of Social Affairs and the Interior, 7 August 2019*

On behalf of the Ministry  
Malene Vestergaard

/ Carina Fogt-Nielsen

#### **Official notes**

<sup>1)</sup> Including the Adoption Act; cf. Section 1 of Act No. 1741 of 22 December 2015.

<sup>2)</sup> See note 1.

<sup>3)</sup> See note 1.