

**Act on International Enforcement of Decisions  
concerning Custody etc.  
(International Child Abduction)  
(Consolidation Act no 375 of 06/04/10)**

**This is a translation of Act No 793 of 27 November 1990 on international enforcement of decisions concerning custody, etc. (international child abduction) with the changes which follows from section 1 of Act No 387 of 28 May 2003, section 13 of Act No 434 of 8 May 2006, section 2 of Act No 500 of 6 June 2007 and section 1 of Act No 378 of 27 April 2016.**

Chapter 1

*Scope of the Act*

**1.-(1)** This Act shall apply to recognition and enforcement of foreign decisions concerning custody, the child's place of residence and the rights of access, cf. Chapter 3. Further, the Act shall apply to the return of children who have been wrongfully removed to this country or retained here, cf. Chapter 4. Furthermore this Act shall apply to legal aid to the holder of custody of a child who has been wrongfully removed from Denmark to abroad or is being wrongfully retained there, cf. Chapter 6 a.

(2) This Act shall apply to children under the age of 16 years.

(3) Recognition and enforcement under Chapter 3 can take place on the basis of judgments, orders and decisions made by a court or an administrative authority or on the basis of agreements approved by an administrative authority.

**2.-(1)** Sections 3-9, 12-13, 15(1), 16-18 and 20 shall apply in relation to States which have acceded to the European Convention of 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children.

(2) Sections 3, 10-12 and 14-20 shall apply in relation to States which have acceded to the Hague Convention of 1980 on the Civil Aspects of International Child Abduction.

(3) Sections 20 a-20 d shall apply in cases where a child has been wrongfully removed from Denmark to abroad or is being wrongfully retained there, regardless whether this state has acceded to the in sections (1) and (2) mentioned conventions.

(4) This Act shall not apply in relation to Finland, Iceland, Norway or Sweden to the extent other provisions apply.

(5) Based on an agreement, which may contain derogations from the provisions of the European Convention or the Hague Convention, with a State which has not acceded to the European Convention or the Hague Convention, the Minister of Justice may determine that the Act shall also apply with the necessary changes to the relationship between Denmark and that State.

## Chapter 2

### *Central authority*

**3.-(1)** The central authority shall:

- 1) receive and transmit communications under the Conventions;
- 2) co-operate with the central authorities of the other States which have acceded to the Conventions; and
- 3) fulfil the duties which are otherwise imposed by the Conventions on the central authority.

(2) The Minister of Justice shall designate who is the central authority in this country, and can lay down detailed rules on its function.

## Chapter 3

### *Recognition and enforcement in accordance with the European Convention*

**4.-(1)** A decision on custody, on the child's place of residence or on the rights of access given in a State which has acceded to the European Convention shall be recognised in this country.

(2) A decision as mentioned in subsection (1) may be enforced in this country on application if it can provide the basis for enforcement in the State in which the decision was given (the State of origin), cf., however, sections 5-8.

(3) Where, at the time of the removal of a child to another country, there was no enforceable decision given in a Convention State, any subsequent decision, declaring the removal to be wrongful, given in a Convention State shall be treated as equivalent to a decision under subsection (1).

**5.** A decision under section 4 given in the absence of the defendant can only be recognised or enforced in this country if:

- 1) the defendant was duly served with a writ of summons or received an equivalent document in sufficient time to enable the party to arrange for his defence, or a writ of summons or an equivalent document could not be served or received by the party because he had concealed his whereabouts from the other party; and
- 2) the competence of the authority giving the decision under section 4 was founded on the habitual residence of the defendant, on the last common habitual residence of the child's parents, at least one parent being still habitually resident there, or on the habitual residence of the child.

**6.** A decision under section 4 cannot be recognised or enforced if:

- 1) the effects of the decision will be manifestly incompatible with the fundamental Danish principles of the law relating to the family and children;
- 2) by reason of a change in the circumstances the effects of the decision are manifestly no longer in accordance with the welfare of the child;
- 3) at the time when the proceedings were instituted in the State of origin, the child was a national of or habitually resident in this country and no such connection existed with the State of origin;
- 4) at the time when the proceedings were instituted in the State of origin, the child was a national both of the State of origin and of this country and was habitually resident in this country; or
- 5) according to the law of the State of which the child is a national or in which the child is habitually resident, the child is entitled to determine its place of residence.

**7.-(1)** A decision given under section 4 cannot be recognised or enforced in this country if it is incompatible with a decision given in this country pursuant to proceedings begun before the submission of the application for recognition or enforcement, and if the refusal is in accordance with the welfare of the child.

(2) A decision given in a country other than the State of origin and which can be enforced here shall be treated as equivalent to a decision given in this country under subsection (1).

**8.** Proceedings relating to recognition or enforcement under section 4 may be adjourned by an order if:

- 1) an ordinary form of review of the decision has been commenced in the State of origin;
- 2) proceedings relating to the custody of the child, the child's place of residence or rights of access, commenced before the proceedings in the State of origin were instituted, are pending in this country; or
- 3) another decision concerning the custody of the child, the child's place of residence or rights of access is the subject of proceedings for enforcement or of any other proceedings concerning the recognition of the decision.

**9.** In connection with the enforcement of a decision relating to a right of access under section 4, the Bailiff's Court may make a decision on the extent and exercise of such right of access.

## Chapter 4

### *Return in accordance with the Hague Convention*

**10.-(1)** Children removed wrongfully to this country or retained here wrongfully shall on application be returned to the person from whom the child is retained if the child immediately

before the removal or retention was habitually resident in a State which has acceded to the Hague Convention.

(2) The removal or the retention of a child is wrongful where:

- 1) it is in breach of rights of custody whether attributed to a person, an institution or another body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- 2) at the time of removal or retention those rights were actually exercised or would have been so exercised but for the wrongful removal or retention.

**11.** Return under section 10(1) may be refused if:

- 1) at the date of the lodging of an application for return with the Bailiff's Court one year has elapsed since the removal or retention and the child is now settled in its new environment;
- 2) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation;
- 3) the child objects to being returned and has attained an age and a degree of maturity at which it is appropriate to take account of its views; or
- 4) the return would not be permitted by the fundamental principles of this country relating to the protection of human rights and fundamental freedoms.

## Chapter 5

### *Procedure*

**12.-(1)** An application for enforcement of a decision relating to custody of a child, the child's place of residence, or rights of access under section 4 or the return of a child under section 10(1) shall be lodged with the Bailiff's Court.

(2) Applications to the Bailiff's Court shall be drawn up in Danish or be accompanied by a translation into Danish. Documents in foreign languages which are enclosed shall be translated into Danish unless the court does not find it necessary.

**13.-(1)** An application for enforcement of a decision under section 4 shall contain information about the likely whereabouts of the child in this country, and proposals as to how the child can be returned to the holder of custody.

(2) The application shall be accompanied by a certified transcript of the decision, documentary evidence that the conditions for recognition and enforcement under section 5 are satisfied and documentary evidence that the decision can provide the basis for enforcement in the State of origin.

**14.-(1)** An application for the return of a child under section 10(1) shall contain information about the applicant, the child and the person who is alleged to have removed or retained the child, and the child's date of birth. It shall contain the grounds on which the applicants claim for return of the child is based and information about the likely whereabouts of the child in this country.

(2) The application shall be accompanied by the documents relied upon.

(3) During the proceedings relating to return under section 10(1), the Bailiff's Court may order that a decision be obtained from an authority in the State of the habitual residence of the child immediately before the removal or retention that the removal or retention was wrongful. However, this shall only apply if such a decision can be obtained in that State.

**15.-(1)** Proceedings relating to enforcement of a decision under section 4 and to return under section 10(1) shall be proceeded with as expeditiously as possible.

(2) Where no decision has been reached in proceedings under section 10(1) within six weeks from the date when the application for return was lodged with the Bailiff's Court, the court of the requesting State, shall have the right to request a statement of the reasons for the delay.

**16.** The Bailiff's Court shall, in cases concerning enforcement of a decision after section 4 or in cases concerning the return of a child after section 10 (1), have a conversation with the child following the rules in section 537 (2) in the Administration of Justice Act.

**17.-(1)** In proceedings under section 4 or section 10(1) the Bailiff's Court may on application determine that during the proceedings the child shall be placed with either of the parents or in a neutral place decided by the social authorities where this is found to be necessary.

(2) The decision, which shall be given by order, shall apply until the final decision has been given in the proceedings.

**18.-(1)** Otherwise proceedings shall be subject to the provisions of Chapter 45, 46 and 48 a of the Danish Administration of Justice Act.

(2) The Bailiff's Court shall assign an attorney-at-law to the party who has lodged the application. Fees and reimbursement of expenses incurred in connection with the assigned attorney-at-law shall be subject to the same rules as in cases where free legal aid is granted, cf. Part 31 of the Danish Administration of Justice Act.

**18 a.-** The Minister of Justice shall upon application designate a number of attorneys-at-law who are considered to be especially capable for appointment in cases under section 18 (2).

## Chapter 6

### *Decisions relating to custody and the child's place of residence*

**19.-(1)** Where an application for the return of a child has been made under section 10(1), no decision can be given in proceedings relating to custody or the child's residence in this country until the application has been considered.

(2) If during the proceedings on custody or the child's place of residence in this country the central authority states that the child is staying unlawfully here, cf. section 10(2), without any application for return of the child under section 10(1) having been lodged, the court can give no decision on custody or the child's residence unless there has been reasonable time for making such an application.

**20.-(1)** If a child who is habitually resident in this country is removed to another country or retained there, the Minister of Justice or any one authorised for the purpose may on application from the person holding the custody of the child decide that the removal is wrongful.

(2) During proceedings to bring the joint custody of a child to an end, the court may decide on the basis of a claim that the child has wrongfully left the country, cf. 3 (2) in the Act on Parental Responsibility

(3) If the place of residence of the person that the case concerns is unknown and if no information about the place of residence can be obtained, a decision under subsections (1) and (2) may be given no matter whether the person concerned has not been served with a writ of summons or any other equivalent document in the proceedings.

## Chapter 6 a

### *Legal aid*

**20 a.- (1)** Upon application, the Minister of Justice may grant legal aid to the person holding custody of a child, who has been wrongfully removed from Denmark to another country or is wrongfully retained there, to cover costs related to acts of a legal nature and mediation carried out for the purpose of the return of the child.

(2) Legal aid may only be granted if the child had its habitual residence in Denmark when wrongfully removed or retained.

(3) In special cases, the Minister of Justice may grant legal aid to cover costs related to acts of a legal nature carried out for the purpose of the return of a child even though the conditions of subsections (1) and (2) are not satisfied.

(4) Legal aid in reference to subsections (1), (2) and (3) does also include:

1) Financial help to cover reasonable expenses for the child's journey back to Denmark in connection with a return of the child, including travel expenses for the person who escorts the child.

2) Financial help in exceptional cases to cover reasonable expenses for other actions which are necessary for the return of a child.

(5) The Minister of Justice may lay down detailed rules on the administration of the scheme, including on the contents of applications for legal aid.

**20 b. - (1)** Legal aid comprises compensation from the Treasury for:-

- 1) reasonable expenses for an attorney-at-law;
- 2) other reasonable expenses necessary in connection with acts of a legal nature, including travel expenses and expenses for translation and legalisation of documents;
- 3) legal costs which the person in question is ordered by the court to pay to the other party,
- 4) reasonable expenses to cover mediation, including travel expenses, and
- 5) expenses, which are covered by section 20a(4)

(2) Legal aid may be limited to certain expense items. Moreover, an upper limit for the compensation may be specified, possibly divided among certain expense items.

(3) Legal aid only comprises costs for which no compensation is given under the rules of free legal representation or the like in the country to which the child has been wrongfully removed and which are not covered by the applicant's legal expense insurance.

(4) The State is subrogated to the legal aid recipient's claim for compensation from the wrongful remover or others for expenses covered by the legal aid.

**20 c.** Any grant of legal aid may be revoked if the assumptions on which it was based prove to be non-existent or to have lapsed.

**20 d.** Upon application, the Minister of Justice shall appoint a number of attorneys-at-law whom the Minister can recommend to persons holding custody of a child in cases of wrongful removal of the child.

## Chapter 7

### *Commencement etc.*

**21.-(1)** The date of entry into force of this Act shall be fixed by the Minister of Justice<sup>1</sup>. Different dates of entry into force of the provisions on recognition and enforcement in accordance with the European Convention and the provisions on return in accordance with the Hague Convention may be fixed.

(2) Section 10 shall only apply in cases where the wrongful removal or retention took place after the Act entered into force in relation to the State in which the child was habitually resident or staying immediately before the removal or retention.

**22.** Omit

**23.** Omit

**24.-(1)** This Act shall not apply to the Faroe Islands and Greenland.

(2) The Act may by Royal Decree be made effective for the Faroe Islands subject to such deviations as are dictated by the special circumstances of the Faroe Islands.

(3) Sections 1-22 may by Royal Decree be made effective for Greenland subject to such deviations as are dictated by the special circumstances of Greenland.

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Act No 434 of 8 May 2006 on the Hague Child Protection Convention<sup>2</sup> contain the following entry into force provisions:

Section 15

(1) The Act takes effect on 1 January 2007, cf. however (2) and (3)

(2) Section 7<sup>3</sup>, and section 13<sup>4</sup> takes effect on 1 July 2006

(3) Omit

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Act No 500 of 6 June 2007 (Procedure on legal process on custody and enforcement)<sup>5</sup> contain the following entry into force provisions:

Section 7

(1) The Act takes effect on 1 October 2007

*Ministry of Justice, 6 April 2010*

Lars Barfoed

/Lars Thøgersen

Official Notes

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<sup>1</sup> By Executive Order No 453 of 18 June 1991 the Act has been put into force as of 1 July 1991

<sup>2</sup> The amendment to the Act concerns section 18 a.

<sup>3</sup> The entry into force provision concerns Danish Act on custody and access section 3.

<sup>4</sup> The entry into force provision concerns section 18 a.

<sup>5</sup> The amendment to the Act concerns i.e. sections 8, 9 and 16 and section 18 (1), section 19 (1) and (2) and section



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20 (2)

## The Danish Act on Parental Responsibility

This is a translation of the Danish Act on Parental Responsibility, cf. Consolidated Act No. 1820 of 23 December 2015, as amended by Act No. 133 of 16 February 2016.

### Part 1

#### *Introductory provisions*

1. Children and young people under 18 are under custody, 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 interests and needs.  
(2) The child has the right to care and security. The child must be treated with respect for his/her person and must not be exposed to corporal punishment or other violating treatment.  
(3) Parents holding custody can use the child's income to a reasonable extent for the child's maintenance and with due consideration for their own 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 resides can make decisions about general day-to-day matters relating to the child, including where in Denmark the child will have his or her place of residence.  
(2) If the parents have joint custody but disagree about the custody, they both have to give their consent to the child leaving the country, including travels to Greenland or the Faroe Islands or if the child's stay abroad, including Greenland or the Faroe Islands is extended beyond the agreed, presupposed or specified duration, unless an agreement has been made according to section 17(1), second sentence, or section 25.
4. (1) 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.

### Part 2

#### *Custody*

##### *Holders of custody*

6. (1) Where parents are married to each other at the time of the child's birth, or if they marry later, they shall have joint custody.  
(2) Where parents are separated at the time of the child's birth, the mother will, however, have sole custody unless:
  - 1) the separated husband or co-mother is recognised as the father or co-mother of the child or his paternity/her maternity is established by a court judgement or
  - 2) the parents have submitted a declaration according to section 7(1)(i); but see section 7(2).  
(3) If the parents have been married to each other within 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 3 b(1), section 14, paragraphs (1), (3) or (6), or section 19, cf. section 14, paragraphs (1), (3) or (6) have submitted a declaration stating that they will jointly care for and assume responsibility for the child,
- 2) they have made an agreement on joint custody according to section 9, or
- 3) the man is registered as the father of the child under section 1 a of the Children Act.

(2) This shall not, however, apply if the declaration in paragraph (1)(i) has been submitted without meeting the conditions of section 448(f) of the Administration of Justice Act regarding the processing of cases of custody in this country.

(3) If a man is considered to be the father or a woman is considered to be the co-mother of a child by recognition or because paternity/maternity has been established by a court judgment, the parents have joint custody if they have or have had a joint officially registered address within the ten months immediately preceding the birth of the child.

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

**7 a.** (1) Parents who have adopted a child together have joint custody.

(2) A parent who has adopted a child alone, has sole custody, but see paragraph (3).

(3) Parents have joint custody when one party has adopted the child of the other party under section 5 a (1) of the Adoption Act.

**8.** (1) If the parents have joint custody, they shall continue to have this right even if they have terminated their cohabitation or have been separated or divorced, or if their marriage has been annulled.

**9.** (1) Parents can agree to have joint custody. The 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.** (1) Parents who have joint custody but do not live together can agree that one of them is to have sole custody. The 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.** (1) 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 may only terminate the joint custody if there are grounds for assuming that the parents cannot co-operate on the child's affairs in the best interest of the child.

**12.** (1) 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 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 State Administration. Custody can be transferred to a married couple or a cohabiting couple jointly, including the other parent and his/her spouse or cohabitant. 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 change a decision under sections 15 and 15 a.

## *Death*

**15.** (1) If the parents have joint custody and one of them dies, the surviving parent will continue to have custody, but see paragraph (2) and section 15 a(1).

(2) If a parent dies and if at the time of the death the parents had joint custody and 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 State Administration decides who should be awarded custody.

(3) In the event of the death of a parent with sole custody, a surviving parent and other persons can apply to be awarded custody. In the event of joint custody, or where both parents die, other persons can also apply to be awarded custody. The State Administration decides who should be awarded custody.

(4) In cases covered by paragraph (2) and (3), section 13(2), second sentence, will apply correspondingly.

**15 a.** (1) Where one parent has caused the death of the other parent, and if the parents had joint custody at the time of the death, or if the surviving parent had sole custody, the State Administration must decide whether the custody should remain with the surviving parent, or whether another person should be awarded custody.

(2) If one parent has caused the death of the other parent, and the dead parent had sole custody, section 15(2) first and second sentences will apply correspondingly.

(3) The second sentence will apply accordingly in cases covered by paragraph (1), section 13(2).

**16.** (1) The holders of custody can indicate to whom custody should be awarded after their death.

## Part 3

### *The child's place of residence and notice*

**17.** (1) If the parents have joint custody and disagree about which parent the child should reside with, the court will make a decision on the matter. The court can decide that the child can reside with a parent who resides, or wants to reside, 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.** (1) 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 no later than six weeks before the change of residence.

## Part 4

### *Rights of access etc.*

#### *Access with parents*

**19.** (1) Efforts should be made to ensure that the child's connection with both parents is maintained through the child having the right to access with the parent with whom it does not reside.

(2) The parents have joint responsibility for ensuring that the child has access with the parent with whom it does not reside, and for the transportation of the child in connection with access.

(3) The parent with whom the child does not reside can apply for access rights.

(4) If there is no or only a severely limited amount of access, the parent with whom the child resides can ask the State Administration to summon the other parent for a meeting about access.

#### *Access with persons other than the parents*

**20.** (1) Upon request, rights of access can be granted by the State Administration to the nearest relatives to

whom the child is connected , if one or both parents are dead or if a parent is unknown.

(2) Upon request the State Administration may grant access with the nearest relatives to whom the child is connected, if the child does not have access with the non-residential parent or only severely limited access with this parent.

**20 a.** (1) If the child is adopted, the State Administration may, in exceptional cases, at the request of the child's initial relatives, decide on access or other forms of contact with them, in particular if, prior to the adoption, the child had access or other forms of contact with the person who apply for the decision regarding access etc.

#### *Decisions regarding access*

**21.** (1) In the case of disagreement about the extent and practice of the rights of access, the State Administration may, upon request, make a decision in the matter and lay down the required provisions covering these issues.

(2) The access is determined on the basis of an actual assessment of the child's circumstances.

(3) The determination of access may be rejected, and an agreement or decision on access may be changed or revoked.

**21 a.** (1) Stipulated or agreed access will no longer apply once the parents have agreed so, or when the State Administration, the National Social Appeals Board or the enforcement court has decided the cessation of access under sections 21 or 29(4) or under section 536(4) of the Administration of Justice Act.

#### *Other forms of contact*

**22.** (1) In certain cases, the State Administration may make a decision about alternative types of contact with the child, in the form of telephone conversations, exchange of letters, electronic mail, photos etc.

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

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

(3) Section 21(1) and (3) hereof will apply correspondingly.

#### *Information about the child etc.*

**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 schools and daycare institutions. Confidential information about the holder of custody may not be passed on.

(2) The institutions, etc., mentioned in paragraph (1) can refuse to give specific information or hand out documents relating to the child if it must be assumed to be detrimental to the child.

(3) In special circumstances, the State Administration may, at the request of the holder of custody or one of the institutions etc. specified in paragraph (1), withdraw the right of the non-custodial parent to receive information and have documents handed over under paragraph (1). The decision will take effect from the date on which the institution, etc., receive notice of the decision.

#### *Access with children in foster care*

**24.** (1) The provisions on rights of access and other forms of contact contained in this Act cannot be applied if a child has been put into foster care outside the home in accordance with Chapter 11 of the

Consolidation Act on Social Services. This also applies if the child or the young person stays at an institution or is hospitalized during the performance of a child protection examination according to part 11 of the Consolidation Act on Social Services.

*Decisions about foreign travel*

**25. (1)** Even if parents with joint custody disagree about custody, the 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 of time.

Part 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 reside with temporarily. During a case about the child's place of residence, on request, the authority can decide which parent the child should reside with temporarily.

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

(3) A decision made by the State Administration under paragraph (1) will lapse:

- 1) 4 weeks after the State Administration has notified the parties of the conclusion of the case, see 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 before the court, or
- 3) if cohabitation is resumed.

**27. (1)** 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 Social Affairs and the Interior or a person authorised by the minister, can temporarily grant sole custody to the other parent.

**28. (1)** If the holder or both holders of custody are prevented from making decisions about the child's personal circumstances, the State Administration will decide where to place custody during the period in which the parents are prevented from making decisions.

*Access etc.*

**29. (1)** Upon request the State Administration can make a decision about temporary access or other forms of contact during a case about custody, the child's place of residence, access or other forms of contact.

(2) A decision pursuant to paragraph (1) will apply until a final and enforceable decision about access or an agreement about other forms of contact has been made.

(3) During a case about custody or the child's place of residence, a decision under paragraph (1) becomes final once a final and enforceable decision about custody or the child's place of residence, or an agreement on custody or the child's place of residence, is made.

(4) The possibility of making a temporary decision under paragraph (1) may in exceptional cases also be exercised by the National Social Appeals Board.

**29 a. (1)** If the child has no access with the parent who applies for the rights of access, the State Administration must, as soon as possible and within 3 weeks after receiving a request regarding access, make a temporary decision on contact-keeping access. Section 29(2) and (3) hereof will apply correspondingly.

## *Changes*

**30.** (1) A temporary decision made under sections 26-29 can be changed.

### Part 6

#### *Case processing*

##### *Initiation*

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

(2) Notification of an agreement under sections 9, 10 and 13, and an application for a decision under sections 11, 14 and 17, section 19(1)-(3) and sections 20, 20a, 21, 22 and 25, must be submitted to the State Administration by means of the digital solution made available by the State Administration (digital self-service). Notifications and applications not submitted by use of digital self-service will be rejected by the State Administration, but see paragraphs (3) and (4).

(3) If the State Administration finds that special circumstances apply, as a result of which the citizen cannot be expected to be able to use digital self-service, the State Administration must offer that the notification or the application may be submitted in a manner other than through digital self-service under paragraph (2) above. The State Administration will decide how a notification or an application comprised by the first sentence hereof must be submitted, including whether it is to be submitted orally or in writing.

(4) In addition to the instances specified in paragraph (3), the State Administration may refrain from rejecting a notification or an application not submitted by use of digital self-service, if on a total financial assessment the State Administration clearly benefits from receiving the notification or the application otherwise than digitally, or if it is assumed to be in the best interests of the child that the notification or the application is not rejected.

(5) A digital notification or application is considered to have been received when it is available to the State Administration.

**31 a.** (1) Upon the application for a decision as specified in section 31(1) the State Administration summons the parties to a meeting, unless the application only concerns a decision about other contact as specified in section 22. The State Administration does not need to summon the parties to a meeting if it is unnecessary or unsuitable to hold a meeting.

(2) The parties are obliged to participate in the meeting unless exceptional circumstances apply.

#### *Child welfare counselling and family mediation*

**32.** (1) The State Administration must offer parents and children child welfare counselling or mediation in cases of disagreement about custody, the child's place of residence or access.

(2) In other circumstances, the State Administration can offer child welfare counselling or mediation if there is a special need.

(3) The State Administration needs not to offer child welfare counselling or mediation under paragraph (1) if it is considered unnecessary or unsuitable.

**32 a.** (1) The State Administration offers the parents child welfare counselling when the enforcement court has postponed enforcement of custody, the child's place of residence or access, under section 537(4) of the Administration of Justice Act. Counselling under paragraph (1) must be completed before the time to which the enforcement court has postponed the case.

### *Child welfare consultations*

**33. (1)** The State Administration can initiate child welfare consultations and obtain an expert assessment of parents in cases about custody, the child's place of residence and access.

(2) If the State Administration has initiated a child welfare consultation or requested an expert assessment of a parent, the consultation or the assessment must be completed even if the case is 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 access by giving the child the opportunity to make its views and opinions known. This can be gained through personal interviews, child welfare consultations or other ways that clarify the child's perspective.

(2) The obligation to involve the child directly in the case does not apply if it must be assumed to be to detrimental to the child, or if it is considered unnecessary according to the facts of the case.

### *The child's right to contact the State Administration*

**35. (1)** A child who has reached the age of 10 can ask the State Administration to summon the parents to a meeting about custody, the child's place of residence or access.

### *Declaration from the parents in certain cases*

**36. (1)** The State Administration must obtain a declaration from the parent who does not have joint custody, before a custody agreement under section 13(2) is approved or a decision about custody is made in accordance with/under section 15(3) or section 15 a(2).

(2) Before making a decision about access under section 20(2), the State Administration must obtain a declaration from the parent who does not have access or only has severely limited access.

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

### *Custody after death*

**37. (1)** Under section 15 or 15 a, the State Administration decides about custody after death. The State Administration brings a decision before the court if so requested by a party within four weeks after the party has been informed about the decision.

### *Obtaining financial information*

**38. (1)** For the purpose of the processing of cases of joint responsibility of the parents for transportation of the child in connection with access, including the parents' payment of costs related thereto, the State Administration and the National Social Appeals Board may have access under this act to view online the necessary financial information about a party with the administrating authorities of customs and tax, including in the income registry.

### *Rejection of applications for changes*

**39. (1)** An application for a change of custody, the child's place of residence, access or other form of contact can be rejected by the State Administration if the circumstances have not changed significantly.



However, this does not apply to applications for change of custody under section 14(2).

(2) The State Administration will bring the decision on rejection of an application for a change of custody or the child's place of residence before a court if the applicant so requests within 4 weeks after the applicant has been informed about the decision.

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

**40.** (1) The 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 an agreement has not been reached regarding custody or place of residence. The 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 State Administration.

(2) Upon request by one of the parties, the State Administration concludes a case and brings it before the court if

- 1) the parties have been counselled at a meeting at the State Administration without reaching an 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 mediation, or if the child welfare counselling or family mediation has ended without an agreement being reached, or
- 2) the party in question has attended a meeting whereas the other party has failed to appear despite being summoned twice.

(3) In special circumstances, upon request, the State Administration can conclude the case and bring it before the court although the conditions of paragraph (1) or (2) have not been met.

*Appeals etc.*

**41.** (1) In accordance with the provisions of this Act, decisions made by the State Administration can be appealed to the National Social Appeals Board, but see paragraphs (2), (3) and (5).

(2) An appeal about a temporary decision on custody or the child's place of residence under section 26 or a decision about change thereof under section 30 is rejected if the case about custody or the child's place of residence has been brought before the court under section 40.

(3) Decisions made according to section 37, decisions to reject an application on the change of custody or the child's place of residence under section 39(1), decisions under section 40(1) and (2), decisions to meet an application under section 40(3), and decisions on the rejection to deal with a case on custody or the child's place of residence under section 46(2), see paragraph (1), cannot be appealed.

(4) In cases about custody or the child's place of residence, which can be brought before the court under section 37, section 39(2), section 40 or section 46(2), the administrative procedure of the State Administration can be appealed to the National Social Appeals Board.

(5) The non-custodial parent may appeal a decision under section 23(2) to the State Administration. This does not apply to decisions made by the healthcare system, however. The decision of the State Administration cannot be brought before a higher administrative authority. On application, however, the National Social Appeals Board can decide to process a case if the case is deemed to have fundamental or significant value.

**41 a.** (1) In the National Social Appeals Board's processing of cases under this act, part 9 and sections 68 and 70 of the Consolidation Act on Legal Protection and Administration in Social Matters apply.

*Powers*

**42.** (1) The Minister for Children and Social Affairs may lay down rules

- 1) for the processing of cases about custody, the child's place of residence, access etc.,

- 2) for the processing of cases regarding the transport of the child in connection with access, including the parents' payment of the related costs,
- 3) about substitute access,
- 4) about supervised access,
- 5) about the notification of custody agreements,
- 6) about child welfare counselling, child welfare consultations, expert assessments of parents and mediation and
- 7) about the processing of appeals.

## Part 7

### *Work agreements*

**43.** (1) If a child or young person who are under custody, see 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.** (1) 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 at an appropriate period of notice and, where reasonable, compensation should be made to the other party.

## Part 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, access and other forms of contact. Such agreements will apply in this country following the publication of a notice in the Law Gazette ("Lovtidende").

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

(3) The Minister for Children and Social Affairs may lay down rules governing the processing of cases under this Act which fall within the scope of 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 Child Protection Convention).

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

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

## Part 9

### *Commencement etc.*

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

(2) The Act on Custody and Access, cf. Consolidation Act No. 39 of 15 January 2007, is repealed.

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

**49.** (1) 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 deviations as follow from the special circumstances in the Faroe Islands and Greenland.