

## Act on Social Supervision

BE IT KNOWN that We, Margrethe the Second, by the Grace of God, Queen of Denmark, do hereby proclaim:

The Folketing has enacted, and We have given Our Royal Assent to the following Act:

### Part 1

#### *Purpose, responsibility and scope*

**1.** The purpose of this Act is to contribute to ensuring that citizens are offered services and initiatives in conformity with the purpose of public and private facilities under the Act on Social Services. This purpose shall be achieved through the systematic, uniform, independent and professionally competent performance of the duty of approving and supervising the operation of facilities.

#### *Responsibilities of social supervisory authorities*

**2.—(1)** Within each region, the municipal council of one of the municipalities shall be responsible for approving and supervising the operation of social facilities, cf. section 4 below. The municipal councils performing this function shall in this Act be referred to as social supervisory authorities.

(2) The municipal council of the following municipalities shall be charged with the duty of approving and supervising the operation of social facilities, cf. section 4 below, which are located within the region, but see subsection (4) hereof:

- (i) City of Frederiksberg in the Capital Region of Denmark.
- (ii) Holbæk Municipality in Region Zealand.
- (iii) Faaborg-Midtfyn Municipality in the Region of Southern Denmark.
- (iv) Silkeborg Municipality in Central Denmark Region.
- (v) Hjørring Municipality in North Denmark Region.

(3) In the municipalities charged with the duty of serving as social supervisory authorities, cf. subsection (2) above, the approval and operational supervision of social facilities etc., cf. section 4 below, shall be performed by one of the other social supervisory authorities:

- (i) The social supervisory authority in the Region of Southern Denmark shall perform the duty in the City of Frederiksberg.
- (ii) The social supervisory authority in the Capital Region of Denmark shall perform the duty in Holbæk Municipality.
- (iii) The social supervisory authority in Region Zealand shall perform the duty in Hjørring Municipality.
- (iv) The social supervisory authority in North Denmark Region shall perform the duty in Silkeborg Municipality.
- (v) The social supervisory authority in Central Denmark Region shall perform the duty in Faaborg-Midtfyn Municipality.

(4) Private facilities within the meaning of section 4(1) hereof which are operated by groups or group-like entities shall fall within the responsibilities of the social supervisory authority in the region where the group has its principal address.

(5) Each social supervisory authority may establish one branch outside the borders of the municipality if warranted by special geographical circumstances.

**3.—(1)** The social supervisory authority may provide

- (i) consultancy and training related to the authority's professional knowledge of supervisory or social work practices to a municipality, region or facility and
- (ii) the performance of tasks after a delegation from the responsible municipal council, cf. section 148a(4) of the Act on Social Services.

(2) At the request of the placing municipality, the social supervisory authority shall state the foster families or municipal foster families who, according to the information of the social supervisory authority, are suitable to accommodate the needs of a child or a young person as specifically assessed by the placing municipality.

#### *Scope*

**4.—(1)** The social supervisory authority shall approve and supervise the operation of the following social facilities:

- (i) Foster families and municipal foster families pursuant to section 66(1)(i) and (ii) of the Act on Social Services.
- (ii) Residential facilities pursuant to section 66(1)(v) and (vi) and sections 107-110 of the Act on Social Services and drug misuse treatment facilities pursuant to section 101 of the Act of Social Services.
- (iii) Services in the form of assistance and support pursuant to sections 83-87, 97, 98 and 102 of the Act on Social Services where

- (a) the services shall be provided to residents in assisted living accommodation or similar types of accommodation pursuant to other provisions than those specified in paragraph (ii) above, where citizens have been found eligible by the municipal council for such accommodation, excluding private care dwellings;
- (b) assistance is provided from service areas connected with the accommodation and by a permanent staff,
- (c) the services to the resident mainly comprise support pursuant to section 85 of the Act on Social Services; and

(d) the services are targeted at persons resident in the accommodation due to impairment of physical or mental function or special social problems.

(2) The social supervisory authority shall decide whether the specific service or facility is subject to approval and operational supervision pursuant to subsection (1)(iii) hereof or by supervision pursuant to section 151 of the Act on Social Services.

## Part 2

### *Duties of the social supervisory authority*

#### *Approval*

**5.—**(1) The social supervisory authority shall, upon application, decide to approve social facilities, etc. as generally suitable, cf. section 4 hereof, on the basis of an assessment of whether the facilities in general satisfy the conditions for approval, cf. sections 6 and 12-8 below.

(2) Approval pursuant to subsection (1) hereof is a condition for the facilities to be included in the range of municipal facilities, cf. section 4(3) of the Act on Social Services.

(3) The social supervisory authority may, when special circumstances so warrant, decide that unapproved facilities to which the municipal council has referred citizens for a period of up to three weeks, cf. section 4(4) of the Act on Social Services, may be used for an additional period of three weeks.

(4) The social supervisory authority may, in connection with the approval pursuant to subsection (1) hereof, lay down particular conditions, the satisfaction of which is a condition for continued approval. The social supervisory authority may assign a deadline to a condition.

(5) The social supervisory authority may decide to withdraw the approval of a facility if the facility no longer satisfies the conditions for approval, cf. section 6 below.

(6) The approval will lapse if the facility has not been used for the approved purpose for a continuous period of two years, the period, however, being three years for foster families and municipal foster families, cf. section 66(1)(i) and (ii) of the Act on Social Services.

(7) In connection with the approval of foster families and municipal foster families, cf. section 66(1)(i) and (ii) of the Act on Social Services, the social supervisory authority shall invite the foster family to attend a foster parenting course.

(8) The Minister for Social Affairs and Integration may lay down rules on the planning of the approval and on the obligations of the social supervisory authority in connection with the approval.

**6.—**(1) To be eligible for approval, social facilities shall, following an overall assessment, meet the required quality standards.

(2) The quality of facilities shall be assessed on the following themes:

- (i) Education and employment.
- (ii) Autonomy and relations.
- (iii) Target groups, methods and results.
- (iv) Organisation and management.
- (v) Skills and competencies.
- (vi) Finances.
- (vii) Physical framework.

(3) The Minister for Social Affairs and Integration shall lay down rules governing the assessment of the quality of the facilities, including by establishing criteria and indicators for each of the quality themes, cf. subsection (2) hereof.

#### *Operational supervision*

**7.—**(1) The social supervisory authority shall supervise the operation of social facilities to ensure that the facilities continue to meet the required quality standards, cf. section 6 above. The social supervisory authority shall, as part of the operational supervision, ensure compliance with the quality standards of the facility and enter into dialogue with the facility for the purpose of maintaining and developing the quality of the facility.

(2) In exercising its supervision, the Social supervisory authority shall obtain relevant information and

- (i) make announced and unannounced visits to the facility,
- (ii) obtain information from the facility, including the most recent annual report of the facility, cf. section 12(3) below;
- (iii) obtain information about the facility from the municipalities responsible for the stay of the individual citizens in the facility pursuant to the Act on Social Services, cf. sections 9-9b of the Act on Legal Protection and Administration in Social Matters; and
- (iv) obtain information from staff and citizens at the facility and from other relevant persons.

(3) The social supervisory authority shall, as part of the operational supervision, visit all facilities comprised, cf. section 4, at least once a year. The social supervisory authority shall make a specific assessment of the need for number of visits to each facility.

(4) The Minister for Social Affairs and Integration shall lay down rules on the aspects to be included in the operational supervision.

**8.—**(1) The social supervisory authority shall decide to increase supervision when the circumstances in the individual facility so warrant. A decision to increase supervision shall be made for three months at a time and be stated in the Social Services Gateway. In the context of a decision to increase supervision, the social supervisory authority shall issue an enforcement order, cf. subsection (2) hereof.

(2) The social supervisory authority shall decide to issue an enforcement order where compliance is a condition for continued approval. The social supervisory authority shall fix a deadline for compliance with an enforcement notice.

(3) The Minister for Social Affairs and Integration shall lay down rules governing when increased supervision may be implemented and when enforcement notices may be issued.

**9.—**(1) The social supervisory authority shall prepare an annual report on the quality of the facilities. The conclusions of the report shall be included in the discussions on the framework agreement in the social services area and the area of social housing for the elderly concluded every year by the municipal councils of the region and the regional council, cf. section 6 of the Act on Social Services.

(2) The Minister for Social Affairs and Integration shall lay down rules on the aspects to be accounted for in the annual report.

**10.** If the social supervisory authority becomes aware of any matters of concern in a facility, the social supervisory authority shall notify the municipalities responsible for the stay of the individual citizens in the facility pursuant to the Act on Social Services, cf. sections 9-9b of the Act on Legal Protection and Administration in Social Matters when such matters may affect the citizens.

**11.—**(1) The social supervisory authority shall have a telephone number and an email address to which the staff, residents and relatives of a facility can anonymously provide information about matters of concern in the facility. The social supervisory authority shall inform the residents and staff of the possibility of contacting the social supervisory authority under this provision.

(2) Authorities and persons performing duties under subsection (1) hereof and any person who provides assistance to the performance of such duties shall, pursuant to sections 152-152e, observe a duty of confidentiality with respect to any information received in the course of their activities. Section 152f of the Danish Criminal Code shall apply correspondingly.

(3) The social supervisory authority may not disclose to the facility or any other person or entity that it has received information pursuant to subsection (1) hereof.

### Part 3

#### *Facilities*

##### *Duty of disclosure of the facilities*

**12.—**(1) Facilities applying for approval pursuant to section 5 shall, for the consideration of the application, provide the social supervisory authority with technical, organisational and financial information about the facility as requested by the social supervisory authority.

(2) Any facility approved under section 5 above shall

(i) of its own initiative notify the social supervisory authority of any material changes to the approval basis,

(ii) on request, provide the social supervisory authority with information about the municipalities charged with the responsibility of providing assistance to citizens resident at the facility, cf. sections 9-9b of the Act on Legal Protection and Administration in Social Matters; and

(iii) on request, provide the social supervisory authority with the information necessary for the social supervisory authority to perform the operational supervision.

(3) Facilities comprised by section 4(1)(ii) and (iii) and approved under section 5 shall prepare an annual report on the activities of the facility.

(4) The Minister for Social Affairs and Integration shall lay down rules on the duty of disclosure of the facilities pursuant to subsections (1)-(3) hereof.

##### *Bylaws of facilities*

**13.—**(1) Private facilities which are not organised as sole proprietorships shall have bylaws.

(2) The bylaws shall include:

(i) Specification of name, registered office and objects.

(ii) Equity at the time of establishment and how it is paid up (cash or non-cash).

(iii) Appointment of management and management's duties, responsibilities and powers towards third parties.

(iv) Rules governing liability for debts.

(v) Rules governing the facility's approach to budgeting, accounting and auditing procedures.

(vi) Procedures for amending the bylaws.

(vii) Rules governing the deployment of capital in the event of dissolution.

(viii) Rules governing the composition of the board of directors.

(3) The social supervisory authority shall ensure that the bylaws meet the requirements of subsection (2) hereof.

*Board of directors of the facilities*

**14.**—(1) The principal of private facilities, his/her spouse or any persons related to the said persons by consanguinity or affinity in the direct line of ascent or descent or in the collateral line as close as siblings shall not constitute the majority of a board of directors. The board of directors shall be composed in such a way that at least one member is independent of the principal of the facility, and the principal shall not be entitled to vote at meetings of the board of directors.

(2) The social supervisory authority shall only approve facilities established as public limited companies (A/S) or private limited companies (ApS) if the company has a board of directors satisfying the conditions of subsection (1) hereof.

*Facilities established as foundations*

**15.**—(1) In respect of facilities established as foundations exempted from the Act on Foundations and Certain Associations and the Act on Commercial Foundations, the approval shall specify that the accommodation facility or treatment facility has been lawfully established pursuant to the Act on Social Services.

(2) The social supervisory authority shall approve the bylaws of facilities established as foundations.

(3) The bylaws shall be approved if a clear dividing line exists between the finances of the founder and the finances of the foundation and if the social supervisory authority finds that the provisions of the bylaws on deployment of the assets of the foundation in the event of dissolution are in accordance with the objects of the foundation.

(4) Material amendments to the bylaws and dissolution of the foundation shall be subject to approval by the Civil Affairs Agency.

(5) The supervision by the social supervisory authority of facilities established as foundations exempted from the Act on Foundations and Certain Associations shall include supervision of

(i) whether the financial transactions of the foundation are in accordance with the bylaws and the approval basis; and

(ii) whether the foundation meets the statutory requirements on financial reporting and auditing.

(6) The social supervisory authority shall notify the Civil Affairs Agency, cf. section 4, in the event of the dissolution of a facility established as a foundation.

*Budgets of the facilities*

**16.**—(1) Facilities within the meaning of 4(1)(ii) and (iii) above which apply for approval or which have been approved shall, as a basis for approval and operational supervision under this Act, prepare a budget for the performance of their duties under the Act on Social Services to be approved by the social supervisory authority.

(2) In respect of private groups or group-like entities, cf. section 2(4), a budget shall be prepared, cf. subsection 1, for both the individual facility and the group as a whole. Such budgets shall include the cash flows between the individual entities of the group. The approval of the budget, cf. subsection (1) hereof, is subject to the transactions between the facility and other entities in the group being settled on an arm's length basis.

(3) The Minister for Social Affairs and Integration may lay down rules governing the preparation and approval of the budget.

*Financial statements of the facilities*

**17.**—(1) Private facilities approved under section 5 above shall present financial statements in accordance with the provisions of Title II of the Financial Statements Act, unless otherwise stipulated in special rules. If the balance sheet total, net revenue and average number of employees exceed the limits laid down in section 4 of the Financial Statements Act, the financial statements shall be presented in accordance with Title III of the Financial Statements Act.

(2) The social supervisory authority may specify further requirements for the financial reporting of the individual facility if, in special cases, this is deemed necessary to ensure adequate transparency in the finances of the facility.

**18.**—(1) The financial statements of private facilities as specified in section 4(1)(i) and (ii) above shall be audited by an approved auditor. The audited financial statement shall be submitted to the social supervisory authority for informative purposes.

(2) The audit shall verify whether the financial statements are correct, whether the transactions comprised by the financial reporting are in accordance with the licences granted and with acts, other regulations, agreements concluded and general practice and whether due financial care has been exercised in the management of the funds and in the operation of the facilities covered by the financial statements.

(3) At the request of the social supervisory authority, the auditor of the facility shall provide information about matters considered in connection with the audit which are relevant for the assessment by the social supervisory authority of whether the conditions for approval have been met. The auditor shall notify the social supervisory authority if, during the audit, the auditor becomes aware of any matters giving rise to doubt as to whether the conditions for the approval have been met.

(4) The Minister for Social Affairs and Integration may lay down rules governing the planning and content of the audit.

*Right of appeal of the facilities*

**19.**—(1) Pursuant to this Act, the decisions of the social supervisory authority may be appealed by the facilities or authorities to which the decisions of the social supervisory authority are addressed pursuant to Part 10 of the Act on Legal Protection and Administration in Social Matters.

*Disclosure of information by the facilities*

**20.** A facility may disclose information to the social supervisory authority without the consent of the citizen when such disclosure is necessary for the operational supervision.

Part 4

*Cooperation, Social Services Gateway and financing*

*Cooperation*

**21.** The Minister for Social Affairs and Integration may lay down rules governing the communication between the social supervisory authority, the facilities, the municipalities and the National Board of Health and Welfare. In this connection, the Minister may lay down rules specifying that communication shall be digital and that specific IT systems, particular digital formats and digital signature, etc. shall be used. Furthermore, the Minister may lay down rules exempting facilities from digital communication in whole or in part when special circumstances so warrant.

*Social Services Gateway*

**22.**—(1) The National Board of Health and Welfare shall register information in the Social Services Gateway, cf. section 14 of the Act of Social Services, about facilities covered by section 4(1).

(2) Such information shall include

(i) approval of a facility;

(ii) the current status of the facility in terms of the approval, including information about any terms, enforcement notices and increased supervision; and

(iii) the outcome of the supervision of a facility.

(3) The Minister for Social Affairs and Integration shall lay down rules on the registrations pursuant to subsection (1).

*Financing the social supervisory authority*

**23.**—(1) The operation of the social supervisory authority shall be financed by the municipalities based on objective criteria, cf. subsection (2) below and by charging cost-based tariffs for approval and operational supervision, cf. subsection 3.

(2) The tasks relating to the approval and supervision of generally approved foster families and municipal foster families, cf. section 1(1)(i), shall be financed by the municipalities in each region based on objective criteria.

(3) In respect of the tasks relating to the approval and supervision of facilities pursuant to section 4(1)(ii) and (iii) above, the social supervisory authority shall determine tariffs for approval and tariffs for supervision to be charged from the facilities. The tariffs shall be differentiated based on the size of the facility and the extent of the supervision, and a special tariff shall be determined for the approval of material changes to existing approvals.

(4) When the social supervisory authority performs tasks for municipalities, regional councils or facilities other than the tasks specified in subsection (2), the costs of such tasks shall be payable by the relevant authority, regional council or facility on the basis of the specific agreement.

(5) In 2014 and 2015, the social supervisory authority may include in the objective financing share the costs of establishing the supervisory activities paid before the commencement of the Act.

(6) The Minister for Social Affairs and Integration shall lay down rules governing the financing, including charging and calculation of financing shares and recognition of establishment costs, cf. subsection 5.

Part 5

*Duties of the National Board of Health and Welfare in connection with the social supervision*

**24.**—(1) The National Board of Health and Welfare shall regularly monitor the social supervision practice, including random checks, and provide support for the supervision and approval process in the form of guidance and material, etc. The National Board of Health and Welfare shall prepare an annual report on the activities of the National Board of Health and Welfare.

(2) At the request of the National Board of Health and Welfare, the social supervisory authorities shall obtain and submit any information requested by the National Board of Health and Welfare.

Part 6

*Commencement and transitional provisions*

**25.** This Act shall come into force on 1 January 2014.

**26.**—(1) Foster families and municipal foster families approved as generally suitable at the time of the commencement of the Act and facilities comprised by section 4(1)(ii) above which were admitted to the Social Services Gateway at the time of the commencement of the Act shall be approved under the provisions of this Act before 1 January 2016. Facilities as specified in section 4(1)(iii) above which were included in the range of municipal facilities at the time of the commencement of the Act shall be approved under the provisions of this Act before 1 January 2016. The approval shall be made on the initiative of the social supervisory authority or subject to application from the individual facility.

(2) Social facilities comprised by section 4 above shall be subject to operational supervision, cf. section 7, from the commencement of the Act. The operational supervision of facilities comprised by section 4(1)(iii) shall, however, remain the responsibility of the municipality of location pursuant to section 151 of the Act on Social Services until the National Board of Health and Welfare has decided whether the specific facility is comprised by section 4(2) above. The inspection carried out in connection with the approval of a facility pursuant to the provisions of this Act in the period from the date of commencement until 1 January 2016 shall meet the requirement for at least one annual visit pursuant to section 7(3) for the year in question.

**27.**—(1) As of 1 January 2014, the municipalities specified in section 2(2) shall take over the employees which, in the region or in the municipalities of the region, are solely or mainly engaged in the performance of the tasks and duties transferred to the municipalities specified in section 2(2).

(2) The duties and rights provided for under the Act on Employees' Rights in the event of Transfer of Undertakings shall apply correspondingly to any staff members who are employed subject to a collective agreement, provisions on pay and working conditions laid down or approved by a public authority, or individual agreements, and who, in connection with the transfer pursuant to subsection (1) hereof are not covered by the Act on Employees' Rights in the event of Transfer of Undertakings.

(3) Public servants are obliged to follow the tasks and duties to the new employer authority and on terms and conditions corresponding to the prior terms and conditions. The new employer authority shall pay the aggregate public servants pension whereas the pension burden shall be divided proportionately between the two employer authorities.

**28.** This Act shall not extend to the Faeroe Islands and Greenland.

*Given at Christiansborg Palace on 12 June 2013*

Under Our Royal Hand and Seal

MARGRETHE R.

/ Karen Hækkerup