

Act No. 572, 19 December 1985.

THE DANISH ACCESS TO
PUBLIC ADMINISTRATION FILES ACT.

Ministry of Justice,
Copenhagen, 1987.

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The Danish Access to Public Administration Files Act

We, Margrethe the Second, by the Grace of God Queen of Denmark,
Do Hereby Make Known:

The Folketing has passed and We by Our Assent have affirmed the below Act:

Part 1.

General Scope of the Act.

1.-(1) This Act shall apply to all activity exercised by the public administration, subject to the provisions of Sections 2 and 3 of this Act.

(2) This Act shall further apply to

1° any public utility generating, transmitting, or distributing electricity at voltages of 500 volts or more.

2° Any company, partnership, institution, association etc. carrying on the business of natural gas suppliers.

3° Any collective district heating plant falling under the Danish Heating Act and having a capacity of 10 MJ/s or more.

(3) Upon consultation with the Minister for Justice, the minister concerned may by Order provide that this Act shall apply also to specified companies, partnerships, institutions, associations etc. that cannot be classified as part of the public administration, provided that the operating expenses of such entities are mainly covered by central or local government funds or to the extent that by or pursuant to statutory provision they are empowered to make decisions on behalf of central or local governments. The minister concerned may under this provision lay down more detailed rules on filing etc. of documents.

2.-(1) This Act shall not apply to matters relating to criminal justice. Only the provisions of Section 6 of this Act shall apply to matters of appointment or promotion of public servants.

(2) This Act shall apply to matters relating to the making of laws, including any Act for the purpose of appropriations, subject to the Bill in question having been introduced in the Folketing.

3.-(1) Upon consultation with the Minister for Justice, the minister concerned may by Order provide that specified authorities or fields of administrative responsibility or types of documents in respect of which the provisions of Sections 7-14 of this Act will generally cause rejection of requests for disclosure, shall be exempt from the provisions of this Act.

(2) The Minister concerned may by Order provide that, after a specified term of years, right of access shall be granted in respect of specified documents that otherwise are not subject to the right of access to administration files as provided by this Act.

Part 2.

Right of Access to Administration Files.

4.-(1) Subject to the exceptions listed in Sections 7-14 of this Act, any person may demand that he be apprised of documents received or issued by an administration authority in the course of its activity. An administration authority may allow wider access to documents save where this is not allowed under the rules on secrecy etc.

(2) Subject to the exceptions listed in Sections 7-11 and 14 of this Act, any person whose personal circumstances are referred to in a document may demand that he be apprised of such references. This right does not apply where the considerations referred to in Section 13 of this Act or consideration for the person requesting disclosure or for others are of overriding importance.

(3) Any request made under the provisions of subsections (1) and (2) of this Section shall specify the documents or the matter that the person requesting disclosure wants to be apprised of.

5.-(1) The right of access to administration files shall apply to

- 1^o all documents relating to the matter in question, including duplicate copies of letters issued by the authority concerned, provided that such letters must be assumed to have reached the addressee; and
- 2^o entries in journals, registers, and other lists relating to the documents of the matter in question.

(2) The right of access to administration files shall not apply to registers or other systematic records processed electronically, with the exception of the records referred to in head 2^o of subsection (1) of this Section.

(3) The minister concerned may by Order provide for public access to information stored in electronic data banks etc. to which the Danish Public Authorities' Registers Act does not apply. Such Order may give rules on fees payable.

Duty to Make Notes etc.

6.-(1) In any matter to be decided by an administration authority, an authority receiving information by word of mouth on facts of importance to the decision or in other manner having notice of such facts, shall make a note of the substance of such information, always provided that such information is not contained in the documents of the matter.

(2) In respect of specified fields of administration activity, the Minister for Justice may by Order lay down rules on filing etc. of data processed or transmitted electronically.

(3) Upon consultation with the Minister for Justice, the minister concerned may by Order lay down rules on the duty to make notes in specified groups of matters of administration activity other than that referred to in subsection (1) of this Section.

Part 3.

Exceptions to the Right of Access to Administration Files.

Exempt Internal Case Material.

7. The right of access to administration files shall not apply to an authority's internal case material. Internal case material shall be deemed to be

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

8. Without prejudice to the provision of Section 7 of this Act, the right of access to files shall comprise internal case material available in final form where such documents

- 1^o render exclusively the substance of the authority's final resolution on its decision in a matter;

- 2^o render exclusively information that the authority was in duty bound to make a note of pursuant to the provision of Section 6 of this Act;
- 3^o are self-contained instruments prepared by an authority for the purpose of producing evidentiary or other clarity with respect to the facts of a matter; or
- 4^o contain general guidelines for the consideration of specified classes of matters.

9.-(1) Irrespective of the provision of Section 7 of this Act, any person on whose health a hospital case record has been prepared shall be entitled to access to that record.

(2) The right of access as aforesaid may be limited to the extent it is thought proper that the person's interest in access must yield to overriding consideration for the person himself or for other private interests.

Other Exempt Documents.

10. The right of access shall not apply to:
- 1^o Records of meetings of the Council of State; minutes of meetings of ministers, and documents prepared by an authority for use at such meetings.
 - 2^o Correspondence between ministries relating to the making of laws, including Appropriation Bills.
 - 3^o Documents prepared in connection with consideration of proposals for adoption by the European Community or relating to interpretation and construction of or compliance with EC rules.
 - 4^o Documents exchanged in connection with the secretarial function of one authority on behalf of another authority.
 - 5^o Correspondence between authorities and outside experts for use in court proceedings or in deliberations on possible legal proceedings.
 - 6^o Material gathered for the purpose of public statistics or scientific research.

Disclosure of Factual Information.

11.-(1) Where factual information, in documents within the provisions of Section 7 and of heads 1^o-5^o of Section 10 of this Act, is of material importance to the matter in question, such information shall, regardless of the aforesaid provisions, be disclosed pursuant to the general provisions of this Act.

(2) Upon consultation with the Minister for Justice, the minister concerned may by Order provide that the duty provided for by subsection (1) of this Section shall not apply to specified groups of factual administration activity.

Exempt Information.

12.-(1) The right of access to administration files shall not apply to

- 1^o information on the private circumstances of individual persons, including their finances;
- 2^o information on technical plant or processes or on operating or business procedures or the like, provided it is of material importance to the economy of the person or enterprise that grant of the request be refused.

(2) Where the provisions of subsection (1) of this Section apply to only part of a document, the person requesting disclosure shall be apprised of the rest of the contents of that document.

13.-(1) The right of access to administration files may be subject to limitation where protection is essential with regard to

- 1^o the security of the State or the defence of the realm;
- 2^o protection of Danish foreign policy or of Danish external economic interests, including relations with foreign powers or international institutions;
- 3^o prevention and clearing-up of any infringement of the law, prosecution of offenders, execution of sentences and the like, and protection of persons accused, of witnesses or others in matters of criminal or disciplinary prosecution;
- 4^o implementation of public supervision, control, regulation, or planning activities, or of measures planned under taxation law;
- 5^o protection of public financial interests, including interests relating to public commercial activities; or
- 6^o protection of private or public interests where secrecy is required because of the special nature of the matter.

(2) Where the provisions of subsection (1) of this Section apply to only part of a document, the person requesting disclosure shall be apprised of the rest of the contents of that document.

Right of Access to Administration Files in Relation to Secrecy.

14. The duty to disclose information is limited by special provisions on duty of secrecy laid down by or pursuant to Statute and applying to any person employed as a public servant or elected to public office. This provision is subject to the general duty of secrecy under the provisions of the Danish Criminal Code, the Danish Public Administration Act, and the statutory rules applying to public servants.

Part 4.

Consideration of and Decision on
Requests for Access to Administration Files.

15.-(1) Where request is made for disclosure of documents forming part of a matter in which a decision has been or will be made by an administration authority, that authority shall decide on the granting or rejection of the request. Otherwise, any request for disclosure shall be decided by the administration authority possessed of the document.

(2) In respect of a decision made on a request for disclosure, separate appeal shall lie to the authority otherwise empowered to hear appeals from the consideration given to or the decision made in the matter to which the request for disclosure is related.

(3) The minister concerned may by Order lay down rules derogating from the provisions of subsections (1) and (2) of this Section.

16.-(1) The authority concerned shall as soon as possible decide if a request may be granted and whether the person requesting disclosure shall be apprised of the documents by allowing him inspection of the documents at the office where they are filed or by delivery of a transcript or an office copy.

(2) Where grant or rejection of a request for disclosure has not been made within ten days of its receipt by the authority concerned, that authority shall inform the person requesting disclosure of the reason why and of the date when a decision may be expected to be forthcoming.

(3) The Minister for Justice shall by Order lay down rules on fees payable for transcripts and office copies.

Part 5.

Commencement.

Other Statutory Provisions Etc.

17.-(1) This Act shall come into operation on 1 January 1987.

(2) The Public Access to Administrative Information Act No. 280, 10 June 1970, is hereby repealed.

(3) This Act shall not apply to documents issued or received by an authority before 1 January 1971, always provided that facts set out in such documents shall be subject to disclosure under the provisions of this Act if such documents have been included in a matter that has been or is being considered by an administration authority after 1 January 1971 and the information has been or is of relevance to such matter. The provision of head 4^o of Section 8 of this Act shall apply to documents used after 1 January 1987. The provision of Section 9 of this Act shall apply to hospital case records prepared after 1 January 1987 and to entries made after 1 January 1987 in hospital case records dating from before that date. The right of access to administration files pursuant to the provision of subsection (2) of Section 1 of this Act shall not apply to documents issued or received before 1 January 1987 by the companies, partnerships, institutions, associations, etc. listed in that provision.

(4) Provisions of other Acts on the right to be apprised of documents filed with public administration authorities shall be retained even if the scope of such provisions is narrower than that provided by this present Act.

18. This Act shall not apply to matters relating to Faeroese or Greenlandic affairs. This Act may by Royal Decree be made to apply to such matters, subject to such modifications as circumstances peculiar to the Faeroe Islands and Greenland may require. This provision shall however apply only to matters that have been or are being considered by National Government Authorities.

Given at Amalienborg Palace,

this nineteenth day of December One thousand nine hundred and eighty-five.

Under Our Royal Hand and Seal,

MARGRETHE R.

/ Erik Ninn-Hansen

