

# The Ombudsman Act

Act No. 473 of 12 June 1996 concerning the Ombudsman as amended by Consolidated Act No. 556 of 24 June 2005, Consolidated Act No. 502 of 12 June 2009, Consolidated Act No. 568 of 18 June 2012 and Consolidated Act No. 349 of 22 March 2013

## Chapter I Election, dismissal, etc.

1. (1) Following each general election and when a vacancy occurs, the Folketing (the Danish Parliament) shall elect an Ombudsman.

(2) The Ombudsman's total term of office cannot exceed 10 years.

(3) Following a general election or expiry of the Ombudsman's term of office, the Ombudsman will remain in office until the Folketing has elected a new ombudsman and the newly elected Ombudsman has taken up the post. The Folketing shall, however, elect an ombudsman no later than 6 months after a general election or the expiry of the Ombudsman's term of office.

(4) In the event of the death of the Ombudsman, the Folketing's Legal Affairs Committee shall determine who shall carry out the functions of the Ombudsman until the Folketing has elected a new Ombudsman.

2. (1) The Ombudsman shall not be a member of the Folketing, a municipal council or a regional council.

(2) The Ombudsman shall be a law graduate.

3. If the Ombudsman ceases to enjoy the confidence of the Folketing, it may dismiss him.

4. (1) Giving six months' notice, the Ombudsman may tender his resignation, effective from the end of a month.

(2) The Ombudsman shall retire at the end of the month in which he attains the age of 70.

5. (1) The Folketing shall determine the salary of the Ombudsman. The Ombudsman shall be entitled to supplementary remuneration and pension under provisions corresponding to those of Sections 3-5 of the Remuneration and Pension of Ministers Act.

(2) In lieu of receiving supplementary remuneration and pension calculated in accordance with Section 5 of the Remuneration and Pension of Ministers Act, the Ombudsman may request that the pension is calculated in accordance with provisions corresponding to those applying to public servants working at the Folketing, cf. Section 1(2) of the Pension of Public Servants Act, and so that the Ombudsman's term of office is included in the total pensionable term of service.

6. (1) If the Ombudsman has to retire without notice, he shall retain his salary for three months from the end of the month in which he retires. If the Ombudsman dies before the expiry of that period, any salary outstanding at the time of his death shall be payable to his spouse or, if he leaves no spouse, to any of his children who are entitled to children's pension.

(2) For the duration of the period of entitlement to salary, supplementary remuneration or

pension shall not be paid.

(3) Section 3(2) of the Remuneration and Pension of Ministers Act shall apply by analogy to the salary payable under Subsection (1) of this Section.

(4) Section 4(1), Section 5(1)(ii) and (2), and Section 6(1-3) may be dispensed from by agreement between the Ombudsman and the Speaker of the Folketing.

## Chapter 2 The jurisdiction of the Ombudsman

7. (1) The jurisdiction of the Ombudsman shall extend to all parts of the public administration. The jurisdiction of the Ombudsman shall also extend to the conditions of persons deprived of their liberty in private institutions, etc. where they have been placed either in pursuance of a decision made by a public authority, at the recommendation of a public authority, or with the consent or approval of a public authority. In addition, the Ombudsman's jurisdiction shall extend to the conditions of children in private institutions, etc. which are responsible for tasks directly related to children.

(2) The jurisdiction of the Ombudsman shall not extend to the courts of justice.

(3) The Ombudsman shall not consider complaints against boards which in a satisfactory way make decisions on disputes between private parties, even if the board concerned in other contexts is regarded as part of the public administration.

(4) If companies, institutions, associations, etc. legally or administratively fully or partly are subject to the rules and principles applicable to the public administration, the Ombudsman may determine that his jurisdiction shall extend to those bodies to the same extent.

8. When assessing municipalities and regions, the Ombudsman shall take account of the special conditions under which these authorities function.

9. The jurisdiction of the Ombudsman shall extend to the National Church, except in matters which directly or indirectly involve the tenets or doctrines of the Church.

## Chapter 3 The relationship with the Folketing

10. The Ombudsman shall be independent of the Folketing in the discharge of his functions. The Folketing shall lay down general rules governing the activities of the Ombudsman.

11. (1) The Ombudsman shall submit an annual report on his work to the Folketing. This report shall be made public.

(2) If the Ombudsman gives notice of a case to the Folketing, a Minister, a municipal council or a regional council, cf. Section 24, or if he includes a case in his annual report, the notification or the report shall state what the authority or person concerned cited in defence.

12. If any deficiencies in existing laws or administrative regulations come to the attention of the Ombudsman in particular cases, he shall notify the Folketing and the responsible Minister thereof. In the case of deficiencies in bylaws laid down by a municipal council or a regional council, the Ombudsman shall notify the municipal or regional council concerned.

(2) In the course of his activities, the Ombudsman shall monitor that existing legislation or administrative regulations are consistent with, in particular, Denmark's international

obligation to ensure the rights of children, including the UN Convention on the Rights of the Child. If the Ombudsman becomes aware of deficiencies, he shall notify the Folketing and the relevant Minister thereof. In the case of deficiencies in regulations laid down by a municipality or a region, he shall notify the municipal or regional council thereof.

## Chapter 4 Lodging a complaint

13. (1) Any person may lodge a complaint with the Ombudsman against the authorities referred to in Sections 7-9. Any person deprived of his personal liberty shall be entitled to send a letter to the Ombudsman in a sealed envelope.

(2) Complainants shall state their name.

(3) A complaint shall be lodged not later than twelve months after the grievance took place.

(4) In special circumstances, the Ombudsman may extend the deadline laid down in Subsection (3) of this Section.

14. A complaint concerning matters which may be appealed to another administrative authority cannot be lodged with the Ombudsman until that authority has made a decision in the matter.

15. Complaints about the treatment of persons deprived of their personal liberty through any procedure other than the administration of criminal justice shall be referred to the Supervisory Board in accordance with Section 71(7) of the Constitution. The Supervisory Board may invoke the assistance of the Ombudsman in the consideration of such complaints if the latter are made against any person falling within his jurisdiction.

16. (1) The Ombudsman shall determine whether a complaint offers sufficient grounds for investigation.

(2) If a complaint gives the Ombudsman no occasion for criticism, recommendations, etc., the case may be closed without being submitted by the Ombudsman to the authority concerned for a statement, cf. section 20(1).

## Chapter 5 Own-initiative investigations and inspection

17.(1) The Ombudsman may take up a matter for investigation on his own initiative.

(2) The Ombudsman may undertake general investigations of an authority's case processing.

18. The Ombudsman may inspect any institution or company and any place of employment which fall within the jurisdiction of the Ombudsman. In addition to assessments pursuant to Section 21, and on the basis of universal human and humanitarian considerations, the Ombudsman may in connection with such an investigation assess matters concerning the organisation and operation of an institution or authority and matters concerning the treatment of and activities for users of the institution or authority..

## Chapter 6 The case investigation

19. (1) Authorities, etc. which fall within the jurisdiction of the Ombudsman shall be under an obligation to furnish the Ombudsman with such information and to produce such documents, etc. as he may demand.

(2) The Ombudsman may demand written statements from authorities, etc. which fall within his jurisdiction.

(3) The Ombudsman may subpoena persons to give evidence in court on any matter of importance to his investigations. The procedure is subject to the rules laid down in Chapter 68 of the Administration of Justice Act.

(4) The Ombudsman may inspect any place of employment and shall have access to all premises.

(5) If it is deemed necessary, the Ombudsman shall at any time, without a court warrant and upon suitable proof of identity, have access to inspect private institutions, etc. where persons are or may be deprived of their personal liberty, cf. section 7(1)(ii), and private institutions, etc. responsible for tasks directly related to children. If necessary, the police shall assist in carrying out the inspection.

20. (1) The Ombudsman shall not express criticism, make recommendations, etc. until the authority or person concerned has had an opportunity to make a statement.

(2) The Ombudsman may determine that a statement, an explanation or a report, preliminary versions of these, letters submitting a matter to the authorities and the authorities' response to these shall not be subject to disclosure until the day after the final statement, explanation or report has been sent to the authority concerned.

## Chapter 7 Assessment and reaction

21. The Ombudsman shall assess whether authorities or persons falling within his jurisdiction act in contravention of existing legislation or otherwise commit errors or derelictions in the discharge of their duties. In addition, the provision in Section 18 shall apply in connection with the Ombudsman's inspection activities.

22. The Ombudsman may express criticism, make recommendations and otherwise state his views of a case.

23. The Ombudsman may recommend that a complainant be granted free legal aid in connection with any matter falling under his jurisdiction.

24. If the Ombudsman's investigation of a case reveals that the public administration must be presumed to have committed errors or derelictions of major importance, he shall report the matter to the Folketing's Legal Affairs Committee. The Ombudsman shall also report the matter to the minister, municipal council or regional council concerned.

25. Actions brought against the Ombudsman in civil procedure form in consequence of his decisions, statements, etc. may be dismissed at the objection of the Ombudsman.

## Chapter 8 Staff, organisation, competence to act, etc.

26. The Ombudsman shall engage and dismiss his own staff. The number, salaries and pensions of his staff shall be fixed in accordance with the Rules of Procedure of the Folketing. The expenditure incident to the office of Ombudsman shall be charged to the budget of the Folketing.

27. The Ombudsman may order that one of his staff members shall carry out his functions temporarily.

28. The Ombudsman shall observe confidentiality in any matter coming to his knowledge in the performance of his functions, provided that confidentiality is required ipso facto. The staff of the Ombudsman shall be bound by the same obligation.

29. (1) If a case involves circumstances which may give rise to doubt about the impartiality of the Ombudsman, he shall advise the Folketing's Legal Affairs Committee of the matter. The Committee shall determine who shall carry out the Ombudsman's functions.

(2) The Ombudsman shall not, except with the consent of the Folketing's Legal Affairs Committee, hold any office in public or private companies, undertakings or institutions.

30. The appellation ombudsman or any other appellation which may be confused therewith shall not be used except when authorised by an Act passed by the Folketing.

## Chapter 9 Coming into force, etc.

31. (1) This Act shall enter into force on 1 January 1997.

(2) Concurrently the Ombudsman Act shall be repealed, cf. Consolidated Act No. 642 of 17 September 1986, Executive Order No. 48 of 9 February 1962 on practice direction for the Ombudsman, and Section 779 of the Administration of Justice Act, cf. Consolidated Act No. 905 of 10 November 1992, as most recently amended by Section 4 of Act No. 291 of 24 April 1996.

32. Omitted.

33. This Act shall not apply to the Faroe Islands, but may be put into force for the Faroe Islands by Royal Decree subject to such modifications as circumstances peculiar to the Faroese Islands may require.

34. For the Faroe Islands, the Act may subsequently be amended by Royal Decree as rendered necessary by the special Faroese circumstances.

(2) For Greenland, the Act may be amended by Royal Decree as rendered necessary by the special Greenlandic circumstances.