

Proclamation of the Parental Responsibility Act

The Parental Responsibility Act is hereby promulgated, cf. Act No. 499 of 6 June 2007, with the amendments resulting from Section 4 of Act No. 349 of 6 May 2009, Section 3 of Act No. 494 of 12 June 2009, Section 3 of Act No. 628 of 11 June 2010 and Section 1 of Act No. 600 of 18 June 2012.

Chapter 1

Preliminary provisions

§ 1. Children and young people under the age of 18 are under parental authority unless they have entered into marriage.

§ 2. The holder of parental authority must take care of the child and may make decisions about his or her personal circumstances based on the child's interests and needs.

Subsection 2. The child has the right to care and security. He or she must be treated with respect for his or her person and must not be subjected to corporal punishment or other abusive treatment.

Subsection 3. Parents who have custody may use the child's income for the child's maintenance to an appropriate extent and taking into account their and the child's situation.

§ 3. If parents have joint custody, significant decisions regarding the child's situation require agreement between the parents. The parent with whom the child resides may decide on general matters in the child's daily life, including where in the country the child's residence shall be.

Subsection 2. If parents have joint custody and disagree about custody, both must consent to the child leaving the country, including travel to Greenland or the Faroe Islands, or to the child's stay abroad, in Greenland or on the Faroe Islands being extended beyond what was agreed, assumed or stipulated, unless there is a decision pursuant to section 17(1), second sentence, or section 25.

§ 4. Decisions under the law must be made based on what is best for the child.

§ 5. In all matters concerning the child, the child's own views must be taken into account according to age and maturity.

Chapter 2

Custody

Custody holders

§ 6. If parents are married to each other at the time of the child's birth, or if they later marry, they have joint custody.

Subsection 2. If the spouses are separated at the time of the child's birth, the mother shall have sole custody, unless

- 1) the separated man is considered the father of the child by recognition or judgment, or
- 2) the parents have made a declaration pursuant to section 7(1)(1), cf. however section 7(2).

Subsection 3. If the parents were married to each other within the last 10 months before the child's birth, they have joint custody.

§ 7. Parents who are not married to each other have joint custody if

1) they have made a declaration pursuant to section 2(1), section 14(1) or (3) of the Children's Act, or section 19, cf. section 14(1) or (3), that they will jointly take care of and be responsible for the child, or

2) they have entered into an agreement on joint custody pursuant to section 9.

Subsection 2. However, this does not apply if the declaration in subsection 1, no. 1, is made without the conditions in section 448 f of the Administration of Justice Act for dealing with the issue of parental authority in this country being met.

Subsection 3. If a man is considered the father of the child according to recognition or judgment, the parents have joint custody if they have or have had a joint population register address within the last 10 months before the child's birth.

Subsection 4. In cases other than those mentioned in subsections 1-3, the mother has sole custody.

§ 8. If parents have joint custody, this continues even if they have terminated their cohabitation or have been separated or divorced, or their marriage has been annulled.

§ 9. Parents may agree that they shall have joint custody. The agreement must be reported to the state administration in order to be valid. If a case regarding custody has been brought before the court, notification may be made to this office.

§ 10. Parents who have joint custody and who do not live together may agree that one of them shall have sole custody. The agreement must be reported to the state administration in order to be valid. If a case regarding custody has been brought before the court, notification may be made to this office.

§ 11. If parents who have joint custody and who do not live together do not agree on custody, the court shall decide whether the joint custody shall continue or whether one of them shall have sole custody. The court may only terminate the joint custody if there is evidence to suggest that the parents cannot cooperate on the child's situation in the best interests of the child.

§ 12. If an agreement has been made pursuant to § 10 or a decision has been made pursuant to § 11 that one of the parents shall have sole custody, joint custody shall resume if married, including separated, parents resume or continue cohabitation.

Transfer of custody

§ 13. Parents may agree that custody shall be transferred from one parent to the other. The agreement must be reported to the state administration in order to be valid. If a case concerning custody has been brought before the court, notification may be made to this office.

Subsection 2. Parental authority may be transferred to persons other than parents by agreement approved by the State Administration. Parental authority may be transferred to a married couple jointly, including one parent and his or her spouse. If a case concerning parental authority has been brought before the court, the agreement may be approved by the court.

§ 14. The court may, at the request of a parent who does not have custody, decide that there shall be joint custody or transfer custody to the parent.

Subsection 2. The court may amend an agreement pursuant to section 13, subsection 2, or a decision pursuant to section 15.

Death

§ 15. If parents have joint custody and one parent dies, custody remains with the other. If the child does not reside with the surviving parent at the time of death, another person may

request to be granted custody in connection with the death. The request may only be granted if the best interests of the child are against custody remaining with the surviving parent. If the child does reside with the surviving parent at the time of death and the surviving parent caused the death of the other parent, another person may request to be granted custody. The request may only be granted if it is of decisive importance for the child that custody does not remain with the surviving parent.

Subsection 2. If one parent has sole custody and the parent dies, or if death otherwise results in no one having custody, it shall be determined who shall have custody, taking into account what is best for the child. If the surviving parent requests custody, the request shall be granted, unless the best interests of the child are against it.

Subsection 3. If one parent has sole custody and has caused the death of the other parent, the other parent may request to be granted custody. The request may only be granted if it is of crucial importance for the child's sake that custody not remain with the surviving parent.

Subsection 4. Parental authority may be granted to a married couple jointly, including the longest-living parent and his or her spouse.

§ 16. Holders of parental authority may indicate who should have parental authority after their death. However, the priority of the surviving parent under § 15 applies regardless of any indication to the contrary.

Chapter 3

The child's residence and notification

§ 17. If parents have joint custody and they do not agree with whom the child shall reside, this shall be decided by the court. The court may decide that the child may reside with a parent who has or wishes to have residence abroad or in Greenland or the Faroe Islands.

Subsection 2. The court may change an agreement or decision regarding the child's residence.

§ 18. A parent who wishes to change his or her child's residence to another place in this country or abroad must notify the other parent thereof no later than 6 weeks before the move.

Chapter 4

Socializing etc.

Spending time with parents

§ 19. The child's connection with both parents is sought to be preserved by giving the child the right to visitation with the parent with whom he or she does not reside.

Subsection 2. The parents have a joint responsibility for the child having contact with the parent with whom the child does not reside, and for the transport of the child in connection with contact.

Subsection 3. The parent with whom the child does not reside may request access.

Subsection 4. If there is no or only extremely limited access, the parent with whom the child resides may request the state administration to summon the other parent to a meeting regarding access.

Socializing with people other than parents

§ 20. If one parent or both parents are dead, or if one parent is unknown, the state administration may, upon request, determine access to the child's closest relative to whom the child is related.

Subsection 2. If there is no or only extremely limited contact with the parent with whom the child does not reside, the state administration may, upon request, determine contact with the child's closest relative to whom the child is related.

Section 20 a. If the child is adopted, the state administration may, in very special cases, at the request of the child's original relatives, determine access or other forms of contact with them, if prior to the adoption the child had access or other forms of contact with the person requesting the determination of access, etc.

Visitation decisions

Other contact

Section 21. If there is a disagreement about the extent and exercise of access, the state administration may, upon request, make a decision on this and lay down the necessary provisions in connection therewith.

Subsection 2. Visitation is determined based on a specific assessment of the child's circumstances.

Subsection 3. Determination of access may be refused, and an agreement or decision on access may be amended or revoked.

Section 22. In special cases, the state administration may decide on other contact with the child in the form of telephone conversations, exchange of letters, electronic mail, photographs, etc.

Subsection 2. A request for other contact may be submitted by

- 1) a parent with whom the child does not reside, or
- 2) the child's closest relatives, if the conditions in section 20 for determining visitation are met.

Subsection 3. Section 21, subsections 1 and 3, shall apply accordingly.

Orientation about the child, etc.

§ 23. A parent who does not have custody has the right, upon request, to receive information about the child's circumstances from schools, childcare institutions, the social and health services, as well as private hospitals, private practitioners and dentists. This parent also has the right to be given documents about the child's circumstances, if these are available at schools and childcare institutions. Confidential information about the person with custody may not be given.

Subsection 2. The institutions etc. mentioned in subsection 1 may refuse to provide specific information and hand over documents about the child's circumstances if it is assumed that this would be detrimental to the child.

Subsection 3. In special cases, the state administration may, at the request of the holder of parental authority or one of the institutions etc. mentioned in subsection 1, deprive the parent who does not have parental authority of access to information and to be provided with documents pursuant to subsection 1. The decision takes effect from the time the institution etc. receives notification of the decision.

Visitation with children in care

Section 24. The provisions on access and other contact in this Act do not apply if the child is placed outside the home pursuant to Chapter 11 of the Social Services Act. The same applies if the child or young person is staying in an institution or is admitted to hospital during a child professional examination pursuant to Chapter 11 of the Social Services Act.

Decision about traveling abroad

§ 25. Even if there is a disagreement about custody between parents who have joint custody, the state administration may decide that one parent may take the child abroad, to Greenland or the Faroe Islands for a shorter period.

Chapter 5

Interim decisions

Parental authority and the child's residence

Section 26. In a case concerning custody, the authority hearing the case may, upon request, determine who shall have temporary custody or with which of the parents the child shall temporarily reside. In a case concerning the child's residence, it may, upon request, determine with which of the parents the child shall temporarily reside.

Subsection 2. A decision pursuant to subsection 1 shall apply until a final agreement or decision is reached that can be enforced.

Subsection 3. A decision pursuant to subsection 1 shall lapse.

- 1) 4 weeks after the state administration has notified the parties that the case has been concluded, cf. section 40, unless one of them has requested that the case be brought to court before then,
- 2) if the case is withdrawn or dismissed after being brought before the court, or
- 3) if cohabitation is resumed.

Section 27. If parents have joint custody, and there is a risk that one of them will take the child out of the country and thereby preempt a decision on custody, the Minister of Social Affairs and Integration or the person authorised by the Minister may temporarily grant sole custody to the other parent.

Section 28. If the holder or both holders of parental authority are prevented from making decisions about the child's personal circumstances, the state administration shall decide who shall have parental authority for as long as the obstacle persists.

Socializing etc.

Section 29. In a case concerning custody, the child's residence, access or other contact, the state administration may, upon request, decide on temporary access or other contact.

Subsection 2. A decision pursuant to subsection 1 shall apply until a final decision on access that can be enforced, an agreement on access or a decision or agreement on other contact has been made.

Subsection 3. The right to make a temporary decision pursuant to subsection 1 may also be exercised by the Minister of Social Affairs and Integration in very special cases.

Change

§ 30. A temporary decision pursuant to §§ 26-29 may be amended.

Chapter 6

Processing of the case

The beginning of the case

§ 31. A request for a decision on parental authority pursuant to §§ 11, 14 or 15, on the child's residence pursuant to § 17 and on access etc. pursuant to §§ 19-22 and 25 shall be submitted to the state administration.

Subsection 2. The State Administration shall convene the parties to a meeting, unless the request solely concerns a decision on other contact pursuant to section 22.

Subsection 3. The State Administration may refrain from calling the parties to a meeting if it is unnecessary or inappropriate.

Child expert advice and conflict mediation

Section 32. The state administration shall offer parents and children expert child welfare advice or conflict mediation in the event of disagreements about custody, the child's residence or access.

Subsection 2. In other cases, the state administration may offer expert child counselling or conflict mediation if there is a special need for this.

Subsection 3. The state administration may refrain from offering advice or conflict mediation pursuant to subsection 1 if it is unnecessary or inappropriate.

Pediatric expert examinations

Section 33. The state administration may initiate child expert investigations and obtain expert statements about parents in cases concerning custody, the child's residence and contact.

Subsection 2. If the state administration has initiated a child expert investigation or requested an expert statement regarding a parent, the investigation or statement shall be completed regardless of whether the case is brought before the court pursuant to section 40.

Involving the child

§ 34. The child must be involved in a case concerning custody, the child's residence or access, so that his or her perspective and any views can be expressed. This may be done through conversations with the child, examinations by child experts or in another way that illuminates the child's perspective.

Subsection 2. The obligation to involve the child directly in the case does not apply if it can be assumed to be detrimental to the child or if it can be considered unnecessary in the circumstances of the case.

The child's access to state administration

§ 35. A child who has reached the age of 10 may request the state administration to summon the parents to a meeting regarding custody, the child's residence or contact.

Statement from parents in certain cases

Section 36. Before an agreement on parental authority pursuant to section 13(2) is approved or a decision is made thereon pursuant to section 15(2), the state administration shall obtain a declaration from the parent who does not have a share in parental authority.

Subsection 2. Before a decision is made on access pursuant to section 20(2), the state administration must obtain a statement from the parent who does not have access or has access only to an extremely limited extent.

Subsection 3. Obtaining a statement pursuant to subsection 1 or 2 may be omitted if it is presumed to be detrimental to the child or to cause disproportionate delay in the case.

Parental authority after death

Section 37. The State Administration makes decisions pursuant to Section 15 on custody after death. The State Administration shall bring the decision before the court if a party so requests within 4 weeks of the decision being notified to the person concerned.

Obtaining financial information

Section 38. The State Administration and the Minister for Social Affairs and Integration may, for the purpose of processing cases concerning the parents' joint responsibility for transporting the child in connection with visitation, including the parents' payment of expenses in this regard, obtain terminal access to the necessary financial information about a party from the Customs and Tax Administration, including in the income register, in accordance with this Act.

Rejecting change requests

Section 39. A request for a change in custody, the child's residence, access or other contact may be rejected by the state administration if the circumstances have not changed significantly. However, this does not apply to requests for a change in custody pursuant to section 14(2).

Subsection 2. The State Administration shall bring the decision to reject a request for a change of custody or the child's residence before the court, if the applicant so requests, within 4 weeks after the decision has been notified to the person concerned.

Completion of the case and submission to court

Section 40. The State Administration may close a case concerning custody pursuant to Section 11 or Section 14 or concerning the child's residence pursuant to Section 17 if no agreement has been reached regarding custody or residence. The State Administration shall bring the case before the court if a party so requests within 4 weeks of the person concerned being notified that the case has been closed. However, this does not apply if the closure of the case is due to the person concerned failing to attend a meeting of the State Administration.

Subsection 2. At the request of a party, the state administration shall close the case and bring it before the court if:

- 1) the parties have received guidance at a meeting in the state administration, without agreement being reached on custody or the child's place of residence, and the parties or one of them does not want expert child counselling or conflict mediation, or expert child counselling or conflict mediation has been concluded without reaching an agreement, or
- 2) the person in question has participated in a meeting, while the other party has failed to attend despite two invitations.

Subsection 3. In special cases, the state administration may, upon request, close the case and bring it before the court, even if the conditions under subsection 1 or subsection 2 are not met.

Complaints etc.

Section 41. Decisions of the State Administration pursuant to this Act may be appealed to the Minister of Social Affairs and Integration, cf. however, subsections 2-4.

Subsection 2. An appeal against a temporary decision on custody or the child's residence pursuant to section 26 or a decision to amend this pursuant to section 30 shall be dismissed if the case concerning custody or the child's residence has been brought before the court pursuant to section 40.

Subsection 3. Decisions pursuant to section 37, decisions to reject a request for a change in custody or the child's residence pursuant to section 39, subsection 1, decisions pursuant to section 40, subsections 1 and 2, decisions to grant a request pursuant to section 40, subsection 3, and decisions to refuse to hear a case concerning custody or the child's residence pursuant to section 46, subsection 2, cf. subsection 1, cannot be appealed.

Subsection 4. The parent who does not have custody may appeal a decision pursuant to section 23(2) to the state administration. However, this does not apply to decisions made by the health service. The state administration's decision may not be appealed to a higher administrative authority. However, the Minister for Social Affairs and Integration may, upon request, take up a case for consideration when it is deemed to be of fundamental or general importance.

Authorizations

Section 42. The Minister of Social Affairs and Integration may lay down rules

- 1) on the processing of cases concerning custody, the child's residence and contact, etc.,
- 2) on the parents' joint responsibility for transporting the child in connection with visitation, including the parents' payment of expenses in this regard,
- 3) about supervised contact,
- 4) on notification of agreements on custody,
- 5) on child expert advice, child expert examinations, expert statements about parents and conflict mediation and
- 6) on the handling of complaints.

Chapter 7

Employment agreements

§ 43. If a child or young person under parental authority, cf. § 1, has, with the permission of the holder of parental authority, undertaken service or other personal work on his own, whereby he has become able to provide for his own support, the person concerned may, if he has reached the age of 15, terminate the agreement himself and undertake work of a similar nature, unless otherwise determined by the holder of parental authority.

§ 44. An agreement for service or other personal work that a child or young person has made on their own may be terminated by the holder of parental authority if the child's or young person's upbringing or welfare so requires. However, the termination shall, as far as possible, be made with appropriate notice, and where it is considered reasonable, the other party may be awarded appropriate compensation.

Chapter 8

International agreements and international jurisdiction

Section 45. The Government may enter into an agreement with other states on the relationship between Danish law and foreign law regarding parental authority, residence, access and other contact. The agreement shall apply in this country after publication in the Official Gazette.

Subsection 2. The Minister of Social Affairs and Integration may also lay down rules on the relationship between Danish and other Nordic countries' rules on parental authority, the child's residence, access and other contact.

Subsection 3. The Minister for Social Affairs and Integration may lay down rules on the processing of cases under this Act that are covered by the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children (Hague Child Protection Convention).

Section 46. The state administration may handle a case concerning custody, the child's residence, access, etc., if the conditions in Section 448 f of the Administration of Justice Act are met.

Subsection 2. The refusal of the State Administration to handle a case concerning custody and the child's residence pursuant to sections 11, 14, 15 and 17 that does not meet the conditions in subsection 1 may, at the request of one of the parties, be brought before the court.

Chapter 9

Entry into force etc.

Section 47. The Act enters into force on 1 October 2007.

Subsection 2. The Act on Custody and Access to Children, cf. Consolidation Act No. 39 of 15 January 2007, is repealed.

Section 48. Section 6(2)(1), Section 6(3), and Section 7(3) of the Act only apply to children born on or after 1 October 2007.

Section 49. The Act does not apply to the Faroe Islands and Greenland, but may by royal decree be brought into force in whole or in part for the Faroe Islands and Greenland with the deviations that the special Faroese and Greenlandic conditions require.

Act No. 349 of 6 May 2009 contains the following entry into force and transitional provisions. (The amendment concerns sections 29 and 38. The amendment concerns terminal access to financial information, appeal period, etc.) Information on section 5 below: By Executive Order No. 880 of 5 July 2010, it is determined that the amendment will enter into force on 1 August 2010.

§ 5

Subsection 1. The Act enters into force on 1 October 2009, cf. however subsection 2.

Subsection 2. The Minister of Justice shall determine the date of entry into force of section 21(4) of the Child Support Act as amended by section 1(5) of this Act, section 52a(4) of the Legal Effects of Marriage Act as amended by section 2(3) of this Act, section 58a(4) of the Marriage and Dissolution Act as amended by section 3(6) of this Act, and section 38(2) of the Parental Responsibility Act as amended by section 4(2) of this Act.

Paragraph 3. (Omitted).

Act No. 494 of 12 June 2009 contains the following entry into force and transitional provisions. (The amendment concerns section 20 a. The amendment concerns adoption without consent, stepchild adoption of a registered partner's child from birth, etc.)

§ 6

Subsection 1. The Act enters into force on 1 October 2009, cf. however subsection 2.

Paragraph 2. (Omitted).

§ 7

Paragraph 1. (Omitted).

Paragraph 2. (Omitted).

Subsection 3. Section 20 a of the Parental Responsibility Act, as worded in section 3 of this Act, only applies to adoptions that take place after the Act enters into force.

Paragraph 4. (Omitted).

Act No. 628 of 11 June 2010 contains the following entry into force and transitional provisions. (The amendment concerns Section 24. The amendment concerns the Child Reform.)

§ 4

Subsection 1. The Act enters into force on 1 January 2011.

Paragraph 2. (Omitted).

Paragraph 3. (Omitted).

Act No. 600 of 18 June 2012 contains the following entry into force and transitional provisions. (The amendment concerns sections 11, 19, 20-23, 26, 29, 33, 38, 39, 41 and 42. The amendment concerns changes resulting from the evaluation of the Parental Responsibility Act.)

§ 4

Subsection 1. The Act enters into force on 1 October 2012.

Subsection 2. Section 1, nos. 12 and 16, and section 2, nos. 1, 3 and 4 of the Act shall not apply to cases concerning parental authority or the child's residence that have been brought before the court before the Act comes into force. The previously applicable rules in section 29, subsection 1, 2nd sentence, and section 38, subsection 3 of the Parental Responsibility Act, and section 448, nos. 2 and 3, section 450 a, 1st sentence, and section 450 b, 1st sentence, of the Administration of Justice Act, shall continue to apply to these cases.

Subsection 3. Section 1, no. 18 of the Act does not apply to cases concerning custody and the child's residence that have been received by the state administration before the Act enters into force.

Subsection 4. Section 2, no. 5 of the Act shall not apply to cases brought before the court before the Act comes into force if the court has before that time held an interview with the child pursuant to the previously applicable section 450c of the Administration of Justice Act or has summoned the child to such an interview.

Subsection 5. Section 41(2) of the Parental Responsibility Act, as amended by section 1(19) of this Act, shall not apply to complaints received by the state administration before the Act enters into force.

Ministry of Social Affairs and Integration, November 20, 2012

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