

## Aliens (Consolidation) Act<sup>1)</sup>

The following is a consolidation of the Aliens Act, see Consolidation Act No. 984 of 2 October 2012 with the amendments following from section 2(1)(iv) to (vii), (ix) to (xi), (xiii) to (xv) and (xx) of Act No. 1398 of 27 December 2008, section 3(1)(iii), (xxv) and (xxvi) of Act No. 1511 of 27 December 2009, section 1(1)(xc) of Act No. 418 of 12 May 2012, section 1 of Act No. 571 of 18 June 2012, section 1(1)(xxxii), (xxxiii) and (xxxv) to (xxxvii) of Act No. 572 of 18 June 2012, section 1 of Act No. 430 of 1 May 2013<sup>2)</sup>, Act No. 432 of 1 May 2013, Act No. 433 of 1 May 2013, section 2 of Act No. 434 of 1 May 2013 and section 7 of Act No. 647 of 12 June 2013.

The amendment which relates to section 9f(4) and follows from section 1(1)(vi) of Act No. 572 of 31 May 2010 amending the Aliens Act (Stricter expulsion rules, linking of registers for improved control purposes, reform of the permanent residence permit rules, revocation of residence permits for study purposes in case of unlawful work, stricter rules on the submission of applications for a residence permit following entry into Denmark and stay of execution, etc.) has not been incorporated into this Consolidation Act as the date of commencement of that amendment is to be determined by the Minister of Justice, see section 2(2) of Act No. 572 of 31 May 2010<sup>3)</sup>.

The amendment relating to the second sentence of section 9(2) which follows from section 1(1)(ii) of Act No. 601 of 14 June 2011 amending the Aliens Act and the Formation and Dissolution of Marriage Act (Spousal reunification rules, etc., reform) has not been incorporated into this Consolidation Act as the date of commencement of that amendment is to be determined by the Minister of Justice, see section 3(2) of Act No. 601 of 14 June 2011. The second sentence of section 9(2) has subsequently been repealed by section 1(1)(viii) of Act No. 418 of 12 May 2012 amending the Aliens Act and various other acts.

The consolidated text of this Act relating to section 9f(5) to (8), section 9h(4), section 19(1)(ix), section 33(5) and section 52b(1)(iii) only applies as from 1 October 2013, see section 4(2) of Act No. 434 of 1 May 2013 amending the Criminal Code, the Aliens Act and the Act on Restraining Orders and Occupation Orders (Enhanced action against duress in connection with marriages and religious marriage ceremonies).

### Part 1

#### *Aliens' entry into and stay in Denmark*

**1.** Nationals of Finland, Iceland, Norway, and Sweden may enter and stay in Denmark without special permission.

**2.** (1) Aliens who are nationals of a country which is a Member State of the European Union or covered by the Agreement on the European Economic Area may enter and stay in Denmark for up to 3 months from their date of entry.

(2) Aliens falling within the rules set out in subsection (4) (the EU rules), but who are not nationals of any of the countries mentioned in subsection (1) (third-country nationals) may enter and stay in Denmark for the same period of time as the persons mentioned in subsection (1). Third-

country nationals must have their passport or other travel document endorsed with a visa before entry unless they are exempt from any visa requirements, see section 39(2).

(3) The limitations provided for by this Act only apply to aliens falling within the EU rules to the extent that it is compatible with those rules.

(4) The Minister of Justice shall lay down more detailed provisions on the implementation of the rules of the European Union on visa exemption and the abolition of entry and residence restrictions in connection with the free movement of workers, freedom of establishment and freedom to provide and receive services, etc. The Minister of Justice shall lay down more detailed provisions on registration certificates and residence cards under section 6. In this connection the Minister of Justice may deviate from the provisions of this Act to the extent provided for by the EU rules.

(5) The Minister of Justice may lay down more detailed rules providing that subsections (1) to (3) and the provisions laid down pursuant to subsection (4) with the requisite amendments are also to be applied in relation to a third country which has concluded a treaty or equivalent arrangement on visa exemption and on the abolition of entry and residence restrictions with the European Union or its Member States.

**2a.** (1) In this Act, the Schengen Convention means the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders as subsequently amended.

(2) In this Act, a Schengen country means a country that has acceded to the Schengen Convention. Bulgaria, Cyprus and Romania are not considered Schengen countries in relation to section 2b(1) to (3), sections 3, 4, and 4b, section 10(2)(iv), section 19(3) and (4), Part 4a, section 28(1)(vi), section 38(1) to (3), section 39(3), second sentence, sections 58f to 58h and section 59(1)(i).

(3) In this Act, the Schengen Borders Code means the Regulation establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) as subsequently amended.

(4) The provisions of the Regulation of the European Parliament and of the Council Establishing a Community Code on Visas (Visa Code) as subsequently amended apply in Denmark.

(5) The Minister of Justice may lay down rules on the photographing and fingerprinting of any alien applying for a visa for Denmark.

(6) The provisions of the Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) as subsequently amended apply in Denmark.

(7) The Council decision concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences applies in Denmark.

(8) In this Act, the SIS II Regulation means the regulation on the establishment, operation and use of the second generation Schengen Information System (SIS II) as subsequently amended.

(9) In this Act, SIS II means the second generation of the Schengen Information System.

**2b.** (1) Aliens holding a residence permit for another Schengen country may enter and stay in Denmark for up to 3 months per 6-month period reckoned from the date of their first entry into Denmark or a Schengen country other than that which issued the residence permit. Any such 3-month period will be reduced by any period within the 6-month period during which the alien has stayed in Denmark or in a Schengen country other than the country which issued the residence

permit. If the alien has a residence permit for another Nordic country, the period of time during which the alien has resided in other Nordic countries will not be deducted.

(2) Aliens holding a visa valid for all Schengen countries may enter and stay in Denmark within the period of validity of the visa. The duration of an unbroken stay or the total duration of several consecutive stays in Denmark may not exceed 3 months per 6-month period reckoned from the date of the first entry into any Schengen country. Any such 3-month period will be reduced by the period of time in which the alien has stayed in another Schengen country within the 6-month period. If the alien has stayed in another Schengen country and holds a residence permit or a visa for a stay exceeding 3 months and valid only for that Schengen country (long-stay visa), such period of time will not be deducted.

(3) Aliens holding a visa for residence exceeding 3 months and valid only for another Schengen country (long-stay visa) may, pursuant to Article 21 of the Schengen Convention, enter and stay in Denmark for up to 3 months per 6-month period reckoned from the date of their first entry into Denmark or a Schengen country other than that which issued the visa. Any such 3-month period will be reduced by any period of time within the 6-month period during which the alien has stayed in Denmark or in a Schengen country other than the country which issued the visa.

(4) Aliens holding a residence permit or a re-entry permit issued by another Schengen country or a visa for a stay exceeding 3 months and valid only for another Schengen country (long-stay visa) may transit through Denmark without any undue delay pursuant to Article 5(4)(a) of the Schengen Borders Code.

**3.** (1) Aliens who are exempt from any visa requirements under rules laid down pursuant to section 39(2) may enter and stay in Denmark for up to 3 months during any 6-month period reckoned from the date of their first entry into any Schengen country. Any such 3-month period will be reduced by the period of time in which the alien has stayed in Denmark or another Schengen country within the 6-month period. If the alien has stayed in another Schengen country and holds a residence permit or a visa for a stay exceeding 3 months and valid only for that Schengen country (long-stay visa), such period of time will not be deducted.

(2) Notwithstanding subsection (1), an alien who is a national of a country with which Denmark has concluded a bilateral visa exemption agreement before the coming into force of the Schengen Convention may enter and stay in Denmark in accordance with the provisions of such agreement.

**3a.** Notwithstanding the provisions of sections 1 to 3, aliens banned from re-entry, see section 32, must obtain a visa pursuant to section 4 or 4a to enter and stay in Denmark. The same applies to aliens not falling within sections 1 to 3. The aliens mentioned in the first and second sentences hereof may not stay in Denmark beyond the period specified in the visa issued.

**4.** (1) Visas are issued pursuant to the relevant provisions of the Visa Code to be valid for entry into and stay in all Schengen countries. A visa may be issued for one or more entries within a specified period. The duration of an unbroken stay or the total duration of several consecutive stays in Denmark and any other Schengen country may not exceed 3 months per 6-month period reckoned from the date of the first entry into a Schengen country, but see subsection (2).

(2) A stay in another Schengen country by an alien holding a residence permit or a visa for a stay exceeding 3 months and valid only for that Schengen country (long-stay visa), will not be included in the reckoning of the 3-month stay referred to in subsection (1).

**4a.** (1) Notwithstanding the provisions of sections 3 to 4, a visa limited to be valid only for entry and stay in Denmark may be issued in special cases.

(2) Pursuant to Article 18 of the Schengen Convention, a visa may be issued for a prolonged stay and valid only for Denmark (long-stay visa), but with a maximum period of validity of 1 year, to an alien issued with a residence permit under section 8, section 9, section 9a(2), section 9c(1), section 9d, section 9f or sections 9i to 9n to allow the alien to enter Denmark and be issued with a biometric residence card.

**4b.** The right to stay in Denmark of an alien having stayed in Denmark or another Schengen country pursuant to sections 2 to 3a may be extended in special cases.

**4c.** (1) An alien is not eligible for a visa under section 4(1) for a period of 5 years if, after entry, the alien stays in Denmark or in another Schengen country without the requisite permit beyond the period of validity of the visa. The period is 3 years if the stay lasts for up to 1 month beyond the period stated.

(2) Subsection (1) does not apply if the alien proves that the stay in excess of the period stated in the visa issued was due to circumstances which cannot be held against the alien, or if exceptional reasons exist.

(3) An alien is not eligible for a visa under section 4(1) for a period of 5 years if, after entry, the alien –

- (i) is expelled under Part 4;
- (ii) submits an application for asylum in Denmark or in another Schengen country, but see subsection (6); or
- (iii) submits an application for a residence permit on another basis, but see subsection (4).

(4) Subsection (3)(iii) does not apply if –

- (i) the alien applies for a residence permit under section 9(1)(i) or (ii);
- (ii) the alien applies for a residence permit under section 9c(1) on the basis of such family ties as are mentioned in section 9(1)(i) or (ii);
- (iii) the alien applies for a residence permit under section 9i(1) for the purpose of studying;
- (iv) the alien applies for a residence permit under section 9c(4);
- (v) the alien falls within section 9a(2)(i) to (iv) or (vi) and applies for a residence permit on that basis; or
- (vi) considerations of a humanitarian nature make it conclusively inappropriate.

(5) Subsection (4) does not apply if there are definite reasons for assuming that the decisive purpose of the application is to extend the stay in Denmark and it is manifest that the application cannot lead to the issuance of a residence permit.

(6) Subsection (3)(ii) does not apply if the alien has submitted an application for a residence permit under section 7 in Denmark and cooperates in obtaining information for his case, see section 40(1), first and second sentences, and, upon refusal or waiver of the application, departs from Denmark on his own initiative or assists in his departure without undue delay.

**4d.** The Danish Immigration Service shall decide to revoke any advance approval of an enterprise to receive business visitors from countries subject to a visa requirement if the approval was obtained by fraud or if the conditions for such approval are no longer met. The Danish Immigration Service may also decide to revoke any advance approval of an enterprise to receive business visitors from countries subject to a visa requirement if the conditions for the approval are not complied with.

**5.** (1) Aliens who are not entitled to stay in Denmark under sections 1 to 3a and 4b may only stay in Denmark if they hold a residence permit.

(2) The Minister of Justice may lay down rules providing that a child under the age of 18 residing permanently with the person having custody of it does not require a residence permit.

**6.** (1) Upon application, a registration certificate or a residence card will be issued to an alien falling within the EU rules, see section 2(4) and (5).

**7.** (1) Upon application, a residence permit will be issued to an alien if the alien falls within the provisions of the Convention Relating to the Status of Refugees (28 July 1951).

(2) Upon application, a residence permit will be issued to an alien if the alien risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his country of origin. An application as mentioned in the first sentence hereof is also considered an application for a residence permit under subsection (1).

(3) A residence permit under subsections (1) and (2) may be refused if the alien has already obtained protection in another country, or if the alien has close ties with another country where the alien must be deemed able to obtain protection.

**8.** (1) Upon application, a residence permit will be issued to an alien who arrives in Denmark under an agreement made with the United Nations High Commissioner for Refugees or similar international agreement, and who falls within the provisions of the Convention Relating to the Status of Refugees (28 July 1951), see section 7(1).

(2) In addition to the cases mentioned in subsection (1), a residence permit will be issued, upon application, to an alien who arrives in Denmark under an agreement as mentioned in subsection (1), and who risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his country of origin, see section 7(2).

(3) In addition to the cases mentioned in subsections (1) and (2), a residence permit will be issued, upon application, to an alien who arrives in Denmark under an agreement as mentioned in subsection (1), and who would presumably have met the fundamental conditions for obtaining a residence permit under one of the provisions of the Aliens Act if he had entered Denmark as an asylum-seeker.

(4) In the selection of aliens issued with a residence permit under subsections (1) to (3), the aliens' possibilities of establishing roots in Denmark and benefiting from the residence permit, including their language qualifications, education and training, work experience, family situation, network, age and motivation, must be emphasised unless particular reasons make it inappropriate.

(5) Unless particular reasons make it inappropriate, it must be made a condition for a residence permit under subsections (1) to (3) that the alien cooperates in a special health examination and consents to the health information being transmitted to the Danish Immigration Service and the local council of the municipality to which the alien is allocated, and signs a declaration concerning the conditions for resettlement in Denmark.

(6) The Minister of Justice shall decide the overall distribution of the aliens to be issued with a residence permit under subsections (1) to (3).

**9.** (1) Upon application, a residence permit may be issued to –

- (i) an alien over the age of 24 who cohabits at a shared residence, either in marriage or in regular cohabitation of prolonged duration, with a person permanently resident in Denmark over the age of 24 who –
  - (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) is issued with a residence permit under section 7 or 8; or

- (d) has held a permanent residence permit for Denmark for more than the last 3 years;
- (ii) an unmarried child under the age of 15 of a person permanently resident in Denmark or of that person's spouse, provided that the child lives with the person having custody of it and has not started its own family through regular cohabitation, and provided that the person permanently resident in Denmark –
  - (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) is issued with a residence permit under section 7 or 8; or
  - (d) is issued with a permanent residence permit or a residence permit with a possibility of permanent residence;
- (iii) an under-age alien for the purpose of residence with a person permanently resident in Denmark other than the person having custody of it, provided that the residence permit is issued for the purpose of adoption, residence as a result of a foster relationship or, if particular reasons make it appropriate, residence with the child's closest family, and provided that the person permanently resident in Denmark –
  - (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) is issued with a residence permit under section 7 or 8; or
  - (d) is issued with a permanent residence permit or a residence permit with a possibility of permanent residence.

(2) It must be made a condition for a residence permit under subsection (1)(i) that the applicant and the person living in Denmark sign a declaration stating that, to the best of their ability, they will involve themselves actively in the Danish language course and integration into the Danish society of the applicant and any accompanying foreign children.

(3) It must be made a condition for a residence permit to a cohabitant under subsection (1)(i) that the person living in Denmark undertakes to maintain the applicant. If highly exceptional reasons make it appropriate, it may be made a condition for a residence permit under subsection (1)(i) to (iii) that the person living in Denmark proves that he can maintain the applicant.

(4) Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant provides financial security of DKK 50,000 to cover any future public expenses for assistance granted to the applicant under the Act on an Active Social Policy or the Integration Act, see subsection (23). The Minister of Justice shall lay down detailed rules on the financial security. The amount stipulated has been fixed at the 2012 level and will be adjusted as of 2013 once a year on 1 January by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

(5) Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark has not received any assistance under the Act on an Active Social Policy or the Integration Act for the last 3 years before the decision on the residence permit is made. Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must moreover be made a condition for a residence permit under subsection (1)(i) that the applicant and the person living in Denmark do not receive any assistance under the Act on an Active Social Policy or the Integration Act during the period until the applicant is issued with a permanent residence permit. The first and second sentences hereof do not comprise assistance in the form of small amounts of isolated benefits not directly related to maintenance, or benefits that are comparable with wages or salaries or pension payments or replace such income.

(6) Unless particular reasons make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, see subsection (27).

(7) Unless exceptional reasons make it inappropriate, including regard for family unity, a residence permit under subsection (1)(i)(a) when the person living in Denmark has not been a Danish national for 26 years or under subsection (1)(i)(b) to (d) may only be issued if the spouses' or the cohabitants' aggregate ties with Denmark are stronger than the spouses' or the cohabitants' aggregate ties with another country. Danish nationals living in Denmark who were adopted from abroad before their sixth birthday and who acquired Danish nationality not later than at their adoption are considered to have been Danish nationals from birth.

(8) Unless exceptional reasons conclusively make it appropriate, including regard for family unity, no residence permit will be issued under subsection (1)(i) if it must be considered doubtful that the marriage was contracted or the cohabitation was established at both parties' own desire. If the marriage has been contracted or the cohabitation established between close relatives or otherwise closely related parties, it must be considered doubtful, unless particular reasons make it inappropriate, including regard for family unity, that the marriage was contracted or the cohabitation was established at both parties' own desire.

(9) No residence permit will be issued under subsection (1)(i) if there are definite reasons for assuming that the decisive purpose of contracting the marriage or establishing the cohabitation is to obtain a residence permit.

(10) Unless exceptional reasons make it appropriate, including regard for family unity, no residence permit will be issued under subsection (1)(i) if, within a period of 10 years prior to the date of the decision, a sentence of imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature, for violation of section 213, 216 or 217, section 224 or 225, cf. section 216 or 217, or section 228, 229(1) or 237, sections 244 to 246, or section 250, 260, 261, 262a or 266 of the Criminal Code has been imposed by final judgment on the person living in Denmark for one or more offences committed against a spouse or a cohabitant.

(11) No residence permit will be issued under subsection (1)(i) if the application for such permit is submitted simultaneously with an application from the applicant's child for a residence permit under subsection (1)(ii) which is refused under subsection (19). This does not apply if the applicant's child can be required to take up residence with close family in its country of origin and regard for the best interests of the child does not make it inappropriate, or if exceptional reasons otherwise make it inappropriate, including regard for family unity.

(12) Unless exceptional reasons make it inappropriate, including regard for family unity, a residence permit under subsection (1)(i)(d) may only be issued if the person living in Denmark –

- (i) has not been sentenced to imprisonment for 1 year and 6 months or more, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;
- (ii) has not been sentenced to imprisonment for 60 days or more for violation of Part 12 or 13 of the Danish Criminal Code;
- (iii) has no overdue debt to any public authorities unless the deadline for paying the debt has been extended and the debt does not exceed DKK 100,000;
- (iv) has not received any public assistance under the Act on an Active Social Policy or the Integration Act for the last 3 years prior to the date of the application for a residence permit, other than assistance in the form of small amounts of isolated benefits not directly related to maintenance, or benefits that are comparable with wages or salaries or pension payments or replace such income;

- (v) has passed the Danish 1 Examination, see section 9(1) of the Act on Danish Courses for Adult Aliens and Others, or a Danish language test at a corresponding or higher level; and
- (vi) has been enrolled in education or has had ordinary employment or has pursued activity as a self-employed person for at least 3 years within the last 5 years before the date of the application for a residence permit, see section 11(3)(vii), and must still be assumed to participate in the labour market or be enrolled in education on the date when a residence permit can be issued.

(13) If the person living in Denmark has been issued with a permanent residence permit under section 11(3) or under section 11(10) and (11) or (14) and (15), the conditions of subsection (12)(i) to (vi) are considered to be met.

(14) If the person living in Denmark has reached the age of old-age pension or has been granted anticipatory pension, the conditions of subsection (12)(vi) are considered to be met. If a person over the age of 18 and living in Denmark has been issued with a permanent residence permit on the basis of strong ties with Denmark, the conditions of subsection (12)(vi) are considered to be met on terms corresponding to those on which the person living in Denmark could be issued with a permanent residence permit under section 11(11).

(15) If essential considerations make it appropriate, it may be made a condition for a residence permit under subsection (1)(ii) that the person living in Denmark does not receive any assistance under the Act on an Active Social Policy or the Integration Act during the period until the applicant is issued with a permanent residence permit. The first sentence hereof does not comprise assistance in the form of small amounts of isolated benefits not directly related to maintenance, or benefits that are comparable with wages or salaries or pension payments or replace such income. If essential considerations make it appropriate, it may be made a further condition for a residence permit under subsection (1)(ii) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, see subsection (27).

(16) In cases where the child lives with one of its parents in their country of origin or another country, and the child is over the age of 6, a residence permit under subsection (1)(ii) may only be issued if the child has or is able to obtain such ties with Denmark that there is a basis for successful integration in Denmark. The assessment under the first sentence hereof must emphasise the circumstances of the child and both parents. The first and second sentences hereof do not apply if exceptional reasons make it inappropriate, including regard for family unity, or if the application is submitted within 2 years of the date when the parent living in Denmark meets the conditions of subsection (1)(ii). The 2-year period is reckoned from the child's 6th birthday at the earliest. The first and second sentences hereof do not apply either if, at the expiry of the 2-year period, the parent living in Denmark is unable to obtain a residence permit for the child under subsection (1)(ii), including as a result of a dispute regarding custody of the child or because the child's place of residence is unknown, provided that the parent living in Denmark applies for a residence permit for the child under subsection (1)(ii) without undue delay after the obstacle has ceased to exist.

(17) In cases where the applicant has previously been issued with a residence permit under subsection (1)(ii) which has lapsed under section 17, a residence permit under subsection (1)(ii) may only be issued if regard for the applicant's best interests makes it appropriate. This assessment must particularly emphasise the child's childhood and adolescence and family and social networks in Denmark. If the residence permit under subsection (1)(ii) has lapsed because the child has unwillingly stayed abroad for re-education purposes or on another stay abroad negatively affecting its schooling and integration, the assessment of the regard for the best interests of the child must also particularly emphasise such situation.

(18) No residence permit will be issued under subsection (1)(ii) if that would be manifestly contrary to the applicant's best interests, see subsection (28).

(19) Unless exceptional reasons make it appropriate, including regard for family unity, no residence permit will be issued under subsection (1)(ii) if, within a period of 10 years prior to the date of the decision, a sentence of imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature, for violation of section 210(1), section 210(3), cf. subsection (1) thereof, section 213, sections 215 to 219, section 222 or 223, section 224 or 225, cf. sections 216 to 219 or section 222 or 223, section 228, 229(1), 230, 232, 235 or 237, sections 244 to 246 or section 250, 260, 261, 262a(2) or 266 of the Criminal Code has been imposed by final judgment on the person permanently resident in Denmark or his spouse or cohabitant for one or more offences committed against one or more under-age children.

(20) It must be made a condition for a residence permit under subsection (1)(iii) when the residence permit is issued as a result of a foster relationship or for the purpose of residence with the child's closest family that the person living in Denmark undertakes to maintain the applicant, and that the person living in Denmark does not receive any assistance under the Act on an Active Social Policy or the Integration Act during the period until the applicant is issued with a permanent residence permit. The first sentence hereof does not comprise assistance in the form of small amounts of isolated benefits not directly related to maintenance, or benefits that are comparable with wages or salaries or pension payments or replace such income. When a residence permit is issued for the purpose of residence with the child's closest family, it must be made a further condition for the residence permit under subsection (1)(iii) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, see subsection (27).

(21) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by him is pending, an application for a residence permit under subsection (1) may only be submitted in Denmark if it may be warranted by Denmark's international obligations. An application for renewal of a residence permit issued under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark, see the first sentence hereof.

(22) Where it was made a condition for a residence permit that the person living in Denmark (the guarantor) undertook to maintain the applicant, and where the applicant is subsequently granted assistance under the Act on an Active Social Policy or the Integration Act, the local authority shall claim reimbursement of the assistance from the guarantor. The first sentence hereof does not apply to public expenses for assistance granted to the applicant under the Act on an Active Social Policy and the Integration Act after the applicant has been issued with a permanent residence permit or a new residence permit on another basis.

(23) Where it was made a condition for a residence permit that the person living in Denmark had to provide financial security, see subsection (4), and where the applicant is subsequently granted assistance under the Act on an Active Social Policy or the Integration Act, the claim recovery authority shall recover the amount provided as security in payment for the assistance. Subsection (22), second sentence, applies correspondingly.

(24) Without the consent of the person living in Denmark and the applicant, the local council may, for the purpose of the examination of an application under subsection (1), issue an opinion to the Danish Immigration Service on circumstances known to the local council concerning the person living in Denmark and the applicant which the local council deems of importance to the determination of the application.

(25) At the request of the Danish Immigration Service, the local council shall issue an opinion on the extent to which the person living in Denmark or the applicant has received assistance under the Act on an Active Social Policy or the Integration Act within a period specified in the request, see subsection (5), subsection (15), first and second sentences, and subsection (20), first and second sentences.

(26) The local council shall report to the Danish Immigration Service if the alien or the person living in Denmark receives assistance under the Act on an Active Social Policy or the Integration Act and on the extent of such assistance, see subsection (5), subsection (15), first and second sentences, and subsection (20), first and second sentences. The local council may transmit information under the first sentence hereof without consent. The first and second sentences hereof will only apply if it is a condition for the residence permit that the alien and the person living in Denmark do not receive assistance under the Act on an Active Social Policy or the Integration Act, see subsection (5), first and second sentences, and subsection (15), first sentence.

(27) At the request of the Danish Immigration Service, the local council shall issue an opinion on the housing situation of the person living in Denmark, including the number of habitable rooms and occupants of his dwelling. Without the consent of the person living in Denmark, the local council may, for the purpose of its opinion under the first sentence hereof, link the Joint Municipal Personal Data System (*Det Fælleskommunale Persondatasystem*) and the Building and Housing Register (*Bygnings- og Boligregistret, BBR*) for the purpose of providing information on the number of habitable rooms in the dwelling and the number of occupants registered at the address in question. The Minister of Justice shall lay down more detailed rules on when it will be considered proved that the person living in Denmark disposes of his own dwelling of a reasonable size, see subsection (6), subsection (15), second sentence, and subsection (20), second sentence, and on the local council's opinion pursuant to the first sentence hereof.

(28) At the request of the Danish Immigration Service, the local council shall issue an opinion as to whether it would be manifestly contrary to the applicant's best interests, see subsection (18), to issue a residence permit under subsection (1)(ii). The opinion of the local council is issued without the consent of the person or persons referred to in the opinion.

(29) The amount stipulated in subsection (12)(iii) has been fixed at the 2011 level and will be adjusted as of 2012 once a year on 1 January by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

(30) Unless particular reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the alien passes a Danish language test at level A1 established by the Minister of Justice or another Danish language test at a corresponding or higher level. The test must have been passed within 6 months of the date when the alien was registered with the Central National Register or, if the alien already holds a residence permit for Denmark, when the residence permit under subsection (1)(i) was issued. The alien shall produce proof thereof. If the alien has taken, but not passed, the test within 6 months, the test may be re-taken up to 3 months after expiry of the 6-month period. In case of lawful excuse, the time limits mentioned may, upon application, be suspended by a period corresponding to the duration of the lawful excuse.

(31) Upon application, the financial security provided under subsection (4) may be reduced by DKK 20,000, but see subsection (34), when an alien issued with a residence permit under subsection (1)(i) has passed the Danish language test at level A1, see subsection (30), or another Danish language test at a corresponding or higher level before the time limit mentioned in subsection (30).

(32) Upon application, the financial security provided under subsection (4) may be reduced by DKK 10,000, but see subsection (34), when an alien issued with a residence permit under

subsection (1)(i) has passed a Danish language test at level A2 established by the Minister of Justice or another Danish language test at a corresponding or higher level. The test must have been passed within 15 months of the date when the alien was registered with the Central National Register or, if the alien already holds a residence permit for Denmark, when the residence permit under subsection (1)(i) was issued. If the alien has taken, but not passed, the test within 15 months, the test may be re-taken up to 3 months after expiry of the 15-month period. In case of lawful excuse, the time limits mentioned may, upon application, be suspended by a period corresponding to the duration of the lawful excuse.

(33) Upon application, the financial security provided under subsection (4) may be reduced by DKK 10,000, but see subsection (34), when an alien issued with a residence permit under subsection (1)(i) has passed a final Danish test, see section 9 of the Act on Danish Courses for Adult Aliens and Others.

(34) The financial security may be reduced under subsections (31) to (33) to such extent only that the financial security amounts to at least DKK 10,000.

(35) When an alien enters for the level A1 Danish language test, see subsection (30), and for the level A2 Danish language test, see subsection (32), the alien shall pay a fee of DKK 2,400. If the alien pays no fee, the alien may not participate in the test. The first and second sentences hereof do not apply to aliens falling within the EU rules.

(36) Following negotiation with the Minister for Children and Education, the Minister of Justice shall lay down rules on the level A1 and level A2 Danish language tests, see subsections (30) and (32), including rules on lawful excuse, requirements for passing the test, appointment of test providers, conditions for enrolling in tests, collection of test enrolment fees, contents and conducting of tests, appeal options, time limits for lodging appeals and tests that may replace the level A1 and level A2 Danish language tests.

(37) The amounts stipulated in subsections (31) to (35) have been fixed at the 2012 level and will be adjusted as of 2013 once a year on 1 January by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

**9a. (1)** A residence permit may be issued to an alien on the basis of employment or activity as a self-employed person, see subsection (2).

(2) Upon application, a residence permit may be issued to an alien –

- (i) who has achieved at least a certain number of points on the basis of a point system (the greencard scheme) laid down by the Minister of Employment, see subsection (6);
- (ii) who has concluded a contract of or has been offered employment within a professional field short of qualified labour (the positive list);
- (iii) who has concluded a contract of or been offered employment within a professional field in which the employment implies an annual pay of a minimum amount laid down by the Minister of Employment (pay limit scheme);
- (iv) who is employed by an international corporation with a branch in Denmark (corporate residence permit);
- (v) if renewal of his residence permit under sections 7 to 9 or 9b to 9e or section 9m or 9n is refused under section 11(2), cf. section 19(1), or his residence permit is revoked under section 19(1), provided that the alien has regular employment of prolonged duration or has pursued activity as a self-employed person for a prolonged period, and employment or business considerations make it appropriate (labour market ties); or
- (vi) if essential employment or business considerations otherwise make it appropriate to grant the application.

(3) It must be made a condition for a residence permit under subsection (2) that the alien and persons issued with a residence permit as a result of family ties with the alien do not receive any assistance under the Act on an Active Social Policy. It must be made a further condition for a residence permit under subsection (2)(i) that the maintenance of the alien and of persons issued with a residence permit as a result of family ties with the alien is secured through their own means for the first year of their stay in Denmark.

(4) An application for a residence permit under subsection (2)(i) to (iv) and (vi) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. An alien whose time limit for departure in connection with another application for a residence permit has been suspended may also submit an application for a residence permit pursuant to subsection (2)(i) to (iv) and (vi) unless particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark or if a time limit for his departure has been determined, an application for a residence permit pursuant to subsection (2)(i) to (iv) and (vi) cannot be submitted in Denmark. An application for a residence permit under subsection (2)(v) may only be submitted by an alien staying in Denmark. An application for a residence permit under subsection (2)(v) submitted later than 7 days after the date of a final decision refusing renewal of or revoking the alien's residence permit under sections 7 to 9 or 9b to 9e or section 9m or 9n will be dismissed. An application for renewal of a residence permit issued under subsection (2) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark, see the first sentence hereof.

(5) At the request of the Danish Agency for Labour Retention and International Recruitment, the Regional Labour Market Council shall issue an opinion as to whether the conditions of subsection (2)(ii) to (vi) are met. The opinion may be obtained electronically.

(6) The Minister of Employment shall lay down detailed rules on a greencard scheme, including the point system.

(7) An alien who has been issued with a residence permit under subsection (2)(ii) to (iv) or (vi) and who has concluded a contract of or has been offered new employment may, upon submitting an application for a residence permit on the basis of the new employment, reside in Denmark and work during the period until it has been decided whether the alien can be issued with a residence permit. An application for a new residence permit must be submitted when the alien commences his new job at the latest.

(8) An alien who has been issued with a residence permit under subsection (2)(ii) or (iii) and has involuntarily become unemployed may be issued with a residence permit for up to 6 months from the end of the employment for the purpose of seeking new work. The alien shall submit an application to that effect immediately after the alien's employment has ended at the latest. Subsections (3) and (7) apply correspondingly.

(9) A residence permit under subsection (2)(i) may be renewed if the alien –

- (i) is in permanent employment of a certain extent at the time of the decision about renewal; or
- (ii) has been in permanent employment of a certain extent and has involuntarily become unemployed for up to 3 months before the time for submitting an application for renewal.

(10) A residence permit under section (2)(ii) may be renewed even though the professional field is not included on the positive list at the time of the decision about renewal if the alien is in the same employment on which the issuance of the residence permit was based.

(11) A residence permit under subsection (2)(iii) may be renewed even though the annual pay does not satisfy the minimum pay threshold at the time of the decision about renewal if the alien is in the same employment and the annual pay still satisfies the pay threshold on which the issuance of the residence permit was based.

**9b.** (1) Upon application, a residence permit may be issued to an alien who, in cases not falling within section 7(1) and (2), is in such position that essential considerations of a humanitarian nature conclusively make it appropriate to grant the application.

(2) An application for a residence permit under subsection (1) may only be submitted by aliens staying in Denmark who are registered as asylum-seekers under section 48e(2). When examining an application for a residence permit under subsection (1), the Ministry of Justice may, without the applicant's consent, obtain the documents of the case file on a residence permit for the applicant under section 7 from the Danish Immigration Service or the Refugee Appeals Board and obtain health information on the applicant from the accommodation operator and the Danish Immigration Service.

(3) It is a condition for a residence permit on health grounds under subsection (1) that the alien produces the requisite evidence of his state of health.

**9c.** (1) Upon application, a residence permit may be issued to an alien if exceptional reasons make it appropriate, including regard for family unity and, if the alien is under the age of 18, regard for the best interests of the child. Unless particular reasons make it inappropriate, including regard for family unity and, if the alien is under the age of 18, regard for the best interests of the child, it must be made a condition for a residence permit under the first sentence hereof as a result of family ties with a person living in Denmark that the conditions mentioned in section 9(2) to (20) and (30) are met. The provisions of section 9(22) to (29) and (31) to (37) apply correspondingly.

(2) Upon application, a residence permit may be issued to an alien whose application for a residence permit under section 7 has been refused, provided that –

- (i) it has not been possible to return the alien, see section 30, for at least 18 months;
- (ii) the alien has cooperated in the return efforts for 18 months consecutively; and
- (iii) return must be considered futile according to the information available at the time.

(3) A residence permit may be issued to –

- (i) an unaccompanied alien under the age of 18 who has submitted an application for a residence permit under section 7 if, from information available on the alien's personal circumstances, there are particular reasons to assume that the alien should not undergo asylum proceedings and if there is reason to assume that the alien will be without any family network or without any possibility of staying at a reception and care centre and will in fact be placed in an emergency situation upon a return to his country of origin or former country of residence. The residence permit cannot be renewed beyond the alien's 18th birthday.
- (ii) an unaccompanied alien under the age of 18 whose application for a residence permit under section 7 has been refused if there is reason to assume that the alien will be without any family network or without any possibility of staying at a reception and care centre and will in fact be placed in an emergency situation upon a return to his country of origin or former country of residence. The residence permit cannot be renewed beyond the alien's 18th birthday.

(4) Upon application, a residence permit may be issued to an alien who carries out literary activities, etc., and who has been offered residence in a municipality by the local council as an element in the municipality's membership of an international organisation approved by the Minister for Culture upon consultation with the Minister of Justice.

(5) A residence permit may be issued to an alien whose presence in Denmark is required for the purpose of investigation or prosecution. The residence permit cannot be renewed for a period longer than the investigation or prosecution period.

(6) An application for a residence permit under subsection (1) or (4) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application for a residence permit under subsection (4) cannot be submitted in Denmark. In such cases, an application for a residence permit under subsection (1) may only be submitted if it may be warranted by Denmark's international obligations. An application for renewal of a residence permit issued under subsection (1) or (4) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark, see the first sentence hereof.

(7) It must be made a condition for a residence permit under subsection (4) that the local council of the municipality in which the alien is offered residence undertakes to maintain the alien and his family, if any, during the stay in the municipality and that the alien signs a declaration of recognition of the fundamental values of Danish society.

**9d.** Upon application, a residence permit is issued to an alien who has previously been a Danish national, unless the alien has been deprived of his Danish nationality by judgment pursuant to section 8A or 8B of the Danish Nationality Act.

**9e.** (1) A residence permit may be issued to an alien from the Kosovo Province of the Federal Republic of Yugoslavia holding or formerly holding a residence permit pursuant to the Act on Temporary Residence Permits for Distressed Persons from the Kosovo Province of the Federal Republic of Yugoslavia (the Kosovo Emergency Act) or being or having been registered as an asylum-seeker under the rules of section 48e(2) on the basis of an application for a residence permit under section 7 submitted before 30 April 1999 if the alien must be assumed to need temporary protection in Denmark.

(2) An application for a residence permit under subsection (1) may only be submitted by aliens staying in Denmark.

**9f.** (1) Upon application, a residence permit may be issued to –

- (i) an alien who is to act as a religious preacher in Denmark;
- (ii) an alien who is to act as a missionary in Denmark; or
- (iii) an alien who is to act within a religious order in Denmark.

(2) It must be made a condition for a residence permit under subsection (1) that the alien proves that he has ties with the Evangelical Lutheran Church in Denmark or a recognised or approved religious community in Denmark. It is a condition for issuance of a residence permit under subsection (1) that the number of aliens affiliated with a particular religious community and holding a residence permit under subsection (1) is reasonably proportionate to the size of the religious community.

(3) It must be made a condition for a residence permit under subsection (1) that the alien proves that he has a relevant background or training to act as a religious preacher or missionary or within a religious order.

(4) It must be made a condition for renewal of a residence permit under subsection (1) that the applicant has passed a Danish language test at level A1 minus, see Executive Order No. 831 of 24 June 2010 on Danish Courses for Adult Aliens and Others, and a test about knowledge of the Danish society within 6 months of being issued with the residence permit. The Minister of Justice shall lay down rules on the test, including rules on requirements for passing the test, the time limit

for taking and passing the test, appointment of test providers, conditions for enrolling in the test, collection of test enrolment fees, time limits for lodging appeals and the contents and conducting of tests, etc.

(5) <sup>4)</sup> If an applicant performs or intends to perform marriage ceremonies in his professional capacity, whether such marriages are to have legal status or not, it must be made a further condition for renewal of a residence permit under subsection (1) that the applicant has completed a course on Danish family law within 6 months of the issuance of the residence permit. The applicant shall produce proof thereof. Upon application, the time limit of 6 months may be extended in case of lawful excuse.

(6) <sup>4)</sup> It must be made a condition for a residence permit under subsection (1) that the alien and persons issued with a residence permit as a result of family ties with the alien do not receive any public assistance for maintenance during their stay in Denmark.

(7) <sup>4)</sup> A residence permit will not be issued under subsection (1) if there is reason to assume that the alien will constitute a threat to public security, public order, health, morals or the rights and duties of others.

(8) <sup>4)</sup> An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application for a residence permit under subsection (1) cannot be submitted in Denmark. An application for renewal of a residence permit issued under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark, see the first sentence hereof.

**9g.** (1) An application for a residence permit under section 9(1)(i) to (iii) may be dismissed if the application does not include the documents or the information necessary for assessing whether a residence permit can be issued.

(2) The Minister of Employment may decide that applications for a residence permit under sections 9a and 9i to 9n may be dismissed if the documents or the information necessary for assessing whether a residence permit can be issued have not been appended to the application.

(3) The Minister of Justice may decide that applications for a residence permit under section 9f may be dismissed if the documents or the information necessary for assessing whether a residence permit can be issued have not been appended to the application.

**9h.** (1) Unless it may be otherwise warranted by Denmark's international obligations or the EU rules, the alien must, on or before the submission of his application, pay a fee of –

- (i) DKK 6,100 for submitting an application for a residence permit under section 9a(2)(i);
- (ii) DKK 3,025 for submitting an application for a residence permit under section 9a(2)(ii), (iii) or (iv);
- (iii) DKK 3,900 for submitting an application for a residence permit under section 9a(2)(v);
- (iv) DKK 3,900 for submitting an application for a residence permit under section 9a(2)(vi), but see paragraph (v) hereof;
- (v) DKK 3,025 for submitting an application for a residence permit under section 9a(2)(vi) as regards sportspersons, embassy staff, trainees and researchers;
- (vi) DKK 3,025 for submitting an application for a residence permit under section 9a(8);
- (vii) DKK 1,600 for submitting an application for a residence permit under section 9i(i), first sentence, for study purposes;

- (viii) DKK 2,125 for submitting an application for a residence permit under section 9j or section 9k(1), first sentence;
- (ix) DKK 1,975 for submitting an application for a residence permit under section 9m or 9n;
- (x) DKK 2,125 for submitting an application for a residence permit under section 9f;
- (xi) DKK 2,800 for submitting an application for the renewal of a residence permit mentioned in paragraph (i) hereof;
- (xii) DKK 2,575 for submitting an application for the renewal of a residence permit mentioned in paragraphs (ii) to (v) hereof;
- (xiii) DKK 1,600 for submitting an application for the renewal of a residence permit mentioned in paragraph (vii) hereof;
- (xiv) DKK 1,650 for submitting an application for the renewal of a residence permit mentioned in paragraph (viii) hereof;
- (xv) DKK 1,650 for submitting an application for the renewal of a residence permit mentioned in paragraph (x) hereof;
- (xvi) DKK 1,600 for submitting an application for the renewal of a residence permit mentioned in paragraph (ix) hereof;
- (xvii) DKK 3,550 for submitting an application for a permanent residence permit, see section 11, if the alien holds a residence permit under one of the provisions mentioned in paragraphs (i) to (x) hereof.

(2) To submit an application for the reopening of a case in which the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment has made a decision based on an application falling within subsection (1), the alien must pay a fee of DKK 750 on or before the submission of his application for reopening unless otherwise provided by the EU rules. To submit an appeal against a decision made by the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment based on an application falling within subsection (1), the appellant must pay a fee of DKK 750 on or before the submission of his appeal unless otherwise provided by the EU rules. To submit an application for the reopening of an appeal falling within the second sentence hereof, the appellant must pay a fee of DKK 750 on or before the submission of his application for reopening unless otherwise provided by the EU rules.

(3) A fee under subsection (2), first sentence, will be repaid if the application for reopening is granted. A fee under subsection (2), second sentence, will be repaid if the appeal is upheld in full or in part. A fee under subsection (2), third sentence, will be repaid if the application for reopening is granted.

(4) <sup>5)</sup> The application will be dismissed if the condition of subsection (1) has not been met. If an application falling within subsection (1) is dismissed for other reasons, see sections 9a(4), 9f(8), 9g(2) and (3), 9i(2), 9j(2), 9k(2), 9l(2), 9m(2), 9n(2), 11(8) and 47b, the fee will be repaid less an amount of DKK 750.

(5) The application for reopening will be dismissed if the condition of subsection (2), first sentence, has not been met. The appeal will be dismissed if the condition of subsection (2), second sentence, has not been met. The application for reopening of the appeal will be dismissed if the condition of subsection (2), third sentence, has not been met.

(6) The amounts stipulated in subsections (1), (2) and (4) will be adjusted as of 2012 once a year on 1 January by the rate adjustment percentage, see the Rate Adjustment Percentage Act. Adjusted amounts are always rounded to the nearest amount divisible by DKK 5.

(7) The Minister of Employment shall lay down rules on the payment of fees under subsection (1)(i) to (ix),(xi) to (xiv) and (xvi) and subsection (2), cf. subsection (1)(i) to (ix), (xi) to (xiv) and (xvi), and on the repayment of such fees, including repayment under subsection (3), cf. subsection

(2), cf. subsection (1)(i) to (ix), (xi) to (xiv) and (xvi), and subsection (4), cf. subsection (1)(i) to (ix), (xi) to (xiv) and (xvi).

(8) The Minister of Justice shall lay down rules on the payment of fees under subsection (1)(x), (xv) and (xvii) and subsection (2), cf. subsection (1)(x), (xv) and (xvii), and on the repayment of such fees, including repayment under subsection (3), cf. subsection (2), cf. subsection (1)(x), (xv) and (xvii), and subsection (4), cf. subsection (1)(x), (xv) and (xvii).

**9i.** (1) Upon application, a residence permit may be issued to an alien for the purpose of education if the alien has been enrolled in a study programme or a course at an educational institution in Denmark. Upon application, a residence permit may also be issued to an alien if otherwise warranted by exceptional educational considerations.

(2) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application under subsection (1) cannot be submitted in Denmark unless it may be warranted by Denmark's international obligations.

(3) An application for renewal of a residence permit under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark under subsection (2), first sentence.

(4) The Minister of Employment may lay down detailed rules on the issuance of residence permits under subsection (1), including on the documentation required to prove that, as conditions for a residence permit, the alien has passed a recognised language test and has opened an escrow account with a balance equalling up to one year's allowances granted under the State Education Grant and Loan Scheme.

(5) Following negotiation with the Minister for Science, Innovation and Higher Education, the Minister of Employment may lay down detailed rules on active studying for aliens issued with a residence permit for the purpose of attending a study programme offered by a university college or an academy of professional higher education in Denmark.

(6) For the purpose of the decisions of the Danish Agency for Labour Retention and International Recruitment about the issuance of residence permits under subsection (1) to aliens who have been enrolled in a study programme or a course at an educational institution in Denmark and who do not fall within the rules laid down pursuant to subsection (4), and at the request of the educational institution, the Danish Evaluation Institute shall issue an advisory opinion on the contents and quality of the following study programmes:

- (i) Higher education programmes and courses offered without the approval of the public authorities, but provided by an educational institution approved by the public authorities and subject to state supervision.
- (ii) Study programmes and courses within basic education and upper secondary education offered without the approval of a public authority, but provided by an educational institution approved by a public authority and subject to state supervision.
- (iii) Courses at folk high schools, etc., approved under the Act on Folk High Schools, Continuation Schools, Schools of Domestic Science and Handicraft Schools (Independent Boarding Schools) run without subsidies under that Act.

(7) The Minister for Science, Innovation and Higher Education shall lay down more detailed rules on the opinions to be issued by the Danish Evaluation Institute pursuant to subsection (6),

including about requests and the fee payable by the requesting institution to cover the expenses of the Danish Evaluation Institute in connection with opinions.

**9j.** (1) Upon application, a residence permit may be issued to an alien for the purpose of an au pair placement in Denmark.

(2) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application under subsection (1) cannot be submitted in Denmark unless it may be warranted by Denmark's international obligations.

(3) An application for renewal of a residence permit under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark under subsection (2), first sentence.

(4) Unless particular reasons make it appropriate, no residence permit will be issued under subsection (1) if, within a period of 10 years prior to the date of the decision, a sentence of imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature, for violation of section 216 or 217, section 224 or 225, cf. section 216 or 217, section 228, 229(1) or 237, sections 244 to 246 or section 250, 260, 261, 262a or 266 of the Criminal Code has been imposed by final judgment on the host or the host's spouse or cohabitant for one or more offences committed against a person who was an au pair placed with the sentenced person at the time of the offence.

(5) No residence permit will be issued under subsection (1) if, within a period of 5 years prior to the date of the decision, the host or the host's spouse or cohabitant has been sentenced by final judgment for violation of section 59(4) as a consequence of illegally employing an alien who was an au pair placed with the sentenced person at the time of the offence, or has accepted a fine for such violation of section 59(4).

(6) No residence permit will be issued under subsection (1) if the host or the host's spouse or cohabitant is subject to a waiting period, see section 21a.

(7) The Minister of Employment may lay down detailed rules on the issuance of residence permits under subsection (1).

**9k.** (1) Upon application, an alien may, for educational purposes, be issued with a residence permit for an internship in Denmark. Upon application, an alien may also be issued with a residence permit as a volunteer to carry out humanitarian and social work in Denmark.

(2) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application under subsection (1) cannot be submitted in Denmark unless it may be warranted by Denmark's international obligations.

(3) An application for renewal of a residence permit under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark under subsection (2), first sentence.

(4) The Minister of Employment may lay down detailed rules on the issuance of residence permits under subsection (1).

**9l.** (1) Upon application, a residence permit will be issued to an alien who is entitled, pursuant to an agreement between Denmark and another State, see section 45, to a prolonged holiday stay in Denmark and is entitled in that connection to work in Denmark to a specified extent. The residence permit will be issued on the conditions set out by the agreement.

(2) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application under subsection (1) cannot be submitted in Denmark unless it may be warranted by Denmark's international obligations.

(3) An application for renewal of a residence permit under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark under subsection (2), first sentence.

**9m.** (1) Upon application, a residence permit may be issued to an alien with family ties to an alien holding a time-limited or permanent residence permit under section 9a(2)(i) to (vi) if essential business or employment considerations make it appropriate.

(2) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application under subsection (1) cannot be submitted in Denmark unless it may be warranted by Denmark's international obligations.

(3) An application for renewal of a residence permit under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark under subsection (2), first sentence.

(4) The Minister of Employment may lay down detailed rules on residence permits under subsection (1).

**9n.** (1) Upon application, a residence permit may be issued to an alien with family ties to an alien holding a time-limited or permanent residence permit under section 9i or 9k when warranted by regard for the latter alien's residence in Denmark.

(2) An application for a residence permit under subsection (1) may only be submitted in Denmark if the alien is lawfully resident in Denmark pursuant to sections 1 to 3a or section 4b or 5(2) or pursuant to the EU rules, see section 6, or holds a residence permit under sections 7 to 9f or 9i to 9n and if no particular reasons make it inappropriate. If the alien is not lawfully resident in Denmark, if a time limit for his departure has been determined, or if another application for a residence permit submitted by the alien is pending, an application under subsection (1) cannot be submitted in Denmark unless it may be warranted by Denmark's international obligations.

(3) An application for renewal of a residence permit under subsection (1) must be submitted before the permit expires if the alien is to be considered lawfully resident in Denmark under subsection (2), first sentence.

(4) The Minister of Employment may lay down detailed rules on residence permits under subsection (1).

**9o.** Without the consent of an alien issued with a residence permit under section 9a or sections 9i to 9l, the local council may issue an opinion to the Danish Agency for Labour Retention and International Recruitment on the alien's circumstances deemed by the local council to be of importance to the determination of an application for renewal of the residence permit. If the alien has been issued with a residence permit under section 9m or 9n, the local council may, without the consent of the alien and the person living in Denmark, issue an opinion to the Danish Agency for Labour Retention and International Recruitment on the relevant persons' circumstances deemed by the local council to be of importance to the determination of an application as mentioned in the first sentence hereof.

**10.** (1) An alien cannot be issued with a residence permit under sections 7 to 9f or 9i to 9n if –

- (i) the alien must be deemed a danger to national security;
- (ii) the alien must be deemed a serious threat to public order, safety or health; or
- (iii) the alien is deemed to fall within Article 1 F of the Convention Relating to the Status of Refugees (28 July 1951).

(2) In cases other than those mentioned in subsection (1), an alien cannot, unless particular reasons make it appropriate, including regard for family unity, be issued with a residence permit under sections 7 to 9f or 9i to 9n if –

- (i) the alien has been convicted abroad of an offence that could lead to expulsion under section 22, 23 or 24 if his case had been heard in Denmark;
- (ii) there are serious reasons for assuming that the alien has committed an offence abroad which could lead to expulsion under section 22, 23 or 24;
- (iii) circumstances otherwise exist that could lead to expulsion under the rules of Part 4;
- (iv) the alien is not a national of a Schengen country or a Member State of the European Union, and the alien is the subject of an alert entered in SIS II for the purpose of refusing entry pursuant to the SIS II Regulation; or
- (v) because of a communicable disease or a serious mental disorder, the alien must be deemed potentially to represent a threat or cause substantial inconvenience to his surroundings.

(3) An alien banned from re-entering Denmark, see section 32(1), in connection with expulsion under sections 22 to 24 or section 25 cannot be issued with a residence permit under section 7 or 8 unless particular reasons make it appropriate, including regard for family unity. An alien banned from re-entering Denmark, see section 32(1), in connection with expulsion under section 25a, 25b or 25c may be issued with a residence permit under section 7 or section 8(1) or (2), unless particular reasons make it inappropriate.

(4) An alien banned from re-entering Denmark, see section 32(1), cannot be issued with a residence permit under section 8(3) or sections 9 to 9f or 9i to 9n unless exceptional reasons make it appropriate, including regard for family unity, but at the earliest 2 years after departure. The requirement that 2 years must have passed from the date of departure does not apply to aliens who are not nationals of one of the countries mentioned in section 2(1) (third-country nationals) and who have been expelled under section 25b.

(5) An alien who is subject to restrictive measures intended to prevent entry and transit as decided by the United Nations or the European Union, see section 32(8), cannot be issued with a registration certificate or a residence card pursuant to the EU rules, see section 6, or a residence permit under sections 7 to 9f or 9i to 9n unless particular reasons make it appropriate.

**11.** (1) A residence permit under sections 7 to 9f or 9i to 9n is issued with a possibility of permanent residence or for the purpose of a temporary stay in Denmark. The residence permit may be issued for a limited period of time.

(2) A time-limited residence permit issued with a possibility of permanent residence will be renewed upon application unless there is a basis for revoking the residence permit under section 19.

(3) Unless there is a basis for revoking the residence permit under section 19, a permanent residence permit may be issued to an alien over the age of 18 if –

- (i) the alien has been lawfully resident in Denmark, but see subsection (4), for at least 5 years and has held a residence permit under sections 7 to 9f or 9i to 9n throughout this period. If the residence permit was issued under section 9(1)(i) or 9c(1), first sentence, on the basis of marriage or regular cohabitation, the condition mentioned in the first sentence hereof is only deemed to be met if the residence permit was issued on the basis of the same marriage or cohabitation;
- (ii) the alien has not been sentenced to imprisonment for 1 year and 6 months or more, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;
- (iii) the alien has not been sentenced to imprisonment for 60 days or more for violation of Part 12 or 13 of the Danish Criminal Code;
- (iv) the alien has no overdue debt to any public authorities unless the deadline for paying the debt has been extended and the debt does not exceed DKK 100,000;
- (v) the alien has not received any public assistance under the Act on an Active Social Policy or the Integration Act for the last 3 years prior to submission of the application for a permanent residence permit and until the alien can be issued with a permanent residence permit, other than assistance in the form of small amounts of isolated benefits not directly related to maintenance, or benefits that are comparable with wages or salaries or pension payments or replace such income;
- (vi) the alien has signed a declaration of integration and involvement as an active citizen in the Danish society, see section 19(1), third sentence, of the Integration Act, or has otherwise indicated his acceptance of the contents thereof;
- (vii) the alien has passed the Danish 1 Examination, see section 9(1) of the Act on Danish Courses for Adult Aliens and Others, or a Danish language test at a corresponding or higher level;
- (viii) the alien has been enrolled in education, has had ordinary employment or has pursued activity as a self-employed person, see subsections (5) and (6), for at least 3 years within the last 5 years before the issuance of a permanent residence permit;
- (ix) the alien must be assumed to participate in the labour market or be enrolled in education on the date when a permanent residence permit can be issued.

(4) When calculating whether an alien has been lawfully resident in Denmark for at least 5 years, see subsection (3)(i), stays abroad may be included in the calculation if –

- (i) the alien has been seconded or posted to another country by a Danish public authority, private enterprise, association or non-governmental organisation. The full period of the stay, but not more than 2 years, will be included in the calculation.
- (ii) the alien has stayed in another country as an accompanying spouse or cohabitant of a person who has been seconded or posted to that country as mentioned in paragraph (i) hereof. The full period of the stay, but not more than 2 years, will be included in the calculation.
- (iii) the alien has stayed in another country in circumstances as those mentioned in subsection (5)(v) or (6)(iii). The full period of the stay, but not more than 1 year, will be included in the calculation.

(5) When calculating whether an alien has had ordinary employment for at least 3 years within the last 5 years, see subsection (3)(viii), the alien's periods of employment will be included in the calculation as follows:

- (i) The full period of ordinary employment in Denmark with average weekly working hours of at least 30 hours (full-time employment).
- (ii) A proportionate share constituting 3/5 of the full period of ordinary employment in Denmark with average weekly working hours of at least 15 hours but less than 30 hours of ordinary employment (part-time employment).
- (iii) The full period of employment in another country to which the alien has been seconded or posted by a Danish public authority, private enterprise, association or non-governmental organisation, but not more than 2 years.
- (iv) The full period of the alien's employment in another country to which the alien's spouse or cohabitant has been seconded or posted as mentioned in paragraph (iii) hereof, but not more than 2 years.
- (v) The full period of any employment in another country that is essential to the alien's employment situation in Denmark, but not more than 1 year.

(6) When calculating whether an alien has been enrolled in education for 3 years within the last 5 years, see subsection (3)(viii), the alien's periods of education will be included in the calculation as follows:

- (i) The full period in which an alien has been enrolled in and completed his Danish upper secondary education or vocational training, but not more than the official length of the programme.
- (ii) The full period of a Danish higher education study programme in which an alien has been enrolled at an educational institution accredited by a public authority, calculated on the basis of the number of credits awarded to the alien under the European Credit Transfer System (ECTS). Full-time studies for one year are equivalent to 60 ECTS. The full period of educational courses taken abroad as part of a study programme falling within the first sentence hereof will be included, but not by more than 1 year.
- (iii) The full period of educational courses completed abroad, provided that the academic level of such courses corresponds at least to the level of a Danish study programme falling within paragraph (ii), first sentence, and the courses are essential to the alien's employment situation in Denmark, but not more than 1 year.

(7) An alien who, in cases other than those mentioned in subsection (3)(ii) and (iii), has been sentenced in Denmark to imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature, cannot be issued with a permanent residence permit until after expiry of the periods mentioned in section 11a.

(8) An application for a permanent residence permit may be dismissed if the application does not include the documents or the information necessary for assessing whether a permanent residence permit can be issued.

(9) Without the consent of an alien who has been issued with a residence permit under sections 7 to 9 or 9b to 9f, the local council may issue an opinion to the Danish Immigration Service on the alien's circumstances deemed by the local council to be of importance to the determination of an application for renewal of the residence permit. The first sentence hereof applies correspondingly to cases on the issuance of a permanent residence permit in which the alien has been issued with a residence permit under sections 7 to 9, 9a to 9f or 9i to 9n. If the alien has been issued with a residence permit under section 9c(1) as a result of family ties with a person living in Denmark of Danish nationality or holding a permanent residence permit or a residence permit under sections 7

to 9 or 9b to 9f, the local council may, without the consent of the alien and the person living in Denmark, issue an opinion to the Danish Immigration Service on the relevant persons' circumstances deemed by the local council to be of importance to the determination of an application as mentioned in the first sentence hereof.

(10) Unless there is a basis for revoking a residence permit under section 19, a permanent residence permit may be issued upon application to an alien who has become eligible for old-age pension or has been granted anticipatory pension, or an alien over the age of 18 who submits an application for a permanent residence permit before his 19th birthday and who has been enrolled in education or has had ordinary employment since his completion of the lower secondary school, provided that the alien meets the conditions of subsection (3)(i) to (vii), but see subsection (14).

(11) Even though the conditions of subsection (3)(i), (v), (vi), (viii) and (ix) are not met, a permanent residence permit may be issued to an alien over the age of 18 who has strong ties with Denmark.

(12) The period in which, within the last 5 years prior to the date when a permanent residence permit can be issued, an alien has or could have received assistance under the Act on Social Services for minding a disabled child or a dying close relative, or under the Act on Leave and Benefits due to Pregnancy and Childbirth for minding a seriously ill child, may be included in the calculation of the 3-year period mentioned in subsection (3)(viii). Subsection (3)(ix) does not apply if the alien receives or could have received assistance as mentioned in the first sentence hereof on the date when a permanent residence permit can be issued.

(13) An alien issued with a residence permit under section 9c(4) cannot be issued with a permanent residence permit. The same applies to the alien's family members issued with residence permits under section 9c(1) as a result of their family ties.

(14) Even though the conditions of subsection (3)(iv) to (ix) are not met, a permanent residence permit may be issued to an alien over the age of 18 if no requirement of meeting the conditions can be made due to Denmark's international obligations, including the United Nations Convention on Rights of Persons with Disabilities.

(15) Even though the conditions of subsection (3)(iv), (v) and (vii) to (ix) are not met, a permanent residence permit may be issued to an alien who has been lawfully resident in Denmark for more than the last 8 years and has been issued with a residence permit under section 7 or 8 throughout this period if the alien has shown his willingness to become integrated into the Danish society.

(16) The amount stipulated in subsection (3)(iv) has been fixed at the 2010 level and will be adjusted as of 2011 once a year on 1 January by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

**11a.** (1) A sentence of suspended imprisonment is a bar to the issuance of a permanent residence permit for 3 years from the date of the final judgment, but always until expiry of the probation period determined in the judgment.

(2) In cases other than those mentioned in section 11(3)(ii) and (iii), a sentence of imprisonment is a bar to the issuance of a permanent residence permit for the following periods:

- (i) A sentence of imprisonment for less than 6 months is a bar to the issuance of a permanent residence permit for 8 years from the date of release.
- (ii) A sentence of imprisonment for 6 months or more, but less than 1 year and 6 months, is a bar to the issuance of a permanent residence permit for 12 years from the date of release.

(3) If the alien is released on parole, the periods mentioned in subsection (2) are reckoned from the date of such release.

(4) In cases other than those mentioned in section 11(3)(ii) and (iii), any other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a sentence of imprisonment or suspended imprisonment is a bar to the issuance of a permanent residence permit for the following periods:

- (i) A sentence of treatment, including out-patient treatment with the possibility of hospitalisation, see sections 68 and 69 of the Criminal Code, is a bar to the issuance of a permanent residence permit for 4 years from the date of the final court order terminating the sanction, but at least 6 years from the date of the final judgment imposing the sanction, see subsection (5).
- (ii) An order of committal to hospital, see sections 68 and 69 of the Criminal Code, is a bar to the issuance of a permanent residence permit for 8 years from the date of the final court order terminating the sanction, but at least 10 years from the date of the final judgment imposing the sanction, see subsection (5).
- (iii) A sentence of safe custody, see section 68, cf. section 70, and section 70 of the Criminal Code, is a bar to the issuance of a permanent residence permit for 20 years from the date of the final court order terminating the sanction, see subsection (5).

(5) At subsequent variations of any sanction mentioned in subsection (4), the length of the period is reckoned from the last sanction imposed.

(6) A sentence in the form of a youth sanction, see section 74a of the Criminal Code, is a bar to the issuance of a permanent residence permit for 2 years from the date of termination of the sanction.

(7) If the alien has been sentenced several times to imprisonment or suspended imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of offences that would have resulted in a punishment of this nature, the periods mentioned in subsections (1), (2) and (4) are reckoned from the date of the last sanction imposed unless the period thus becomes shorter than the period applicable to the alien under subsection (1), (2) or (4) according to a sanction previously imposed.

**11b.** Notwithstanding the provision of section 11a, punishment for violation of section 59(2) is a bar to the issuance of a permanent residence permit for 10 years, in repeated cases for 15 years, reckoned from the date of release, the date of the final judgment, the date of expiry of the period of parole, or the date of acceptance of a fine, the calculation being based on the latest date of expiry of the waiting period among those mentioned.

**12.** (1) The Minister of Justice shall lay down more detailed rules on residence permits under sections 7 to 9 and 9b to 9f, including criteria for the issuance of residence permits, their terms of validity and the conditions that may be laid down for an alien's stay.

(2) The Minister of Employment shall lay down more detailed rules on residence permits under sections 9a and 9i to 9n, including criteria for the issuance of residence permits, their terms of validity, and the conditions that may be laid down for an alien's stay.

**12a.** The provisions of the Council Regulation Laying down a Uniform Format for Residence Permits for Third-Country Nationals apply in Denmark.

## Part 2 Work

**13.** (1) An alien must have been issued with a work permit to be allowed to take paid or unpaid employment, to pursue activity as a self-employed person or to provide services with or without

remuneration in Denmark. A work permit is also required for employment onboard a Danish ship or aircraft which regularly calls at Danish ports or airports as part of scheduled traffic or otherwise. Reference is made to sections 14 and 14a.

(2) The Minister of Employment shall lay down more detailed provisions on the extent to which a work permit is required for work within Danish territorial waters or the Danish continental shelf.

**14.** (1) The following aliens are exempt from the requirement of a work permit:

- (i) nationals of another Nordic country, see section 1;
- (ii) aliens falling within the EU rules, see sections 2 and 6;
- (iii) aliens issued with a permanent residence permit;
- (iv) aliens issued with a residence permit under section 7, 8, 9, 9b, 9d or 9e;
- (v) aliens issued with a residence permit under section 9c(1) when the permit has been issued in immediate continuation of a residence permit under section 9b;
- (vi) aliens issued with a residence permit under section 9c when the permit has been issued to an alien who has submitted an application for a residence permit under section 7;
- (vii) aliens issued with a residence permit under section 9c(1), 9m or 9n when the permit has been issued as a result of family ties with a person living in Denmark;
- (viii) aliens issued with a residence permit under section 9c(4) when the work is naturally associated with the alien's residence in Denmark under that right of residence.

(2) The Minister of Employment may decide that other aliens are exempt from the requirement of a work permit.

**14a.** (1) Upon application, the Danish Immigration Service shall decide that an alien who has submitted an application for a residence permit pursuant to section 7 may accept employment in Denmark on ordinary conditions of pay and employment without a work permit until the alien is issued with a residence permit, departs from Denmark or is returned where –

- (i) the alien's identity has been established;
- (ii) the alien has stayed in Denmark for at least 6 months from his submission of an application for a residence permit pursuant to section 7;
- (iii) the Danish Immigration Service has decided that the alien may stay in Denmark during the asylum proceedings, see in this respect section 48e(2); and
- (iv) the alien concludes a contract with the Danish Immigration Service in accordance with subsection (3).

(2) Subsection (1) does not apply to –

- (i) aliens who have been administratively expelled pursuant to section 25;
- (ii) aliens who have been expelled by judgment;
- (iii) aliens who have been sentenced to imprisonment or suspended imprisonment for an offence committed in Denmark;
- (iv) aliens who meet the exclusion criteria of the Convention Relating to the Status of Refugees (28 July 1951);
- (v) aliens whose application for a residence permit under section 7 is being examined under section 53b; and
- (vi) aliens under the age of 18 unless the Danish Immigration Service finds, upon specific assessment, that regard for the best interests of the minor makes it appropriate.

(3) The Danish Immigration Service shall conclude a contract with the alien about his employment. It must be made a condition of the contract that the alien cooperates in obtaining information for the assessment of his application for a residence permit pursuant to section 7, see section 40(1), first and second sentences, and, upon refusal or waiver of the application for a

residence permit, cooperates in his departure without undue delay, see section 40(4), first sentence. In connection with conclusion of the contract, the Danish Immigration Service shall provide the alien with oral and written guidance on the conditions for the employment, including in particular the requirement of cooperation.

(4) Unless highly exceptional reasons make it inappropriate, the Danish Immigration Service shall decide that an alien who has accepted employment under this provision and no longer meets the relevant conditions or does not comply with the conditions of the contract concluded, see subsection (3), is no longer entitled to keep his employment.

(5) The Danish Immigration Service may issue an advance approval for the recruitment of aliens under this section to enterprises which are covered by a collective agreement and are not a party to an official labour dispute at the date of the approval.

**15.** (1) A work permit may be issued subject to conditions.

(2) The Minister of Employment shall lay down more detailed rules on work permits, including the substance and term of permits and the conditions that may be stipulated in permits, but see subsection (3).

(3) The Minister of Justice shall lay down more detailed rules on work permits for aliens issued with a residence permit under section 9f, including the substance and term of permits and the conditions that may be stipulated in permits.

**16.** The Minister of Employment may lay down rules providing that any person who employs an alien shall notify the job centre.

### Part 3

#### *Lapse and revocation of residence permits and work permits*

**17.** (1) A residence permit lapses when the alien gives up his residence in Denmark. The permit also lapses when the alien has stayed outside Denmark for more than 6 consecutive months. Where the alien has been issued with a residence permit with a possibility of permanent residence and has been lawfully resident for more than 2 years in Denmark, the residence permit lapses only when the alien has stayed outside Denmark for more than 12 consecutive months. The periods here mentioned do not include absence owing to compulsory military service or any service substituted therefor.

(2) Other than the cases mentioned in subsection (1), a residence permit lapses when an under-age alien has stayed outside Denmark for more than 3 consecutive months for re-education purposes or on another stay abroad negatively affecting his schooling and integration.

(3) Upon application, it may be decided that a residence permit must be deemed not to have lapsed in the situations mentioned in subsections (1) and (2). Where the residence permit of an under-age alien is deemed to have lapsed, the Danish Immigration Service shall assess in connection with its decision whether another residence permit may be issued to the alien under section 9(1)(ii), cf. section 9(17), section 9c(1), cf. section 9(17), or section 9c(1).

(4) A residence permit issued under section 7 or 8 lapses under the provisions of subsections (1) and (2) only when of his own free will the alien has settled in his country of origin or has obtained protection in a third country.

(5) Subsection (1) does not apply to aliens issued with a residence permit under section 9a(2)(iv).

**17a.** (1) Notwithstanding the provision of section 17, a residence permit does not lapse until an alien who has returned to his country of origin or the country of his former habitual residence for

the purpose of permanent residence has stayed outside Denmark for more than 12 consecutive months and holds a residence permit under –

- (i) section 7 or 8;
- (ii) section 9b;
- (iii) section 9c(1) in immediate continuation of a residence permit under section 9b;
- (iv) section 9c when the permit is issued to an alien having submitted an application for a residence permit under section 7;
- (v) section 9e when the permit has been issued permanently;
- (vi) section 9 or section 9c(1) as a result of family ties with a person falling within paragraphs (i) to (v) hereof, but see subsection (3); or
- (vii) any other basis than those mentioned in paragraphs (i) to (vi) hereof if so decided upon application.

(2) It may be decided upon application that the residence permit for an alien falling within subsection (1) is to be considered lapsed only when not more than 12 months have passed since the period mentioned in subsection (1).

(3) Subsections (1) and (2) only apply to an alien falling within subsection (1)(vi) if the alien returns to his country of origin or the country of his former habitual residence together with the person with whom the alien has the family ties on which the residence permit was based.

(4) Notwithstanding the provision of section 17, a residence permit does not lapse until an alien who has returned to his country of origin or the country of his former habitual residence for the purpose of permanent residence has stayed outside Denmark for more than 3 consecutive months and holds a residence permit under –

- (i) section 9e when the permit has been issued for a limited period;
- (ii) section 9 or section 9c(1) as a result of family ties with a person falling within paragraph (i) hereof, but see subsection (5); or
- (iii) any other basis than those mentioned in paragraphs (i) and (ii) hereof if so decided upon application.

(5) Subsection (4) only applies to an alien falling within subsection (4)(ii) if the alien returns to his country of origin or the country of his former habitual residence together with the person with whom the alien has the family ties on which the residence permit was based.

(6) An alien may retain his residence permit pursuant to subsections (1) to (5) only once.

**18.** The right to residence in Denmark lapses when for reasons of maintenance it has been decided that an alien not having the means required for his maintenance is to be returned to his country of origin.

**18a.** (1) A residence permit lapses when an alien becomes a Danish national.

(2) An alien who has been deprived of his Danish nationality by judgment under section 8A of the Danish Nationality Act may reacquire the residence permit lapsed under subsection (1).

(3) It is a condition for reacquisition under subsection (2) that there would be no basis for revoking the residence permit lapsed under subsection (1), see section 19.

**19.** (1) A time-limited residence permit may be revoked if –

- (i) the basis of the application or the residence permit was incorrect or is no longer present, including if the alien holds a residence permit under section 7 or 8 and the conditions constituting the basis of the residence permit have changed in such manner that the alien no longer risks persecution, see sections 7 and 8;

- (ii) the alien is not in possession of a requisite passport or other travel document, see section 39, allowing him to return to the country of issue;
- (iii) the alien fails to comply with the conditions laid down for his residence permit or work permit. Such conditions must have been clearly stated, and it must have been impressed upon the alien in writing that non-compliance will lead to revocation;
- (iv) it is a condition for the residence permit that the alien or the person living in Denmark does not receive assistance under the Act on an Active Social Policy or the Integration Act, see section 9(5), second and third sentences, section 9(15), first and second sentences, and section 9(20), first and second sentences, and the alien or the person living in Denmark receives such assistance;
- (v) it is not a condition for the residence permit that the alien and the person living in Denmark do not receive any assistance under the Act on an Active Social Policy or the Integration Act, see section 9(5), second sentence, because exceptional reasons conclusively make it inappropriate and these exceptional reasons no longer exist, and the alien or the person living in Denmark receives such assistance, see section 9(5), second and third sentences;
- (vi) it is a condition for the residence permit that a person living in Denmark proves that he disposes of his own dwelling of a reasonable size, see section 9(6), section 9(15), third sentence, and section 9(20), third sentence, and the person living in Denmark can no longer so prove. The provisions of section 9(27) apply correspondingly;
- (vii) it is not a condition for the residence permit that a person living in Denmark proves that he disposes of his own dwelling of a reasonable size because particular reasons make it inappropriate, see section 9(6), section 9(15), third sentence, and section 9(20), third sentence, and such particular reasons no longer exist, and the person living in Denmark cannot prove that he disposes of his own dwelling of a reasonable size. The provisions of section 9(27) apply correspondingly;
- (viii) it is a condition for the residence permit that the alien and persons issued with a residence permit as a result of family ties with the alien do not receive any assistance under the Act on an Active Social Policy, see section 9a(3), first sentence, and the alien or persons issued with a residence permit as a result of family ties with the alien receive assistance under the Act on an Active Social Policy;
- (ix) <sup>6)</sup> it is a condition for the residence permit that the alien and persons issued with a residence permit as a result of family ties with the alien do not receive any public assistance for maintenance during their stay in Denmark, see section 9f(6), and the alien or persons issued with a residence permit as a result of family ties with the alien receive public assistance for maintenance. At the request of the Danish Immigration Service, the local council shall issue an opinion as to whether the alien or persons issued with a residence permit as a result of family ties with the alien have received public assistance for maintenance during their stay in Denmark;
- (x) an alien issued with a residence permit for the purpose of attending a study programme or a course at an educational institution in Denmark has been sentenced to or has accepted a fine or has been cautioned by the court for working without the requisite permit, see section 59(2), or for working in violation of the conditions laid down for the issuance of a work permit, see section 60(1), or has acknowledged to the Danish Agency for Labour Retention and International Recruitment that he has worked without the requisite permit or in violation of the conditions laid down for the issuance of a work permit;
- (xi) it is a condition for the residence permit that the alien passes a Danish language test, see section 9(30), and the alien has not passed the test within the time limits mentioned in section 9(30).

- (2) A time-limited or a permanent residence permit may always be revoked if –
- (i) the alien has obtained his residence permit by fraud;
  - (ii) information has been provided on circumstances that, under the rules of section 10(1), would exclude the alien from a residence permit;
  - (iii) information has been provided on circumstances that, under the rules of section 10(2)(i) and (ii) and section 10(5), would exclude the alien from a residence permit; or
  - (iv) an alien issued with a residence permit under section 7 or section 8(1) or (2) goes on holiday or other short-term stay to the country in which, according to the authority which issued the residence permit, the alien risks persecution falling within section 7, and the conditions constituting the basis of the residence permit have changed in such manner that the alien no longer risks such persecution, see sections 7 and 8(1) and (2). A residence permit may be revoked under the first sentence hereof until 10 years after the date when the residence permit was first issued.

(3) A time-limited or permanent residence permit may always be revoked if an alien who is not a national of a Schengen country or a Member State of the European Union is the subject of an alert entered in SIS II for the purpose of refusing entry pursuant to the SIS II Regulation because of circumstances which, in Denmark, could lead to expulsion under Part 4. The same applies if the alien is the subject of an alert entered in SIS II for the purpose of refusing entry because he is subject to restrictive measures intended to prevent entry and transit as decided by the United Nations or the European Union. Revocation under the first or second sentence hereof is effected upon consultation with the authorities of another Schengen country pursuant to Article 25 of the Schengen Convention.

(4) A time-limited or permanent residence permit may be revoked if an administrative authority of another Schengen country or of a Member State of the European Union has made a final decision on the return of an alien who is not a national of a Schengen country or a Member State of the European Union because of circumstances which, in Denmark, could lead to expulsion under sections 22 to 24 or section 25, 25a(1) or (2)(iii) or 25c. If the decision on return has been made on the basis of an offence, the residence permit may only be revoked if the alien was sentenced for an offence which, in the country in question, may result in a punishment of at least 1 year's imprisonment. Subsection (3), second sentence, applies correspondingly. No decision on revocation may be made under the first sentence hereof if the alien is a family member of a national of a Member State of the European Union who has made use of his right to freedom of movement, see section 2(4).

(5) A time-limited or permanent residence permit under section 9f may be revoked if the alien has been sentenced by final judgment for violation of provisions of Parts 12 and 13 of the Criminal Code or of section 136, 140, 266, 266a or 266b of the Criminal Code. For the purpose of a decision by the Danish Immigration Service on revocation under the first sentence hereof, the police may, without the alien's consent, transmit information to the Danish Immigration Service stating that an alien issued with a residence permit under section 9f has been sentenced by final judgment for violation of the provisions of the Criminal Code mentioned in the first sentence hereof.

(6) Section 26(1) applies correspondingly to decisions on revocation of residence permits. Section 26(2) applies correspondingly to decisions on revocation of residence permits under subsection (2)(ii) and (iii), see section 10(5).

(7) In deciding on revocation of residence permits issued under section 9(1)(i) or section 9c(1), special regard must be had to the question whether the basis of the right of residence is no longer present because of cessation of cohabitation due to the fact that the alien or the alien's child has been subjected to assault, abuse or other ill-treatment, etc., in Denmark. This applies regardless of the length of the alien's residence in Denmark.

(8) Without the consent of an alien who has been issued with a residence permit under sections 7 to 9 or 9b to 9f, the local council may issue an opinion to the Danish Immigration Service on the alien's circumstances deemed by the local council to be of importance to the determination of a case under subsection (1) or (2). If the alien has been issued with a residence permit under section 9c(1) as a result of family ties with a person living in Denmark of Danish nationality or holding a permanent residence permit or a residence permit under sections 7 to 9 or 9b to 9f, the local council may, without the consent of the alien and the person living in Denmark, issue an opinion to the Danish Immigration Service on the relevant persons' circumstances deemed by the local council to be of importance to the determination of a case as mentioned in the first sentence hereof.

(9) Without the consent of an alien issued with a residence permit under section 9a or sections 9i to 9l, the local council may issue an opinion to the Danish Agency for Labour Retention and International Recruitment on the alien's circumstances deemed by the local council to be of importance to the determination of a case under subsection (1) or (2). If the alien has been issued with a residence permit under section 9m or 9n, the local council may, without the consent of the alien and the person living in Denmark, issue an opinion to the Danish Agency for Labour Retention and International Recruitment on the relevant persons' circumstances deemed by the local council to be of importance to the determination of a case as mentioned in the first sentence hereof.

(10) The provision of section 26(2) applies correspondingly to decisions on revocation under subsection (3) of a residence permit on the grounds that the alien is the subject of an alert entered in SIS II for the purpose of refusing entry because he is subject to restrictive measures intended to prevent entry and transit as decided by the United Nations or the European Union.

**20.** A residence permit issued under section 7 or 8 to an alien having arrived in Denmark in an extensive inflow of refugees may be revoked if a third country is prepared to receive him and afford him protection, or if the grounds for issuance of the residence permit have clearly ceased to exist.

**21.** An alien's work permit lapses in the event of lapse or revocation of his residence permit.

**21a.** The Danish Agency for Labour Retention and International Recruitment shall decide that, for a period of 2 years from such decision, no residence permit may be issued under section 9j for the purpose of an au pair placement with a host person if –

- (i) an au pair has performed duties for the host family for more than the maximum period specified by the permit issued or performs services for the host family other than domestic services;
- (ii) the amount of pocket money received by an au pair from the host family is smaller than the minimum amount of pocket money laid down by the immigration authorities; or
- (iii) a separate room has not been made available to an au pair in the host family's dwelling.

#### Part 4 *Expulsion*

**22.** An alien who has been lawfully resident in Denmark for more than the last 9 years and an alien issued with a residence permit under section 7 or section 8(1) or (2) who has been lawfully resident in Denmark for more than the last 8 years may be expelled if –

- (i) the alien is sentenced to at least 3 years' imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;

- (ii) the alien is sentenced for several counts to at least 1 year's imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;
- (iii) the alien is sentenced to at least 1 year's imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration and has previously been sentenced in Denmark to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature;
- (iv) the alien is sentenced, pursuant to the Act on Euphoriant Drugs or section 191 or 290 of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature, provided that the proceeds were obtained by violation of the Act on Euphoriant Drugs or section 191 of the Criminal Code;
- (v) the alien is sentenced, pursuant to section 59(7) of this Act or section 125a of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature;
- (vi) the alien is sentenced, pursuant to provisions of Parts 12 and 13 of the Criminal Code or pursuant to section 119(1) or (2), section 119(3), second sentence, cf. the first sentence thereof, section 123, 136, 180 or 181, section 183(1) or (2), section 183a, 184(1), 186(1), 187(1), 193(1), 208(1) or 210(1), section 210(3), cf. subsection (1) thereof, section 215, 216 or 222, section 224 or 225, cf. section 216 or 222, section 230, 235, 237, 244, 245, 245a, 246 or 250, section 252(1) or (2), section 261(2) or 262a, section 276, cf. section 286, sections 278 to 283, cf. section 286, section 279, cf. section 285, if the offence is social fraud, section 288, 289, 289a or 290(2), section 291(1), cf. subsection (4) thereof, or section 291(2) of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature;
- (vii) the alien is sentenced, pursuant to section 260 or 266 of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature, for having coerced another person to contract a marriage or to partake in a religious marriage ceremony conferring no legal status against that person's own desire; or
- (viii) the alien is sentenced, pursuant to section 192a of the Criminal Code, section 10(1), cf. sections 1 and 2, or section 10(2) of the Act on Weapons and Explosives, or section 43(4), cf. section 14(1), of Executive Order No. 449 of 9 June 2005 on Weapons and Ammunition, etc., to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature.

**23.** An alien who has been lawfully resident in Denmark for more than the last 5 years may be expelled if –

- (i) any ground given in section 22 is applicable;
- (ii) the alien is sentenced to at least 1 year's imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;
- (iii) the alien is sentenced for several counts to at least 6 months' imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration; or
- (iv) the alien is sentenced to at least 6 months' imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of

this duration and has previously been sentenced in Denmark to imprisonment or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature.

**24.** Other aliens may be expelled if –

- (i) any ground given in section 22 or 23 is applicable; or
- (ii) the alien is sentenced to imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature.

**24a.** In deciding on expulsion by judgment, in particular under section 22(1)(iv) to (viii), it must be emphasised whether expulsion is deemed particularly necessary because –

- (i) of the gravity of the offence committed;
- (ii) of the length of the custodial sentence imposed;
- (iii) of the danger, damage, harm or infringement involved in the offence committed;
- (iv) of prior criminal convictions;
- (v) the offence was committed jointly by several offenders; or
- (vi) the offence was particularly planned or was part of extensive criminal activities.

**24b.** (1) An alien will be sentenced to suspended expulsion if there is no basis for expelling the alien under sections 22 to 24 because such expulsion would be contrary to Denmark's international obligations, see section 26(2). This does not apply if the alien falls within section 2 (the EU rules).

(2) A probation period must be determined in case of suspended expulsion. The probation period is reckoned from the date of the final judgment in the case or, if the alien was not present when judgment was passed, from the date of service of the judgment and expires 2 years after the date of release or discharge from hospital or safe custody or from termination of a stay in a security unit at a residential institution for children and young people. If suspended expulsion was decided in connection with a suspended sentence of imprisonment or a sentence of outpatient treatment allowing deprivation of liberty, the probation period expires 2 years after the date of the final judgment in the case or, if the alien was not present when judgment was passed, 2 years after the date of service of the judgment.

(3) An alien sentenced to suspended expulsion under subsection (1) must be expelled unless such expulsion would be contrary to Denmark's international obligations if, during the probation period of the suspended expulsion, he commits another offence that may give rise to expulsion under sections 22 to 24 and court proceedings are initiated before expiry of the probation period. If expulsion cannot be effected, see section 26(2), the alien must again be sentenced to suspended expulsion. The probation period is determined according to the rules of subsection (2).

(4) If an alien is sentenced to suspended expulsion, the court shall guide the alien on the consequences thereof when passing the judgment.

**25.** An alien may be expelled if –

- (i) the alien must be deemed a danger to national security; or
- (ii) the alien must be deemed a serious threat to public order, safety or health.

**25a.** (1) An alien who has not lawfully stayed in Denmark for more than the last 6 months may further be expelled if –

- (i) the alien, in cases other than those mentioned in sections 22 to 24, has been sentenced for violation of section 42a(7), fourth sentence, cf. section 60(1), of this Act, section 119, 244 or

266, sections 276 to 283 or section 290 of the Criminal Code, section 73(2), cf. subsection (1)(i), of the Customs Act, or the Act on Weapons and Explosives, or the alien has admitted the violation to the police or was apprehended during or in direct connection with commission of the offence; or

- (ii) the alien has been sentenced for unlawful possession of euphoriant drugs, or the alien has admitted unlawful possession or use of euphoriant drugs to the police, or there are strong reasons for suspicion in general.

(2) After his entry, an alien who has not lawfully stayed in Denmark for more than the last 6 months may also be expelled if –

- (i) reason is found from information available on the alien to assume that the alien intends to stay or work in Denmark without the requisite permit. Aliens falling within section 2(1) or (2) cannot be expelled on this ground;
- (ii) the alien's means are insufficient for his maintenance in Denmark and for the return fare to his country of origin. Aliens falling within section 2(1) or (2) cannot be expelled on this ground;
- (iii) other reasons of public order, safety or health warrant that the alien should not be allowed to stay in Denmark.

**25b.** (1) An alien may be expelled if the alien is staying in Denmark without the requisite permit.

(2) An alien who is not a national of one of the countries mentioned in section 2(1) (third-country nationals) and who has been ordered to depart from Denmark immediately, or who fails to depart in accordance with the time limit for departure, see section 33(2), must be expelled from Denmark unless particular reasons make it inappropriate.

**25c.** An alien issued with a residence permit under section 9f may be expelled in cases other than those mentioned in sections 22 to 24 if the alien has been sentenced for violation of provisions of Parts 12 and 13 of the Criminal Code or of section 136, 140, 266, 266a or 266b of the Criminal Code.

**26.** (1) In deciding on expulsion under sections 25a to 25c, regard must be had to the question whether expulsion must be assumed to be particularly burdensome, in particular because of –

- (i) the alien's ties with the Danish society;
- (ii) the alien's age, health and other personal circumstances;
- (iii) the alien's ties with persons living in Denmark;
- (iv) the consequences of the expulsion for the alien's close relatives living in Denmark, including the impact on family unity;
- (v) the alien's slight or non-existent ties with his country of origin or any other country in which he may be expected to take up residence; and
- (vi) the risk that, in cases other than those mentioned in section 7(1) and (2) and section 8(1) and (2), the alien will be ill-treated in his country of origin or any other country in which he may be expected to take up residence.

(2) An alien must be expelled under sections 22 to 24 and 25 unless this would be contrary to Denmark's international obligations.

**26a.** In deciding on expulsion, special regard must be had to the question whether the circumstances potentially giving rise to expulsion are a consequence of the fact that the alien has been trafficked, and whether this fact makes expulsion inappropriate.

**27.** (1) The periods mentioned in section 11(3)(i), section 17(1), third sentence, and sections 22, 23 and 25a are reckoned from the date of the alien's registration with the Central National Register or, if his application for a residence permit was submitted in Denmark, from the date of submission of that application or from the date when the conditions for the residence permit are met if such date is after the date of application.

(2) Regarding aliens who have been issued with a residence permit under section 7(1) and (2), the periods mentioned in subsection (1) are reckoned from the date of the first residence permit.

(3) The reckoning of the periods mentioned in subsection (1) is interrupted when a granted residence permit expires, lapses or is revoked by the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment. Where the residence permit is renewed, the residence permit is not considered lapsed, or the decision on revocation is reversed, the periods mentioned in subsection (1) are reckoned from the dates mentioned in subsections (1) and (2) in relation to the previously granted residence permit.

(4) A stay in Denmark based on a residence permit obtained by fraud is not deemed a lawful stay.

(5) The time the alien has spent in custody prior to conviction or served in prison or been subject to other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in imprisonment is not included in the periods mentioned in subsection (1).

**27a.** For the purpose of decisions to be made by the Danish Immigration Service, the Immigration Appeals Board and the Ministry of Justice on expulsion under Part 4, cf. section 49, the police may, without the alien's consent, transmit information on an alien's offences, including charges of offences, to the Ministry of Justice, the Immigration Appeals Board or the Danish Immigration Service.

#### Part 4a

*Enforcement of final administrative decisions made by authorities of other Schengen countries or of Member States of the European Union on the return of aliens, etc.*

**27b.** (1) An alien may be returned from Denmark if an administrative authority of another Schengen country or of a Member State of the European Union has made a final decision on return of the alien on the basis of circumstances that, in Denmark, could lead to expulsion under Part 4, but see subsection (2) hereof and section 31. If the decision on return has been made on the basis of an offence, a decision on return under the first sentence hereof can only be made if the alien was sentenced for an offence which, in the country in question, may result in a punishment of at least 1 year's imprisonment.

(2) Subsection (1) does not apply to aliens who –

- (i) are issued with a residence permit for Denmark;
- (ii) are nationals of a Schengen country or of a Member State of the European Union; or
- (iii) are family members of nationals of a Member State of the European Union who have made use of their right to freedom of movement, see section 2(4).

(3) If an alien as mentioned in subsection (1) is issued with a residence permit for another Schengen country or for an EU Member State, or if he holds a visa for a stay exceeding 3 months and valid only for another Schengen country (long-stay visa), a decision on return under subsection (1) is made in connection with consultations pursuant to Article 25(2) of the Schengen Convention with the authorities of the country in which a final decision on return of the alien has been made, and with the authorities of the country for which the alien is issued with a residence permit or long-stay visa. If the alien's residence permit or long-stay visa is not revoked, no decision on return under subsection (1) is made.

(4) Section 26(1) applies correspondingly to decisions on return under subsection (1).

**27c.** When an alien falling within section 27b(1) departs from Denmark or is returned from Denmark, the Schengen country or the Member State of the European Union in which a final decision on return of the alien has been made is informed thereof by the Danish Immigration Service without the alien's consent.

**27d.** (1) Without the alien's consent, the Danish Immigration Service and the police may obtain confidential information, including personal data, about an alien staying in Denmark from an authority of another Schengen country or of a Member State of the European Union which has made a final decision on return of the alien if obtaining such information is required for the purpose of a decision under section 27b.

(2) Without the alien's consent, the Danish Immigration Service and the police may transmit confidential information, including personal data, about an alien expelled from Denmark under Part 4 to authorities of other Schengen countries or of Member States of the European Union if such transmission is required for the purpose of the authority's decision to return the alien from the country or Member State in question.

**27e.** Without the alien's consent, the police may, upon request, transmit information on any previous convictions of an alien to authorities of another EU/EEA Member State or a country falling within section 2(5) for the purpose of an assessment by the relevant country as to whether the alien constitutes a risk to public order or safety in connection with proceedings in that country regarding the issuance of a registration certificate or residence card under EU law. If the relevant country has no registration scheme, the transmission may be effected within 3 months of the alien's entry or of the date when the alien reported his presence in the relevant country. A reply to any inquiry must be sent within 2 months of receipt.

## Part 5 *Refusal of entry*

**28.** (1) Aliens not issued with a residence permit and not issued with a registration certificate or residence card, see section 6, for Denmark, and nationals of a Nordic country not permanently resident in Denmark may be refused entry on arrival from a country which has not acceded to the Schengen Convention in the following cases:

- (i) If the alien has been banned from re-entering and has no visa issued under section 4 or 4a, cf. section 3a, first sentence.
- (ii) If the alien does not meet the provisions on travel documents, visa and entry laid down under Part 7.
- (iii) If, from information available on the alien, reason is found to assume that he intends to stay or work in Denmark without the requisite permit. Aliens falling within section 2(1) or (2) cannot be refused entry on this ground.
- (iv) If the alien cannot present documentation for the purpose and specific circumstances of his stay. Aliens falling within section 2(1) or (2) cannot be refused entry on this ground.
- (v) If the alien's means are insufficient for his maintenance both as concerns the entire intended stay in the Schengen countries and for either his return fare or for transit to a country which has not acceded to the Schengen Convention and where he is assured of entry, and he is not able to acquire such means in a lawful manner. Aliens falling within section 2(1) or (2) cannot be refused entry on this ground.

(vi) If the alien is not a national of a Schengen country or a Member State of the European Union, and the alien is the subject of an alert entered in SIS II for the purpose of refusing entry pursuant to the SIS II Regulation.

(vii) If other reasons of public order, relations with foreign powers or reasons of security or health of the Schengen countries warrant that the alien should not be allowed to stay in Denmark.

(2) Nationals of countries which have not acceded to the Schengen Convention or are not Member States of the European Union must be refused entry under the provisions of subsection (1)(i) to (vii), but see subsection (6), on arrival from a country which has not acceded to the Schengen Convention.

(3) Aliens not issued with a residence permit and not issued with a registration certificate or residence card, see section 6, for Denmark or nationals of a Nordic country not permanently resident in Denmark may be refused entry under the provisions of subsection (1)(i) to (vii), but see subsection (6), on arrival from a Schengen country. A national of a Nordic country may only be refused entry under subsection (1)(ii) if he enters from a non-Nordic country, see section 39(4).

(4) An alien who is not a national of a Nordic country and does not fall within section 2(1) or (2) may be refused entry on his arrival in Denmark if the alien in question may be refused entry under the rules applying in the other Nordic country to which the alien in question must be assumed to intend to travel.

(5) Refusal of entry under subsections (1) to (4) may further be effected until 3 months after entry. After having entered Denmark, aliens falling within section 2(1) or (2) may, however, be refused entry only under subsection (1)(i) and (vii) and, if the authorities must defray the expenses of the alien's departure from Denmark, also under subsection (1)(v). If Denmark has made a request to another Member State to take charge of, take back or receive the alien under the rules of Part 5a, the time limit in the first sentence hereof is reckoned from the date when the other Member State responds to the request.

(6) Refusal of entry under subsections (1) to (5) may not be effected if, pursuant to Article 5(4)(c) of the Schengen Borders Code, the alien has obtained special permission to enter Denmark. Where the alien is entitled to transit through Denmark under section 2b(4), the alien may be refused entry only under subsection (1)(i), cf. subsections (2) to (5).

(7) An alien whose application for a residence permit under section 7 is refused or who waives such application, or whose application for asylum lapses under section 40(9) may be refused entry for up to 3 months after entry, notwithstanding the provisions of subsections (1) to (4).

(8) An alien not permanently resident in Denmark may, notwithstanding the provisions of Part 1, be refused entry if it is found necessary for reasons of national security.

(9) The Minister of Justice may lay down more detailed rules on refusal of entry and the return of stowaways.

## **29. (Repealed)**

### **Part 5a**

#### *Transfer, etc., under the rules of the Dublin Regulation*

**29a. (1)** An alien may be refused entry, transferred or retransferred to another EU Member State under the rules of the Dublin Regulation or under an agreement or equivalent arrangement entered into between Denmark and one or more countries in connection with the Dublin Regulation.

(2) In this Act, the Dublin Regulation means Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State

responsible for determining an asylum application lodged in one of the Member States by a third-country national, as subsequently amended.

## Part 6

### *Rules on residence permits, expulsion and refusal of entry*

**30.** (1) An alien who is not entitled to stay in Denmark under the rules of Parts 1 and 3 to 5a must depart from Denmark.

(2) If the alien does not depart from Denmark voluntarily, the police must make arrangements for his departure. The Minister of Justice shall lay down more detailed rules in this respect.

(3) For the examination of a case on the return of an alien, the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, the Ministry of Justice, the Ministry of Employment, the courts, the Immigration Appeals Board or the Refugee Appeals Board shall transmit to the police, without the alien's consent, all the documents of a case about a residence permit when a refusal of a residence permit has been given, or when the applicant waives the application for a residence permit.

**30a.** (1) The Danish Parliamentary Ombudsman shall supervise forced returns.

(2) Such supervision must be carried out in accordance with the Ombudsman Act. In his supervision, the Parliamentary Ombudsman shall particularly ensure that police activities are performed with respect for the individual and without undue use of force.

(3) The Parliamentary Ombudsman shall perform his supervision on the basis of regular reports submitted by the police and by reviewing the case files of a number of returnees.

(4) The Parliamentary Ombudsman may be present when aliens are returned by the police. The police shall make the necessary practical arrangements for the presence of the Parliamentary Ombudsman during the return. The supervision period comprises the period from the decision of forced return is made and until the return has been effected. The police shall provide the Parliamentary Ombudsman with the information necessary to perform the supervisory activities.

(5) The Parliamentary Ombudsman shall submit an annual report on the supervisory activities. The report must be made public.

**31.** (1) An alien may not be returned to a country where he will be at risk of the death penalty or of being subjected to torture or inhuman or degrading treatment or punishment, or where the alien will not be protected against being sent on to such country.

(2) An alien falling within section 7(1) may not be returned to a country where he will risk persecution on the grounds set out in Article 1 A of the Convention Relating to the Status of Refugees (28 July 1951), or where the alien will not be protected against being sent on to such country. This does not apply if the alien must reasonably be deemed a danger to national security or if, after a final judgment for a particularly dangerous crime, the alien must be deemed a danger to society, but see subsection (1).

**32.** (1) As a consequence of a court judgment, court order or decision ordering an alien to be expelled, the alien's visa and residence permit will lapse, and the alien will not be allowed to re-enter Denmark and stay in this country without special permission (re-entry ban). A re-entry ban may be time-limited and is reckoned from the first day of the month following departure or return. The re-entry ban applies from the time of the departure or return.

(2) A re-entry ban in connection with expulsion under sections 22 to 24 is imposed –

- (i) for 4 years if the alien is sentenced to suspended imprisonment or is sentenced to imprisonment for not more than 3 months or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this nature or duration;
- (ii) for 6 years if the alien is sentenced to imprisonment for more than 3 months, but not more than 1 year, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;
- (iii) for 12 years if the alien is sentenced to imprisonment for more than 1 year, but not more than 2 years, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration;
- (iv) permanently if the alien is sentenced to imprisonment for more than 1 year and 6 months, but not more than 2 years, or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration unless a basis is found for imposing a re-entry ban for 12 years only; or for
- (v) permanently if the alien is sentenced to imprisonment for more than 2 years or other criminal sanction involving or allowing deprivation of liberty for an offence that would have resulted in a punishment of this duration.

(3) A re-entry ban in connection with expulsion under section 22(1)(iv) to (viii), section 23(1)(i), cf. section 22(1)(iv) to (viii), or section 24(1)(i), cf. section 22(1)(iv) to (viii), and expulsion by judgment of an alien who has not lawfully stayed in Denmark for more than the last 6 months is imposed for at least 6 years.

(4) A re-entry ban in connection with expulsion under section 25 is imposed permanently. A re-entry ban in connection with expulsion under section 25a or 25b is imposed for 2 years. A re-entry ban in connection with expulsion under section 25c is imposed for 4 years. A re-entry ban in connection with expulsion under section 25b may be imposed for 5 years if the alien is not a national of one of the countries mentioned in section 2(1) (third-country nationals) and has entered Denmark in violation of a re-entry ban previously imposed in connection with expulsion under section 25b.

(5) The police authority in charge of the arrangements for departure shall deliver to the alien a written notice giving the grounds for the re-entry ban and the penalty carried by non-compliance with the ban.

(6) A re-entry ban lapses if, under the conditions mentioned in section 10(3) and (4), the alien is issued with a residence permit under sections 7 to 9f or 9i to 9n.

(7) A re-entry ban imposed on a national of a Member State of the European Union or a country covered by the Agreement on the European Economic Area, a Swiss national or an alien otherwise falling within the EU rules, see section 2(2), may be lifted if particular reasons make it appropriate. An application for the lifting of a re-entry ban must be determined within 6 months of submission of the application.

(8) An alien who is subject to restrictive measures intended to prevent entry and transit as decided by the United Nations or the European Union may not enter and stay in Denmark without permission (entry ban). The entry ban applies for the period in which the alien is subject to the restrictive measures. The entry ban lapses if the alien ceases to be subject to the restrictive measures or if the alien is issued with a residence permit for Denmark for particular reasons.

(9) A re-entry ban in connection with expulsion under section 25b imposed on an alien who is not a national of one of the countries mentioned in section 2(1) (third-country nationals) may be lifted in exceptional cases, including for reasons of family unity.

**32a.** A decision on refusal of an application for a residence permit under section 7 or section 8(1) or (2), or a decision on the lapse or revocation of such residence permit, must also include a decision on whether the alien may be returned from Denmark if he does not voluntarily depart from the country, see section 31.

**32b.** A decision according to which an alien whose application for a residence permit under section 7 or section 8(1) or (2) has been refused cannot be returned from Denmark, see section 31, must be revised if the basis referred to in the decision is no longer present.

**33. (1)** A decision on refusal of an application for a residence permit or of an application for renewal of a residence permit, on revocation of a residence permit, on refusal of an application for the issuance of a registration certificate or a residence card, see section 6, on revocation of a registration certificate or a residence card, see section 6, on expulsion under section 25, 25a or 25b or on return under section 27b must state a time limit for departure from Denmark. The decision must further refer to the rules of subsection (3), first, third and fourth sentences.

(2) In decisions falling within subsection (1), the time limit is determined to be one month if the alien is a national of another Nordic country and has been resident in Denmark or if the alien falls within the rules mentioned in section 2(4) (the EU rules) or has hitherto been issued with a residence permit. In decisions refusing an application for a residence permit under section 7, 9b or 9c(3)(ii), the time limit is determined to be 15 days. For other aliens, the time limit for departure is determined to be 7 days. In urgent cases, the time limit for departure is always determined to be immediately. Urgent cases are in particular cases where the alien constitutes a danger to national security or a serious threat to public order, safety or health or where the alien has committed an offence, where it is a case of fraud or a manifestly unfounded application, or where there is a risk that the alien will disappear or evade return. It cannot be deemed an urgent case that there is a risk that the alien will disappear if the alien is a national of one of the countries mentioned in section 2(1).

(3) Where a decision made under subsection (1) is appealed against within 7 days of its being notified to the alien concerned, the alien is entitled to remain in Denmark until his appeal has been decided on, provided that he either falls within the EU rules, see section 2, or is a national of another Nordic country and has been resident in Denmark or has hitherto been issued with a residence permit with a possibility of permanent residence in Denmark. Where the decision is upheld, a new time limit for departure from Denmark must be determined under the rules of subsection (2). An alien who has not hitherto been issued with a residence permit, a registration certificate or a residence card, see section 6, for Denmark and who falls within the EU rules, see section 2(1) and (2), is not entitled to stay in Denmark until an appeal against a decision of expulsion under section 25a or 25b has been decided. An appeal against a decision not falling within the first sentence hereof can only operate to suspend the time limit for departure if particular reasons make it appropriate.

(4) An application for a residence permit under section 9b operates to suspend the time limit for departure if the application is submitted not later than 15 days after registration as an asylum-seeker under section 48e(2) or, where the application for asylum is determined before that time, see section 53b(1), if the application is submitted in connection with service of the time limit for departure specified in connection with refusal of the application for a residence permit under section 7. An application for a residence permit under section 9b submitted later than at the date mentioned in the first sentence hereof does not operate to suspend the time limit for departure unless exceptional reasons make it appropriate.

(5) <sup>7)</sup>Applications that may be submitted in Denmark, see sections 9(21), 9a(4), 9c(6), 9f(8), 9i(2), 9j(2), 9k(2), 9l(2), 9m(2) and 9n(2), and applications for a residence permit under section 9d operate to suspend the time limit for departure.

(6) A complaint to the Parliamentary Ombudsman of a decision made by the Danish Immigration Service under section 53b(1) does not operate to suspend the time limit for departure. A complaint to the Parliamentary Ombudsman of a decision made by the Minister of Justice under section 9b does not operate to suspend the time limit for departure if the complaint must be considered to be manifestly unfounded or the complaint is not submitted in connection with notification of the refusal of a residence permit under section 9b.

(7) An application for reopening of a decision under section 7 or section 9b does not operate to suspend the time limit for departure unless the authority that made the decision so decides. Where the time limit for the alien's departure has been exceeded, an application for reopening does not operate to suspend the time limit for departure unless exceptional reasons make it appropriate.

(8) An application for a residence permit under section 9b, under section 9c when the application concerns an alien who has submitted an application for a residence permit under section 7, or under section 9e will not be examined if the authority that is to make the decision is not aware of the alien's place of residence. The first sentence hereof applies correspondingly in case of an application for reopening of a decision under section 7, under section 9b, under section 9c when the decision concerns an alien who has submitted an application for a residence permit under section 7, or under section 9e.

(9) Where expulsion has been decided by judgment, the police shall determine the time limit for departure to be immediately, but see subsection (15). The time limit for departure is reckoned from the date of release or the date of discharge from hospital or safe custody. If the judgment is suspended or if expulsion is decided by a judgment ordering outpatient treatment and allowing deprivation of liberty, the time limit is reckoned from the date of the final judgment in the case or, if the person was not present when judgment was pronounced, from the date when the judgment was served on him.

(10) An application for a residence permit under sections 9 to 9f or 9i to 9n, see section 10(4), submitted by an alien banned from re-entry does not stay execution of the ban unless the authority examining the application so decides.

(11) An appeal against a decision refusing an alien entry into Denmark does not entitle the alien to enter Denmark.

(12) Where an alien from the Kosovo Province of the Federal Republic of Yugoslavia holding or formerly holding a residence permit pursuant to the Act on Temporary Residence Permits for Distressed Persons from the Kosovo Province of the Federal Republic of Yugoslavia (the Kosovo Emergency Act), or being or having been registered as an asylum-seeker under the rules of section 48e(2) on the basis of an application for a residence permit under section 7 submitted before 30 April 1999, appeals against a decision refusing an application for a residence permit under section 9e or a decision revoking such residence permit within 7 days after the decision on refusal or revocation has been notified to the alien, the alien is entitled to remain in Denmark until the appeal has been decided.

(13) If a refusal of residence permit under section 9c(3)(ii) is appealed within 7 days of notification to the alien in question, the alien is entitled to remain in Denmark until the appeal has been decided.

(14) If an alien has been trafficked, the Danish Immigration Service shall, upon request, determine the time limit for departure to be 30 days unless particular reasons make it inappropriate. Upon request, the time limit for departure may be determined to be later or may be extended if

particular reasons make it appropriate or if the alien is cooperating concerning a prepared return. The time limit for departure may not exceed 120 days.

(15) Subsection (14) applies correspondingly to an alien who has been trafficked and has been expelled by judgment.

**33a.** Notwithstanding the time limit for departure determined, see section 33, aliens who cooperate concerning the departure and conclude a contract with the Danish Immigration Service about an upgrading course and voluntary departure, see section 43c, shall depart from Denmark only when the upgrading course in Denmark has been completed or is ended.

**33b.** (1) A decision falling within section 33(1) must be given in writing. The same applies to any decision as to whether an appeal against such decision may stay the execution of the decision.

(2) Upon request, the alien is given a written or oral translation of the most important elements of the decision, see subsection (1), in a language that the alien understands or can reasonably be presumed to understand.

**33c.** A time limit for departure under section 33(2) may be extended if particular reasons make it appropriate. The decision must be given in writing.

**34.** (1) Until a decision is made as to whether or not an alien is to be expelled, refused entry, transferred or retransferred or returned from Denmark on the grounds that under the rules of Parts 1 and 3 to 5a he is not entitled to stay in Denmark, and until such decision can be enforced, provided that it is found necessary for ensuring the presence of the alien concerned, the police may order the alien to –

- (i) deposit his passport, other travel documents and ticket with the police;
- (ii) provide bail in an amount determined by the police;
- (iii) stay at an address determined by the police; and
- (iv) report to the police at specified times.

(2) If deemed appropriate for ensuring the presence of the alien or his cooperation in the examination of his case or in his departure, the police may decide that an alien must report to the police at specified times, if –

- (i) the alien submits an application for a residence permit under section 7 and does not cooperate in obtaining information for the case, see section 40(1), first and second sentences;
- (ii) without reasonable cause, the alien fails to appear for an interrogation by the Danish Immigration Service or the police, to which the alien has been summoned;
- (iii) the alien has exhibited violent or threatening behaviour to persons performing duties in relation to the running of an accommodation centre for aliens or to persons otherwise staying at the accommodation centre; or
- (iv) the alien fails to comply with a decision of the Danish Immigration Service ordering the alien to stay at a place determined by the Danish Immigration Service, see section 42a(7), third sentence, and section 42d(2), second sentence.

(3) Where the police is making arrangements for an alien's departure and the alien does not cooperate in his departure, see section 40(4), first sentence, the police may decide that the alien must report to the police at specified times if deemed appropriate for ensuring the presence of the alien or his cooperation in his departure.

(4) Unless particular reasons make it inappropriate, the police shall decide that an alien whose residence permit under section 7 or section 8(1) or (2) has lapsed, see section 32(1), but who cannot be returned from Denmark, see section 31, and an alien whose application for a residence permit

under section 7 or section 8(1) or (2) has been refused, but who cannot be returned from Denmark, see section 31, shall report to the police at specified times to ensure that the police is continuously aware of the alien's place of residence.

(5) The police may decide that an alien who has been expelled by final judgment under sections 22 to 24 and who is not remanded in custody under section 35 shall report to the police at specified times in order to ensure effective enforcement of the decision of expulsion.

(6) The police may apply the measures mentioned in subsection (1) when it is found necessary to ensure the presence of an alien in transit at a Danish airport for return purposes.

**34a.** (1) The Danish Immigration Service shall decide that an alien whose residence permit under section 7 or section 8(1) or (2) has lapsed, see section 32(1), but who cannot be returned from Denmark, see section 31, and an alien whose application for a residence permit under section 7 or section 8(1) or (2) has been refused, but who cannot be returned from Denmark, see section 31, and who has repeatedly been punished for failure to comply with a residence order, see section 42a(9), cf. section 60(1), must be recorded by means of an electronic transmitter fitted to the alien's body for a period of one month when he enters and leaves the accommodation centre as a means of tighter control of the observance of the residence order, see section 42a(10).

(2) The police shall provide assistance in fitting an electronic transmitter to the alien's body. The electronic transmitter must be fitted as gently as permitted by circumstances. If necessary, the measure may be effected through the requisite use of force.

(3) If the alien requests that the matter of having an electronic transmitter fitted be brought before the court, the Danish Immigration Service shall bring the matter before the court of the place where the accommodation centre is located within 5 working days.

(4) The rules of Part 43a of the Administration of Justice Act apply correspondingly to cases brought before the court under subsection (3).

(5) Where an alien who has had an electronic transmitter fitted to his body has been exempted from complying with a residence order, see section 42a(9), the electronic transmitter must be removed from the alien's body for the period covered by the exemption. The electronic transmitter will be refitted when the residence order exemption has expired.

(6) If the alien does not cooperate in the fitting of the electronic transmitter, the alien will be punished with a fine. An alien who removes or destroys the electronic transmitter after its fitting will also be punished with a fine.

**35.** (1) An alien may be remanded in custody when on definite grounds custody is found to be necessary to ensure the alien's presence during his case and during a possible appeal until a decision on expulsion, if any, can be enforced, and if –

- (i) the alien is not permanently resident in Denmark and there are reasonable grounds for suspecting that the alien has committed an offence that may lead to expulsion under sections 22 to 24;
- (ii) the alien has entered Denmark in violation of a re-entry ban.

(2) An alien who has submitted an application for a residence permit pursuant to section 7, and who has been expelled by final judgment under sections 22 to 24, may be remanded in custody to ensure effective enforcement of the decision of expulsion.

(3) The provisions of the Administration of Justice Act on remand in custody and measures in replacement thereof apply otherwise. A time limit must, however, always be determined for the length of the custody period or measure in cases where the remand in custody or the imposition of the measure in replacement thereof is solely determined with a view to enforcement of an expulsion

decision by a final judgment. The time limit under the second sentence hereof is determined by the competent court at the place where the alien is detained.

**36.** (1) If the measures mentioned in section 34 are insufficient to ensure enforcement of a refusal of entry, of expulsion under section 25(1)(ii), 25a, 25b or 25c, of transfer or retransfer or of the return of an alien who is not otherwise entitled under the rules of Parts 1 and 3 to 5a to stay in Denmark, the police may order that the alien is to be deprived of his liberty. The police may order that an alien is to be deprived of his liberty to ensure the possibility of expulsion under section 25(1)(i). If the alien is permanently resident in Denmark, the alien may be deprived of his liberty only to ensure the possibility of expulsion under section 25. An alien whose application for a residence permit pursuant to section 7 is expected to be or is being examined according to the procedure mentioned in section 53b(1) may be deprived of his liberty after a specific, individual assessment, provided that it is required for ensuring the alien's presence during the examination of his case, unless the measures mentioned in section 34 are sufficient.

(2) An alien may be deprived of his liberty if he fails to comply with an order from the Danish Immigration Service to stay at a determined place, see section 42a(7), third sentence, and section 42d(2), second sentence. An alien who has submitted an application for a residence permit pursuant to section 7 may also be deprived of his liberty, if, without reasonable cause, the alien fails to appear for an interrogation by the police or the Danish Immigration Service to which the alien has been summoned.

(3) An alien who has submitted an application for a residence permit pursuant to section 7, and who has been expelled under section 25a(1), may be deprived of his liberty to ensure effective enforcement of the decision of expulsion.

(4) If the measures mentioned in section 34 are insufficient to ensure effective examination of the asylum application and return from Denmark, an alien who has submitted an application for a residence permit pursuant to section 7 may be deprived of his liberty during the asylum proceedings if the alien, through his behaviour, essentially obstructs the process of obtaining information for the case by –

- (i) repeatedly failing, without reasonable cause, to appear for interrogations by the police or the Danish Immigration Service to which the alien has been summoned;
- (ii) not giving or by obscuring information on his identity, nationality or travel route or by making undoubted misrepresentations thereon, see section 40(1), first and second sentences; or
- (iii) otherwise not cooperating in obtaining information for the case.

(5) Where the police is making arrangements for an alien's departure and the alien does not cooperate in his departure, see section 40(4), first sentence, the alien may be deprived of his liberty to ensure that the alien gives the requisite information for the departure and cooperates in obtaining the necessary travel documents and visa and in the departure in general.

(6) An alien whose application for a residence permit pursuant to section 7 has been refused by the Danish Immigration Service pursuant to section 53b(1) or by the Refugee Appeals Board, and where the police is making arrangements for the alien's departure and the alien does not cooperate in his departure, see section 40(4), first sentence, may be deprived of his liberty if the measures mentioned in sections 34, 42a(7), third sentence, and 42a(12) are insufficient to ensure the alien's cooperation in the departure.

(7) An alien who fails once or several times to comply with an order of the police under section 34(4) may be deprived of his liberty if necessary to determine whether a possibility of his return has arisen, see section 32b.

(8) If the measures mentioned in section 34 are insufficient to ensure the presence of an alien in transit at a Danish airport for return purposes, the alien may be deprived of his liberty.

**37. (1)** An alien deprived of his liberty under section 36 must, if he has not already been released, be brought before a court of justice within 3 full days of commencement of the deprivation of liberty, and the court shall rule on the lawfulness of the deprivation of liberty and its continuance. If the deprivation of liberty was commenced to ensure the possibility of expulsion under section 25(1)(i), the lawfulness of the deprivation of liberty and its possible continuance must be brought before the court within 3 full days of commencement of the deprivation of liberty, notwithstanding the alien's prior release. If the deprivation of liberty under section 36 was commenced immediately after a deprivation of liberty under the Act on Police Activities, the time limit is reckoned from the time of deprivation of liberty under the Act on Police Activities. The court shall review any deprivation of liberty commenced to ensure the possibility of expulsion under section 25(1)(i) according to Part 7b. If the deprivation of liberty under section 36 was commenced immediately after an arrest under Part 69 of the Administration of Justice Act, the time limit is reckoned from the time of the arrest. The alien must be brought before the competent court at the place where the alien was detained, but see the fourth sentence hereof.

(2) The court shall assign counsel to represent the alien. The date and hour when deprivation of liberty was commenced and when the alien was brought before the court must be registered in the court records.

(3) The court shall make its decision by court order, which is subject to interlocutory appeal under the rules of Part 37 of the Administration of Justice Act. If the alien is deprived of his liberty at the time when the decision is made and if his deprivation of liberty is found lawful, the court order must determine a time limit for continued detention. This time limit may later be extended by the court, but not by more than 4 weeks at a time. If the deprivation of liberty was commenced pursuant to section 36(1), fourth sentence, the deprivation of liberty may be continued under this provision for not more than 7 days after the deprivation of liberty was commenced pursuant to section 36(1), fourth sentence. Section 748b, with the exception of the second sentence of subsection (1) thereof, of the Administration of Justice Act applies correspondingly to court hearings for determining any extension of the time limit for deprivation of liberty.

(4) On the deprivation of liberty of an alien, the police shall notify the alien of the provisions of subsection (1) and subsection (2), first sentence. The police shall further notify the alien of his right to contact the diplomatic or consular representatives of his country of origin or, if the alien applies for a residence permit under section 7, of his right to contact a representative of the Danish Refugee Council (*Dansk Flygtningehjælp*).

(5) An interlocutory appeal does not stay the execution of a decision on refusal of entry, expulsion, transfer or retransfer or return on the grounds that the alien is not entitled to stay in Denmark under the rules of Parts 1 and 3 to 5a.

(6) Further, Part 43a of the Administration of Justice Act applies correspondingly.

(7) A decision on deprivation of liberty under section 36 and on the continued deprivation of liberty, see subsection (1), first sentence, must be given in writing.

(8) Deprivation of liberty for the purpose of return under section 36 may not occur for a period exceeding 6 months. The court may extend this period for up to additionally 12 months if particular circumstances apply, including cases where, notwithstanding all reasonable efforts, the return process may be expected to take a long time owing to the alien's lack of cooperation in the return or delays in obtaining the requisite travel documents and entry permit. The deprivation of liberty must be as brief as possible and may be continued only while the return is being arranged and duly carried out.

(9) Deprivation of liberty for the purpose of return under section 36 must be effected in special institutions. If this is not possible, the alien deprived of his liberty must be kept separate from ordinary prison inmates.

**37a.** (1) Section 758(1), first to third sentences, section 758(2) and section 759 of the Administration of Justice Act apply correspondingly to an alien who is deprived of his liberty pursuant to section 36.

(2) Sections 773 to 776 and 778 of the Administration of Justice Act apply correspondingly to an alien whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36.

**37b.** (1) An alien who has been deprived of his liberty pursuant to section 36, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, is not, during the period of deprivation of liberty, subject to other restrictions of his liberty than required by the purpose of the deprivation of liberty and the maintenance of order and security at the place where the alien is detained.

(2) Section 770(2) of the Administration of Justice Act applies correspondingly to an alien who has been deprived of his liberty pursuant to section 36 of the Aliens Act, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36.

**37c.** (1) At the request of the police, the court may decide that an alien whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, is to be partly or wholly excluded from association with other inmates (solitary confinement) if required in view of the need to obtain the information necessary for assessing whether a permit pursuant to this Act can be issued, or whether the alien is lawfully staying in Denmark.

(2) Solitary confinement must not be commenced or continued if the purpose thereof can be satisfied by less radical measures. In deciding on solitary confinement, consideration should further be given to the particular strain that the measure may cause on the person deprived of his liberty due to his tender age or his physical or mental infirmity.

(3) The police shall submit the request for solitary confinement to the competent court at the place where the alien is deprived of his liberty. The court shall assign counsel to represent the alien. The court shall make its decision by court order, which is subject to interlocutory appeal under the rules of Part 37 of the Administration of Justice Act. An interlocutory appeal does not stay the execution of a decision on solitary confinement. Further, Part 43a of the Administration of Justice Act applies correspondingly.

(4) If the court finds that solitary confinement can be commenced or continued, the decision of the court must include a time limit for the period of continued solitary confinement. When solitary confinement is commenced, the first time limit for the confinement must not exceed 2 weeks. This time limit may later be extended by the court, but not by more than 4 weeks at a time. Complete solitary confinement must not take place for continued periods exceeding 4 weeks. Section 748b, with the exception of the second sentence of subsection (1), of the Administration of Justice Act applies correspondingly to court hearings for determining any commencement or continuation of solitary confinement.

(5) The police may decide that an alien who has been deprived of his liberty pursuant to section 36, but has not been brought before the court pursuant to section 37, is to be partly or fully kept in solitary confinement if the conditions of subsections (1) and (2) are met. The alien may demand that a decision on solitary confinement made by the police pursuant to the first sentence hereof be put before the court for determination when the alien is brought before the court pursuant to section 37.

A demand under the second sentence hereof does not stay execution of the decision. Subsection (3) applies correspondingly.

**37d.** (1) An alien who has been deprived of his liberty pursuant to section 36, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, may receive visitors to an extent consistent with the maintenance of order and security at the place where the alien is detained. In view of the need to obtain the information necessary for assessing whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or to obtain the information necessary for the police to make arrangements for the alien's departure, the police may oppose visits to the person deprived of his liberty, or the police may demand that such visits be supervised. The person deprived of his liberty always has the right to receive unsupervised visits from his assigned counsel. A person deprived of his liberty who has applied for a residence permit under section 7 is always allowed unsupervised visits from a representative of the Danish Refugee Council.

(2) If the police refuses visits to an alien whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, the person deprived of his liberty must be informed thereof, unless the court should decide otherwise in view of the need to obtain the information necessary for assessing whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or to obtain the information necessary for the police to make arrangements for the alien's departure. Section 37c(3) applies correspondingly.

(3) If the police refuses visits to an alien who has been deprived of his liberty pursuant to section 36, but who has not been brought before the court pursuant to section 37, the person deprived of his liberty must be informed thereof, unless the police should decide otherwise in view of the need to obtain the information necessary for assessing whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or to obtain the information necessary for the police to make arrangements for the alien's departure.

(4) An alien whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, may demand that a police refusal of visitors or a police demand for supervision pursuant to subsection (1) be put before the court for determination. A demand under the first sentence hereof does not stay execution. Section 37c(3) applies correspondingly.

(5) An alien who has been deprived of his liberty pursuant to section 36, but who has not been brought before the court pursuant to section 37, cf. section 36, may demand that a police refusal of visitors or a police demand for supervision under subsection (1) be put before the court for determination when the alien is brought before the court pursuant to section 37, cf. section 36. A demand under the first sentence hereof does not stay execution. Section 37c(3) applies correspondingly.

**37e.** (1) An alien who has been deprived of his liberty pursuant to section 36, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, has a right to receive and mail letters. The police may peruse the letters before receipt or mailing. The police shall hand over or mail the letters at the earliest opportunity, unless the content may interfere with the process of obtaining information necessary for assessing whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or of obtaining information necessary for the police to make arrangements for the alien's departure, or is inconsistent with maintenance of order and security at the place where the alien is detained.

(2) An alien who has been deprived of his liberty pursuant to section 36, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, has a right to unsupervised exchange of letters with his assigned counsel, the Minister of Justice, the Minister of

Employment, the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, the Refugee Appeals Board and the Immigration Appeals Board. If the alien has applied for a residence permit under section 7, he has a right to unsupervised exchange of letters with the Danish Refugee Council. Section 772(2) of the Administration of Justice Act applies correspondingly.

(3) When a letter to or from an alien whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, is withheld, the question of whether or not such withholding is to be continued must immediately be put before the court for determination. If the withholding is upheld, the sender and the addressee must be informed immediately, unless the court should decide otherwise in view of the need to obtain the information necessary for assessing whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or to obtain the information necessary for the police to make arrangements for the alien's departure. Section 37c(3) applies correspondingly.

(4) When a letter to or from an alien who has been deprived of his liberty pursuant to section 36, but who has not been brought before the court pursuant to section 37 is withheld, the sender and the addressee must be informed immediately, unless the police should decide otherwise in view of the need to obtain the information necessary for assessing whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or to obtain the information necessary for the police to make arrangements for the alien's departure. The sender and the addressee may demand that the withholding by the police of a letter be put before the court for determination when the alien is brought before the court pursuant to section 37. A demand under the second sentence hereof does not stay execution. Section 37c(3) applies correspondingly.

## Part 7

### *Control of entry, stay, and departure, etc. of aliens*

**38.** (1) At the border of a country which has not acceded to the Schengen Convention, entry and departure checks must be carried out pursuant to Articles 6 and 7 of the Schengen Borders Code.

(2) Entry and departure checks must not be carried out at the border of a Schengen country. Checks may exceptionally be carried out at such border pursuant to Article 23 of the Schengen Borders Code.

(3) Unless otherwise laid down pursuant to Article 4(2) of the Schengen Borders Code, entry and departure across the border to a country which has not acceded to the Schengen Convention may only be effected at the border crossing points (ports and airports) approved by the Minister of Justice, and only during their opening hours. The Minister of Justice may lay down more detailed conditions for the approval of a port or airport as a border crossing point.

(4) The Minister of Justice may lay down more detailed rules on entry and departure checks, including on police access to airline booking systems, on the stay in Denmark of foreign crew members, on signing on and discharge in Denmark of foreign crew members, and on the duties of ship masters and aircraft captains.

(5) When checking entry and departure under subsection (1) and subsection (2), second sentence, the police is empowered to search luggage compartments and other closed spaces in vehicles, ships and aircraft to ensure that no illegal entry or departure takes place.

(6) The police may stop a vehicle inside Denmark to check whether the vehicle is carrying one or more aliens who have illegally entered Denmark.

(7) The police may stamp an alien's passport or other travel document on entry or departure or on refusal of entry or on expulsion. The Minister of Justice may lay down more detailed rules on the stamping of passports and other travel documents by the police.

**39.** (1) On entry, during his stay in Denmark, and on departure from Denmark, an alien must be in possession of a passport or other document that can be approved as a travel document under the rules laid down by the Minister of Justice.

(2) The Minister of Justice may lay down rules on the extent to which the passport or travel document must be provided with a visa endorsement for entry into or departure from Denmark. The Minister of Justice may further lay down more detailed rules on visas, including the right to a visa, the period of validity of the visa and the conditions that can be attached to the visa.

(3) On entry or departure, the passport or travel document must be shown at the passport check-point, and during the stay in Denmark the passport or travel document must be shown to public authorities on request. On entry from or departure to a Schengen country, the passport or travel document need not be presented at the passport check-point unless checks are exceptionally carried out at such border pursuant to Article 23 of the Schengen Borders Code, see section 38(2). The Minister of Justice may order that aliens shall carry their passports or other documents of identification with them at all times during their stay in Denmark.

(4) The provisions of subsections (1) to (3) do not apply to nationals of another Nordic country staying in Denmark or entering from or departing to another Nordic country. The Minister of Justice may exempt other aliens from the provisions of subsections (1) and (3).

(5) The Minister of Justice shall lay down rules on the issuance of special travel documents to aliens who cannot obtain a passport or who need such document for other reasons. The person(s) having custody of a child under the age of 15 with its own passport or its own special travel document may, under the rules applying to passports issued to Danish nationals, demand that such child be deleted from other persons' special travel documents. Special travel documents for aliens may be revoked under the same rules as those applying to passports issued to Danish nationals or when the basis for their issuance has ceased to exist.

**40.** (1) An alien shall provide such information as is required for assessing whether a permit pursuant to this Act can be issued or revoked or can lapse or whether the alien is lawfully staying or working in Denmark. When summoned, an alien shall personally appear before and, on request, produce his passport or travel document to authorities examining his applications pursuant to this Act. The alien must be notified that the information mentioned in the first and second sentences hereof may be transmitted to the intelligence services and the public prosecutor under the rules of Part 7a. Other persons who are deemed able to contribute information for the purpose of the examination of the case may be ordered to give the information stated in the first sentence hereof.

(2) An alien may only demand reimbursement by the immigration authorities of any expenses that the alien has defrayed for the purpose of providing information for the examination of a case under this Act if the authorities have given their consent in writing to do so before the information was provided.

(3) An alien shall provide such information on his financial circumstances as is required for assessing whether or not the Danish Immigration Service may order the alien to repay the expenses for his maintenance and any necessary healthcare services or for his stay at an accommodation centre falling within section 42a(5) or in a dwelling affiliated with such accommodation centre.

(4) Where the police is making arrangements for an alien's departure, the alien shall give the requisite information and cooperate in obtaining the necessary travel documents and visa and in his departure in general. At the request of the police the court may decide, if it is found necessary in order to return the alien, that an alien who is unwilling to cooperate in his return is to appear before the representatives of his country of origin or of another country. The court shall assign counsel to represent the alien. The court shall make its decision by court order, which is subject to

interlocutory appeal under the rules of Part 37 of the Administration of Justice Act. An interlocutory appeal does not stay execution of such order. Part 43a of the Administration of Justice Act applies correspondingly to the court proceedings.

(5) If a person makes a declaration disclosing information in cases falling within this Act, the immigration authorities may require that such declaration be given as a solemn declaration.

(6) Any person who, by making a false declaration or otherwise, assists or attempts to assist an alien in obtaining a residence permit, a registration certificate or a residence card, see section 6, by fraud must refund the expenses incurred by the Treasury for that alien's entry, stay and departure and for the examination of the immigration case.

(7) For the purpose of obtaining information in matters falling within this Act, an alien may be examined in court, see section 1018 of the Administration of Justice Act.

(8) Documents or objects assumed important for the establishment of an alien's identity or his ties with other countries may be seized if it is found necessary. Parts 72 and 73 of the Administration of Justice Act and the rules on seizure in Part 74 of the Administration of Justice Act apply to the same extent as in matters dealing with crimes punishable by imprisonment.

(9) If an alien who has applied for a residence permit under section 7 fails to appear without giving notice of lawful excuse after being personally summoned to appear before the Danish Immigration Service or the police, the alien's application for a residence permit under section 7 lapses. The summons must contain information about the effects of non-appearance. In special cases the Danish Immigration Service may decide that an application must be deemed not to have lapsed.

(10) When examining an application for a visa under section 4 or 4a(1), the Danish Immigration Service may summon the reference person living in Denmark to appear personally before the Danish Immigration Service or the police and to produce identification proving his identity. If the reference person fails to appear without giving notice of lawful excuse after being summoned to appear before the Danish Immigration Service or the police, the visa application may be refused. The summons must contain information about the effects of non-appearance.

#### **40a. (1) Fingerprints must be taken of an alien –**

- (i) who applies for a residence permit under section 7(1) and (2), but see subsection (11) of this section;
- (ii) who is apprehended in an attempt to enter Denmark illegally from a country which is not a Member State of the European Union, and who is not refused entry, see section 28; or
- (iii) who applies for renewal of a residence permit issued under section 7 or 8, but see subsection (11) of this section.

#### **(2) Further, fingerprints may be taken of an alien –**

- (i) who is staying illegally in Denmark, for the purpose of checking whether the alien has previously applied for asylum in another EU Member State;
- (ii) who does not apply for a residence permit under section 7(1) and (2) and who will be refused entry or expelled or must depart from the country, see section 30(1), if, on the basis of the alien's documents, property, financial means and other personal circumstances, there are definite reasons for assuming that the alien will re-enter and apply for a residence permit under section 7(1) and (2);
- (iii) if deemed expedient with a view to identification of the alien;
- (iv) if deemed expedient with a view to issuing or obtaining a travel document for the alien; or
- (v) if the alien falls within section 58g.

(3) Fingerprints taken pursuant to subsection (1) or (2) may be registered in a special data register kept by the National Commissioner of Police. The police and the Danish Immigration Service may

use the register in connection with the examination of immigration cases. The National Commissioner of Police is the authority responsible for the register and its data.

(4) Fingerprints received from foreign immigration authorities in connection with the examination of immigration cases may be registered in the data register mentioned in subsection (3).

(5) Fingerprints registered pursuant to subsections (3) and (4) in the data register mentioned in subsection (3) are deleted 10 years after being taken.

(6) For the purpose of identification of the alien concerned, fingerprints registered pursuant to subsections (3) and (4) in the data register mentioned in subsection (3) may be compared manually or electronically with fingerprints taken under the relevant provisions of the Administration of Justice Act.

(7) Fingerprints taken pursuant to the relevant provisions of the Administration of Justice Act or secured as evidence in criminal proceedings may, for the purpose of investigating an offence, be compared manually or electronically with fingerprints registered in the data register mentioned in subsection (3).

(8) Fingerprints received as part of an international arrest warrant may be compared manually or electronically with fingerprints registered in the data register mentioned in subsection (3). Information from the data register may, for the purpose of replying to an international arrest warrant, be transmitted to the international police cooperation organisation or the foreign authority that issued the warrant.

(9) Without the alien's consent, the police and the Danish Immigration Service may, electronically or manually, transmit fingerprints registered pursuant to subsections (3) and (4) in the data register mentioned in subsection (3) to foreign immigration authorities in connection with the examination of immigration cases. With a view to identification of an alien or with a view to issuing or obtaining a travel document, the police may further transmit fingerprints registered pursuant to subsections (3) and (4) in the data register mentioned in subsection (3) to representatives of the country of origin or of another country or to international police cooperation organisations.

(10) Fingerprints must be taken as gently as permitted by circumstances. If necessary, the measure may be effected through the requisite use of force.

(11) No fingerprints are taken under subsection (1)(i) or (iii) for the purpose of a potential issuance of a residence card if the applicant is unable to give his fingerprints for physical reasons. Where the alien is under the age of 18, fingerprints are only taken under subsection (1)(i) or (iii) for the purpose of a potential issuance of a residence card if the applicant is unaccompanied and has passed his 6th birthday.

(12) Subsections (3) to (9) do not apply if fingerprints are taken under subsection (1)(i) or (iii) for the purpose of a potential issuance of a residence card.

**40b.** (1) A photograph is taken of an alien who applies for a residence permit under section 7 or for renewal of a residence permit issued under section 7 or 8, but see subsection (11) hereof.

(2) A photograph may furthermore be taken of an alien –

- (i) if deemed expedient with a view to identification of the alien;
- (ii) if deemed expedient with a view to issuing an identity card or other document of identification to the alien;
- (iii) if deemed expedient with a view to issuing or obtaining a travel document for the alien; or
- (iv) if the alien falls within section 58g.

(3) Photographs taken pursuant to subsection (1) or (2) may be registered in a special register kept by the National Commissioner of Police. The police and the Danish Immigration Service may

use the register in connection with the examination of immigration cases. The National Commissioner of Police is the authority responsible for the register and its data.

(4) Photographs received from foreign immigration authorities in connection with the examination of immigration cases may be registered in the register mentioned in subsection (3).

(5) Photographs registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) are deleted 10 years after being taken.

(6) For the purpose of identification of the alien concerned, photographs registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) may be compared manually or electronically with photographs taken under the relevant provisions of the Administration of Justice Act.

(7) Photographs taken pursuant to the provisions of the Administration of Justice Act may, for the purpose of investigating an offence, be compared manually or electronically with photographs registered in the register mentioned in subsection (3).

(8) Photographs received as part of an international arrest warrant may be compared manually or electronically with photographs registered in the register mentioned in subsection (3). Information from the register may, for the purpose of replying to an international arrest warrant, be transmitted to the international police cooperation organisation or the foreign authority that issued the warrant.

(9) Without the alien's consent, the police and the Danish Immigration Service may, electronically or manually, transmit photographs registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) to domestic and foreign immigration authorities in connection with the examination of immigration cases. With a view to identification of the alien or with a view to issuing or obtaining a travel document, the police may further transmit a photograph registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) to representatives of the country of origin or of another country or to international police cooperation organisations.

(10) Photographs must be taken as gently as permitted by circumstances. If necessary, the measure may be effected through the requisite use of force.

(11) Where the alien is under the age of 18, a photograph is only taken under subsection (1) for the purpose of a potential issuance of a residence card if the applicant is unaccompanied.

(12) Subsections (3) to (9) do not apply if a photograph is taken under subsection (1) for the purpose of a potential issuance of a residence card.

**40c.** (1) For the examination of an application for a residence permit under section 9 or 9c(1), the Danish Immigration Service and the Ministry of Justice may require the applicant and the person with whom the applicant claims to have the family tie on which the residence permit is to be based to submit to a DNA test with a view to determining the family tie if such tie cannot otherwise be deemed sufficiently evidenced.

(2) The police and the Danish Immigration Service may require an unaccompanied alien claiming to be under the age of 18 to submit to a medical examination to determine the alien's age.

**40d.** When an alien is to take the tests mentioned in section 9(30) and (32), the test provider may, without the alien's consent, obtain information from the register of aliens kept by the Ministry of Justice on the alien's –

- (i) name;
- (ii) sex;
- (iii) date of birth;
- (iv) nationality;
- (v) passport number or serial number of other travel document; and

(vi) photograph.

**41.** The Minister of Justice may lay down rules requiring that, for the purpose of national security or maintenance of law and order, aliens shall report to a public authority.

**42.** (1) The Minister of Justice may lay down rules requiring any person who provides lodgings or campsites for aliens free of charge or against payment to keep a record of foreign guests and to inform the police of their arrival and departure. Such record must at all times be kept available for inspection by the police.

(2) Aliens shall provide the information required for meeting the provisions of subsection (1).

(3) The Minister of Justice may lay down more detailed rules on the records of foreign guests mentioned in subsection (1), including on the lay-out, contents and keeping of the records, on the information to be given by the aliens pursuant to subsection (2), on the documents to be presented by the aliens and on the expenses incumbent on the person who has a duty under subsection (1) to keep the record.

**42a.** (1) An alien who is staying in Denmark and submits an application for a residence permit pursuant to section 7 will have the expenses for his maintenance and any necessary healthcare services defrayed by the Danish Immigration Service until the alien is issued with a residence permit or the alien departs from Denmark or is returned, but see subsections (3) and (4) and section 43(1). An alien as mentioned in the first sentence hereof to whom a residence permit has been issued pursuant to section 7(1) or (2) or section 9b, 9c or 9e will have the expenses for his maintenance and any necessary healthcare services defrayed by the Danish Immigration Service up to and including the end of the first full month following the date of the decision on allocation of the alien as set out in section 10(1) of the Integration Act, but see subsections (3) and (4) hereof.

(2) Where an alien not falling within subsection (1) or section 43(1) is not entitled to stay in Denmark under the rules of Parts 1 and 3 to 5, the alien will have the expenses for his maintenance and any necessary healthcare services defrayed by the Danish Immigration Service if necessary for maintenance of the alien, but see subsections (3) and (4).

(3) Subsections (1) and (2) do not apply if –

- (i) the alien is lawfully resident in Denmark pursuant to section 1 or 5(2) or pursuant to a registration certificate or a residence card under section 6 or pursuant to a residence permit under sections 9 to 9f or 9i to 9n. Notwithstanding the first sentence hereof, an alien as mentioned in subsection (1), first sentence, to whom a residence permit has been issued pursuant to section 9b, 9c or 9e will have the expenses for his maintenance and any necessary healthcare services defrayed by the Danish Immigration Service for the period mentioned in subsection (1), second sentence;
- (ii) the alien has contracted marriage with a person living in Denmark unless particular reasons exist;
- (iii) the alien's place of residence is unknown;
- (iv) the alien is entitled to assistance for maintenance under other legislation. Subsection (1) applies even though the alien is entitled to assistance for maintenance under the Act on an Active Social Policy.

(4) The Danish Immigration Service may decide that an alien falling within subsection (1) or (2), cf. subsection (3), who has sufficient means of his own, will not have his or his family's expenses for maintenance and any necessary healthcare services defrayed. If the alien has sufficient means of his own to pay the expenses for his or his family's maintenance and any necessary healthcare services or stay at an accommodation centre falling within subsection (5) or in a dwelling affiliated

with such accommodation centre, the Danish Immigration Service may order him to do so. The Danish Immigration Service may lay down more detailed rules on the cases in which an alien as mentioned in the first sentence hereof will not have the expenses for his or his family's maintenance and any necessary healthcare services defrayed, and on the cases in which an alien as mentioned in the second sentence hereof may be ordered to pay such expenses. The Danish Immigration Service may lay down more detailed guidelines for the calculation of the expenses for a person's maintenance and any necessary healthcare services, including determine average fees for a given service over a given period of time.

(5) The Danish Immigration Service shall provide and run accommodation centres for aliens falling within subsection (1) or (2), cf. subsection (3). This may take place in cooperation with non-governmental organisations or private companies or government bodies approved for this purpose by the Minister of Justice, or local authorities (accommodation operators). The Minister of Justice may lay down rules on the appointment of cooperative bodies at the individual accommodation centres (residents' councils, etc.) and on the competence of such bodies.

(6) The Minister of Justice shall lay down rules for the participation of local authorities in the financing of the provision and running of accommodation centres for aliens who are mentioned in subsection (1) or (2), cf. subsection (3), including the payment of expenses by the Treasury.

(7) The Danish Immigration Service shall decide on the accommodation of aliens falling within subsection (1) or (2), cf. subsection (3). When allocating accommodation, the Danish Immigration Service shall take into account, if possible, whether the aliens are newly arrived asylum-seekers or asylum-seekers whose applications for a residence permit under section 7 have been refused. If an alien fails to comply with the accommodation instructions given by the Danish Immigration Service, the Danish Immigration Service may order the alien to stay at an accommodation centre determined by the Danish Immigration Service. Such alien must not, by violent or threatening behaviour towards persons performing duties in relation to the running of an accommodation centre for aliens or towards persons otherwise staying at the accommodation centre, obstruct the performance of duties in relation to the running of the accommodation centre or obstruct the maintenance of law and order at the accommodation centre.

(8) Families with children in which at least one parent has stayed in Denmark for a continuous period of at least 12 months following a final refusal of his application for a residence permit pursuant to section 7 must be offered accommodation in special dwellings affiliated with or outside any one of the accommodation centres mentioned in subsection (5) unless the social or health situation of the family makes it conclusively inappropriate. The offer of accommodation in a special dwelling will not be given to families whose asylum applications have been examined under section 53b, or who have been ordered to move due to violence or threats of violence under subsection (7), unless regard for the best interests of the children makes it appropriate in highly exceptional cases and return is futile according to the information available at the time. It is a condition for a offer under the first sentence hereof that no member of the family has been expelled by judgment or administratively expelled pursuant to section 25, falls within the exclusion grounds of the Convention Relating to the Status of Refugees (28 July 1951) or has been sentenced for an offence committed in Denmark. If the family no longer meets the conditions of the third sentence hereof, the Danish Immigration Service shall decide that the family must stay at an accommodation centre determined by the Danish Immigration Service unless particular reasons make it inappropriate.

(9) Unless particular reasons make it inappropriate, the Danish Immigration Service shall order any alien whose residence permit under section 7 or section 8(1) or (2) has lapsed, see section 32(1), but who cannot be returned from Denmark, see section 31, any alien whose application for a residence permit under section 7 or section 8(1) or (2) has been refused, but who cannot be returned from Denmark, see section 31, and any alien who has been expelled by final judgment under

sections 22 to 24 and has not been remanded in custody under section 35 to stay at a specific accommodation centre for the aliens mentioned in subsections (1) and (2). Subsection (7), fourth sentence, applies correspondingly.

(10) The Danish Immigration Service shall ensure that it is verified to an adequate extent that any alien who cannot be returned from Denmark, see section 31, and has been ordered to stay at a specific accommodation centre, see subsection (9), complies with such order.

(11) The Danish Immigration Service may decide that an alien falling within subsection (1) or (2), cf. subsection (3), will not receive any cash allowances, see section 42b(1), (3), (8) and (9), if he is lodged at an accommodation centre, see subsection (5), with free meals, or that the alien will only receive the basic allowance, see section 42b(1) and (2), the maintenance supplement, see section 42b(3) and (7), and the reduced maintenance supplement, see section 42b(3), (6) and (7), if the alien is lodged at an accommodation centre, see subsection (5), without free meals if –

- (i) without reasonable cause, the alien fails to appear for an interrogation by the Danish Immigration Service or the police, to which the alien has been summoned;
- (ii) the alien has exhibited violent or threatening behaviour to persons performing duties in relation to the running of an accommodation centre for aliens or to persons otherwise staying at the accommodation centre;
- (iii) the alien does not comply with a decision of the Danish Immigration Service ordering the alien to stay at a place determined by the Danish Immigration Service, see subsection (7), third sentence, or subsection (9), first sentence;
- (iv) the alien does not comply with the order of the police concerning a measure mentioned in section 34;
- (v) the alien disregards an order to perform necessary duties in relation to the running of the accommodation centre, see section 42d(2), first sentence; or
- (vi) the alien is wanted by the police with a view to service of documents, departure control or return.

(12) The Danish Immigration Service shall decide, unless particular reasons make it inappropriate, that an alien falling within subsection (1) or (2), cf. subsection (3), will not receive any cash allowances, see section 42b(1), (3), (8) and (9), if he is lodged at an accommodation centre, see subsection (5), with free meals, or that the alien will only receive the basic allowance, see section 42b(1) and (2), the maintenance supplement, see section 42b(3) and (7), and the reduced maintenance supplement, see section 42b(3), (6) and (7), if the alien is lodged at an accommodation centre, see subsection (5), without free meals, if –

- (i) the alien submits an application for a residence permit under section 7 and does not cooperate in obtaining information for the case, see section 40(1), first and second sentences; or
- (ii) the police is making arrangements for the alien's departure and the alien does not cooperate in his departure, see section 40(4), first sentence.

(13) For the purpose of a decision under subsection (11) or (12), the Danish Immigration Service may, without the alien's consent, obtain information on the alien's health from the accommodation operator, see subsection (5).

(14) For aliens falling within subsections (11) and (12) who are lodged at an accommodation centre, see subsection (5), without free meals, the maintenance supplement amounts to DKK 42.73 per day. The amount stipulated has been determined at the 2005 level and will be adjusted once a year on 1 January as of 2006 by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

**42b.** (1) An alien whose expenses for his maintenance and any necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) will receive a basic

allowance unless he is lodged at an accommodation centre, see section 42a(5), with free meals. The basic allowance is payable every 2 weeks in advance. The Danish Immigration Service shall decide on the basis of the stage reached in the alien's case at a specific cut-off date immediately preceding the date of payment whether and at which rate the alien will receive the basic allowance, see the first sentence hereof and subsection (2). The basic allowance will not be adjusted subsequently as a result of changes in the stage reached in the alien's case after the cut-off date. If particular reasons make it appropriate, the basic allowance may be paid at shorter intervals.

(2) The basic allowance per day is –

- (i) DKK 32.23 for aliens living together in marriage or cohabitation;
- (ii) DKK 40.71 for aliens over the age of 18 who do not live together in marriage or cohabitation;
- (iii) DKK 40.71 for unaccompanied aliens under the age of 18; and
- (iv) DKK 40.71 for aliens under the age of 18 who, in cases other than those mentioned in paragraph (i) hereof, are not considered as belonging to one of or both his parents' family or families, see subsection (3), seventh and eighth sentences.

(3) An alien who receives the basic allowance, see subsection (1), receives a maintenance supplement if the alien is subject to a duty to maintain a child under the age of 18. The same applies to an alien who does not receive the basic allowance because he is lodged at an accommodation centre with free meals as set out in subsection (1), but see subsection (12). Only one maintenance supplement per child is payable. Not more than 2 maintenance supplements are payable per family. If the alien is subject to a duty of maintenance to more than 2 children under the age of 18, the alien receives a reduced maintenance supplement per child in excess of 2 children, but see subsection (12). The third and fourth sentences hereof apply correspondingly. A family includes the alien, his spouse or cohabitant and his or his spouse's or cohabitant's children under the age of 18. If a child under the age of 18 does not live together with one of or both its parents, if the child lives in marriage or cohabitation with another or if the child is itself subject to a duty of maintenance to a child under the age of 18, such child is considered as not belonging to one of or both its parents' family or families.

(4) The maintenance supplement per day amounts to DKK 64.46 for aliens who receive the basic allowance, but see subsection (5), and DKK 23.75 for aliens who do not receive the basic allowance because they are lodged at an accommodation centre with free meals, but see subsection (5).

(5) If the alien is not registered as an asylum-seeker under section 48e(2), the maintenance supplement per day amounts to DKK 47.50 for aliens who receive the basic allowance, and DKK 6.79 for aliens who do not receive the basic allowance because they are lodged at an accommodation centre with free meals.

(6) The reduced maintenance supplement per day amounts to DKK 33.93. The reduced maintenance supplement is not payable to aliens who do not receive the basic allowance because they are lodged at an accommodation centre with free meals.

(7) It is a condition for payment of maintenance supplements and reduced maintenance supplements that the child towards whom the alien is subject to a duty of maintenance is considered as belonging to the alien's family, see subsection (3), seventh and eighth sentences. If the child lives together with both parents, maintenance supplements and reduced maintenance supplements are payable to the child's mother. Maintenance supplements and reduced maintenance supplements are payable every 2 weeks in advance. The Danish Immigration Service shall decide on the basis of the stage reached in the alien's case at a specific cut-off date immediately preceding the date of payment whether and at which rate the alien will receive the maintenance supplement or reduced maintenance supplement, see the first and second sentences hereof and subsections (3) to (6). The maintenance supplement and the reduced maintenance supplement will not be adjusted

subsequently as a result of changes in the stage reached in the alien's case occurring after the cut-off date. If particular reasons make it appropriate, the supplement may be paid at shorter intervals.

(8) An alien over the age of 18 whose expenses for his maintenance and any necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) and who has complied with his contract, see section 42c, receives a supplementary allowance, see subsection (11), but cf. subsection (12). The supplementary allowance is payable every 2 weeks in arrears. The Danish Immigration Service shall decide on the basis of the stage reached in the alien's case at a specific cut-off date immediately preceding the date of payment at which rate the alien will receive the supplementary allowance, see subsections (10) and (11). The supplementary allowance will not be adjusted subsequently as a result of changes in the stage reached in the alien's case after the cut-off date. Nor will the supplementary allowance be adjusted as a result of changes in the stage reached in the alien's case during the period used as the basis for calculation of the supplementary allowance or in the period just prior to the cut-off date. If particular reasons make it appropriate, the supplementary allowance may be paid in arrears at shorter intervals.

(9) If an unaccompanied alien under the age of 18 or an alien under the age of 18 who is considered as not belonging to one of or both his parents' family or families, see subsection (3), seventh and eighth sentences, has the expenses for his maintenance and any necessary healthcare services defrayed by the Danish Immigration Service under section 42a(1) or (2), the alien will receive a supplementary allowance, but see subsection (12). The second to sixth sentences of subsection (8) apply correspondingly.

(10) The supplementary allowance per day amounts to DKK 23.75. If the alien is not registered as an asylum-seeker under section 48e(2), the supplementary allowance per day amounts to DKK 6.79.

(11) The accommodation operator, see section 42a(5), second sentence, shall pay allowances and supplements, see subsections (1), (3), (8) and (9), but see subsection (12). Unless particular reasons make it inappropriate, the accommodation operator shall decide that no supplementary allowance under subsection (8) is payable if the alien has not complied with his contract, see section 42c. If an alien has not complied with his contract for one or more days of the period on which the calculation of the supplementary allowance is based, see subsection (8), second and sixth sentences, no supplementary allowance is payable for the number of days in which the alien has not complied with his contract unless particular reasons make it inappropriate. If an alien has complied with his contract for less than half of the period on which the calculation of the supplementary allowance is based, see subsection (8), second and sixth sentences, no supplementary allowance is payable unless particular reasons make it inappropriate.

(12) An alien whose expenses for his maintenance and any necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) and who is lodged at an accommodation centre, see section 42a(5), with free meals will not receive any cash allowances, see subsections (1), (3), (8) and (9), if the alien's application for a residence permit under section 7 is being examined according to the procedure mentioned in section 53b(1) as a consequence of the alien's nationality and because there are no general bars to returning the alien to his country of origin. If an alien as mentioned in the first sentence hereof is lodged at an accommodation centre, see section 42a(5), without free meals, the alien will receive a basic allowance, see subsections (1) and (2), a maintenance supplement, see subsections (3) and (7), and a reduced maintenance supplement, see subsections (3), (6) and (7). For aliens falling within the second sentence hereof, the maintenance supplement is DKK 40.71 per day.

(13) An alien whose expenses for his maintenance and any necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) may receive benefits in kind, including in the form of clothing and personal hygiene kits, if he has a special need therefor.

The Minister of Justice shall lay down more detailed rules on the right to and the contents and extent of benefits in kind.

(14) If an alien who has submitted an application for a residence permit pursuant to section 7 has income from employment or a paid internship falling within section 14a or section 42g(2), such income will be deducted from any cash allowances paid under the rules of subsections (1) to (13).

(15) Subsections (1) to (13) do not apply to any alien who has moved into his own dwelling, see section 42k, or his household.

(16) The Danish Immigration Service shall lay down more detailed rules on deductions, see subsection (14).

(17) The amounts stipulated in subsections (2), (4) to (6), (10) and (12) have been determined at the 2003 level and will be adjusted once a year on 1 January as of 2004 by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

**42c.** (1) The accommodation operator, see section 42a(5), second sentence, shall prepare a contract for an alien over the age of 18 who falls within section 42a(1) or (2), cf. subsection (3).

(2) The contract is concluded between the alien and the accommodation operator, see section 42a(5), second sentence, on the basis of the individual alien's skills and qualifications, including any employment. The contract must be concluded within one week of the alien's submission of an application for a residence permit pursuant to section 7. If no agreement on the contents of the contract can be reached, the accommodation operator shall determine the contents. The contract may be revised on a continuous basis.

(3) The contract determines the scope and contents of –

- (i) the tasks necessary to the running of the accommodation centre which the alien has a duty to assist in carrying out, see section 42d(1);
- (ii) the asylum-seeker course which the alien shall attend, see section 42f(1);
- (iii) tuition that the alien shall attend, see section 42f(2) to (4), as agreed or determined, see subsection (2); and
- (iv) activation in which the alien shall participate, see section 42e(1) to (3), as agreed or determined, see subsection (2).

(4) The contract must state what measures may be applied to the alien under the law if the alien does not comply with his contract.

(5) The Minister of Justice may lay down more detailed rules on the conclusion, contents and wording of the contract.

**42d.** (1) An alien lodged in one of the accommodation centres mentioned in section 42a(5) has a duty to assist in carrying out the tasks necessary to the running of the accommodation centre.

(2) The Danish Immigration Service or the accommodation operator, see section 42a(5), second sentence, may order an alien to carry out the tasks mentioned in subsection (1). The Danish Immigration Service may order an alien who disregards such order to stay at a place determined by the Danish Immigration Service.

(3) The Minister of Justice shall lay down more detailed rules on the carrying out of the tasks mentioned in subsection (1).

**42e.** (1) An alien over the age of 17 who falls within section 42a(1) or (2), cf. subsection (3), may participate in activation by carrying out tasks other than the ones mentioned in section 42d(1) in connection with the running of the accommodation centre and assistance in the implementation of the tuition programme mentioned in sections 42f and 42g.

(2) An alien over the age of 17 who falls within section 42a(1) or (2), cf. subsection (3), and who is registered as an asylum-seeker under section 48e(2) may further participate in activation in the form of internal production activities organised by the accommodation operator, see section 42a(5), second sentence, specially organised short-term internships and unpaid humanitarian work or other unpaid voluntary work. This does not apply if the police is making arrangements for the alien's departure and the alien does not cooperate in his departure, see section 40(4), first sentence.

(3) An alien over the age of 17 who falls within section 42a(1) or (2), cf. subsection (3), may, if exceptional reasons make it appropriate, participate in separately organised activation not falling within subsections (1) and (2).

(4) The accommodation operator, see section 42a(5), second sentence, shall determine whether an alien shall participate in activation as mentioned in subsections (1) to (3).

(5) The Minister of Justice may lay down more detailed rules on the contents and scope of the activation mentioned in subsections (1) to (3). The Minister of Justice may deviate from section 46 when laying down rules pursuant to the first sentence hereof.

**42f.** (1) An alien over the age of 18 who has submitted an application for a residence permit pursuant to section 7 and who is lodged at a reception centre, see section 42a(5), shall, unless particular reasons make it inappropriate, attend tuition intended to give the alien a very introductory knowledge of the Danish language and the Danish culture and society as well as labour market, educational and housing issues (asylum-seeker course). If the alien takes up residence at an accommodation centre, see section 42a(5), before completion of the asylum-seeker course, the course must be continued and completed at the accommodation centre. The accommodation operator of the reception centre shall inform the operator of the accommodation centre whether the asylum-seeker course has been completed at the reception centre or must be continued and completed at the accommodation centre.

(2) An alien over the age of 18 who falls within section 42a(1), first sentence, or subsection (2), cf. subsection (3), and who is registered as an asylum-seeker under section 48e(2) or who has stayed in Denmark for more than 3 months from the date of his submission of an application for a residence permit pursuant to section 7 shall, unless particular reasons make it inappropriate, attend tuition in the English language or other tuition. An alien whose application for a residence permit pursuant to section 7 is being examined in Denmark, see in this respect section 48e(2), may also attend tuition in the Danish language.

(3) An alien over the age of 18 who falls within section 42a(1) or (2), cf. subsection (3), and who is registered as an asylum-seeker under section 48e(2) may attend tuition in other subjects to the extent that the relevant accommodation operator, see section 42a(5), second sentence, offers such tuition.

(4) An alien over the age of 18 who falls within section 42a(1) or (2), cf. subsection (3), may, if exceptional reasons make it appropriate, attend separately organised tuition not falling within subsections (1) to (3) and (6).

(5) A 17-year-old alien who falls within section 42a(1) or (2), cf. subsection (3), may attend an asylum-seeker course, see subsection (1), tuition in the English language or other tuition, see subsection (2), and tuition in other subjects, see subsection (3). 17-year-old aliens may attend the asylum-seeker course and the tuition mentioned in subsections (2) and (3) on the same conditions as those applicable to aliens over the age of 18, see subsections (1) to (3). Subsection (4) applies correspondingly. A 17-year-old alien whose application for a residence permit pursuant to section 7 is being examined in Denmark, see in this respect section 48e(2), may also attend tuition in the Danish language.

(6) An alien over the age of 18 who falls within section 42a(1), second sentence, shall, unless particular reasons make it inappropriate, attend tuition in the Danish language and the Danish culture and society.

(7) The accommodation operator, see section 42a(5), second sentence, shall determine whether an alien shall attend tuition as mentioned in subsections (1) to (6).

(8) The Minister of Justice may lay down more detailed rules on the contents and scope of the asylum-seeker course mentioned in subsection (1) and subsection (5), cf. subsection (1), and on the tuition mentioned in subsections (2) to (4), subsection (5), cf. subsections (2) to (4), and subsection (6). The Minister of Justice may further decide that the tuition mentioned in subsections (2) to (4), subsection (5), cf. subsections (2) to (4), and subsection (6) may be given in collaboration with external players, including schools, educational institutions and providers under the Ministry of Employment, the Ministry of Cultural Affairs, the Ministry of Children and Education and the Ministry of Justice or be replaced by tuition offered by them, including upper secondary education. The Minister of Justice may moreover decide to what extent implementation of the tuition programme mentioned in subsections (3) and (4) and subsection (5), cf. subsections (3) and (4), will depend on assistance from the aliens mentioned in section 42a(1) and (2), cf. subsection (3), as teachers and the like.

(9) The Minister of Justice may decide that rules laid down pursuant to subsection (8) will only apply to certain accommodation centres. The Minister of Justice may deviate from section 46 when laying down rules pursuant to subsection (8).

**42g.** (1) Children of school age who are staying in Denmark and fall within section 42a(1) or (2), cf. subsection (3), or section 42k shall attend separately organised tuition or tuition measuring up to the general requirements under the separately organised tuition. The Minister of Justice may lay down more detailed rules for the study programmes and activities to be offered and may decide following negotiation with the Minister for Children and Education to what extent the said children can attend the tuition of the municipal school system. The Minister of Justice may decide that rules laid down pursuant to the second sentence hereof will only apply to certain accommodation centres. The Minister of Justice may deviate from section 46 when laying down rules pursuant to the second sentence hereof.

(2) An alien who has submitted an application for a residence permit pursuant to section 7 and who has become enrolled in an upper secondary education course may accept an unpaid or paid internship as part of his education until the alien is issued with a residence permit, departs from Denmark or is returned.

**42h.** (1) Without the alien's consent, the Danish Immigration Service and the accommodation operators, see section 42a(5), second sentence, may exchange the information concerning an alien falling within section 42a(1) or (2), cf. subsection (3), including information on the alien's personal data and other confidential information, which is necessary for –

- (i) handling the administration in connection with the running of accommodation centres, see section 42a(5), first sentence;
- (ii) the accommodation operators' payment of cash allowances, see section 42b; and
- (iii) handling the administration under sections 42c to 42g.

(2) If an alien falling within section 42a(1) or (2), cf. subsection (3), moves from an accommodation centre run by one accommodation operator, see section 42a(5), first and second sentences, to an accommodation centre run by another accommodation operator, then, without the alien's consent, the accommodation operator of the accommodation centre from which the alien

moves shall transmit the information in the alien's contract, see section 42c, to the accommodation operator of the accommodation centre to which the alien moves.

(3) At the request of the Danish Immigration Service and without the alien's consent, the accommodation operator, see section 42a(5), second sentence, may transmit the information in the alien's contract, see section 42c, to the Danish Immigration Service.

(4) The Minister of Justice may lay down more detailed rules on the exchange of information under subsection (1), including the exchange of the information in electronic form.

**42i.** (1) The Minister of Justice may lay down rules on compensation for personal injury to third parties or for damage to the property of third parties caused by aliens staying in Denmark and falling within section 42a(1) or (2), cf. subsection (3), and for personal injury incurred by the aliens in question or for damage to their property. The Minister of Justice may lay down more detailed rules on insurance against such risks. The expenses involved will be defrayed by the Treasury.

(2) Following negotiation with the Minister of Employment, the Minister of Justice may lay down rules on the extent to which aliens who are staying in Denmark and fall within section 42a(1) or (2), cf. subsection (3), fall within the rules of the Industrial Injuries Protection Act. The expenses involved will be defrayed by the Treasury.

**42j.** (1) Following negotiation with the relevant local authority, the Minister of Justice may decide that the provisions of the Act on the Planning of Regional, Municipal and Local Plans and on permissions under section 35(1) of such Act do not apply to any property at the disposal of the Danish Immigration Service and used as –

- (i) a reception centre for newly arrived aliens who have submitted an application for a residence permit pursuant to section 7;
- (ii) an accommodation centre for the aliens mentioned in section 42a(1) and (2);
- (iii) facilities for aliens remanded in custody pursuant to sections 35(1)(i) and 35(2) who have been sentenced and have served any sentence imposed, and who are solely remanded in custody to ensure effective enforcement of the expulsion;
- (iv) facilities for the purpose of deprivation of liberty pursuant to section 36; and
- (v) facilities for administrative purposes connected with the functions mentioned in paragraphs (i) to (iv) hereof.

(2) In connection with decisions under subsection (1), the Minister of Justice may decide that any regional, municipal or local plans will be suspended in full or in part as concerns the properties mentioned in subsection (1).

(3) In connection with decisions under subsection (1), the Minister of Justice may decide that the 1995 Building Regulations do not apply at re-use of existing buildings for the purposes stated in subsection (1).

**42k.** (1) Upon application, the Danish Immigration Service shall decide that an alien who has submitted an application for a residence permit pursuant to section 7 is entitled to move into his own dwelling until the alien is issued with a residence permit, departs from Denmark or is returned, provided that –

- (i) the alien has stayed in Denmark for at least 6 months from his submission of an application for a residence permit pursuant to section 7;
- (ii) the Danish Immigration Service has decided that the alien may stay in Denmark during the asylum proceedings, see in this respect section 48e(2);
- (iii) the alien is able to maintain his household;

- (iv) the dwelling is located in a municipality to which refugees may be allocated on the basis of the agreed or fixed municipal quotas, see section 8 of the Integration Act;
- (v) the dwelling is suitable for habitation by the members of the alien's household; and
- (vi) the alien concludes a contract with the Danish Immigration Service in accordance with subsection (5).

(2) Subsection (1) does not apply to –

- (i) aliens who have been administratively expelled pursuant to section 25;
- (ii) aliens who have been expelled by judgment;
- (iii) aliens who have been sentenced to imprisonment or suspended imprisonment for an offence committed in Denmark;
- (iv) aliens who meet the exclusion criteria of the Convention Relating to the Status of Refugees (28 July 1951);
- (v) aliens whose application for a residence permit under section 7 is being examined under section 53b; and
- (vi) aliens under the age of 18 unless the Danish Immigration Service finds, upon specific assessment, that regard for the best interests of the minor makes it appropriate.

(3) An alien who has moved into his own dwelling, see subsection (1), and members of his household are entitled to have expenses for necessary health services covered by the Danish Immigration Service, see section 42a(1), cf. section 42a(3).

(4) An alien who has moved into his own dwelling, see subsection (1), and the members of his household are entitled to activation and tuition to the same extent as aliens falling within section 42a(1) and (2), cf. section 42a(3), unless prevented by his employment situation.

(5) The Danish Immigration Service shall conclude a contract with the alien about accommodation in his own dwelling. It must be made a condition of the contract that the alien cooperates in obtaining information for the assessment of his application for a residence permit pursuant to section 7, see section 40(1), first and second sentences, and, upon refusal or waiver of the application for a residence permit, cooperates in his departure without undue delay, see section 40(4), first sentence. In connection with conclusion of the contract, the Danish Immigration Service shall provide the alien with oral and written guidance on the conditions for accommodation in his own dwelling, including in particular the requirement of cooperation.

(6) Unless highly exceptional reasons make it inappropriate, the Danish Immigration Service shall decide that an alien who has moved into his own dwelling under subsection (1) and who no longer meets the relevant conditions or does not comply with the conditions of the contract concluded, see subsection (5), shall stay at an accommodation centre determined by the Danish Immigration Service.

(7) The Danish Immigration Service shall lay down detailed rules on the suitability of the dwelling, see subsection (1)(v).

**421.(1)** Upon application, the Danish Immigration Service shall decide that an alien who has submitted an application for a residence permit pursuant to section 7 may accept private accommodation or be offered an independent dwelling affiliated with an accommodation centre falling within section 42a(5) until the alien is issued with a residence permit, departs from Denmark or is returned, provided that –

- (i) the alien has stayed in Denmark for at least 6 months from his submission of an application for a residence permit pursuant to section 7;
- (ii) the Danish Immigration Service has decided that the alien may stay in Denmark during the asylum proceedings, see in this respect section 48e(2); and

(iii) the alien concludes a contract with the Danish Immigration Service in accordance with subsection (4).

(2) Subsection (1) does not apply to –

- (i) aliens who have been administratively expelled pursuant to section 25;
- (ii) aliens who have been expelled by judgment;
- (iii) aliens who have been sentenced to imprisonment or suspended imprisonment for an offence committed in Denmark;
- (iv) aliens falling within the exclusion grounds of the Convention Relating to the Status of Refugees (28 July 1951); and
- (v) aliens whose application for a residence permit under section 7 is being examined under section 53b.

(3) Upon application, the Danish Immigration Service shall decide that an alien who has submitted an application for a residence permit pursuant to section 7 may accept private accommodation with a spouse living in Denmark until the alien is issued with a residence permit, departs from Denmark or is returned, provided that the alien concludes a contract with the Danish Immigration Service in accordance with subsection (4). This does not apply to aliens falling within subsection (2).

(4) The Danish Immigration Service shall conclude a contract with the alien about his private accommodation or accommodation in an independent dwelling, see subsection (1). It must be made a condition of the contract that the alien cooperates in obtaining information for the assessment of his application for a residence permit pursuant to section 7, see section 40(1), first and second sentences, and, upon refusal or waiver of the application for a residence permit, cooperates in his departure without undue delay, see section 40(4), first sentence. In connection with conclusion of the contract, the Danish Immigration Service shall provide the alien with oral and written guidance on the conditions for the private accommodation or accommodation in an independent dwelling, including in particular the requirement of cooperation.

(5) The conclusion of a decision on private accommodation presupposes that the dwelling is located in a municipality to which refugees may be allocated on the basis of the agreed or fixed municipal quotas, see section 8 of the Integration Act. An alien under the age of 18 may only accept private accommodation if the Danish Immigration Service finds, upon specific assessment, that regard for the best interests of the minor makes it appropriate. The first sentence hereof does not apply to aliens requesting private accommodation with a spouse living in Denmark.

(6) Unless highly exceptional reasons make it inappropriate, the Danish Immigration Service shall decide that an alien who is accommodated pursuant to this section and who no longer meets the relevant conditions or does not comply with the conditions of the contract concluded, see subsection (4), shall stay at an accommodation centre determined by the Danish Immigration Service.

(7) An alien accommodated pursuant to this paragraph will still be maintained by the Danish Immigration Service, see section 42a(1), cf. section 42a(3) and (4), and section 42b, and continues to fall within the rules of this Act on tuition and activation, see sections 42c to 42g.

**43.** (1) The police may, if immediately needed, make arrangements for the accommodation and maintenance of and any necessary healthcare services for aliens staying in Denmark who submit an application for a residence permit pursuant to section 7 and who are not registered as asylum-seekers under section 48e(2). The police shall defray the pertaining expenses.

(2) If the police is making arrangements for an alien's departure, the alien shall defray the incidental expenses relating to himself. If the alien does not have the necessary means, such expenses must be provisionally defrayed by the Treasury. The expenses will be finally defrayed by

the Treasury if the alien has submitted an application for a residence permit under section 7 and cooperates in obtaining information for his case, see section 40(1), first and second sentences, and, upon refusal or waiver of the application, departs from Denmark on his own initiative or cooperates in his departure without undue delay. The provision of the third sentence does not apply if the alien falls within section 10 or if the application has been examined according to the procedure mentioned in section 53b(1) as a consequence of the alien's nationality and because there are no general bars to returning the alien to his country of origin.

(3) The shipmaster or aircraft captain and any person having disposal of a ship or aircraft that has brought an alien to Denmark, and such person's local representative shall, if the alien is refused entry, transferred or retransferred under the rules laid down in Part 5 or 5a, see that the alien immediately departs from Denmark or returns without expense to the Treasury. They shall further refund to the Treasury its expenses incidental to the stay, the return to ship or aircraft, or the return to their countries of origin of such crew members as have deserted or been left behind, and of stowaways. The Minister of Justice may lay down more detailed provisions on the amount of the refund mentioned in the second sentence hereof.

(4) Any person who has assisted an alien in illegally entering or staying in Denmark, and any person who has employed an alien not issued with a work permit, shall refund the expenses incurred by the Treasury in connection with that alien's stay and departure.

(5) The provisions of subsections (3) and (4) do not apply on entry from a Schengen country.

**43a.** (1) An alien staying in Denmark whose application for a residence permit under section 7 is being examined may, if the alien has no such means himself, be granted assistance to travel to a third country where, after entry into Denmark and before expiry of a time limit for departure, the alien has been issued with an entry and residence permit if the alien has been refused a residence permit for Denmark or waives an application for such permit, but see subsection (3).

(2) An alien staying in Denmark who is registered as an asylum-seeker under section 48e(2) and has been refused a residence permit under section 7 by the Danish Immigration Service or the Refugee Appeals Board may be granted assistance to return to his country of origin or former country of residence if the alien cooperates in his departure without undue delay, but see subsections (3) and (4).

(3) Assistance under subsections (1) and (2) cannot be granted to –

- (i) aliens who hold a residence permit for Denmark;
- (ii) aliens who are nationals of one of the Nordic countries;
- (iii) aliens who are nationals of a country which is a Member State of the European Union; and
- (iv) aliens who are covered by the Agreement on the European Economic Area.

(4) Nor can assistance under subsection (2) be granted to –

- (i) aliens whose application for a residence permit under section 7 has been refused by the Danish Immigration Service pursuant to section 53b(1); and
- (ii) aliens falling within section 10.

(5) The assistance under subsection (1) includes –

- (i) expenses for flight ticket, train ticket, etc.;
- (ii) expenses necessary for transportation of personal belongings;
- (iii) a maximum of DKK 5,000 per family for transportation of equipment needed for the trade of the person or family in the third country in question; and
- (iv) other expenses incidental to the journey.

(6) The assistance under subsection (2) amounts to DKK 3,000 per person over the age of 18 and DKK 1,500 per person under the age of 18.

(7) An alien may receive assistance under subsections (1) and (2) only once.

(8) Aliens whose application for a residence permit pursuant to section 7 has been finally refused and for whom a time limit for departure pursuant to section 33(2) has been fixed must be offered impartial counselling on the possibilities of return, including the possibilities of assistance under subsection (2) for resettlement in the country to which the alien departs. The Minister of Justice may decide that the impartial counselling must be offered by one or more non-governmental organisations.

(9) The amount stipulated in subsection (5)(iii) has been fixed at the 1995 level and will be adjusted once a year on 1 January as of 1996 by the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amount stipulated in subsection (6) has been fixed at the 2003 level and will be adjusted once a year on 1 January as of 2004 by the rate adjustment percentage, see the Rate Adjustment Percentage Act.

**43b.** Where particular repatriation considerations make it appropriate, the Minister of Justice may decide that financial support for voluntary return to the country of origin may be granted to groups of aliens who are staying in Denmark and who have submitted an application for a residence permit under section 7 and have no residence permit for Denmark.

**43c.** (1) The Minister of Justice may lay down detailed rules on the conditions, see sections 42a to 42f, applicable to aliens whose application for a residence permit under section 7 has been finally refused and who cooperate concerning the departure and conclude a contract with the Danish Immigration Service about an upgrading course and voluntary departure.

(2) A contract about an upgrading course can only be concluded if major aid projects are planned or have been initiated as part of reconstruction work in the relevant alien's country of origin following war, and if negotiations on readmission or on practical arrangements about readmission or acceptance of forced returnees have been instituted, or if it is impossible to institute such negotiations due to the situation in the country.

**44.** (1) The Minister of Justice may lay down rules on the fee payable for applications for a visa and for renewal of a visa.

(2) For the issuance of a Danish travel document to an alien, and for the taking of digital fingerprints for the purpose of such issuance, a fee must be paid equivalent to the fee payable for the issuance of Danish passports and the taking of digital fingerprints for the purpose of such issuance, see sections 4a and 4b of the Passport Act.

(3) The Minister of Justice may lay down rules on payment for the re-issuance of residence cards issued in connection with the issuance of residence permits under sections 7 to 9 or 9b to 9f.

(4) The Minister of Employment may lay down rules on payment for the re-issuance of residence cards issued in connection with the issuance of residence permits under sections 9a and 9i to 9n.

**44a.** (1) Without the alien's consent, the Danish Immigration Service and the Danish Agency for Labour Retention and International Recruitment shall transmit to the local council of the municipality in which the alien lives or is staying or to which the alien is allocated, see section 10(1) of the Integration Act, or to which he moves from abroad, information stating –

- (i) that the alien has been issued with a registration certificate or residence card pursuant to the EU rules, see section 6, or a residence permit under sections 7 to 9f or 9i to 9n or is exempt from a residence permit under section 5(2);
- (ii) that the alien has been issued with a permanent residence permit or has been refused such permit; or

(iii) that renewal of the alien's residence permit has been refused or that the residence permit has lapsed or been revoked.

(2) The Danish Immigration Service shall manage the Aliens Information Portal (*Udlændingeinformationsportalen*), which stores personal data on aliens, data on aliens' residence and data on accommodation and the receipt of benefits and allowances in Denmark. The Danish Immigration Service may give other authorities and non-governmental organisations access to the Aliens Information Portal to the extent that such access is necessary for the authority or the organisation to perform its tasks under the Aliens Act, the Integration Act or other legislation. The Danish Agency for Labour Retention and International Recruitment has access to the Aliens Information Portal to the extent that such access is necessary for the Danish Agency for Labour Retention and International Recruitment to perform its tasks under the Aliens Act or other legislation.

(3) Authorities and non-governmental organisations with access to the Aliens Information Portal may, without the alien's consent, obtain the information from the Aliens Information Portal necessary for the authority or the organisation to carry out its activities or required for a decision to be made by the authority or the organisation under the Aliens Act, the Integration Act or other legislation.

(4) In case of refusal of an application for a residence permit submitted by an alien who lives or is staying in Denmark without any right of residence pursuant to sections 1 to 3a, section 4b or section 5(2) or pursuant to a registration certificate or a residence card under section 6 or a residence permit under sections 7 to 9f or 9i to 9n, and who is not lodged in an accommodation centre for the aliens mentioned in section 42a(1) and (2), the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment shall so notify the local council of the municipality in which the alien lives or is staying without the alien's consent. The same applies if the application for a residence permit submitted by an alien as mentioned in the first sentence hereof lapses or is waived.

(5) The Ministry of Justice, the Ministry of Employment, the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, local councils, the State Administration, the claim recovery authority, see section 9(23), the police and the Immigration Appeals Board may, without consent, obtain the information in the National Income Register which is necessary for the relevant authority to carry out its activities or required for a decision to be made by the authority under the Aliens Act.

(6) The Ministry of Justice, the Ministry of Employment, the Danish Immigration Service, the Immigration Appeals Board and the Danish Agency for Labour Retention and International Recruitment may, without the consent of the applicant and the person living in Denmark, obtain the information from the Labour Market Portal (*Arbejdsmarkedsportalen*) which is necessary for the relevant authority to carry out its activities or required for a decision to be made by the authority under the Aliens Act.

(7) The information mentioned in subsections (1) and (4) may be transmitted through the Aliens Information Portal.

(8) The Danish Immigration Service and the Danish Agency for Labour Retention and International Recruitment may link the information mentioned in subsections (1), (2) and (4) with information from the Civil Registration System (CPR) for the purpose of ensuring the municipal administration of the Integration Act and of other legislation according to which the basis of the right of residence is of importance to the administration of the law.

(9) Following agreement with the Minister for Economic Affairs and the Interior, the Minister of Justice and the Minister of Employment may jointly lay down more detailed rules according to which the Danish Immigration Service and the Danish Agency for Labour Retention and

International Recruitment record the information mentioned in subsection (1) in the Civil Registration System (CPR).

(10) For the purpose of the labour market monitoring performed by the National Labour Market Authority, the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment and the State Administration may transmit information on aliens issued with a residence permit or a work permit under this Act, and information on foreign workers issued with a registration certificate on the basis of employment under this Act. In that connection the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment and the State Administration may transmit the following information, whether electronically or otherwise:

- (i) Name.
- (ii) Nationality.
- (iii) Alien number or personal identity details.
- (iv) Civil registration number.
- (v) Date of birth.
- (vi) Sex.
- (vii) Basis of right of residence.
- (viii) Date of decision.
- (ix) Designation of profession.
- (x) Start and end date of employment relationship.

(11) The Danish Immigration Service and the Danish Agency for Labour Retention and International Recruitment may, for the purpose of verifying that an alien complies with the conditions for his residence permit, registration certificate or residence card, see section 6, or that an alien does not work or stay in Denmark without the requisite permit, link data from their own registers with data from the Civil Registration System, the Building and Housing Register and the National Income Register. This applies only to aliens who have been advised in advance that such checks may occur.

(12) Section 7(8) of the Act on Processing of Personal Data does not apply to the examination of applications for a residence permit under section 7 or 8. The same applies to the examination of cases of renewal, revocation or lapse of a residence permit issued under those provisions and the examination of cases involving documents related to a residence permit under section 7 or 8.

**44b.** (1) Where an alien falling within section 42a(1) or (2), cf. subsection (3), is allocated to a municipality, see section 10(1) of the Integration Act, the accommodation operator, see section 42a(5), second sentence, of the accommodation centre where the alien is lodged shall transmit, without the alien's consent, the information from the alien's contract, see section 42c, to the local council of the municipality in question.

(2) The Minister of Justice may lay down more detailed rules on the transmission of information under subsection (1).

**44c.** (1) The local council shall notify the Danish Immigration Service of cases in which the local council knows or has reasonable grounds for suspecting that under-age aliens have stayed outside Denmark for more than three consecutive months for re-education purposes or on other stays abroad negatively affecting their schooling and integration.

(2) Where a local council conducts a preventive interview with or offers other kinds of special support to the parents of an under-age alien, see section 11(3) and section 52(3)(iii) and (ix) of the Social Service Act, because it knows or has reasonable grounds for suspecting that the under-age alien is staying outside Denmark for re-education purposes or is having another stay abroad

negatively affecting his schooling and integration, it shall inform the parents of the rules on lapse of residence permits, see section 17.

(3) The notification under subsection (1) must include information as to whether the local council has conducted a preventive interview with or offered other kinds of special support under the rules of section 11(3) and section 52(3)(iii) and (ix) of the Social Service Act to the parents of an under-age alien falling within subsection (1), and whether, in that connection, the local council informed the parents of the rules on lapse of residence permits, see subsection (2).

**44d.** If an alien who is issued with a residence permit under section 9i(1) for the purpose of attending a study programme or a course at an educational institution in Denmark is not actively studying for the course or the education programme on which the alien's residence permit is based, the educational institution shall notify the Danish Agency for Labour Retention and International Recruitment thereof in writing without the alien's consent.

**44e.** (1) The relevant local council shall report to the Danish Agency for Labour Retention and International Recruitment if an alien issued with a residence permit under section 9i(1) for the purpose of attending a study programme or a course at an educational institution in Denmark receives public assistance for maintenance from the local authority during his stay in Denmark. The local council may transmit information under the first sentence hereof without the alien's consent.

(2) The Public Benefits Payment Service (*Udbetaling Danmark*) shall report to the Danish Agency for Labour Retention and International Recruitment if an alien issued with a residence permit under section 9c(1) for the purpose of attending a study programme or a course at an educational institution in Denmark receives public assistance for maintenance from the Public Benefits Payment Service during his stay in Denmark. The Public Benefits Payment Service may transmit information pursuant to the first sentence hereof without the alien's consent.

(3) The local council shall report to the Danish Agency for Labour Retention and International Recruitment if an alien issued with a residence permit under section 9a(2) or persons issued with a residence permit as a result of family ties with the alien receive assistance under the Act on an Active Social Policy. The local council shall inform the Danish Agency for Labour Retention and International Recruitment of the extent of the assistance.

**44f.** (1) The Danish Immigration Service and the Danish Agency for Labour Retention and International Recruitment may obtain the information from the Ministry of Foreign Affairs on aliens' residence abroad which the Ministry of Foreign Affairs obtained in connection with evacuation from abroad and which is necessary to verify that an alien is entitled to reside in Denmark. The information may be obtained electronically.

(2) Information may be obtained under subsection (1) for the purpose of linking and comparing registers and data for control purposes.

**44g.** If an agreement between a local council and an alien about residence in the municipality as an element in the municipality's membership of an international organisation approved by the Minister for Culture, see section 9c(4), is terminated, or if an alien abandons his abode in the municipality during such residence, the local council shall notify the Danish Immigration Service thereof.

**45.** Following agreement with foreign governments or international organisations or through an order issued by the Minister of Justice or the Minister of Employment, the rules on residence and work permits may be relaxed in relation to certain countries and certain groups of aliens.

Part 7 a

*Exchange of information between the immigration authorities and the intelligence services and the public prosecutor, etc.*

**45a.** (1) The Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, the Ministry of Justice, the Ministry of Employment, the Refugee Appeals Board, the Immigration Appeals Board and the State Administration, see section 46c, may transmit information from a case under this Act to the intelligence services without the alien's consent to the extent that such transmission may be of importance to the handling of security tasks by the intelligence services.

(2) The intelligence services may transmit information on an alien to the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, the Ministry of Justice, the Ministry of Employment, the Refugee Appeals Board, the Immigration Appeals Board and the State Administration, see section 46c, without the alien's consent to the extent that such transmission may be of importance to the examination of a case under this Act by these authorities.

(3) The intelligence services may mutually exchange information as mentioned in subsections (1) and (2) without the alien's consent.

**45b.** (1) For the purpose of the examination of a case under this Act, the Minister of Justice shall assess whether the alien must be deemed a danger to national security. This assessment forms the basis of the determination of the case.

(2) The Minister of Justice may decide that the information included in the assessment under subsection (1) may not, for security reasons, be transmitted to the alien concerned. Furthermore, the Minister of Justice may decide that for security reasons information as mentioned in the first sentence hereof may not be transmitted to the immigration authority having to make a decision in the case.

**45c.** (1) The Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, the Ministry of Justice, the Ministry of Employment, the Refugee Appeals Board, the Immigration Appeals Board and the State Administration, see section 46c, may transmit information from a case under this Act to the public prosecutor without the alien's consent for the purpose of the public prosecutor's decision whether to charge the alien with crimes committed in Denmark or abroad.

(2) The authorities mentioned in subsection (1) may furthermore, upon request from the public prosecutor, transmit information from one or more cases under this Act without the alien's consent to the extent that such transmission must be assumed to be of importance to the public prosecutor's identification and prosecution of persons who may be suspected of offences punishable with at least 6 years' imprisonment and committed in Denmark or abroad.

(3) The authorities mentioned in subsection (1) may furthermore, upon request from the public prosecutor, transmit information from one or more cases under this Act without the alien's consent to the extent that such transmission must be assumed to be of importance to the public prosecutor's identification of victims or witnesses of a specific offence punishable with at least 6 years' imprisonment and committed in Denmark or abroad.

Part 7b

*Court proceedings in certain decisions on administrative expulsion, etc.*

**45d.** (1) The rules of this Part apply to court proceedings in cases relating to –

- (i) the review of a danger assessment under section 45b or a decision on expulsion under section 25(1)(i);
- (ii) the deprivation of liberty of an alien under section 36 for the purpose of ensuring the possibility of expulsion under section 25(1)(i);
- (iii) an application for a residence permit under section 7 or section 8(1) or (2) from an alien expelled under section 25(1)(i).
- (iv) a decision on the return under section 31 of an alien who has previously held a residence permit under section 7 or section 8(1) or (2) and has been expelled under section 25(1)(i); and
- (v) a decision under section 32b when the alien has been expelled under section 25(1)(i).

(2) Cases falling within this Part must be brought before the Copenhagen City Court by the Minister of Justice or the person so authorised by the Minister. For determining the case, 3 judges will sit. The court may decide that 1 judge only will sit for the hearing of a case on deprivation of liberty under section 36, see subsection (1)(ii). The Minister of Justice or the person so authorised by the Minister may allow persons employed with the Danish Security and Intelligence Service to appear in his place as process agents.

(3) Bringing a case before the court stays execution of any decision when the alien is staying in Denmark. Bringing the case before the court does not prevent the commencement of and continued deprivation of liberty under section 36, see subsection (1)(ii), unless so decided by the court.

(4) Sections 37a to 37e apply correspondingly in cases on deprivation of liberty under section 36, see subsection (1)(ii).

**45e.** (1) Parties to the case are deemed to be the alien and the person bringing the case before the court under section 45d(2).

(2) The court shall assign counsel to represent the alien. The court shall also assign a special advocate to safeguard the alien's interests and exercise a party's rights on the alien's behalf with regard to information falling within section 45b(2). Concerning legal fees and compensation for outlays of counsel and the special advocate, the same rules apply as in cases where free legal aid has been granted, see Part 31 of the Administration of Justice Act.

(3) The special advocate under subsection (2) must be notified of all court hearings in the case and is entitled to attend them. The special advocate must be made aware of and be given a copy of the material forming part of the case before the court. The Minister of Justice or the person so authorised by the Minister may decide that a copy will not be given to the special advocate for security reasons. Upon request from the special advocate, such matter must be brought before the court by the person who brought the case before the court under section 45d(2).

(4) The court shall decide how an alien who resides abroad and is subject to a re-entry ban, see section 32, cf. section 25(1)(i), will be given an opportunity to make a statement to the court.

**45f.** (1) Information falling within section 45b(2) will be transmitted to the special advocate assigned under section 45e(2). When such information has been transmitted to the special advocate, he may not discuss the case with the alien or the alien's counsel and may not speak at hearings at which the alien or his counsel is present. The alien and his counsel may make written communications to the special advocate about the case at any time.

(2) The court may decide at its own initiative or upon request from the special advocate assigned under section 45e(2) that information applied by the Minister of Justice in his assessment under section 45b(1) will be transmitted to the alien and his counsel if the decision of the Minister of Justice under section 45b(2) is not justified by security reasons. The decision is made by order when the special advocate and the person who brought the case before the court under section 45d(2) have

had an opportunity to make a statement. The order may be appealed by the persons mentioned in the second sentence hereof. An appeal against a decision to transmit information stays execution of the decision.

(3) If the court has made a decision under subsection (2), first sentence, the Minister of Justice or the person so authorised by the Minister may decide that the information in question will not form part of the case heard by the court.

(4) A judge may not sit in the case if he has made a decision under subsection (2), first sentence, or has otherwise had access to information included in such decision and the Minister of Justice or the person so authorised by the Minister has decided under subsection (3) that the information in question will not form part of the case heard by the court.

**45g.** (1) The part of a hearing which concerns or during which information falling within section 45b(2) and not falling within section 45f(2) is produced or considered must be held behind closed doors. The special advocate assigned under section 45e(2), but not the alien and his counsel, will attend this part of a hearing.

(2) The court shall decide how hearings held wholly or partly behind closed doors under subsection (1) are to be conducted.

**45h.** (1) The court shall make its decision when the parties and the special advocate assigned under section 45e(2) have had an opportunity to make a statement.

(2) A court decision on deprivation of liberty, see section 45d(1)(ii), is made by order. Section 37(3) to (5) applies correspondingly.

(3) A court decision on expulsion, residence permit and return, see section 45d(1)(i) and (iii) to (v), is made by judgment. If the court decides to uphold the decision on expulsion or the refusal of a residence permit under section 7 or section 8(1) or (2) or decides that return will not be contrary to section 31, the decision must stipulate a time limit for departure according to which the alien is ordered to depart from Denmark immediately.

(4) For the purpose of court decisions under section 45d(1)(iii) to (v), the court shall request the Refugee Appeals Board to issue an opinion when the parties and the special advocate assigned under section 45e(2) have had an opportunity to make a statement.

**45i.** If the Copenhagen City Court decides under section 45d(1)(iii) to (v) to refuse a residence permit under section 7 or section 8(1) or (2) or decides that return will not be contrary to section 31, the case is considered appealed to the High Court unless the alien has waived appeal in writing to the court or at a hearing. An appeal under the first sentence hereof stays execution of the decision.

**45j.** The Minister of Justice shall retain a number of attorneys eligible for assignment as counsel under section 45e(2), second sentence. The Minister of Justice may lay down more detailed rules on such attorneys, including on rota schemes, on the remuneration for availability and on security matters.

**45k.** (1) The rules of this Part on proceedings in a case before the Copenhagen City Court apply correspondingly to the proceedings in a case before the High Court and the Supreme Court.

(2) Further, the rules of Part 43a of the Administration of Justice Act and rules of the Administration of Justice Act referring to such rules apply correspondingly.

## Part 8

### *Competence, appeals, etc.*

**46.** (1) Decisions under this Act are made by the Danish Immigration Service, except as provided by subsections (2) to (5) and by section 9(22) and (23), sections 46a to 49, section 50, section 50a, section 51(2), second sentence, section 56a(1) to (4), section 58i and section 58j, but see section 58d, second sentence.

(2) Decisions under section 9a, section 9h(4), first sentence, cf. subsection (1)(i) to (ix), (xi) to (xiv) and (xvi), and sections 9i to 9n, decisions on the renewal, lapse and revocation of residence permits issued under sections 9a and 9i to 9n and decisions under section 33 in connection with such cases are made by the Danish Agency for Labour Retention and International Recruitment. The same applies to decisions under section 4a(3) made following the issuance of a residence permit to an alien under section 9a or sections 9i to 9n and to decisions under section 25b(2) when the Danish Agency for Labour Retention and International Recruitment has ordered the alien to depart from Denmark immediately, or when the alien does not depart in accordance with a time limit for departure determined by the Danish Agency for Labour Retention and International Recruitment.

(3) Decisions under section 9b, decisions on the renewal and revocation of residence permits issued under section 9b and decisions under section 33(4), second sentence, are made by the Minister of Justice.

(4) Decisions under section 9h(5), second and third sentences, are made by the Immigration Appeals Board in cases where the Danish Agency for Labour Retention and International Recruitment has made a decision on the basis of an application falling within section 9h(1)(i) to (ix), (xi) to (xiv) or (xvi).

(5) Decisions under section 9h(5), second and third sentences, are made by the Minister of Justice in cases where the Danish Immigration Service has made a decision on the basis of an application falling within section 9h(1)(x), (xv) or (xvii).

(6) Decisions on permanent residence permits, see section 11(3) to (7), (10), (12) and (14), for aliens issued with a residence permit under section 9a or sections 9i to 9n are made by the Danish Immigration Service when the Danish Agency for Labour Retention and International Recruitment has determined whether the basis of the right of residence is still present.

(7) Decisions on permanent residence permits, see section 11(3) to (7), (10), (12) and (14), for aliens issued with a residence permit under section 9b are made by the Danish Immigration Service when the Minister of Justice has determined whether the basis of the right of residence is still present.

**46a.** (1) Apart from the decisions mentioned in section 9g(1), section 9h(4), first sentence, cf. subsection (1)(x), (xv) and (xvii), section 9h(5), first sentence, cf. subsection (2), first sentence, cf. subsection (1)(x), (xv) and (xvii), section 11(8), section 32a, section 33, section 34a, section 42a(7), first sentence, section 42a(9), first sentence, section 42b(1), (3) and (7) to (9), section 42d(2), section 46e, section 52b(1) and (3), section 53a and section 53b, appeal against decisions made by the Danish Immigration Service lies to the Minister of Justice. No appeal lies against decisions made by the Danish Immigration Service under sections 42k and 42l as regards the geographical location of the dwelling.

(2) No appeal lies to the Minister of Employment against decisions made by the Danish Agency for Labour Retention and International Recruitment. Apart from the decisions mentioned in section 9h(4), first sentence, cf. subsection (1)(i) to (ix), (xi) to (xiv) and (xvi), and section 33, appeal against decisions made by the Danish Agency for Labour Retention and International Recruitment lies to the Immigration Appeals Board, see section 52b(2) and (4).

(3) No appeal lies against a decision of the Danish Immigration Service finding that there are no particular reasons to assume that an unaccompanied alien who has submitted an application for a residence permit pursuant to section 7 prior to his 18th birthday should not undergo asylum proceedings, see section 9c(3)(i).

(4) No appeal lies against decisions of the Danish Immigration Service and the Danish Agency for Labour Retention and International Recruitment on the payment of expenses incidental to the provision of information for the examination of a case under this Act, see section 40(2).

(5) The Minister of Justice may make decisions on and lay down more detailed rules for the examination by the Danish Immigration Service of cases falling within subsections (1) and (3) and section 46(1).

(6) The Minister of Employment may make decisions on and lay down more detailed rules for the examination by the Danish Agency for Labour Retention and International Recruitment of cases falling within subsection (2) and section 46(2).

**46b.** The Ministry of Foreign Affairs shall assist the police, the State Administration, the Danish Immigration Service, the Danish Agency for Labour Retention and International Recruitment, the Refugee Appeals Board, the Immigration Appeals Board, the courts, the Minister of Employment and the Minister of Justice in obtaining more detailed information for the purpose of examination of cases or groups of cases under this Act.

**46c.** The Minister of Justice may lay down more detailed rules providing that decisions on the issuance, renewal, lapse and revocation of registration certificates and residence cards under section 6, residence permits under section 9(1)(iii) for the purpose of adoption, and decisions on the issuance, cancellation and revocation of visas under section 4a(3) for aliens issued with a residence permit under section 9(1)(iii) for the purpose of adoption may be made by authorities other than the Danish Immigration Service. In this connection the authority to which an appeal against the decision lies may be specified, and it may be provided that a decision made by the authority to which an appeal lies cannot be appealed to any other administrative authority. The Minister of Justice may further lay down provisions specifying that the authority to which an appeal against the decision lies may lay down more detailed rules on and make decisions on the examination of the cases.

**46d.** The Minister of Justice may lay down more detailed rules providing that, for the purpose of a decision or an opinion under this Act or provisions laid down in pursuance of this Act, the State Administration may, without the alien's consent, transmit all documents of the files of cases falling within section 46c to the Danish Immigration Service. The Minister of Justice may also lay down more detailed rules providing that, for the purpose of a decision in cases falling with section 46c, the Danish Immigration Service may, without the alien's consent, transmit all documents of the file of the Danish Immigration Service concerning a decision or an opinion under this Act or provisions laid down in pursuance of this Act to the State Administration.

**46e.** Decisions under section 42b(11), second sentence, section 42c(2), third sentence, section 42e(4) and section 42f(7) are made by the accommodation operator, see section 42a(5), second sentence. Decisions under section 42d(2), first sentence, may be made by the accommodation operator. The Public Administration Act also applies to decisions made by the accommodation operator under the first and second sentences hereof when the accommodation operator is a non-governmental organisation or a private company, see section 42a(5), second sentence. Appeal against decisions made by the accommodation operator under the first and second sentences hereof

lies to the Danish Immigration Service. No appeal lies to any other administrative authority against decisions of the Danish Immigration Service in cases appealed under the fourth sentence hereof.

**46f.** The Minister of Justice may lay down rules on requirements to be met by interpreters used by agencies under the Ministry of Justice.

**46g.** (1) Decisions under section 25(1)(i) are made by the Minister of Justice.

(2) A decision under subsection (1) to expel the alien must be brought before the court under the rules of Part 7b unless the alien waives appeal in writing to the Ministry of Justice.

**46h.** A decision on a residence permit for an alien who has been expelled under section 25(1)(i) and who claims to fall within section 7 or section 8(1) or (2), and in that connection a decision on return under section 32a, and a decision on return under section 31 of an alien who has previously held a residence permit under section 7 or section 8(1) or (2) and who has been expelled under section 25(1)(i) are made by the court under the rules of Part 7b.

**47.** (1) Residence permits for persons enjoying diplomatic privileges and for members of their families are issued by the Minister for Foreign Affairs.

(2) Following agreements between the Minister of Justice and the Minister for Foreign Affairs and between the Minister of Employment and the Minister for Foreign Affairs, Danish diplomatic or consular representatives abroad may be authorised to issue and grant visas, residence permits and work permits. Following agreement with another country, the Minister for Foreign Affairs may agree with the Minister of Justice or the Minister of Employment to authorise foreign diplomatic and consular representatives abroad to issue visas under section 4a(3), residence permits and work permits. The Minister of Employment can be a party to agreements on the issuance of visas under section 4a(3) only as regards the issuance of residence permits and work permits falling with section 46(2). Following agreement with the Minister of Justice, the Minister for Foreign Affairs may enter into representation agreements with foreign diplomatic and consular representatives abroad in accordance with Article 8 of the Visa Code.

(3) Following agreement with the Minister for Foreign Affairs, the Minister of Justice and the Minister of Employment may individually lay down rules providing that private partners may carry out the tasks of receiving and registering applications for visas, residence permits and work permits on behalf of Danish diplomatic or consular representatives, including taking photographs and fingerprints, receiving application fees and providing guidance on rules for visas, residence permits and work permits. Private partners cannot be empowered to make decisions in actual cases of applications for a visa, a residence permit or a work permit.

**47a.** (1) The Minister of Justice may lay down more detailed rules specifying that in special cases the Danish Immigration Service and the police may issue visas on entry into Denmark.

(2) The Minister of Justice and the Minister of Employment may individually lay down more detailed rules providing that in special cases the Danish Immigration Service and the Danish Agency for Labour Retention and International Recruitment may issue re-entry permits to aliens lawfully staying in Denmark.

**47b.** (1) An application for a residence permit under section 9, 9a or 9c to 9f will be dismissed if the applicant is not willing to submit a photograph, see section 12a, when submitting the application. This does not apply if the applicant is under the age of 18 and it is the intention that the applicant will reside permanently with the person having custody of it. The first and second

sentences hereof apply correspondingly to applications for renewal of residence permits issued under sections 9 to 9f.

(2) An application for a residence permit under section 9, 9a or 9c to 9c will be dismissed if the applicant refuses to give his fingerprints, see section 12a, when submitting the application. This does not apply if the applicant is unable to do so for physical reasons, if the applicant is under the age of 6, or if the applicant is under the age of 18 and it is the intention that the applicant will reside permanently with the person having custody of it. The first and second sentences hereof apply correspondingly to applications for renewal of residence permits issued under sections 9 to 9f.

**48.** A decision on refusal of entry on arrival, see section 28(1) to (4), may be made by the relevant police commissioner. Decisions under section 30, section 33(9), section 34, section 36, section 37c(5), section 37d(1) and (3), section 37e(1) and (4), section 40(7) and (8), section 40a(1) and (2), section 40a(3), first sentence, section 40a(4) to (9), section 40b(1) and (2), section 40b(3), first sentence, section 40b(4) to (9) and section 43(2) and (3) may be made by the National Commissioner of Police or the local police commissioner. Decisions under section 40a(1)(iii) and section 40b(1) and decisions on the seizure of documents or objects, see section 40(8), may also be made by the Danish Immigration Service. Decisions on the grant of assistance under section 43a may be made by the National Commissioner of Police. Appeal against the decisions mentioned in the first to fourth sentences hereof lies to the Minister of Justice, but see the seventh and eighth sentences hereof. Any appeal does not stay execution of such decision. Appeal against decisions made by the police on the commencement of measures under section 36 and sections 37c to 37e only lies to the Minister of Justice if the decision cannot be brought before the courts under section 37 or sections 37c to 37e. No appeal lies to the Minister of Justice against decisions made by the police under sections 33(9) and 43a(2).

**48a.** (1) If an alien claims to fall within section 7, the Danish Immigration Service shall make a decision as soon as possible on refusal of entry, transfer or retransfer under the rules of Part 5a or on refusal of entry under section 28(1)(i), (ii), (vi) or (vii) or section 28(2), (3) or (5), cf. section 28(1)(i), (ii), (vi) or (vii), or on expulsion under section 25(1)(ii) or 25b and, if occasion should arise, on the return of the alien. Return under the first sentence hereof may only be effected to a country which has acceded to and in fact honours the Convention Relating to the Status of Refugees (28 July 1951), and which provides access to an adequate asylum procedure. Return under the first sentence hereof may not be effected to a country in which the alien will be at risk of the death penalty or of being subjected to torture or inhuman or degrading treatment or punishment, or in which there is no protection against return to such country.

(2) An application for a residence permit under section 7 will not be examined until the Danish Immigration Service has decided to refrain from refusal of entry, expulsion, transfer or retransfer and return, see subsection (1).

(3) If the Danish Immigration Service has decided to refrain from refusal of entry, expulsion, transfer or retransfer and return, the police must inform the alien of his right to contact the Danish Refugee Council. The Minister of Justice may lay down rules according to which the police, prior to the decision of the Danish Immigration Service, must inform an alien staying in Denmark of his right to contact the Danish Refugee Council.

**48b.** If another EU Member State requests Denmark to take charge of, take back or receive an alien under the rules of Part 5a, the Danish Immigration Service shall decide as soon as possible on the request.

**48c.** If special considerations of a humanitarian nature make it appropriate, the Danish Immigration Service may decide, notwithstanding the rules of sections 48a and 48b, that an application for a residence permit under section 7 will be examined in Denmark if the alien so desires.

**48d.** Appeal against decisions made by the Danish Immigration Service under sections 48a to 48c lies to the Minister of Justice. Any appeal does not stay execution of such decision.

**48e.** (1) The police shall register an alien applying for a residence permit pursuant to section 7 by recording his name, date and place of birth and nationality on the basis of information given by the alien or data appearing from documents regarding the relevant alien. The police shall also register the alien by his photograph and fingerprints, see sections 40a and 40b. In connection with the registration, the police shall issue the alien with an application registration card.

(2) When the Danish Immigration Service has decided that an alien who claims to fall within section 7 may stay in Denmark during the asylum proceedings, the Danish Immigration Service shall register the alien as an asylum-seeker.

(3) For the purpose of the decision to be made by the Danish Immigration Service under subsection (2), the Danish Immigration Service shall carry out an investigation to establish the alien's identity, nationality and travel route and obtain other necessary information. To establish the identity of the alien, the Danish Immigration Service may, with the alien's consent, initiate any personal inquiries necessary, including an age determination test, a language analysis for the determination of origin or a DNA test.

(4) The Danish Immigration Service is otherwise in charge of bringing out all the facts of the case, except in cases falling within Part 7b.

**48f.** The Danish Immigration Service shall assess whether an alien has passed the level A1 Danish language test and the level A2 Danish language test, see section 9(30) and (32). Appeal against an assessment result reached by the Danish Immigration Service as to whether an alien has passed the tests lies to the Ministry of Children and Education. The appeal must be submitted to the Ministry of Children and Education within 7 days of notification of the result of the assessment to the alien concerned. Appeals submitted later will be dismissed.

**49.** (1) When an alien is convicted of an offence, the court shall decide in its judgment, upon the public prosecutor's claim, whether the alien will be expelled pursuant to sections 22-24 or section 25c or be sentenced to suspended expulsion pursuant to section 24b. If the judgment stipulates expulsion, the judgment must state the period of the re-entry ban, see section 32(1) to (4).

(2) Withdrawal by the public prosecutor of a charge against an alien for an offence that may lead to expulsion under the provisions mentioned in subsection (1) may be subject to a condition that the alien be expelled from Denmark and banned from re-entering Denmark for a specified period of time. The provisions of section 723 of the Administration of Justice Act apply correspondingly. The court's approval of expulsion as a condition for withdrawal of a charge is made by court order subject to interlocutory appeal under the provisions of Part 85 of the Administration of Justice Act.

(3) To the extent that an alien has not had counsel assigned to act on his behalf under the general rules of the Administration of Justice Act, counsel must be assigned on request to defend him at proceedings in the cases mentioned in subsections (1) and (2).

**49a.** Prior to the return of an alien who has been issued with a residence permit under section 7 or section 8(1) or (2) and who has been expelled by judgment, see section 49(1), the Danish

Immigration Service shall decide whether the alien can be returned, see section 31, unless the alien consents to the return. A decision to the effect that the alien cannot be returned, see section 31, must also include a decision on the issuance or refusal of a residence permit under section 7 of the Aliens Act.

**49b.** (1) The Danish Immigration Service shall check every 6 months or when occasion otherwise arises whether there is a basis for making a decision under section 32b.

(2) In cases on aliens expelled under section 25(1)(i), the Minister of Justice or the person so authorised by the Minister shall check every 6 months or when occasion otherwise arises whether there is a basis for bringing the case before the court for the purpose of a decision under section 32b, cf. Part 7b.

**50.** (1) If expulsion under section 49(1) has not been enforced, an alien claiming that a material change in his circumstances has occurred, see section 26, may request that the public prosecutor bring before the court the matter of revocation of the expulsion. Such request may be submitted not earlier than 6 months and must be submitted not later than 2 months before the date when enforcement of the expulsion can be expected. If the request is submitted at a later date, the court may decide to examine the case if it deems it excusable that the time limit was exceeded.

(2) Section 59(2) of the Criminal Code applies correspondingly. The request may be dismissed by the court if it is manifest that no material change has occurred in the alien's circumstances. If the request is not dismissed, counsel to defend the alien must be assigned on request. The court may order that the alien is to be deprived of his liberty if it is found necessary to ensure the alien's attendance during proceedings until any decision on expulsion can be enforced. Section 34, section 37(3) and (6) and sections 37a to 37e apply correspondingly.

(3) The court shall make its decision by court order, which is subject to interlocutory appeal under the rules of Part 85 of the Administration of Justice Act.

**50a.** (1) Where expulsion has been decided by a judgment sentencing an alien to safe custody or committal under the rules of sections 68 to 70 of the Criminal Code, the court shall, in connection with a decision under section 72 of the Criminal Code on variation of the measure that involves discharge from hospital or safe custody, decide at the same time on revocation of the expulsion if the alien's state of health makes it conclusively inappropriate to enforce the expulsion.

(2) If an expelled alien is subject to a criminal sanction involving deprivation of liberty under the rules of sections 68 to 70 of the Criminal Code in cases other than those mentioned in subsection (1), the public prosecutor shall, in connection with discharge from hospital, bring the matter of revocation of the expulsion before the court. Where the alien's state of health makes it conclusively inappropriate to enforce the expulsion, the court shall revoke the expulsion. The court shall assign counsel to defend the alien. The court shall make its decision by court order, which is subject to interlocutory appeal under the rules of Part 85 of the Administration of Justice Act. The court may decide that the alien must be remanded in custody when on definite grounds this is found to be necessary to ensure the alien's presence.

**50b.** (1) If the expulsion under section 49(1) of a national of a country which is a Member State of the European Union or covered by the Agreement on the European Economic Area, or a Swiss national or an alien otherwise falling within the EU rules, see section 2(2), has not been enforced 2 years after the decision, the public prosecutor shall bring the question whether the expulsion decision should remain in force before the court immediately before the expected enforcement of the expulsion decision. In that connection, the court shall determine whether the alien still

constitutes a real threat to public policy or security and, in the affirmative, whether circumstances have changed since the original expulsion decision was made.

(2) Section 59(2) of the Criminal Code applies correspondingly. Upon request, counsel must be assigned to the alien. The court may order that the alien is to be deprived of his liberty if it is found necessary to ensure the alien's attendance during proceedings until any decision on expulsion can be enforced. Section 34, section 37(3) and (6) and sections 37a to 37e apply correspondingly.

(3) The court shall make its decision by court order, which is subject to interlocutory appeal under the rules of Part 85 of the Administration of Justice Act.

**51.** (1) If the prosecution of a criminal case against an alien not permanently resident in Denmark is transferred to another country, it may be decided in connection with the transfer that the alien will be expelled, provided that he is being prosecuted for an offence that may lead to expulsion under the provisions mentioned in section 49(1). The expulsion will be revoked if the alien is found not guilty of the offence charged.

(2) If an alien has been sentenced abroad for an offence that has had or must be assumed to have been intended to have effect in Denmark, expulsion from Denmark may be decided subject to the conditions mentioned in sections 22 to 24 and 25 to 25c. If the alien is permanently resident in Denmark, the matter of expulsion from Denmark must be submitted for determination to the district court of the judicial district in which the alien concerned is resident. The case may be heard without the relevant alien's appearance in court. The court shall make its decision by court order.

**52.** (1) An alien who has been notified of a final administrative decision made under section 46 may request within 14 days of being notified of the decision that the decision be submitted for review by the competent court of the judicial district in which the alien is resident or, if the alien is not resident anywhere in the Kingdom of Denmark, by the Copenhagen City Court, provided that the subject matter of the decision is –

- (i) refusal of an application for a residence permit with a possibility of permanent residence under section 9(1)(ii);
- (ii) lapse, revocation, or refusal of renewal of such permit;
- (iii) expulsion under section 25b of an alien falling within the EU rules, see section 2; or
- (iv) expulsion under section 25a of an alien who –
  - (a) is a national of another Nordic country and permanently resident in Denmark; or
  - (b) falls within the EU rules, see section 2.

(2) The case must be brought before the court by the Danish Immigration Service, which shall transmit the case file to the court, stating the decision appealed against and briefly the circumstances relied on, and the evidence of the case.

(3) The court shall see that all the facts of the case are brought out and shall itself decide on any examination of the alien and witnesses, the provision of other evidence, and whether proceedings are to be heard orally. If the alien fails to appear in court without lawful excuse, the court shall decide whether the administrative decision appealed against is to be reviewed without the alien being present or the matter is to be dismissed or proceedings stayed.

(4) If found necessary by the court, and provided that the alien meets the financial conditions under section 325 of the Administration of Justice Act, counsel is assigned to the alien, except where he himself has retained counsel.

(5) If the court finds a special ground for so doing, it may order the alien to pay the legal costs in full or in part.

(6) Submission to the court does not stay execution of the administrative decision, except where so ordered by the court.

(7) The court shall decide by court order if the case will be dismissed or the decision will be upheld or quashed. The court order is subject to interlocutory appeal under the rules of Part 37 of the Administration of Justice Act.

**52a.** (1) The Immigration Appeals Board is composed of a chairman, deputy chairmen (the Executive Committee) and other members. The members of the Immigration Appeals Board are independent and cannot accept or seek directions from the appointing or nominating authority or organisation.

(2) The chairman of the Immigration Appeals Board must be a High Court judge or a Supreme Court judge, and the deputy chairmen must be judges. The other members must be attorneys or serve with the Ministry of Justice or the Ministry of Employment.

(3) The members of the Immigration Appeals Board are appointed by the Executive Committee of the Immigration Appeals Board. The judges are appointed upon nomination by the president of the relevant court. The attorneys are appointed upon nomination by the Council of the Danish Bar and Law Society (*Advokatrådet*). The members serving with the Ministry of Justice are appointed upon nomination by the Ministry of Justice, and the members serving with the Ministry of Employment are appointed upon nomination by the Minister of Employment.

(4) The members of the Immigration Appeals Board are appointed for a term of 4 years. Members may be re-appointed once. A member must retire when the conditions for appointment of the member are no longer met.

(5) The chairman of the Immigration Appeals Board is elected by the Executive Committee of the Immigration Appeals Board.

(6) When the Immigration Appeals Board considers an appeal, the Immigration Appeals Board consists of the chairman or a deputy chairman, an attorney and a member serving with the Ministry of Justice if the appeal concerns a matter falling within the sphere of the Ministry of Justice, or a member serving with the Ministry of Employment if the appeal concerns a matter falling within the sphere of the Ministry of Employment, but see section 52c(5) and (6). The Immigration Appeals Board shall make decisions on the basis of a simple majority vote.

(7) Debates on general guidelines for the functions of the Immigration Appeals Board, etc., take place in the Co-ordination Committee of the Board, which must be composed of the chairman of the Board, one attorney and one member serving with the Ministry of Justice or the Ministry of Employment. At debates of matters concerning proceedings in cases falling within the sphere of the Ministry of Justice, one member serving with the Ministry of Justice shall attend. At debates of matters concerning proceedings in cases falling within the sphere of the Ministry of Employment, one member serving with the Ministry of Employment shall attend. As far as possible, the Committee must be composed of permanent members appointed by the nominating authority or society.

(8) No appeal lies to any other administrative authority against decisions made by the Immigration Appeals Board.

(9) The chairman of the Immigration Appeals Board may, on an *ad hoc* basis, appoint 1 former member of the Board to deliberate in a case in whose consideration the member has previously been involved. If the member who has previously been involved in the consideration of a case is unable to attend, the chairman may designate or appoint, on an *ad hoc* basis, another member to replace the member in question during the continued consideration of the case.

(10) The Minister of Justice shall lay down the rules of procedure of the Immigration Appeals Board upon negotiation with the Minister of Employment.

**52b.** (1) Appeal against the following decisions made by the Danish Immigration Service lies to the Immigration Appeals Board:

- (i) Refusals of applications for a residence permit under section 9, 9d or 9f.
- (ii) Refusals of applications for a residence permit under section 9c(1), except refusals given under the EU rules.
- (iii) <sup>8)</sup>Refusals of applications for renewal of a residence permit issued under section 9, 9c(1), 9d or 9f, see paragraphs (i) and (ii) hereof, including decisions on lawful excuse, see section 9f(5), and decisions revoking such residence permit, see section 11(2) and section 19.
- (iv) Refusals of applications for a permanent residence permit, see section 11.
- (v) Decisions refusing to accept the submission of applications for a residence permit under section 9(21), 9c(5) or 9f(7), see paragraphs (i) and (ii) hereof.
- (vi) Decisions on expulsion under section 25(1)(ii) or sections 25a to 25c.
- (vii) Decisions on refusal of entry under section 28.
- (viii) Decisions on age determination in connection with an application for a residence permit under section 9 or section 9c(1) as a result of family ties with a person living in Denmark.

(2) Appeal against the following decisions made by the Danish Agency for Labour Retention and International Recruitment also lies to the Immigration Appeals Board:

- (i) Refusals of applications for a residence permit under section 9a or sections 9i to 9n.
- (ii) Refusals of applications for renewal of a residence permit issued under section 9a or sections 9i to 9n, and decisions revoking such residence permit, see section 19.
- (iii) Decisions refusing to accept the submission of applications for a residence permit under section 9a(4), 9i(2), 9j(2), 9k(2), 9l(2), 9m(2) or 9n(2).
- (iv) Decisions on expulsion under section 25b(2), see section 46(2), second sentence.

(3) Appeal against findings made by the Danish Immigration Service to the effect that a residence permit issued under section 9, 9c(1), 9d or 9f has lapsed, see section 17, that a residence permit issued under section 9 or 9c(1), see section 17a, has lapsed, or that a residence permit has lapsed under section 18 lies to the Immigration Appeals Board. The same applies to appeals against refusals of applications from aliens claiming that a residence permit should not be considered lapsed, see sections 17(3) and 17a(2).

(4) Appeal against findings made by the Danish Agency for Labour Retention and International Recruitment to the effect that a residence permit issued under section 9a or sections 9i to 9n has lapsed, see sections 17 and 18, lies to the Immigration Appeals Board. The same applies to appeals against refusals of applications from aliens claiming that a residence permit should not be considered lapsed, see section 17(3).

(5) Appeals against the decisions mentioned in subsections (1) to (4) must be submitted within 8 weeks of the date of notification of the decision to the appellant. The chairman of the Immigration Appeals Board or a person so authorised by the chairman may decide in particular cases that an appeal must be considered even though the appeal was submitted after the expiry of the period stated in the first sentence hereof.

(6) Decisions on suspension of the time limit for departure, see section 33(3), are made by the chairman of the Immigration Appeals Board or a person so authorised by the chairman.

**52c.** (1) The Ministry of Justice shall make secretariat assistance available to the Immigration Appeals Board.

(2) The secretariat shall prepare the appeals for consideration by the Immigration Appeals Board.

(3) The Immigration Appeals Board may request an opinion from the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment on any appeal submitted.

(4) Appeals are considered on the basis of written proceedings. Where particular reasons make it appropriate, the Immigration Appeals Board may decide to summon the parties to the appeal and others for an oral hearing.

(5) Appeals that do not concern issues of major significance or matters of principle may be considered by the chairman on his own or by a person so authorised by the chairman.

(6) Cases in which a request for reconsideration of a decision made by the Immigration Appeals Board has been submitted may be considered by the chairman on his own or by a person so authorised by the chairman when there is no reason to assume that the Immigration Appeals Board will revise its decision.

(7) The chairman of the Immigration Appeals Board or a person so authorised by the chairman may dismiss an appeal not falling within the competence of the Immigration Appeals Board.

(8) The chairman of the Immigration Appeals Board or a person so authorised by the chairman shall assign a case to consideration under section 52c(5) to (7) or section 52a(6).

**53.** (1) The Refugee Appeals Board is composed of a chairman, deputy chairmen (the Executive Committee) and other members. The members of the Refugee Appeals Board are independent and cannot accept or seek directions from the appointing or nominating authority or organisation. Sections 49 to 50 of the Administration of Justice Act apply correspondingly to the members of the Refugee Appeals Board.

(2) The chairman of the Refugee Appeals Board must be a High Court judge or a Supreme Court judge, and the deputy chairmen must be judges. The other members must be attorneys, be nominated by the Danish Refugee Council, serve with the central administration of the Ministry of Foreign Affairs or serve with the central administration of the Ministry of Justice.

(3) The members of the Refugee Appeals Board are appointed by the Executive Committee of the Board. The judges are appointed upon nomination by the Danish Court Administration (*Domstolsstyrelsen*), the attorneys are appointed upon nomination by the Council of the Danish Bar and Law Society, and the other members are appointed upon nomination by the Danish Refugee Council, the Minister for Foreign Affairs and the Minister of Justice.

(4) The members of the Refugee Appeals Board are appointed for a term of 4 years. Members are eligible for re-appointment for a period of 4 additional years. Subsequently, members cannot be re-appointed. The members of the Refugee Appeals Board can only be removed by judgment. A member must retire when the conditions for appointment of the member are no longer met. The appointment ends not later than by the end of the month of the member's 70th birthday.

(5) The chairman of the Refugee Appeals Board is elected by the Executive Committee of the Refugee Appeals Board.

(6) When the Refugee Appeals Board considers a case, the Refugee Appeals Board consists of the chairman or a deputy chairman, an attorney, a member nominated by the Danish Refugee Council, a member serving with the central administration of the Ministry of Foreign Affairs and a member serving with the central administration of the Ministry of Justice, but see subsections (8) to (10).

(7) Debates on general guidelines for the functions of the Board, etc., take place in the Co-ordination Committee of the Board, which is set up as described in subsection (6), and which must be composed of permanent members as far as possible.

(8) Cases where, upon submission to the Danish Refugee Council, the Danish Immigration Service has not determined under section 53b(1) that the decision cannot be appealed to the Refugee Appeals Board are considered by the chairman or a deputy chairman alone unless there is reason to assume that the Board will revise the decision of the Danish Immigration Service.

(9) Cases in which it must be deemed manifest that the conditions for being granted asylum are met may be considered by the chairman or a deputy chairman alone.

(10) Cases in which a request for reconsideration of a decision made by the Refugee Appeals Board has been submitted may be considered by the chairman or a deputy chairman alone when there is no reason to assume that the Board will revise its decision.

(11) The Ministry of Justice shall make secretariat assistance available to the Refugee Appeals Board.

(12) The chairman of the Refugee Appeals Board may, on an *ad hoc* basis, appoint a former member of the Board to deliberate in a case in whose consideration the member has previously been involved. If the member who has previously been involved in the consideration of a case is unable to attend, the chairman may designate or appoint, on an *ad hoc* basis, another member to replace the member in question during the continued consideration of the case.

**53a.** (1) The Refugee Appeals Board considers appeals against decisions made by the Danish Immigration Service regarding the following matters, but see section 53b(1):

- (i) refusal of an application for a residence permit for an alien who claims to fall within section 7 or section 8(1) or (2), and in that connection return under section 32a;
- (ii) the lapse under sections 17 and 17a or revocation under section 19 or 20 of a residence permit issued under section 7 or section 8(1) or (2), and in that connection return under section 32a;
- (iii) refusal of issuance of a Danish travel document to a refugee or revocation of such travel document; and
- (iv) return under sections 32b and 49a.

(2) If the Danish Immigration Service refuses to issue a residence permit under section 7 to an alien staying in Denmark or if the Danish Immigration Service decides under section 32b or section 49a that return will not be contrary to section 31, the decision is considered to be appealed to the Refugee Appeals Board. Appeal against a decision as mentioned in subsection (1) stays execution of the decision.

(3) The decisions of the Danish Immigration Service mentioned in subsection (1) must refer to the rules of subsections (1) and (2).

(4) Without the alien's consent, the police may transmit information on an alien's offences, including charges of offences, to the Danish Immigration Service or the Refugee Appeals Board, if the person in question has applied for a residence permit under section 7 or section 8(1) or (2) or falls within section 42a(2), cf. subsection (3).

**53b.** (1) Upon submission to the Danish Refugee Council, the Danish Immigration Service may determine that the decision in a case of a residence permit under section 7 cannot be appealed to the Refugee Appeals Board if the application must be considered manifestly unfounded, including if –

- (i) the identity claimed by the applicant is manifestly incorrect;
- (ii) it is manifest that the circumstances invoked by the applicant cannot lead to the issuance of a residence permit under section 7;
- (iii) it is manifest that the circumstances invoked by the applicant cannot lead to the issuance of a residence permit under section 7 according to the practice of the Refugee Appeals Board;
- (iv) the circumstances invoked by the applicant are in manifest disagreement with general background information on the situation in the applicant's country of origin or former country of residence;
- (v) the circumstances invoked by the applicant are in manifest disagreement with other specific information on the applicant's situation; or

(vi) the circumstances invoked by the applicant must be deemed manifestly to lack credibility, including as a consequence of the applicant's changing, contradictory or improbable statements.

(2) Unless essential considerations make it inappropriate, the Danish Immigration Service may decide that the Danish Refugee Council must inform the Danish Immigration Service on the same day that the Danish Immigration Service submits a case to the Danish Refugee Council under subsection (1) whether the Danish Refugee Council agrees with the assessment by the Danish Immigration Service according to which the application must be considered manifestly unfounded. The Danish Immigration Service may further decide that the interrogation of the applicant by the Danish Immigration Service and the interview of the applicant by the Danish Refugee Council must take place in premises close to each other.

(3) The Danish Immigration Service shall inform the Refugee Appeals Board about the decisions which have not been appealed to the Board because the Danish Immigration Service has so decided under subsection (1). The Refugee Appeals Board may decide that it must be possible to appeal certain groups of cases to the Board.

**53c.** Before the court makes a decision on an application for a residence permit from or on the return of an alien under section 45d(1)(iii) to (v), the Refugee Appeals Board shall issue an opinion for this purpose on request.

**54.** (1) Where a decision is appealed to the Refugee Appeals Board, the Danish Immigration Service shall transmit the documents of the case file to the Board, accompanied by details on the decision appealed against and a brief account of the circumstances relied upon, and the evidence of the case. The Board shall itself see that all the facts of the case are brought out and shall decide on any examination of the alien and witnesses and the provision of any other evidence.

(2) When the Refugee Appeals Board considers an appeal against a decision made by the Danish Immigration Service concerning an application for a residence permit under section 7, the chairman of the Refugee Appeals Board or one of his deputies may decide to prohibit the production of any document or other evidence that could have been produced during the examination of the case by the Danish Immigration Service. When the Refugee Appeals Board considers a request for reconsideration of a decision made by the Board, the chairman of the Refugee Appeals Board or one of his deputies may decide to prohibit the production of any document or other evidence that is covered by the first sentence hereof or could have been produced during the previous consideration of the case by the Board.

**55.** (1) If necessary, the Refugee Appeals Board may assign counsel to the alien, except where the alien has already retained counsel.

(2) If it cannot be deemed reasonable in consideration of the furtherance of the case that the counsel chosen by the alien appears in the case, the Refugee Appeals Board may refuse to assign the person in question to act for the alien. If the alien wants other counsel assigned instead, the Refugee Appeals Board shall assign the attorney in question unless assignment can be refused under the first sentence hereof.

(3) The alien and his counsel must be given an opportunity to inspect the material produced to the Refugee Appeals Board for its consideration and to state their opinion on the material.

(4) If reasons of national security or the relations of the State with foreign powers or considerations for a third party exceptionally so demand, the provisions of subsection (3) may be deviated from to the extent required.

**56.** (1) The chairman of the Refugee Appeals Board or a person so authorised by the chairman shall assign a case to consideration under section 53(6) or section 53(8) to (10).

(2) At the request of the alien or his counsel, the alien must be allowed to plead his case orally before the Refugee Appeals Board, but see subsections (3) and (4). The Refugee Appeals Board shall decide if the proceedings are otherwise to be heard orally, but see subsections (3) and (4).

(3) Cases considered under section 53(8) to (10) are considered on the basis of written proceedings.

(4) The chairman of the Refugee Appeals Board or a person so authorised by the chairman may assign a case to be heard pursuant to section 53(6) to consideration on the basis of written proceedings, if –

- (i) the appeal must be considered to be unfounded;
- (ii) a residence permit has been issued under section 7(2), but the alien claims to fall within section 7(1), or a residence permit has been issued under section 8(2), but the alien claims to fall within section 8(1) (change-of-status case);
- (iii) the case concerns refusal of the issuance of a Danish travel document to a refugee or revocation of such document;
- (iv) the case concerns the issuance of a residence permit under section 7 to arriving family members of an alien who has earlier been issued with a residence permit under section 7 (consequential status case); or
- (v) circumstances otherwise justify the application of this form of proceeding.

(5) Cases that have been assigned to consideration on the basis of written proceedings under subsection (4)(i) can be assigned to oral proceedings.

(6) The chairman of the Refugee Appeals Board or a person so authorised by the chairman may decide that a case or a specific group of cases to be considered under section 53(6) must be subject to particularly expedited consideration.

(7) The Refugee Appeals Board shall make decisions on the basis of a simple majority vote. In the event of an equality of votes, the decision most favourable to the alien concerned must prevail. The grounds for the decision must be set out in the decision.

(8) Decisions made by the Refugee Appeals Board are final.

(9) The Refugee Appeals Board shall lay down its own rules of procedure.

**56a.** (1) Unless exceptional reasons make it inappropriate, an appropriate adult must be appointed to an unaccompanied alien under the age of 18 who is staying in Denmark to safeguard his interests. If the unaccompanied alien under the age of 18 has been trafficked, regard must be had to this in the appointment of the appropriate adult. At the request of the Danish Immigration Service, an organisation approved for this purpose by the Minister of Justice shall recommend a person to the office as an appropriate adult. Upon agreement with the Minister of Justice, the organisation may employ persons to act as appropriate adults. The appropriate adult will be appointed by the State Administration.

(2) If a child falling within subsection (1) has attained the age of 12, the child must be interviewed about the appointment of an appropriate adult for safeguarding the interests of the child, see subsection (1), before a decision is made to appoint such appropriate adult. The interview may be omitted if it must be assumed to be harmful to the child or of no importance to the case. If the child is under the age of 12, an interview as mentioned in the first sentence hereof must be conducted if warranted by the child's maturity and the circumstances of the case.

(3) The State Administration may vary a decision made under subsection (1) if the variation is in the best interests of the child.

(4) Appeal against decisions made by the State Administration under subsections (1) and (3) lies to the Minister for Social Affairs and Integration.

(5) The Minister for Social Affairs and Integration may lay down more detailed rules on the examination of cases carried out by the State Administration under subsections (1) to (4).

(6) The office as an appropriate adult for safeguarding the interests of a child, see subsection (1), ceases when –

- (i) the child has been issued with a residence permit for Denmark and another person is temporarily appointed to have custody of it under section 28 of the Parental Responsibility Act;
- (ii) the child attains the age of 18;
- (iii) the child departs from Denmark;
- (iv) the person having custody of it enters Denmark or otherwise becomes able to exercise custody;
- (v) the child's spouse enters Denmark;
- (vi) the child contracts marriage and the State Administration does not make a decision under section 1, second sentence, of the Act on the Formation and Dissolution of Marriage; or
- (vii) the State Administration so decides under subsection (3).

(7) If the Danish Immigration Service submits a case concerning a residence permit under section 7 for a child falling within subsection (1) to the Danish Refugee Council, see section 53b, the Danish Immigration Service shall at the same time assign counsel to the child unless the child has itself retained one. Section 55(2) to (4) applies correspondingly. The Minister of Justice may lay down more detailed rules on the assignment of counsel by the Danish Immigration Service under the first sentence hereof.

(8) The Danish Immigration Service shall assign counsel to a child falling within subsection (1) whose application for a residence permit under section 7 has been refused unless the child has itself retained counsel or exceptional reasons make it inappropriate. If an appropriate adult has been appointed to represent the child, see subsection (1), the appropriate adult must be notified of decisions to assign counsel to the child. Section 55(2) to (4) applies correspondingly. The Minister of Justice may lay down more detailed rules on the duty of the Danish Immigration Service to assign counsel under the first sentence hereof.

(9) Subject to the consent of a child falling within subsection (1), the Danish Immigration Service shall initiate a search for the parents or other family network members of the child unless the child can take up residence at a reception and care centre in its country of origin or former country of residence. This does not apply if the child falls within section 2(1).

(10) The Danish Immigration Service shall initiate a search as mentioned in subsection (9) if the child has been trafficked unless particular reasons make it inappropriate. The Danish Immigration Service shall also initiate a search as mentioned in subsection (9) if exceptional reasons otherwise make it appropriate.

(11) The search for parents or other family network members, see subsections (9) and (10), may be carried out in cooperation with one or more organisations approved for this purpose by the Minister of Justice. In connection with the search for the parents or other family network members of the child, the Danish Immigration Service and the said organisations may exchange information on the child's personal circumstances without the consent of the child or its appropriate adult.

**57. (1)** Before the public prosecutor submits a claim for expulsion of an alien, he may request an opinion from the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment. In connection with review under section 50 of a decision on expulsion,

the public prosecutor shall hear the opinion of the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment.

(2) In connection with the opinions mentioned in subsection (1), the public prosecutor may, without the alien's consent, transmit information on the alien's criminal record, including charges of offences, to the Danish Immigration Service or the Danish Agency for Labour Retention and International Recruitment.

**58.** Fees and refunds of outlays payable to counsel assigned under section 37(2), section 37c(3), second sentence, section 40(4), third sentence, section 49(3), section 50(2), third sentence, section 50a(2), third sentence, or section 52(4), 55(1) or 56a(7) or (8) are subject to the rules applicable to the granting of legal aid, see Part 31 of the Administration of Justice Act.

**58a.** The powers of the Parliamentary Ombudsman do not extend to the Refugee Appeals Board, but see section 17 of the Ombudsman Act.

#### Part 8a

#### *Transmission of information pursuant to the Dublin Regulation, the Schengen Convention, the VIS Regulation and the Eurodac Regulation, etc.*

**58b.** (1) In this Act, the Eurodac Regulation means Council Regulation (EC) No. 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, as subsequently amended.

(2) In this Act, the Central Eurodac Unit means the Central Unit of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, which is responsible for the operation of the central database mentioned in Article 1(2)(b) of the Eurodac Regulation.

**58c.** (1) Confidential information, including personal data on individuals, received from the authorities of another EU Member State pursuant to the rules of Article 21 of the Dublin Regulation may be transmitted only to the authorities mentioned in Article 21(7) of the Dublin Regulation. The information may be used only for the purposes mentioned in Article 21(1) of the Dublin Regulation.

(2) To the extent following from the rules of the Dublin Regulation, confidential information, including personal data on individuals, may be transmitted to the authorities of another country participating in the Dublin Regulation. To the extent following from the Schengen Convention, information as mentioned in the first sentence hereof may be transmitted to the authorities of another Schengen country.

(3) The Danish Data Protection Agency shall supervise the processing and use in Denmark of information received under the rules of the Dublin Regulation.

**58d.** The Minister of Justice may lay down more detailed rules for implementation of the rules of the Schengen Convention, the VIS Regulation, the Visa Code, the Dublin Regulation and the Eurodac Regulation. In that connection it may be provided that others than the National Commissioner of Police may transmit information to the Central Eurodac Unit under section 58j(1) and (2).

**58e.** The Minister of Justice may specify that the rules of this Act implemented to meet the rules of the Dublin Regulation or the Eurodac Regulation must be used, following the appropriate amendments, also in relation to one or several third countries that have made agreements with the

European Union about participation in the Dublin Regulation or the Eurodac Regulation or equivalent arrangements, or that are obliged to apply the rules of the Dublin Regulation or the Eurodac Regulation on other grounds.

**58f.** The Minister of Justice may lay down more detailed rules on the payment by the police of expenses defrayed by other Schengen countries or EU Member States in connection with the return of aliens.

**58g.** (1) The National Commissioner of Police shall enter an alert in SIS II in respect of an alien who is not a national of a Schengen country or a Member State of the European Union for the purpose of refusing entry if –

- (i) the alien has been expelled from Denmark pursuant to sections 22 to 24 and has been given a re-entry ban for at least 6 years;
- (ii) the alien has been expelled from Denmark pursuant to section 25;
- (iii) the alien has been refused a residence permit under section 10(1) or section 10(2)(i) or (ii);
- (iv) the alien's residence permit has been revoked pursuant to section 19(2)(ii) or (iii);
- (v) the alien has been issued with a visa under section 4 or 4a and has been expelled from Denmark pursuant to section 25b after refusal of his application for a residence permit under section 7; or
- (vi) the alien has been expelled from Denmark pursuant to section 25b.

(2) The National Commissioner of Police may enter an alert in SIS II in respect of an alien who is not a national of a Schengen country or a Member State of the European Union for the purpose of refusing entry if the alien is subject to restrictive measures intended to prevent entry and transit as decided by the United Nations or the European Union.

**58h.** (1) The Danish Immigration Service is in charge of consultations with the authorities of another Schengen country pursuant to Article 25 of the Schengen Convention.

(2) Where, following the consultations mentioned in subsection (1), the Danish Immigration Service finds that an alert entered in respect of an alien in SIS II pursuant to section 58g for the purpose of refusing entry should be deleted, the National Commissioner of Police shall delete the alert in SIS II.

**58i.** (1) The National Commissioner of Police shall promptly transmit fingerprints taken of aliens over the age of 14 pursuant to section 40a(1) to the Central Eurodac Unit. The National Commissioner of Police may further transmit fingerprints taken of aliens over the age of 14 pursuant to section 40a(2)(i) to the Central Eurodac Unit for the purpose of checking whether such aliens have previously submitted an application for asylum in another EU Member State.

(2) Together with fingerprints taken pursuant to section 40a(1)(i), the National Commissioner of Police shall transmit to the Central Eurodac Unit information on –

- (i) the place and date of the alien's submission of an application for a residence permit under section 7;
- (ii) the alien's sex;
- (iii) the alien's alien number or other reference number; and
- (iv) the date when the alien's fingerprints were taken.

(3) Together with fingerprints taken pursuant to section 40a(1)(ii), the National Commissioner of Police shall transmit to the Central Eurodac Unit information on –

- (i) the place and date of the apprehension of the alien; and
- (ii) the information mentioned in subsection (2)(ii) to (iv).

(4) Together with fingerprints taken pursuant to section 40a(2)(i), the National Commissioner of Police shall transmit to the Central Eurodac Unit information on the alien's alien number or other reference number.

(5) The National Commissioner of Police shall receive and verify information received from the Central Eurodac Unit.

(6) The Danish Data Protection Agency shall supervise the processing and use in Denmark of information transmitted and received under the rules of the Eurodac Regulation.

**58j.** (1) If an alien whose fingerprints have been taken pursuant to section 40a(1)(i) and transmitted to the Central Eurodac Unit under section 58i(1), first sentence, is issued with a residence permit for Denmark under section 7(1) or is granted Danish nationality, the National Commissioner of Police shall notify the Central Eurodac Unit thereof. If the National Commissioner of Police is informed that an alien whose fingerprints have been taken pursuant to section 40a(1)(i) and transmitted to the Central Eurodac Unit under section 58i(1), first sentence, has been recognised as a refugee in accordance with the Convention Relating to the Status of Refugees (28 July 1951) or has been granted nationality in another EU Member State, the National Commissioner of Police shall notify the Central Eurodac Unit thereof. The first and second sentences hereof do not apply when more than 10 years have passed from the date when the alien's fingerprints were taken.

(2) If an alien whose fingerprints have been taken pursuant to section 40a(1)(ii) and transmitted to the Central Eurodac Unit under section 58i(1), first sentence, is issued with a residence permit for Denmark or is granted Danish nationality, the National Commissioner of Police shall notify the Central Eurodac Unit thereof. If the National Commissioner of Police is informed that an alien whose fingerprints have been taken pursuant to section 40a(1)(ii) and transmitted to the Central Eurodac Unit under section 58i(1), first sentence, has been issued with a residence permit for or has obtained nationality in another Member State of the European Union, the National Commissioner of Police shall notify the Central Eurodac Unit thereof. If the National Commissioner of Police becomes aware that an alien whose fingerprints have been taken pursuant to section 40a(1)(ii) and transmitted to the Central Eurodac Unit under section 58i(1), first sentence, has left the territory of the EU Member States, the National Commissioner of Police shall notify the Central Eurodac Unit thereof. The first to third sentences hereof do not apply when more than 2 years have passed from the date when the alien's fingerprints were taken.

## Part 9

### *Penalty provisions*

- 59.** (1) An alien is liable to a fine or imprisonment for up to 6 months if he –
- (i) enters or departs from Denmark at points other than those designated as passport check-points in Denmark or another Nordic country or outside the opening hours of the border crossing point. The provision of the first sentence hereof does not apply on entry from or departure to a Schengen country, unless checks are exceptionally carried out at such border pursuant to Article 23 of the Schengen Borders Code, cf. section 38(2) of this Act.
  - (ii) stays in Denmark without the requisite permit;
  - (iii) by deliberate misrepresentation or fraudulent non-disclosure secures for himself admission into Denmark through a passport check-point or obtains for himself a visa, passport, or other travel document or a Danish residence or work permit.
- (2) An alien is liable to a fine or imprisonment for up to 1 year if he works in Denmark without the requisite permit.

(3) In the determination of the sentence under subsection (2), it is considered an aggravating circumstance if the alien is not entitled to stay in Denmark.

(4) Any person who employs an alien not issued with the requisite work permit or does so in violation of the conditions laid down for the issuance of work permits is liable to a fine or imprisonment for up to 2 years.

(5) In the determination of the sentence under subsection (4), it is considered an aggravating circumstance if the violation was committed intentionally, if, through the violation, a financial gain was obtained or intended for the benefit of the person concerned or others, or if the alien is not entitled to stay in Denmark.

(6) If a financial gain has been obtained by a violation of subsection (4), such gain may be confiscated under the rules of Part 9 of the Criminal Code. If confiscation is not possible, special regard must be had to the amount of a financial gain obtained or intended when the fine, including any supplementary fine, is determined.

(7) Any person is liable to a fine or imprisonment for up to 2 years if he –

- (i) intentionally assists an alien in illegally entering or transiting Denmark;
- (ii) intentionally assists an alien in illegally staying in Denmark;
- (iii) intentionally assists an alien in entering Denmark for the purpose of entering another country illegally from Denmark;
- (iv) intentionally assists an alien in illegally entering or illegally transiting another country;
- (v) for the purpose of financial gain assists an alien in staying illegally in another country; or
- (vi) intentionally assists an alien in working in Denmark without the requisite permit by making shelter or means of transport available to the alien.

(8) In the determination of the sentence under subsection (7)(ii), it is considered a particularly aggravating circumstance if the assistance was given for the purpose of financial gain, or repeatedly, or if the same sentence covers several offences of intentional assistance for an illegal stay in Denmark.

(9) In the determination of the sentence under subsection (7)(vi), it is considered a particularly aggravating circumstance if the assistance was given for the purpose of financial gain, or repeatedly, or if the same sentence covers several offences of intentional assistance for an alien's illegal work in Denmark.

**59a.** (1) Any person who brings to Denmark an alien who is not in possession of the requisite travel document and visa, see section 39, upon his entry or in transit in a Danish airport is liable to a fine.

(2) The provision of subsection (1) does not apply at entry from a Schengen country.

**59b.** An alien is liable to a fine or imprisonment for up to 3 years if he enters Denmark in violation of a re-entry ban or in disobedience of an order made under an earlier Danish Aliens Act.

**60.** (1) Violation of section 16(2), violation of any order made under section 34, section 42a(7), third sentence, section 42a(9), first sentence, or section 42d(2), second sentence, violation of section 39(1) and (3), section 40(1), first and second sentences, section 40(3) and (4), section 42a(7), second sentence, or section 42a(8), second sentence, or non-compliance with conditions laid down for a permit under this Act is punishable with a fine or in aggravated circumstances with imprisonment for up to 1 year.

(2) Any regulation issued pursuant to this Act may provide that violation of such regulation is punishable with a fine. Any regulation issued pursuant to section 2(4) and (5), section 12, section

15(2), section 16(1) or section 38(4) may provide that violation of such regulation is punishable with a fine; or with a fine or alternatively imprisonment for up to 4 months.

**61.** Criminal liability may be imposed on companies, etc. (legal persons) under the rules of Part 5 of the Criminal Code.

**62.** Cases concerning violation of section 59b of this Act are heard without the presence of lay assessors, even if the punishment involved may be more severe than a fine.

## Part 10

### *Commencement and transitional provisions*

**63.** (1) This Act comes into force on 1 October 1983, but see sections 64 and 65.

(2) As of the same date, the Act on Aliens' Admission into Denmark etc., see Consolidation Act No. 344 of 22 June 1973, is repealed.

(3) The rules of this Act on expulsion because of an offence apply to all cases where judgment at first instance has not been given at the coming into force of this Act.

**64.** (Omitted - transitional provision)

**65.** (Omitted - transitional provision)

**66.** This Act does not apply to the Faroe Islands and Greenland, but may, by Royal decree, be extended, wholly or partly, to the Faroe Islands and Greenland, subject to such adaptation as may be required by circumstances particular to those parts of the Kingdom of Denmark.

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Act No. 574 of 19 December 1985 contains the following provision:

#### **Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>9)</sup> and applies to all cases on which the Refugee Appeals Board has not yet taken a decision.

---

Act No. 686 of 17 October 1986 contains the following provision:

#### **Section 3**

(1) Paragraphs (i) to (x) and ((xii) of section 1(1) of this Act come into force on the day following the promulgation of this Act in the Danish Law Gazette<sup>10)</sup>. However, paragraphs (i), (iii), (viii) and (x) of section 1(1) do not apply to aliens who have already entered the country and have applied for a residence permit under the rules hitherto in force<sup>11)</sup>. Section 1(1)(vii) only applies to aliens who have entered the country after the commencement of this Act<sup>12)</sup>.

(2) The Minister of Justice shall determine the date of commencement of section 1(1)(xi)<sup>13)</sup>.

---

Act No. 387 of 6 June 1991 contains the following provisions:

#### **Section 2**

The Minister of the Interior shall determine the date of commencement of this Act<sup>14)</sup>.

#### **Section 3**

The rules of this Act apply to all cases where an application for a residence permit is submitted after the commencement of this Act.

---

Act No. 385 of 20 May 1992 contains the following provision:

### **Section 5**

(1) This Act comes into force on 1 October 1992.

(2) (Omitted)

(3) Paragraphs (i) and (iii) to (xxxvii) of section 1(1) and sections 2 to 4 apply to cases where, at the commencement of this Act, prosecution has not been initiated at first instance<sup>15)</sup>.

---

Act No. 482 of 24 June 1992 contains the following provision:

### **Section 4**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>16)</sup>.

(2) Paragraphs (ii) to (v) of section 1(1) and section 2 do not apply to aliens who, before the passing of this Act, had applied for a residence permit or lawfully taken up residence in Denmark under the rules hitherto in force<sup>17)</sup>.

---

Act No. 421 of 1 June 1994 contains the following provision:

### **Section 3**

(1) This Act comes into force on 1 July 1994.

(2) Section 1(1)(xiv) of this Act does not apply to cases where it has been decided to schedule proceedings before the Refugee Appeals Board before the commencement of this Act<sup>18)</sup>.

---

Act No. 382 of 14 June 1995 contains the following provision:

### **Section 3**

(1) This Act comes into force on 1 September 1995.

(2) Paragraphs (i), (ii), (iv) to (vi), (ix), (xi), (xvii), (xix) and (xx) of section 1(1) and section 2(1)(i), however, come into force on the day following the promulgation of this Act in the Danish Law Gazette<sup>19)</sup>.

(3) The Minister of the Interior shall determine the date of commencement of section 1(1)(xv), (xvi) and (xviii) and section 2(1)(ii) and (iii)<sup>20)</sup>. The Minister of the Interior may lay down rules on the border crossing points to which section 1(1)(xv) and section 2(1)(ii) will apply.

(4) Paragraphs (xvii), (xix) and (xx) of section 1(1) do not apply to cases where it has been decided to schedule proceedings before the Refugee Appeals Board before the commencement of these provisions<sup>21)</sup>.

(5) Paragraphs (i) and (ii) of section 1(1) do not apply to aliens who had applied for a residence permit before the commencement of these provisions<sup>22)</sup>.

---

Act No. 290 of 24 April 1996 contains the following provision:

### **Section 4**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>23)</sup>.

(2) Section 1(1)(iii) does not apply to aliens who had applied for a residence permit before the commencement of this Act<sup>24)</sup>.

(3) Section 1(1)(ix) applies only to persons who enter Denmark after the commencement of this Act<sup>25)</sup>.

---

Act No. 473 of 12 June 1996 on the Parliamentary Ombudsman contains the following provisions:

### **Section 17**

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

(2) The Ombudsman may perform a general investigation of the case examination procedures of any authority.

### **Section 31**

This Act comes into force on 1 January 1997.

### **Section 32**

(Omitted)

(2) Complaints of decisions made by the Refugee Appeals Board and submitted to the Parliamentary Ombudsman before the commencement of this Act will be examined according to the provisions hitherto in force.

---

Act No. 410 of 10 June 1997 contains the following provisions:

### **Section 3**

(1) The Minister of the Interior shall determine the date of commencement of this Act<sup>26)</sup>. The Minister may decide that the individual provisions of this Act come into force at different times and will only apply to certain border crossing points.

(2) Section 1(1)(xii), (xx), (xxviii) and (xxix) and section 2(1)(v), (vi), (viii) and (x) come into force on the day following the promulgation of this Act in the Danish Law Gazette<sup>27)</sup>.

### **Section 4**

This Act applies to all cases where an application for a residence permit is submitted after the commencement of this Act.

---

Act No. 473 of 1 July 1998 contains the following provision:

### **Section 4**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette, but see subsection (2)<sup>28)</sup>.

(2) Sections 9(11) and 19(1)(iv), second sentence, of the Aliens Act as worded by section 1(1)(ix) and (xiii) of this Act, and section 1(1)(xi), (xiv), (xxi) and (xxxv) and section 2(1)(ii) of this Act come into force on 1 January 1999.

(3) Section 11(2) to (8), section 27(1) and section 42a(1), second sentence, of the Aliens Act as worded or amended by section 1(1)(xi), (xxi) and (xxxv) of this Act do not apply to aliens issued with a residence permit before 1 January 1999. Section 1(1)(xiv) has effect for residence permits issued on or after 1 January 1999<sup>29)</sup>.

(4) Section 7(2), first sentence, section 9(1)(ii)(d), section 9(2)(iv), section 9(3), (4) and (7) to (10), section 19(1)(iv), first sentence, section 42a(7) and section 52(1)(i) of the Aliens Act as worded or amended by section 1(1)(i), (ii), (iv) to (ix), (xiii), (xxxvii) and (xlvi) of this Act do not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act. Paragraphs (iii) and (xxxvi) of section 1(1) have effect for aliens who submit an application for a residence permit on and after the commencement of this Act<sup>30)</sup>.

(5) Section 10(1), section 19(6), sections 22 to 26, section 27(1), section 32(1) to (4), section 33(1) and (8), section 35(1)(i), section 36(1), first and second sentences, section 48a(1), section 49(1), section 50a, section 51(2), section 52(1)(iii) and (iv), section 57(1), first sentence, and section 57(2) of the Aliens Act as worded or amended by section 1(1)(x), (xv) to (xx), (xxii), (xxv) to (xxvii), (xxix) to (xxxi), (xli), (xliii), (xlvi), (xlvi), (xlvii), (xlix), (l) and (lii) of this Act only apply if the offence giving rise to the expulsion was committed after the commencement of this Act. The same applies to section 58g, first sentence, of the Aliens Act as worded by section 1(1)(xxxii) of Act No. 410 of 10 June 1997 amending the Aliens Act (the Schengen Convention, etc.) as amended by section 2(1)(vi) of this Act. If the offence giving rise to the expulsion was committed before the commencement of this Act, the rules hitherto in force apply.

(6) Section 50(1) of the Aliens Act as worded by section 1(1)(xlv) of this Act and sections 57(1), second sentence, and 57(2) of the Aliens Act as worded by section 1(1)(lii) of this Act do not apply to aliens who had submitted their first request for revocation of the expulsion before the commencement of this Act.

(7) The rules of section 32(4) of the Aliens Act hitherto in force as worded by Consolidation Act No. 650 of 13 August 1997 continue to apply to applications on the administrative revocation of a re-entry ban submitted before the commencement of this Act.

---

Act No. 424 of 31 May 2000 contains the following provision:

**Section 6**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>31)</sup>.

(2) Section 9(1)(ii), section 9(2)(vii), section 9(4), first and fourth sentences, section 9(7), first and third sentences, section 9(8) to (11), section 19(1)(v), first sentence, and section 19(1)(vi), first sentence, of the Aliens Act as worded or amended by section 1(1)(i) to (x) and (xv) of this Act do not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act.

---

Act No. 458 of 7 June 2001 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 August 2001. Section 1(1)(viii) of this Act comes into force on the day following the promulgation of this Act in the Danish Law Gazette<sup>32)</sup>. Section 1(1)(x) to (xiii) comes into force on 1 July 2001.

(2) Section 25a(1)(i), section 35(2) and section 36(3) of the Aliens Act as worded by section 1(1)(i), (iii) and (v) of this Act only apply if the offence giving rise to the expulsion was committed after the commencement of this Act.

(3) Section 36(4) of the Aliens Act as worded by section 1(1)(v) of this Act does not apply to aliens who had submitted an application for a residence permit under section 7 of the Aliens Act before the commencement of this Act.

---

Act No. 362 of 6 June 2002 contains the following provision:

**Section 2**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>33)</sup>.

(2) Section 10(3) and (4), section 22(1)(iv) and (vi), section 25, section 25a(1)(i) and section 26(2) of the Aliens Act as worded or amended by section 1(1)(i) and (iv) to (viii) of this Act only apply if the offence giving rise to the expulsion was committed after the commencement of this Act. If the offence giving rise to the expulsion was committed before the commencement of this Act, the rules hitherto in force apply.

---

Act No. 365 of 6 June 2002 contains the following provision:

**Section 8**

(1) This Act comes into force on 1 July 2002, but see subsections (2) to (5).

(2) Section 7, sections 9 to 9e, section 19(1)(i), section 19(1)(v) and section 26(1) of the Aliens Act as worded, inserted or amended by section 1(1)(ii), (iii), (xxi), (xxiv), (xxix) and (xxx) of this Act do not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens.

(3) Sections 11 and 11a of the Aliens Act as worded or inserted by section 1(1)(v) and (vi) of this Act, respectively, do not apply to aliens who had submitted an application for or been issued with a residence permit before 28 February 2002. The rules hitherto in force apply to such aliens.

(4) Section 26(1) of the Aliens Act as amended by section 1(1)(xxix) and (xxx) of this Act only applies to decisions under sections 22 to 25b of the Aliens Act if the offence giving rise to the expulsion was committed after the commencement of this Act. If the offence giving rise to the expulsion was committed before the commencement of this Act, the rules hitherto in force apply.

(5) (Omitted)

---

Act No. 367 of 6 June 2002 contains the following provision:

**Section 2**

(1) Paragraphs (i) to (v) of section 1(1) of this Act come into force on the day following the promulgation of this Act in the Danish Law Gazette<sup>34</sup>. The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 1(1)(vi)<sup>35</sup>.

(2) Section 33(1), second sentence, and section 33(3), third sentence, of the Aliens Act as worded or inserted by section 1(1)(iii) and (iv) of this Act only apply if the offence giving rise to the expulsion was committed after the commencement of this Act. If the offence giving rise to the expulsion was committed before the commencement of this Act, the rules hitherto in force continue to apply.

---

Act No. 1044 of 17 December 2002 contains the following provision:

**Section 6**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>36</sup>.

(2) This Act does not apply to persons who had submitted an application for a residence permit under section 7 of the Aliens Act before the commencement of the Act.

---

Act No. 60 of 29 January 2003 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 April 2003.

(2) This Act does not apply to aliens who had been issued with a residence permit or registered as asylum-seekers under section 48e(1) of the Aliens Act before 1 April 2003.

---

Act No. 425 of 10 June 2003 contains the following provision:

**Section 4**

(1) (Omitted)

(2) Section 2 of this Act comes into force on the day following the promulgation of this Act in the Danish Law Gazette<sup>37</sup>.

(3) and (4) (Omitted)

(5) Section 11 and section 11a(2) and (4) of the Aliens Act as amended by section 2(1)(iii) to (xii) of this Act do not apply to aliens who had submitted an application for or had been issued with a residence permit before 28 February 2002. The rules applicable until 1 July 2002, see Consolidation Act No. 711 of 1 August 2001, apply to such aliens.

---

Act No. 1204 of 27 December 2003 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 January 2004.

(2) Section 9(8) of the Aliens Act as worded by section 1(1)(ii) of this Act does not apply to aliens who had submitted an application for a residence permit before the commencement of this Act. The provision of section 9(8) of the Aliens Act hitherto in force applies to such aliens.

---

Act No. 427 of 9 June 2004 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 July 2004, but see subsections (2) and (3).

(2) Section 9(1)(ii), section 9(10), (11), (13), (14) and (16), section 9f and section 19(1)(viii) of the Aliens Act as inserted or amended by section 1(1)(i), (vi), (ix), (xx) and (xxx) of this Act do not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens.

(3) Section 19(5) of the Aliens Act as inserted by section 1(1)(xxxi) of this Act applies correspondingly to aliens who had been issued with a residence permit under section 9c(1) of the Aliens Act as religious preachers or missionaries before the commencement of this Act.

(4) Section 33(1), second sentence, and section 33(3), fourth sentence, of the Aliens Act as amended or inserted by section 1(1)(xxxvi) and (xxxvii) of this Act do not apply to aliens whose application for renewal of a residence permit had been refused before the commencement of this Act where such permit was issued for the purpose of a temporary stay and was not renewable again under established practice. The rules hitherto in force apply to such aliens.

---

Act No. 428 of 9 June 2004 contains the following provision:

**Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>38)</sup>.

---

Act No. 429 of 9 June 2004 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 October 2004.

(2) Section 4(2) to (5) of the Aliens Act and sections 4c, 47b and 47c of the Aliens Act as inserted by section 1(1)(ii), (iii) and (xxx) of this Act do not apply to aliens who had submitted an application for a visa before the commencement of this Act.

(3) Section 22(1)(vi) and (vii) and section 26(2) of the Aliens Act as amended or inserted by section 1(1)(iv) to (vii) of this Act only apply if the offence giving rise to the expulsion was committed after the commencement of this Act. If the offence giving rise to the expulsion was committed before the commencement of this Act, the rules hitherto in force apply.

(4) Section 42b(3), second and fifth sentences, section 42b(8), first sentence, section 42b(9), first sentence, and section 42b(12) of the Aliens Act as amended or inserted by section 1(1)(xiii), (xiv), (xvi), (xviii) and (xxii) of this Act do not apply to aliens who had submitted an application for a residence permit under section 7 before the commencement of this Act. The rules hitherto in force apply to such aliens.

(5) Section 46(2) of the Aliens Act as amended by section 1(1)(xxix) of this Act does not apply to aliens who had appealed a decision on the calculation of cash allowances to the Minister of Refugee, Immigration and Integration Affairs before the commencement of this Act. The rules hitherto in force apply to such aliens.

(6) Section 58g(1)(vi) of the Aliens Act as inserted by section 1(1)(xxxv) of this Act only applies to aliens who, after the commencement of this Act, are expelled pursuant to section 25b after refusal of an application for a residence permit under section 7.

---

Act No. 323 of 18 May 2005 contains the following provision:

## **Section 2**

(1) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of this Act<sup>39</sup>.

(2) Section 29a(1) of the Aliens Act as amended by section 1(1)(ii) of this Act does not apply to requests for taking charge of, taking back or accepting aliens made before the commencement of this Act. The rules hitherto in force apply to such cases.

(3) Sections 40a(5), 58i and 58j of the Aliens Act as amended or inserted by section 1(1)(v) and (ix) of this Act do not apply in cases where the alien's fingerprints were taken before the commencement of this Act. The rules hitherto in force apply to such cases.

---

Act No. 324 of 18 May 2005 contains the following provision:

### **Section 4**

(1) This Act comes into force on 1 July 2005.

(2) Section 11a(6), section 11b and section 59(2), (3), (7)(vi) and (9) of the Aliens Act as inserted by section 1(1)(viii), (ix), (xxxii), (xxxiii) and (xxxiv) of this Act apply to offences committed after the commencement of this Act. The rules hitherto in force apply to offences committed before that date.

(3) Members of the Refugee Appeals Board appointed before the commencement of this Act remain members until the expiry of the term of their appointment. Section 53(4), fourth sentence, of the Aliens Act as worded by section 1(1)(xxiii) of this Act does not apply during such period. Section 53(4), second sentence, of the Aliens Act as worded by section 1(1)(xxiii) of this Act also applies to such members.

(4) Section 53(5) of the Aliens Act as worded by section 1(1)(xxiii) of this Act applies to the election of chairmen after the commencement of this Act.

---

Act No. 402 of 1 June 2005 contains the following provision:

### **Section 4**

(1) This Act comes into force on 1 July 2005.

(2) Subsections (2) and (3) of section 9 of the Aliens Act as worded by section 3(1)(i) of this Act do not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens.

---

Act No. 403 of 1 June 2005 contains the following provision:

### **Section 2**

This Act comes into force on 1 July 2005.

---

Act No. 431 of 6 June 2005 contains the following provision:

### **Section 85**

(1) This Act comes into force on 1 November 2005, but see subsection (2).

(2) (Omitted)

---

Act No. 523 of 24 June 2005 contains the following provision:

### **Section 23**

(1) This Act comes into force on 1 January 2007.

(2) to (6) (Omitted)

---

Act No. 554 of 24 June 2005 contains the following provision:

### **Section 12**

(1) Section 1(1)(i), (vi), (viii), (x), (xi), (xiii) to (xvii), (xix) and (xxv), sections 3 to 5, and section 7(1)(iii) and (iv) of this Act come into force on 1 July 2005. Section 1(1)(ii) to (v), (vii), (ix), (xii), (xviii) and (xx) to (xxiv), sections 2 and 6, section 7(1)(i) and (ii) and sections 8 to 11 of this Act come into force on 1 January 2007.

(2) to (5) (Omitted)

---

Act No. 243 of 27 April 2006 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 April 2006, but see subsections (2) to (6).

(2) to (5) (Omitted)

(6) Section 11(9)(ii), section 11(11) and section 11c of the Aliens Act as inserted or worded by section 2(1)(i) to (iii) of this Act do not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act. The rules in force until 1 July 2002, see Consolidation Act No. 711 of 1 August 2001, apply to aliens who had submitted an application for or been issued with a residence permit before 28 February 2002. The rules in force until 1 April 2006, see Consolidation Act No. 826 of 24 August 2005, apply to aliens who had submitted an application for or been issued with a residence permit on or after 28 February 2002.

---

Act No. 301 of 19 April 2006 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 May 2006, but see subsections (2) to (8).

(2) Section 42c(3)(ii), section 42e(2), second sentence, section 42f and section 46e, first sentence, of the Aliens Act as amended or worded by section 1(1)(xxxix) to (xli) and (xlvii) of this Act come into force on 1 September 2006.

(3) Section 10(4) and section 32(6) and (7) of the Aliens Act as amended or worded by section 1(1)(x), (xx) and (xxi) of this Act and section 50b of the Aliens Act as inserted by section 1(1)(xlviii) of this Act come into force on 30 April 2006.

(4) Section 9(16) of the Aliens Act as amended by section 1(1)(vi) of this Act does not apply to aliens who had submitted an application for or been issued with a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens. In cases where an application for a residence permit under section 9(1)(i) or (ii) of the Aliens Act had been refused before the commencement of this Act, the first and second sentences only apply to the consideration of appeals if the relevant appeal is submitted within 2 months of the commencement of this Act. In cases where an application for a residence permit under section 9(1)(i) or (ii) of the Aliens Act submitted before the commencement of this Act is refused after the commencement of this Act, the first and second sentences only apply to the consideration of appeals if the relevant appeal is submitted within 2 months of the date of the decision.

(5) Section 9b and section 33(4) of the Aliens Act as amended or worded by section 1(1)(ix) and (xxiii) of this Act only apply to aliens who submit an application for a residence permit under section 7 of the Aliens Act after the commencement of this Act.

(6) Section 59a(1) of the Aliens Act as amended by section 1(1)(liv) of this Act applies to offences committed after the commencement of this Act. The rules hitherto in force apply to offences committed before that date.

(7) The rules on payment for the re-issuance of residence cards laid down under section 44(3) of the Aliens Act as enacted by insertion of section 1(1)(xli) of this Act do not apply to aliens who had requested re-issuance of their residence cards before the commencement of this Act.

(8) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 2a(3) of the Aliens Act as inserted by section 1(1)(ii) of this Act and of

section 2b(4), section 28(6), section 38(1) to (3), section 39(3) and section 59(1)(i) of the Aliens Act as amended by section 1(1)(iii), (xviii), (xxvi) to (xxviii), (xxx) and (xlix) of this Act.<sup>40)</sup>

---

Act No. 429 of 10 May 2006 contains the following provision:

**Section 2**

This Act comes into force on 1 June 2006 and applies to offences committed after the commencement of this Act. The rules hitherto in force apply to offences committed before the commencement of this Act.

---

Act No. 532 of 8 June 2006 contains the following provision:

**Section 2**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette<sup>41)</sup>, but see subsection (2).

(2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 9a(19) of the Aliens Act as inserted by section 1(1)(iv) of this Act. In that connection, the Minister of Refugee, Immigration and Integration Affairs may decide that only parts of section 9a(5) to (18) will apply to nationals of Bulgaria and Romania.

---

Act No. 538 of 8 June 2006 contains the following provision:

**Section 105**

(1) This Act comes into force on 1 January 2007, but see subsections (2) to (22) and section 106.

(2) to (19) (Omitted)

(20) Section 1(1)(xxxii) and section 104(1)(i) of this Act<sup>42)</sup> enter into force on 1 July 2006.

(21) and (22) (Omitted)

---

Act No. 89 of 30 January 2007 contains the following provision:

**Section 5**

(1) This Act comes into force on 1 February 2007, but see subsections (2) to (6).

(2) Section 9(3), (5), (12), (17), (22) and (23) of the Aliens Act as worded by section 1(1)(ii), (iii), (v), (vi), (viii) and (ix) of this Act and section 19(1)(vi) and (vii) of the Aliens Act as amended by section 1(1)(xv) of this Act only apply to aliens who submit an application for a residence permit under section 9(1)(i) to (iii) of the Aliens Act or an application for renewal of a residence permit issued under section 9(1)(i) to (iii) of the Aliens Act after the commencement of this Act. The rules hitherto in force apply to the determination of the first application for a residence permit under section 9(1)(i) to (iii) of the Aliens Act submitted by an alien before the commencement of this Act.

(3) Section 9(19), first sentence, of the Aliens Act as amended by section 1(1)(vii) of this Act does not apply to aliens who had submitted an application for a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens.

(4) Section 9g of the Aliens Act as inserted by section 1(1)(xi) of this Act only applies to aliens who submit an application for a residence permit under section 9(1)(i) to (iii) of the Aliens Act after the commencement of this Act.

(5) Section 11d of the Aliens Act as inserted by section 1(1)(xii) of this Act only applies to aliens who submit an application for a permanent residence permit after the commencement of this Act.

(6) Paragraphs (iv) and (v) of section 19(1) of the Aliens Act as worded by section 1(1)(xiii) and (xiv) of this Act only apply to aliens who submit an application for a residence permit under section 9(1)(i) to (iii) of the Aliens Act or an application for renewal of a residence permit issued under section 9(1)(i) to (iii) of the Aliens Act after the commencement of this Act. The provisions moreover only apply to cases where the alien or the person living in Denmark receives assistance

under the Act on an Active Social Policy or the Integration Act after the commencement of this Act. The rules hitherto in force apply to aliens who had submitted their first application for a residence permit under section 9(1)(i) to (iii) of the Aliens Act before the commencement of this Act.

---

Act No. 379 of 25 April 2007 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 May 2007, but see subsection (2).

(2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of sections 9(2) and 9f(4) of the Aliens Act as amended or worded by section 1(1)(ii) and (v) of this Act.<sup>43)</sup> The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 9a(20) of the Aliens Act as worded by section 1(1)(iv) of this Act and the date of commencement of section 33(3), first sentence, of the Aliens Act as amended by section 1(1)(xiii) of this Act.<sup>44)</sup>

---

Act No. 504 of 6 June 2007 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 August 2007.

(2) (Omitted)

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Act No. 505 of 6 June 2007 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 July 2007, but see subsection (2).

(2) (Omitted)

---

Act No. 507 of 6 June 2007 contains the following provision:

**Section 2**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette.<sup>45)</sup>

(2) (Omitted)

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Act No. 264 of 23 April 2008 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 May 2008.

---

Act No. 431 of 1 June 2008 contains the following provision:

**Section 2**

(1) Paragraphs (i) and (iii) of section 1(1) of this Act come into force on the day following the promulgation of this Act in the Danish Law Gazette.<sup>46)</sup>

(2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section (1)(1)(ii), (iv) and (v) of this Act.<sup>47)</sup>

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Act No. 485 of 17 June 2008 contains the following provision:

**Section 2**

This Act enters into force on 1 July 2008.

---

Act No. 486 of 17 June 2008 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 July 2008, but see subsection (2).

(2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 9a(2)(i) and section 9(15) of the Aliens Act as worded by section 1(1)(iii) and (v) of this Act.<sup>48)</sup>

---

Act No. 1334 of 19 December 2008 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 March 2009, but see subsection (2).

(2) Section 4d of the Aliens Act as worded by section 1(1)(iii) of this Act comes into force on 1 July 2009.

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Act No. 1336 of 19 December 2008 contains the following provision:

**Section 167**

(1) This Act comes into force on 1 January 2009, but see subsection (2). Section 11 applies only to decisions on attachment of earnings made after the commencement of this Act.

(2) (Omitted)

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Act No. 1397 of 27 December 2008 contains the following provision:

**Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette.<sup>49)</sup>

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Act No. 1398 of 27 December 2008 as amended by section 2(1)(ii) of Act No. 1511 of 27 December 2009 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 March 2009, but see subsection (2).

(2) The Minister of Integration shall determine the date of commencement of section 10(2)(iv), section 19(3), section 19(8), section 28(1)(vi), section 40a(2), section 40b(2) and section 58g(2) as worded by section 2(1)(iv) to (vii), (ix) to (xi), (xiii) to (xv) and (xx) of this Act.<sup>50)</sup>

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Act No. 313 of 28 April 2009 contains the following provision:

**Section 2**

This Act comes into force on 1 May 2009.

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Act No. 483 of 12 June 2009 contains the following provision:

**Section 21**

(1) This Act comes into force on 1 August 2009, but see subsections (2) and (3).

(2) and (3) (Omitted)

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Act No. 486 of 12 June 2009 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 July 2009.

(2) Sections 22 to 24a, section 26(2), section 32(2) to (4) and section 59b of the Aliens Act as inserted or amended by section 1(1)(v) to (xxii) and (xxvi) of this Act apply to offences committed after the commencement of this Act. The rules hitherto in force apply to offences committed before the commencement of this Act.

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Act No. 487 of 12 June 2009 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 July 2009.

(2) The rules of Part 7b of the Aliens Act as worded by section 1(1)(vii) of this Act also apply to the proceedings in cases instituted or brought before the court before the commencement of this Act. A case instituted or brought before the district court before the commencement of this Act must be referred to continued proceedings before the Copenhagen City Court on commencement of this Act, while proceedings in a case instituted before or referred to the High Court before the commencement of this Act must be completed by the High Court. Notwithstanding section 45d(3) of the Aliens Act as worded by section 1(1)(vii) of this Act, a case instituted before, referred to or brought before the court before the commencement of this Act will only stay execution of a decision if such procedure follows from the rules hitherto in force.

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Act No. 493 of 12 June 2009 contains the following provision:

**Section 3**

- (1) (Omitted)
- (2) (Omitted)
- (3) Section 2 of this Act comes into force as laid down in more detail by the Minister of Refugee, Immigration and Integration Affairs.<sup>51)</sup>

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Act No. 1511 of 27 December 2009 contains the following provision:

**Section 4**

- (1) This Act comes into force on 1 January 2010, but see subsections (2) and (3).
- (2) Paragraphs (i), (iv), (vi), (x), (xiii), (xiv), (xxi) and (xxiii) of section 3(1) of this Act come into force on 5 April 2010.
- (3) The Minister of Integration shall determine the date of commencement of section (3)(1)(ii), (iii), (xxii) and (xxiv) to (xxvi) of this Act.<sup>52)53)</sup> The Minister may decide that the provisions will come into force at different dates.
- (4) Section 2a(4), section 4(1), section 40(10) and (11) and section 47c of the Aliens Act as worded, amended or repealed by section 3(1)(i), (vi), (xiii), (xiv) and (xxi) of this Act do not apply to applications submitted before 5 April 2010. The rules hitherto in force apply to such applications.

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Act No. 400 of 21 April 2010 contains the following provision:

**Section 3**

- (1) This Act comes into force on 1 May 2010, but see subsection (2).
- (2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 4a(2), section 9(2), second and third sentences, section 9(18), fourth sentence, section 9f(4) and section 40d of the Aliens Act as worded by section 2(1)(i) to (iv) and (vi) of this Act.<sup>54)</sup>

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Act No. 571 of 31 May 2010 contains the following provision:

**Section 7**

- (1) This Act comes into force on 1 August 2010, but see subsection (2).
- (2) Section 2(1)(ii) and section 3 of this Act come into force on 15 June 2010.
- (3) and (4) (Omitted)

---

Act No. 572 of 31 May 2010 contains the following provision:

**Section 2**

- (1) This Act comes into force on 1 August 2010, but see subsections (2) and (3).
- (2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 9f(4) of the Aliens Act as worded by section 1(1)(vi) of this Act.

(3) Section 11, section 11a, section 27(1), section 46(2) and section 46a of the Aliens Act as worded or amended by section 1(1)(vii) to (x), (xxi), (xxviii) and (xxix) of this Act come into force on the day following the promulgation of this Act in the Danish Law Gazette and apply to aliens who submit an application for a permanent residence permit on or after 26 March 2010. The rules hitherto in force apply to aliens who have submitted an application before 26 March 2010. The repeal of sections 11c and 11d of the Aliens Act, see section 1(1)(xi) of this Act, takes effect on the day following the promulgation of this Act in the Danish Law Gazette.<sup>55)</sup> The repeal applies to aliens who submit an application for a permanent residence permit on or after 26 March 2010.

(4) Section 9(5), first sentence, of the Aliens Act as amended by section 1(1)(i) of this Act only applies in the cases where an application for a residence permit under section 9(1)(i) of the Aliens Act is submitted after the commencement of this Act. The rules hitherto in force apply to aliens who had submitted an application before the commencement of this Act. Section 9(18), section 9a(4), section 9b(3), section 9c(5), section 9f(7) and section 33(5), first sentence, of the Aliens Act as worded or inserted by section 1(1)(ii) to (vi) and (xxiv) of this Act only apply to aliens who submit an application after the commencement of this Act. The rules hitherto in force apply to aliens who had submitted an application before the commencement of this Act.

(5) Section 17(2) and section 44c of the Aliens Act as inserted or worded by section 1(1)(xii) and (xxvii) of this Act only apply to aliens who depart from Denmark after the commencement of this Act and stay outside the country for more than 3 months for re-education purposes or on other stays abroad negatively affecting their schooling and integration. The rules hitherto in force apply to such aliens.

(6) Section 19(1)(x) and section 22(1)(vi) of the Aliens Act as inserted or amended by section 1(1)(xv) and (xx) of this Act only apply to offences committed after the commencement of this Act. The rules hitherto in force apply to offences committed before the commencement of this Act.

(7) Section 19(2)(iv) of the Aliens Act as inserted by section 1(1)(xviii) of this Act only applies to aliens who, after the commencement of this Act, travel to the country in which the alien risks persecution falling within section 7 according to the authority which issued the residence permit.

(8) Section 33(3), first sentence, of the Aliens Act as amended by section 1(1)(xxii) of this Act only applies to aliens who submit an appeal after the commencement of this Act. The rules hitherto in force apply to aliens who had submitted an appeal before the commencement of this Act.

---

Act No. 573 of 31 May 2010 contains the following provision:

**Section 7**

- (1) This Act comes into force on 1 July 2010.
- (2) (Omitted)

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Act No. 1542 of 21 December 2010 contains the following provision:

**Section 2**

- (1) This Act comes into force on 1 January 2011, but see subsection (2).
- (2) Section 4(2) to (7), section 40(11) and section 47b of the Aliens Act as repealed by section 1(1)(vii), (xi) and (xii) of this Act continue to apply to aliens who had submitted an application for a visa before the commencement of this Act.

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Act No. 1543 of 21 December 2010 contains the following provision:

**Section 3**

- (1) This Act comes into force on 1 January 2011.

(2) Section 9c(3), section 40c(2) and section 56a(1), fifth sentence, of the Aliens Act as worded by section 1(1)(i), (ii) and (iv) of this Act only apply to unaccompanied minor aliens who enter Denmark on or after 1 January 2011.

(3) If the Danish Immigration Service has initiated a search for the parents or other family network members of an unaccompanied minor before 1 January 2011 without the minor's consent and the search has not been completed by 1 January 2011, the Danish Immigration Service may only continue the search with the minor's consent, see section 56a(9) of the Aliens Act as worded by section 1(1)(vii) of this Act.

---

Act No. 1604 of 22 December 2010 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 January 2011.

(2) This Act only applies to applications submitted after the commencement of this Act, appeals against refusals of applications submitted after the commencement of this Act, and applications for reconsideration of applications submitted after the commencement of this Act.

---

Act No. 248 of 30 March 2011 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 April 2011.

(2) Section 32(4), fourth sentence, of the Aliens Act as inserted by section 1(1)(v) of this Act applies to aliens who enter Denmark in violation of a re-entry ban previously given in connection with expulsion under section 25b.

(3) Section 58g(1)(i) of the Aliens Act as amended by section 1(1)(xi) of this Act applies to aliens who are expelled from Denmark pursuant to sections 22 to 24 and are banned from re-entry on or after the commencement of this Act. The rules hitherto in force apply to aliens who were expelled from Denmark pursuant to sections 22 to 24 and were banned from re-entry before the commencement of this Act.

(4) Section 58g(1)(vi) of the Aliens Act as inserted by section 1(1)(xiv) of this Act applies to aliens who are expelled under section 25b on or after the commencement of this Act.

---

Act No. 463 of 18 May 2011 contains the following provision:

**Section 2**

(1) This Act comes into force on 20 May 2011, but see subsections (2) and (3).

(2) Section 40a(1) and section 48(1), fifth sentence, of the Aliens Act as worded by section 1(1)(xiv) and (xxi) of this Act and section 40a(11) and (12), section 47b(2) and section 48(1), third sentence, of the Aliens Act as inserted by section 1(1)(xv), (xix) and (xx) of this Act come into force on 20 May 2012.

(3) Section 4a(2) of the Aliens Act as amended by section 1(1)(iii) of this Act comes into force on the day following the promulgation of this Act in the Danish Law Gazette.<sup>56)</sup>

---

Act No. 601 of 14 June 2011 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 July 2011, but see subsection (2).

(2) The Minister of Refugee, Immigration and Integration Affairs shall determine the date of commencement of section 9(2), second sentence, of the Aliens Act as amended by section 1(1)(ii) of this Act. The Minister may lay down transitional rules in that connection.

(3) Section 9(1)(i), section 9(4), first and fourth sentences, section 9(7), first sentence, section 9(12) to (15) and (30) and section 9h(1)(i) and (viii) of the Aliens Act as inserted or amended by

section 1(1)(i), (iii), (iv), (vi), (viii), (xviii), (xxi) and (xxii) of this Act do not apply to aliens who had submitted an application for a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens.

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Act No. 613 of 14 June 2011 contains the following provision:

**Section 3**

This Act comes into force on 1 July 2011.

---

Act No. 758 of 29 June 2011 contains the following provision:

**Section 2**

This Act comes into force on 1 July 2011 and applies to offences committed after the commencement of this Act. The rules hitherto in force apply to offences committed before the commencement of this Act.

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Act No. 833 of 6 July 2011 contains the following provision:

**Section 2**

This Act comes into force on 1 January 2012.

---

Act No. 326 of 11 April 2012 contains the following provision:

**Section 25**

(1) This Act comes into force on 1 October 2012, but see subsections (2) to (4).

(2) (Omitted)

(3) (Omitted)

(4) (Omitted)

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Act No. 418 of 12 May 2012 contains the following provision:

**Section 9**

(1) This Act comes into force on 15 May 2012, but see subsection (2).

(2) Section 1(1)(xc) comes into force on 1 December 2012.

(3) Paragraphs (iii), (vii) to (xvi), (xviii) to (xxv) and (xxviii) of section 1(1) do not apply to aliens who had submitted an application for a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens. If a residence permit based on spousal reunification cannot be issued under the rules hitherto in force, the Danish Immigration Service shall determine at the same time whether a residence permit can be issued under section 9 or 9c of the Aliens Act as amended by section 1(1)(vii) to (xvi), (xviii) to (xxv) and (xxviii) of this Act.

(4) Paragraphs (ix), (xxiv), (xxv) and (lxii) of section 1(1) of this Act do not apply to aliens issued with a residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens.

(5) For aliens issued with a residence permit in the period from 15 May 2012 until the level A1 and level A2 Danish language tests have been created, see section 9(30) and (32) of the Aliens Act, the periods of 6 and 15 months, see section 9(30), second and fourth sentences, and section 32, second and third sentences, of the Aliens Act must be reckoned from the date of creation of the tests.

(6) The Danish Agency for Labour Retention and International Recruitment shall make decisions on the renewal, lapse or revocation of residence permits issued under section 9c(1), first sentence, where the residence permit has been issued for the purpose of education, an au pair placement, an internship, a volunteer post, a stay according to an agreement between Denmark and another State, see section 45, or because of family ties with an alien issued with a residence permit under section

9a(2)(i) to (vi) or with an alien issued with a residence permit for the purpose of education or traineeship.

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Act No. 566 of 18 June 2012 contains the following provision:

**Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette.<sup>57)</sup>

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Act No. 567 of 18 June 2012 contains the following provision:

**Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette.<sup>58)</sup>

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Act No. 569 of 18 June 2012 contains the following provision:

**Section 2**

This Act comes into force on 1 July 2012.

---

Act No. 571 of 18 June 2012 contains the following provision:

**Section 3**

(1) This Act comes into force on 1 January 2013.

(2) Section 52b(5) of the Aliens Act as worded by section 1(1)(xii) of this Act does not apply to decisions made before the commencement of this Act.

(3) Cases pending on 1 January 2013 concerning decisions that can be brought before the Immigration Appeals Board under section 52b of the Aliens Act as worded by section 1(1)(xii) of this Act will be transferred to the Immigration Appeals Board for further proceedings.

---

Act No. 572 of 18 June 2012 contains the following provision:

**Section 2**

(1) This Act comes into force on 1 July 2012, but see subsections (2) and (3).

(2) Section 1(1)(xxxiv) of this Act comes into force on 1 October 2012.

(3) Paragraphs (xxxii), (xxxiii) and (xxxv) to (xxxvii) of section 1(1) of this Act come into force on 1 January 2013.

(4) Paragraphs (xxxv) and (xxxvi) of section 1(1) of this Act do not apply to members of the Refugee Appeals Board who were appointed before 1 January 2013. Members of the Refugee Appeals Board who have been appointed for at least 8 years on 1 January 2013 are eligible for re-appointment for an additional 4-year period at the end of the current term of their appointment, whereupon they are no longer eligible for re-appointment. Members of the Refugee Appeals Board who have been appointed for less than 8 years on 1 January 2013 are eligible for re-appointment for an additional 4-year period at the end of the current term of their appointment with a possibility of re-appointment for yet another 4-year period, whereupon they are no longer eligible for re-appointment.

(5) Paragraphs (i) to (v) of section 1(1) of this Act do not apply to aliens who have been issued with a permanent residence permit under section 11(3) to (6) of the Aliens Act as worded by Act No. 572 of 31 May 2010. The rules hitherto in force apply to such aliens.

(6) Paragraphs (ix) to (xxv) of section 1(1) of this Act do not apply to aliens who had submitted an application for a permanent residence permit before the commencement of this Act. The rules hitherto in force apply to such aliens. If a permanent residence permit cannot be issued under the rules hitherto in force, the Danish Immigration Service shall determine at the same time whether a permanent residence permit can be issued under section 11(3) to (6) of the Aliens Act as worded by section 1(1)(ix) to (xxv) of this Act.

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Act No. 430 of 1 May 2013 contains the following provision:

**Section 4**

This Act comes into force on 2 May 2013.

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Act No. 432 of 1 May 2013 contains the following provision:

**Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette.<sup>59)</sup>

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Act No. 433 of 1 May 2013 contains the following provision:

**Section 2**

This Act comes into force on the day following its promulgation in the Danish Law Gazette.<sup>60)</sup>

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Act No. 434 of 1 May 2013 contains the following provision:

**Section 4**

(1) This Act comes into force on the day following its promulgation in the Danish Law Gazette,<sup>61)</sup> but see subsection (2).

(2) Paragraphs (i) to (iii) and (v) of section 2(1) come into force on 1 October 2013.<sup>62)</sup>

(3) Section 2(1)(i) applies only to aliens issued with a residence permit after the commencement of this Act.

(4) Section 2(1)(iv) applies only if the offence giving rise to the expulsion was committed after the commencement of this Act.<sup>63)</sup>

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Act No. 647 of 12 June 2013 contains the following provisions:

**Section 25**

This Act comes into force on 1 July 2013.

**Section 26**

(1) Cases pending before the five regional state administration offices at the commencement of this Act will be examined by the State Administration.

(2) (Omitted)

(3) (Omitted)

(4) (Omitted)

(5) (Omitted)

*Ministry of Justice, 25 June 2013*

Morten Bødskov

/Merete Milo

## Official notes

<sup>1)</sup> This Act includes provisions implementing parts of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (Official Journal L 229 (2004), p. 35).

<sup>2)</sup> The amendment provided for by section 1(1)(xxxiii) relating to section 44a(10), first sentence, of the Aliens Act has not been incorporated into this Consolidation Act as a mistake occurred in the parliamentary proceedings, and section 1(1)(xxxiii) should therefore be disregarded.

<sup>3)</sup> By section 2(1)(iv) of Act No. 400 of 21 April 2010, a new subsection (4) was inserted into section 9f, whereupon subsections (4) to (6) became subsections (5) to (7). The provision came into force on 15 November 2010, see Executive Order No. 1250 of 4 November 2010. The provision corresponds almost word for word to section 9f(4) as worded by section 1(1)(vi) of Act No. 572 of 31 May 2010.

<sup>4)</sup> Section 2(1)(i) of Act No. 434 of 1 May 2013 inserted a new subsection (5) into section 9f, whereupon subsections (5) to (7) became subsections (6) to (8). The provision of section 9f(5) comes into force on 1 October 2013, see section 4(2) of Act No. 434 of 1 May 2013.

<sup>5)</sup> Section 2(1)(ii) of Act No. 434 of 1 May 2013 concerns the wording of section 9h(4). The amendment to section 9h(4) comes into force on 1 October 2013, see section 4(2) of Act No. 434 of 1 May 2013.

<sup>6)</sup> Section 2(1)(iii) of Act No. 434 of 1 May 2013 concerns the wording of section 19(1)(ix). The amendment to section 19(1)(ix) comes into force on 1 October 2013, see section 4(2) of Act No. 434 of 1 May 2013.

<sup>7)</sup> Section 2(1)(ii) of Act No. 434 of 1 May 2013 concerns the wording of section 33(5). The amendment to section 33(5) comes into force on 1 October 2013, see section 4(2) of Act No. 434 of 1 May 2013.

<sup>8)</sup> Section 2(1)(v) of Act No. 434 of 1 May 2013 concerns the wording of section 52b(1)(iii). The amendment to section 52b(1)(iii) comes into force on 1 October 2013, see section 4(2) of Act No. 434 of 1 May 2013.

<sup>9)</sup> Act No. 574 of 19 December 1985 was promulgated in the Danish Law Gazette on 21 December 1985 and amended the wording of section 46(2) and section 53, inserted section 53a and section 53b and amended the wording of section 56.

<sup>10)</sup> Act No. 686 of 17 October 1986 was promulgated in the Danish Law Gazette on 18 October 1986.

<sup>11)</sup> Section 1(1)(i), (iii), (viii) and (x) of Act No. 686 of 17 October 1986 amended the wording of section 7, section 31(2), section 48(2) and section 53a(1).

<sup>12)</sup> Section 1(1)(vii) of Act No. 686 of 17 October 1986 amended the wording of section 43(2), first sentence.

<sup>13)</sup> Section 1(1)(xi) of Act No. 686 of 17 October 1986 inserted section 59a, which came into force by Executive Order No. 788 of 14 December 1988.

<sup>14)</sup> Act No. 387 of 6 June 1991 (the Dublin Convention) as amended by section 2 of Act No. 382 of 14 June 1995, section 1(1)(i) of Act No. 290 of 24 April 1996 and section 2 of Act No. 410 of 10 June 1997 came into force on 1 September 1997 by Executive Order No. 610 of 1 July 1997.

<sup>15)</sup> Section 4 of Act No. 385 of 20 May 1992 amended the wording of section 62 of the Aliens Act.

<sup>16)</sup> Act No. 482 of 24 June 1992 was promulgated in the Danish Law Gazette on 26 June 1992.

<sup>17)</sup> Section 1(1)(ii) to (v) of Act No. 482 of 24 June 1992 amended the wording of sections 9(1)(ii) and (v) and 9(3), inserted section 9(4) and (5) and amended the wording of section 18(2) and section 19(2). According to the explanatory notes to the amendment act, the provisions of section

4(2) of the amendment act do not apply to aliens who had applied for a residence permit or had lawfully taken up residence in Denmark under the rules hitherto in force before the commencement of the Act.

<sup>18)</sup> Section 1(1)(xiv) of Act No. 421 of 1 June 1994 amended the wording of section 53.

<sup>19)</sup> Act No. 382 of 14 June 1995 was promulgated in the Danish Law Gazette on 15 June 1995. Section 1(1)(i), (ii), (iv) to (vi), (ix), (xi), (xvii), (xix) and (xx) and section 2(1)(i) of this Act amended the wording of section 19(1)(i) of the Aliens Act, inserted a new subsection (2) into section 27, amended the wording of section 34, section 36(1), section 37(3) and section 40(3), inserted section 40a, amended the wording of section 53(2) to (6) and section 56(1) to (6) and inserted a new paragraph (x) into section 1(1) of Act No. 387 of 6 June 1991, see note 7.

<sup>20)</sup> Section 1(1)(xv) of Act No. 382 of 14 June 1995 amended the wording of section 48(2), seventh sentence. The amendment came into force on 1 October 1995 and applies to aliens who submit an application for asylum at Copenhagen Airport on or after this date, see section 1 of Executive Order No. 682 of 17 August 1995. Section 1(1)(xvi) of Act No. 382 of 14 June 1995 inserted section 48(3) and (4). The amendment came into force on 1 January 1996, see section 2 of Executive Order No. 682 of 17 August 1995. Section 1(1)(xviii) of Act No. 382 of 14 June 1995 inserted section 54(2). The amendment came into force on 1 October 1995 and applies to aliens who submit an application for asylum on or after this date, see section 3 of Executive Order No. 682 of 17 August 1995. Section 2(1)(ii) and (iii) of Act No. 382 of 14 June 1995 amended the wording of Act No. 387 of 6 June 1991, see note 7. Section 2(1)(ii) came into force on 1 October 1995, and section 2(1)(iii) came into force on 1 January 1996, see sections 1 and 2, respectively, of Executive Order No. 682 of 17 August 1995.

<sup>21)</sup> Section 1(1)(xvii), (xix) and (xx) of Act No. 382 of 14 June 1995 amended the wording of section 53(2) to (5) and section 56.

<sup>22)</sup> Section 1(1)(i) and (ii) of Act No. 382 of 14 June 1995 amended the wording of section 19(1)(i) and inserted section 27(2).

<sup>23)</sup> Act No. 290 of 24 April 1996 was promulgated in the Danish Law Gazette on 25 April 1996.

<sup>24)</sup> Section 1(1)(iii) of Act No. 290 of 24 April 1996 amended the wording of section 27(2).

<sup>25)</sup> Section 1(1)(ix) of Act No. 290 of 24 April 1996 amended the wording of section 42a(1), second sentence, and inserted a third sentence into section 42a(1).

<sup>26)</sup> The amendments following from Act No. 410 of 10 June 1997 – apart from the amendments that entered into force on 12 June 1997 pursuant to section 3(2) of Act No. 410 of 10 June 1997, see note 21 – came into force on 25 March 2001 by Executive Order No. 170 of 13 March 2001.

<sup>27)</sup> Section 1(1)(xii), (xx), (xxviii) and (xxix) of Act No. 410 of 10 June 1997 amended the wording of sections 28(3), 37(5) and 48. Section 2(1)(v), (vi), (viii) and (x) of Act No. 410 of 10 June 1997 amended the wording of Act No. 387 of 6 June 1991, see note 7. Act No. 410 of 10 June 1997 was promulgated in the Danish Law Gazette on 11 June 1997.

<sup>28)</sup> Act No. 473 of 1 July 1998 was promulgated in the Danish Law Gazette on 2 July 1998.

<sup>29)</sup> Section 1(1)(xiv) of Act No. 473 of 1 July 1998 repealed section 19(2).

<sup>30)</sup> Section 1(1)(iii) and (xxxvi) of Act No. 473 of 1 July 1998 repealed section 9(1)(v) and section 42a(6)(i).

<sup>31)</sup> Act No. 424 of 31 May 2000 was promulgated in the Danish Law Gazette on 2 June 2000.

<sup>32)</sup> Act No. 458 of 7 June 2001 was promulgated in the Danish Law Gazette on 8 June 2001.

<sup>33)</sup> Act No. 362 of 6 June 2002 was promulgated in the Danish Law Gazette on 7 June 2002.

<sup>34)</sup> Act No. 367 of 6 June 2002 was promulgated in the Danish Law Gazette on 7 June 2002.

<sup>35)</sup> Section 1(1)(vi) of Act No. 367 of 6 June 2002, which inserted section 59(5), came into force on 1 March 2003 by Executive Order No. 73 of 27 January 2003 .

- <sup>36)</sup>Act No. 1044 of 17 December 2002 was promulgated in the Danish Law Gazette on 18 December 2002.
- <sup>37)</sup>Act No. 425 of 10 June 2003 was promulgated in the Danish Law Gazette on 11 June 2003.
- <sup>38)</sup>Act No. 428 of 9 June 2004 was promulgated in the Danish Law Gazette on 10 June 2004.
- <sup>39)</sup>Act No. 323 of 18 May 2005 came into force on 1 April 2006 by Executive Order No. 235 of 17 March 2006 issued by the Minister of Refugee, Immigration and Integration Affairs.
- <sup>40)</sup>Section 1(1)(ii) of Act No. 301 of 19 April 2006 inserted subsection (3) into section 2a. Section 1(1)(iii), section 18, sections 26 to 28, section 30 and section 49 of Act No. 301 of 19 April 2006 amended the wording of section 2b(4), section 28(6), section 38(1) to (3), section 39(3) and section 59(1)(i). The amendments came into force on 13 October 2006, see Executive Order No. 979 of 26 September 2006.
- <sup>41)</sup>Act No. 532 of 8 June 2006 was promulgated in the Danish Law Gazette on 9 June 2006 and came into force on 10 June 2006.
- <sup>42)</sup>Section 104(1)(i) of Act No. 538 of 8 June 2006 inserted section 46f into the Aliens Act. Section 104(1)(ii) and (iii) amended the wording of section 48(1) of the Aliens Act.
- <sup>43)</sup>Paragraphs (ii) and (v) of section 1(1) of Act No. 379 of 25 April 2007 were repealed on 1 May 2010 by Act No. 400 of 21 April 2010.
- <sup>44)</sup>Section 33(3), first sentence, of the Aliens Act as amended by Act No. 379 of 25 April 2007 came into force on 10 October 2007, see Executive Order No. 1141 of 1 October 2007.
- <sup>45)</sup>Act No. 507 of 6 June 2007 was promulgated in the Danish Law Gazette on 7 June 2007.
- <sup>46)</sup>Act No. 431 of 1 June 2008 was promulgated in the Danish Law Gazette on 3 June 2008.
- <sup>47)</sup>Paragraphs (ii), (iv) and (v) of section 1(1) of Act No. 431 of 1 June 2008, which inserted section 2a(4) to (7), amended the heading of Part 8a and amended the wording of section 58d, first sentence, were repealed by section 1(1)(i) and (ii) of Act No. 1398 of 27 December 2008 and by section 1(1)(i) and (ii) of Act No. 1511 of 27 December 2009. Accordingly, the provisions never came into force.
- <sup>48)</sup>Section 9a(2)(i) and section 9a(15) of the Aliens Act came into force on 1 July 2008, see Executive Order No. 627 of 25 June 2008.
- <sup>49)</sup>Act No. 1397 of 27 December 2008 was promulgated in the Danish Law Gazette on 30 December 2008.
- <sup>50)</sup>Paragraphs (iv) to (vii), (ix) to (xi) and (xx) of section 2(1) of Act No. 1398 of 27 December 2008, which concern section 10(2)(iv), section 19(3), section 19(10), section 28(1)(vi), section 40a(2), section 40b(2) and section 58g(2), came into force on 9 April 2013, see Executive Order No. 352 of 5 April 2013.
- <sup>51)</sup>Section 2 of Act No. 493 of 12 June 2009, which amended section 37(3) and section 37c(4), came into force on 1 November 2009, see Executive Order No. 996 of 6 October 2009.
- <sup>52)</sup>Paragraphs (ii), (xxii) and (xxiv) of section 3(1) of Act No. 1511 of 27 December 2009, which concern section 2a(6) and (7), the heading of Part 8a and section 58d, first sentence, came into force on 5 January 2012, see Executive Order No. 1418 of 22 December 2011.
- <sup>53)</sup>Paragraphs (iii), (xxv) and (xxvi) of section 3(1) of Act No. 1511 of 27 December 2009, which concern section 2a(8) and (9), section 58g, and section 58h(2), came into force on 9 April 2013, see Executive Order No. 352 of 5 April 2013.
- <sup>54)</sup>Section 2(1)(i) to (iv) and (vi) of Act No. 400 of 21 April 2010 came into force on 15 November 2010 by Executive Order No. 1250 of 4 November 2010 issued by the Minister of Refugee, Immigration and Integration Affairs.
- <sup>55)</sup>Act No. 572 of 31 May 2010 was promulgated in the Danish Law Gazette on 1 June 2010.
- <sup>56)</sup>Act No. 463 of 18 May 2010 was promulgated in the Danish Law Gazette on 19 May 2011.
- <sup>57)</sup>Act No. 566 of 18 June 2012 was promulgated in the Danish Law Gazette on 19 June 2012.

<sup>58)</sup>Act No. 567 of 18 June 2012 was promulgated in the Danish Law Gazette on 19 June 2012.

<sup>59)</sup>Act No. 432 of 1 May 2013 was promulgated in the Danish Law Gazette on 2 May 2013.

<sup>60)</sup>Act No. 433 of 1 May 2013 was promulgated in the Danish Law Gazette on 2 May 2013.

<sup>61)</sup>Act No. 434 of 1 May 2013 was promulgated in the Danish Law Gazette on 2 May 2013.

<sup>62)</sup>Section 2(1)(i) to (iii) and (v) of Act No. 434 of 1 May 2013 inserted a new subsection (5) into section 9f and amended the wording of section 9h(4), section 19(1)(ix), section 33(5) and section 52b(1)(iii).

<sup>63)</sup>Section 2(1)(iv) of Act No. 434 of 1 May 2013 amended the wording of section 22(1)(vii).