

## Consolidation Act on Social Services

An Act to consolidate the Act on Social Services, see Consolidation Act No. 102 of 29 January 2018, as amended by Act No. 221 of 20 March 2018, section 9 of Act No. 551 of 29 May 2018, Act No. 559 of 29 May 2018, section 1 of Act No. 560 of 29 May 2018, Act No. 561 of 29 May 2018 and section 5 of Act No. 707 of 8 June 2018.

### Title I

#### Introduction

##### Part 1

##### *Purposes and scope*

1.–(1) The purposes of this Act are

- (i) to offer counselling and support so as to prevent social problems;
- (ii) to offer a range of general services, which may also serve a preventive purpose; and
- (iii) to cater to needs resulting from a physical or mental impairment or special social problems.

(2) The purpose of the assistance under this Act is to enhance the individual person's capacity for development and self-reliance or to facilitate daily life and ensure improved quality of life.

(3) The assistance under this Act is based on the individual's responsibility for themselves and for their family and on the individual's responsibility for gaining self-development and reaching their full potential to the extent possible for the individual. The assistance shall be provided on the basis of a specific individual assessment of each person's particular needs and circumstances and in consultation with the individual. Any decision under the Act shall be made on the basis of professional and financial considerations.

2.–(1) Any person who is lawfully residing in Denmark is eligible to receive assistance under this Act.

(2) The Minister for Children and Social Affairs shall lay down rules specifying the services and benefits that a person residing temporarily outside of Denmark is eligible to receive during the temporary residence period and the conditions for such eligibility.

(3) By agreement with other states or international organisations, the municipal council is entitled to provide assistance for long-term care or treatment etc. in Denmark to a person who has special ties to Denmark, but who is not a Danish resident at the time of application. The same shall apply to the care or treatment etc. of Danish residents taking up residence in another country to which they have special ties.

2a.–(1) Persons who are receiving compensation under the Act on Compensation for Victims of the Occupation Period because of their activities during World War II may be assessed directly from abroad to be eligible for accommodation in a nursing home, see section 192, whose staff have special expertise in caring for persons suffering from the KZ syndrome.

(2) To be eligible for accommodation in a nursing home under subsection (1), a person shall

- (i) meet the conditions for obtaining a residence permit for Denmark; and
- (ii) meet the applicable conditions for eligibility for nursing home accommodation in the municipality in which the nursing home is located.

(3) The Minister for Children and Social Affairs shall lay down rules on the submission of documentation proving that the conditions for eligibility are met.

## Part 2

### *Municipalities and regions*

**3.–(1)** The municipal council shall make decisions on services and facilities provided for under this Act.

(2) When the municipal council makes decisions on services and facilities provided for under sections 32, 36, 101, 103, 104 and 107 to 110, such decisions shall contain information about the specific measures to be implemented and the purposes thereof. If the specific measures are changed significantly, the municipality's decision to do so shall be subject to Parts 3 to 7 of the Public Administration Act. Decisions to change the specific measures significantly may be brought before the National Social Appeals Board pursuant to the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters.

**3a.–(1)** Any decision by the municipal council to withdraw or reduce assistance provided for under sections 95, 96 and 98 may be implemented after a period of notice of no less than 14 weeks from the date of the citizen's receipt of the decision. The first sentence hereof shall likewise apply to any decision by the municipal council to withdraw a place in a special day-care or club facility under sections 32 and 36, to withdraw car support under section 114 before the expiry of the replacement period and to withdraw compensation for loss of earnings under section 42 in cases subject to the rules on the phasing-out period that have been laid down by the Minister for Children and Social Affairs pursuant to section 42(4).

(2) Where a decision by the municipal council is appealed to the National Social Appeals Board, the implementation of the decision may not be initiated until the notice period, see subsection (1), has expired.

**4.–(1)** The municipal council shall ensure that all necessary services and facilities under this Act are available.

(2) The municipal council shall comply with its responsibility to make services and facilities available under subsection (1) by using its own services and facilities and by cooperating with other municipalities, regions or private facilities.

(3) Services and facilities subject to requirements of approval, see section 4 of the Act on Social Supervision, shall be approved by the social supervision authority to form part of the municipality's responsibility to make services and facilities available, see subsection (2).

(4) In the event of an imminent need to allocate a place to a citizen where no suitable, approved services and facilities are available, a service or facility may form part of the municipal provision of services and facilities without being approved for up to three weeks. The social supervisory authority shall be informed of the use of non-approved services and facilities and may, where warranted by special circumstances, make a decision to the effect that the non-approved service or facility may be used for another three weeks.

**5.–(1)** By agreement with the municipal councils in the region, the regional council shall establish

- (i) services and facilities under sections 103 and 104, 107(2) and 108 to 110;
- (ii) special day-care and club facilities for children and young persons who have a substantial and permanent physical or mental impairment under sections 32 and 36;
- (iii) residential institutions for children and young persons who have a physical or mental impairment, see section 66(1)(vi);
- (iv) secure residential institutions, high secure wards and partly locked wards attached to secure residential institutions, see section 66(1)(vi); and
- (v) facilities for treatment of drug misusers under sections 101 and 101a.

(2) Subsection (1) shall not apply where facilities are established by an order under the first sentence of section 13c(1).

(3) By agreement with the municipal councils in the region, the regional council shall assist in the provision of appropriate and safe technical aids.

(4) By agreement with the municipal councils in the region, the regional council shall establish services and facilities under sections 83 to 87, 97, 98 and 102 for persons who require long-term stays in accommodation for persons with a substantial and permanent physical or mental impairment under the Act on Social Housing and Subsidised Dwellings in Private Housing Cooperatives etc.

(5) The regional council shall discharge its obligation under subsections (1), (3) and (4) by using its own

services and facilities and by cooperating with municipalities, other regions or private facilities.

(6) The municipal council may establish services and facilities falling within subsections (1), (3) and (4).

(7) The regional council may operate residential institutions, see section 66(1)(vi), for children and young persons who, due to social or behavioural problems, need to be placed in out-of-home care if such operation has been agreed under section 194(2).

(8) The regional council shall supervise regionally operated services and facilities under sections 103 and 104 and regionally operated services and facilities under sections 32 and 36, see section 5(1)(ii). Notwithstanding the foregoing, this shall not apply to services and facilities where a municipality has made a general agreement for the use of all places in the facility, including for supervision. The regional council may delegate its authority under this provision to the social supervisory authority, see section 2 of the Act on Social Supervision.

(9) The regional council may, at the request of the municipal council, undertake such municipal operations as are naturally associated with the region's duties and responsibilities, and in respect of which the region therefore has special powers.

**6.-(1)** Every two years, the municipal councils in the region and the regional council shall conclude an annual framework agreement on professional development, management and coordination of municipal and regional facilities under this Act, which are located in the region. The municipal and regional councils may agree to subject the framework agreement to ongoing review and updating.

(2) The municipal councils in the region shall coordinate the drafting of the framework agreement to be published and forwarded to the National Board of Social Services.

(3) The Minister for Children and Social Affairs shall lay down rules governing the framework agreements, including rules on the facilities covered by the framework agreement, on the specific requirements for the contents of the agreements, on time limits for the conclusion of the agreements, on coordination of the capacity and composition of the most highly specialised nationwide and regional facilities and on development plans, see section 9.

**7.-8.** (Repealed)

**9.-(1)** The regional council shall draw up a development plan for the region's accommodation facilities under sections 107 to 110 if more than 100 places are available in each facility.

(2) The development plan drawn up by the regional council shall be set out in an agreement with the municipal councils in the region.

(3) The municipal council shall draw up a development plan for the municipality's accommodation facilities under sections 107 to 110 if more than 100 places are available in each facility.

## **Title II**

### **Prevention, counselling and knowledge development**

#### **Part 3**

##### *Counselling by the municipality*

**10.-(1)** The municipal council shall ensure that any person has the opportunity to receive free counselling. The purpose of such counselling is to prevent social problems and to help the citizen overcome immediate difficulties and, in the longer term, enable the citizen to deal with problems as they arise without outside assistance. Counselling may be provided separately or in connection with other assistance under this Act or any other legislation.

(2) It shall be possible to offer counselling on an anonymous and open basis.

(3) In connection with the counselling, the municipal council shall pay attention to assessing whether the individual recipient needs any other assistance under this Act or any other legislation.

(4) The municipal council shall offer counselling on the choice of technical aids and consumer durables together with instructions on the use thereof. This duty may be performed in cooperation with other municipalities.

##### *Children, young persons and parents*

**11.-(1)** The municipal council shall prepare measures to ensure a correlation between the municipality's general and preventive work and the measures targeted at children and young persons in need of special

support.

(2) The municipal council shall ensure, in the context of its early preventive work, that the parents of children and young persons, or any other persons having the actual care of a child or young person, are offered free family-oriented counselling to resolve any difficulties within the family. The municipal council shall offer such counselling through proactive outreach work to any person who is assumed to be in need of counselling due to special circumstances. The offer of counselling shall also apply to expecting parents. Parents as well as children and young persons solely seeking counselling may receive such counselling on an anonymous and open basis.

(3) The municipal council shall offer preventive measures for the child, young person or family where the council finds that support under paragraphs (i) to (iv) can accommodate the child's or young person's needs. The municipal council may offer the following preventive measures:

- (i) Counselling services, including measures targeting families.
- (ii) Networking or support groups.
- (iii) Family planning counselling.
- (iv) Other measures designed to resolve the difficulties experienced by a child, young person or family.

(4) The municipal council may decide to provide financial support to the custodial parent if the council finds that support under paragraphs (i) and (ii) can accommodate the child's or young person's needs for special support. Financial support may be provided for:

- (i) Expenses incurred in connection with counselling services under subsection (3)(i).
- (ii) Expenses for contraception.

(5) Support under subsection (4)(i) shall be subject to the condition that the custodial parent has inadequate funds to meet such expenses.

(6) The municipal council may decide, in the context of the preventive work, to offer financial support for leisure-time activities for children and young persons in need of special support. The municipal council may lay down criteria for granting support under the first sentence hereof. Decisions by the municipal council to grant support for leisure-time activities cannot be brought before any other administrative authority.

(7) The municipal council shall provide free counselling, examination and treatment of children and young persons with behavioural difficulties or a physical or mental impairment and of their families. These duties may be performed in cooperation with other municipalities.

(8) The municipal council shall establish a family counselling scheme designed specifically for families with children under 18 years of age who have a substantial and permanent physical or mental impairment. Counselling services shall be offered within three months of the date on which the municipal council learned that the functional impairment had been diagnosed.

(9) The Minister for Children and Social Affairs shall lay down rules governing the family counselling scheme.

#### *Adults*

**12.–(1)** The municipal council shall ensure that persons with a physical or mental impairment or special social problems are offered free counselling. The offer of counselling shall also include proactive outreach work.

(2) The duties under subsection (1) may be performed in cooperation with other municipalities.

#### *Adults exposed to honour-related conflicts*

**12a.–(1)** The municipal council shall ensure that persons over 18 years of age who contact the council due to honour-related conflicts have the opportunity to receive free counselling under section 10.

(2) If the municipal council estimates that a need exists, persons over 18 years of age who are at risk of or are being exposed to a severe honour-related conflict shall be offered an action plan.

(3) The action plan shall contain

- (i) a risk assessment for the citizen concerned;
- (ii) information about the citizen's current situation, including relevant matters regarding residence, work, education and relations with relatives;
- (iii) considerations regarding any relevant support measures in respect of residence, work and education and the purpose of such measures; and

(iv) considerations regarding any relevant support measures under this Act or any other legislation and the purpose of such measures.

(4) The action plan shall be drawn up in consultation with the citizen.

*Adults at risk of radicalisation and extremism*

**12b.**–(1) The municipal council shall ensure that persons over 18 years of age have the opportunity to receive free, targeted counselling under section 10 if they contact the council because they are at risk of radicalisation or need help and support to leave an extremist environment. The offer of counselling may include proactive outreach work.

(2) In the context of organising targeted counselling under subsection (1), the municipal council may establish contact or mentoring schemes.

(3) In connection with the targeted counselling provided for under subsection (1), the municipal council shall consider whether the person in question needs additional support under this Act or any other legislation.

(4) Any counselling under subsection (1) shall be provided in consultation with the citizen.

Part 4

*Central government coordination and counselling, Social Services Gateway  
and scheme of independent counsellors*

**13.**–(1) The national organisation for knowledge and specialist counselling services under the National Board of Social Services shall provide municipalities and citizens with free specialist counselling for guidance purposes in the most highly specialised and complex individual cases. Free specialist counselling shall likewise be provided to municipalities, regions, schools and institutions, etc. as well as to citizens in relation to special education and special pedagogical support.

(2) The national organisation for knowledge and specialist counselling services shall, for guidance purposes, provide free needs identification services to municipalities and citizens in the few, most rarely occurring, special and complex cases where the requisite expertise cannot be expected to be available in the individual municipality or in the facilities provided by the region. Free assistance shall likewise be provided for municipalities' assessment and identification of needs concerning special education and special pedagogical support. The municipal council shall make decisions on referrals of citizens under the first sentence hereof.

(3) The national organisation for knowledge and specialist counselling services shall decide on services provided for under subsections (1) and (2). The decision cannot be brought before any other administrative authority.

(4) The national organisation for knowledge and specialist counselling services shall provide the most specialised counselling services, including relevant production of material, to municipalities, citizens, schools, etc. in respect of special education and special pedagogical support.

(5) If the municipal council, in the context of a case concerning special support for children and young persons under Part 11, makes use of counselling or needs identification services from the national organisation for knowledge and specialist counselling services under subsections (1) and (2), the municipal council may without consent disclose any necessary information, including information about the strictly private affairs of the child, the young person or the family, to the national organisation for knowledge and specialist counselling services. Notwithstanding its entitlement to disclose information without consent, the municipal council shall try to obtain the relevant person's consent to disclose and process the information.

(6) The national organisation for knowledge and specialist counselling services may without consent process any necessary information, including information about the strictly private affairs of the child, the young person or the family, which is disclosed by a municipality in connection with the provision of counselling and needs identification services under subsections (1) and (2) where such information is disclosed in the context of a case concerning special support for children and young persons under Part 11.

(7) The national organisation for knowledge and specialist counselling services shall provide free counselling for guidance purposes to municipalities in adoption cases where no consent has been obtained.

(8) The national organisation for knowledge and specialist counselling services shall ensure the systematic collection, development, processing and presentation of professional knowledge in the social services area and in the area of the most specialised special education and special pedagogical support, etc. The organisation for knowledge and specialist counselling services shall arrange for coordination of and



participation in testing, research and information activities in the technical aids field.

(9) Municipal and regional councils may agree with the national organisation for knowledge and specialist counselling services that the municipality or the region, in return for payment, may provide the organisation with the services referred to in subsections (1), (2) and (4).

(10) Subject to consultation with the Minister for Education, the Minister for Children and Social Affairs shall by order lay down rules governing the operation and organisation of the national organisation for knowledge and specialist counselling services.

**13a.**—(1) The national organisation for knowledge and specialist counselling services shall reimburse expenses for any necessary travel to and from specialist counselling and any other necessary travelling expenses incurred in connection with counselling where citizens are receiving free specialist counselling for guidance purposes under section 13(1) and (3).

(2) Expenses shall only be reimbursable under subsection (1) to the extent that travel is by the cheapest means of transport in the given circumstances.

(3) Expenses shall only be reimbursable under subsection (1) where the distance travelled to the place of counselling exceeds a limit specified by the Minister for Children and Social Affairs.

(4) Subject to consultation with the Minister for Education, the Minister for Children and Social Affairs shall by order lay down rules on the reimbursement of travelling expenses and any other necessary expenses incurred in connection with travel.

**13b.**—(1) The National Board of Social Services shall monitor developments in target groups, facilities and measures and collect and communicate knowledge on the effect of such measures in the most specialised social area and in the area of the most specialised special education provided pursuant to the Act on Primary and Secondary Education or the Act on Special Education for Adults.

(2) To ensure the required availability of highly specialised facilities adapted to developments in the needs of the target groups in the most specialised social area and in the area of the most specialised special education, the National Board of Social Services may designate target groups or special measures that require extra coordination or planning across municipalities in one or more regions.

(3) The National Board of Social Services may, against the background of reports on the municipal council's planning and organisation of measures addressing centrally designated target groups and measures, see subsection (2), request the municipal councils in one or more regions to reconsider their planning and organisation of the measures.

(4) In connection with a request made under subsection (3), the National Board of Social Services may issue a temporary order to a municipal or regional council to maintain a facility until the National Board of Social Services, in pursuance of section 13c, has made a decision on an order regarding the facility in question or suspends the temporary order.

(5) The National Board of Social Services' designation of target groups and measures under subsection (2) and decisions in the area of the most specialised special education under subsections (3) and (4) shall be made subject to consultation with the Ministry of Education.

**13c.**—(1) To ensure the required availability of highly specialised facilities adapted to developments in the needs of the target groups in the most specialised social area and special education area, the National Board of Social Services may, in exceptional cases, order a municipal or regional council to establish or to continue to operate a facility or to provide a measure falling within the scope of this Act. The National Board of Social Services may also, in exceptional cases, order a municipality or a region to continue or to renew an operating agreement with an existing private facility and to conclude a new operating agreement if an existing agreement has been terminated.

(2) On the same conditions as those specified in subsection (1), the National Board of Social Services may, in exceptional cases, issue an order to combine small facilities targeting the same target group into one facility if the National Board of Social Services assesses that such facilities are not individually sustainable from a professional and financial point of view. The municipalities and regions shall agree which municipality or region shall operate the combined facility, including taking over one or more facilities under section 186a(1) or (2). Where the municipalities and regions have not reached an agreement on who shall operate the facility within four months of the order, the National Board of Social Services shall make a decision on this matter. Other municipalities and regions are not entitled, for the period during which the order applies, to establish new facilities for this target group without the approval of the National Board of Social Services.

(3) In connection with an order pursuant to subsections (1) and (2), the National Board of Social Services shall order the municipalities in the relevant region or part of Denmark to conclude an agreement on the funding of the operation of the facility to which the order relates. Where the municipalities have not reached an agreement on a funding model within four months of the order, the National Board of Social Services shall make a decision thereon.

(4) In connection with an order pursuant to subsections (1) and (2), the National Board of Social Services may issue or extend a temporary order under section 13b(4) until an agreement or decision on a funding model, see subsection (3), has been made.

(5) In connection with a decision to issue an order under subsections (1) and (2), the National Board of Social Services shall decide for how long a period the order shall be effective. An order may not be effective for more than two years. Before the expiry of the period, the National Social Services may decide to renew the order.

(6) A decision to issue an order on operation, including any decision on a funding model, cannot be brought before any other administrative authority.

(7) The National Board of Social Services' decisions in the area of the most specialised special education under this provision shall be made subject to consultation with the Ministry of Education.

(8) Where an order under subsection (1) or (2) concerns an existing facility or the establishment of a facility falling within the scope of section 4 of the Act on Social Supervision, it is a condition that the competent social supervisory authority, see sections 2 and 5 of the said Act, has approved or subsequently approves the relevant facility or facilities.

**14.–(1)** The Minister for Children and Social Affairs shall collect and disseminate information about municipal, regional and private services and facilities falling within the scope of section 4 of the Act on Social Supervision and about municipal, regional and private services and facilities under sections 32, 36, 103 and 104 of this Act in a nationwide survey (Social Services Gateway).

(2) Only services and facilities registered in the Social Services Gateway may be included in the services and facilities provided by the municipal council, see section 4(2).

(3) Social services and facilities, etc. falling within the scope of section 4 of the Act on Social Supervision can only be registered in the Social Services Gateway if approved by the social supervisory authority.

(4) The National Board of Social Services shall perform random checks to verify

- (i) that the information in the Social Services Gateway complies with the factual circumstances; and
- (ii) that the information in the Social Services Gateway has been filed in compliance with the systematic approach of the Social Services Gateway.

(5) The National Board of Social Services may decide to issue an order to a registered facility if

- (i) any information filed by the facility and that is published in the Social Services Gateway does not comply with the factual circumstances; or
- (ii) the facility's filing of information that is published in the Social Services Gateway is not in compliance with the systematic approach of the Social Services Gateway.

(6) The National Board of Social Services may decide to highlight such non-compliance in the Social Services Gateway if a facility has failed to obey an order under subsection (5) within a period of four weeks.

(7) Decisions under subsections (5) and (6) cannot be brought before any other administrative authority.

(8) The Minister for Children and Social Affairs shall by order lay down rules on the Social Services Gateway, including rules on the duty of municipalities and regions to provide information to the Social Services Gateway and on the decisions of the National Board of Social Services under subsections (5) and (6). The Minister for Children and Social Affairs may also decide that the Social Services Gateway shall include services and facilities other than the services and facilities referred to in subsection (1).

**14a.–(1)** The Minister for Senior Citizens shall collect and disseminate information about municipal and private facilities pertaining to nursing homes, see section 192, assisted living homes falling within the scope of the Act on Social Housing etc., assisted living homes falling within the scope of the Act on Housing for Older People and Persons with Disabilities and private care dwellings falling within the scope of the Act on Private Care Dwellings in a nationwide survey (Social Services Gateway), but see subsection (2).

(2) The overview of nursing homes does not include facilities where the assistance and support for citizens in the facility to a considerable extent include support within the meaning of section 85.

(3) Facilities referred to in subsection (1) may only be included in the services and facilities provided by the municipal council, see section 4(2), if they are registered in the overview of nursing homes.

(4) The Minister for Senior Citizens shall lay down rules on the overview of nursing homes, including rules on the duty of municipal councils and private facilities to provide information to the overview of nursing homes and on the powers of the Danish Health Data Authority in this respect.

**15.–(1)** A scheme of independent counsellors shall provide free counselling and guidance services in cases concerning persons with physical or mental impairment.

### **Title III**

#### **User involvement**

##### **Part 5**

##### *User involvement, consultative bodies, etc.*

**16.–(1)** The municipal council shall ensure that the users of services and facilities provided for under this Act are given an opportunity to influence the planning and use of the services and facilities. The municipal council shall issue written guidelines for such user involvement.

(2) The municipal council may set up one or more councils to advise the municipality on the planning of the measures provided for under this Act. The municipal council shall establish the framework for and scope of the duties and responsibilities of such councils.

**17.** (Repealed)

**18.–(1)** The municipal council shall cooperate with voluntary social organisations and associations.

(2) The municipal council shall allocate an amount every year for the support of voluntary social work.

(3) The framework for the cooperation shall be specified by the individual municipal council.

**18a.–(1)** The municipal and regional council may take out liability and accident insurance to provide cover for citizens who, in connection with action to discharge municipal or regional duties, are engaged in volunteering measures in the municipality and region, respectively. Such insurance shall be taken out on the same conditions as any insurance taken out by the municipality and the region, respectively, to provide cover for citizens carrying out volunteer work.

(2) A municipal or regional council that chooses to take out insurance under subsection (1) shall issue guidelines specifying the volunteering measures to be covered by the liability and accident insurance.

### **Title IV**

#### **Children and young persons**

##### **Part 6**

##### *General provisions*

**19.–(1)** The municipal council shall ensure that any duties, tasks and services affecting children, young persons and their families are discharged in cooperation with the parents and in such a manner as to promote the development, well-being and independence of children and young persons. This shall apply both to the performance of the general and preventive work and to the measures targeted at children and young persons who have a physical or mental impairment or any other special need for support.

(2) The municipal council shall prepare a coherent child policy designed to secure the correlation between the general and preventive work and the measures targeted at children and young persons in need of special support. The coherent child policy shall be formulated in writing, adopted by the municipal council and released for publication.

(3) The municipal council shall ensure that the measures implemented under this Act in respect of children and young persons who have a physical or mental impairment or any other special need for support complement the measures implemented in respect of the same children and young persons under any other legislation.

(4) The municipal council shall prepare a contingency plan for the prevention, early detection and handling of cases involving assaults on children and young persons. The contingency plan shall be formulated in writing, adopted by the municipal council and released for publication. The municipal council shall revise the contingency plan when needed, but at intervals not exceeding four years.



## Part 7

*Day-care facilities for children***20.-31.** (Repealed)*Special day-care facilities for children and approval of parents  
providing assistance in the home*

**32.**—(1) The municipal council shall make decisions on assistance to children who need assistance or special support due to a substantial and permanent physical or mental impairment. Assistance may be provided in special day-care facilities, see subsection (3), in special club facilities, see section 36, or in connection with any other facilities under this Act or pursuant to the Day-Care Facilities Act. Assistance may also be provided in whole or in part by the parents in the home as in-house training sessions, see section 32a.

(2) The Minister for Children and Social Affairs shall lay down rules governing cooperation with parents, the involvement of the child or young person, the identification of the child's or young person's needs and municipal case management practices.

(3) The municipal council shall ensure that the requisite number of places in special day-care facilities are available for children who, due to a substantial and permanent physical or mental impairment, have special needs for support, treatment, etc., which cannot be met by attending conventional day-care facilities or after-school facilities provided for under the Day-Care Facilities Act.

(4) The Minister for Children and Social Affairs shall by order lay down rules governing parents' boards in special day-care facilities.

(5) The Minister for Children and Social Affairs shall by order lay down rules governing the calculation of subsidies and co-payment for special day-care facility attendance.

**32a.**—(1) At the request of the custodial parent, the municipal council shall approve that the parents wholly or partly provide in-home training sessions in the home, see the third sentence of section 32(1), if the following conditions are met:

- (i) The in-home training sessions advance the interests and well-being of the child or young person and accommodate the child's or young person's needs.
- (ii) The parents are able to carry out the tasks.
- (iii) In-home training is provided in accordance with documented training methods.

(2) Healthcare training elements, which are either offered in the form of hospital treatment or otherwise acquire the character of specialised healthcare treatment cannot be approved as a part of the in-home training.

(3) Any approval given under subsection (1) shall be based on a child protection examination, see section 50. If the training method involves physical healthcare elements to a not inconsiderable extent, the municipal council shall ensure that the decision on the approval of the training method is made by employing the relevant skills of healthcare professionals.

(4) The municipal council shall continuously supervise any measures targeted at the child or young person and shall in this context ensure that the measures accommodate the child's or young person's physical, mental and social needs. If the training method involves physical healthcare elements to a not inconsiderable extent, the municipal council shall ensure that the supervision of the training method is conducted by employing the relevant skills of healthcare professionals.

(5) The municipal council shall pay compensation for loss of earnings under sections 42 and 43 to parents who support and train, in the home, a child or a young person under 18 years of age who has a substantial and permanent physical or mental impairment. No compensation is payable for loss of earnings as a result of home instruction provided to children under Part 8 of the Act on Private Independent Schools and Private Independent Basic Schools etc., regardless of whether such instruction is provided in combination with in-home training under this Act. If the municipal council attaches importance to the extent of the home instruction in connection with a decision on compensation for loss of earnings, the municipal council shall make a specific assessment of the extent of the home instruction with due consideration being given to the child's or young person's age and functional capacity.

(6) The municipal council shall arrange for training equipment, courses, assistants, etc. when parents train a child or a young person in the home. The municipal council's expenses for training equipment, courses, assistants, etc. for the child or young person may not exceed DKK 500,000 per year.

(7) The Minister for Children and Social Affairs shall lay down rules governing special support in the home, including rules on documented methods, approval of in-home training, employment of the skills of healthcare professionals, supervision of measures, compensation for loss of earnings, use of healthcare training elements and training equipment, courses, assistants, etc., including the framework for payment of support for such purposes.

#### Part 8

##### *Clubs and other socio-pedagogical leisure-time facilities for older children and young persons*

**33.-35.** (Repealed)

##### *Special club facilities*

**36.**–(1) The municipal council shall ensure that the requisite number of places in special club facilities are available for older children and young persons who, due to a substantial and permanent physical or mental impairment, have special needs for support, treatment, etc., which cannot be met by attending one of the facilities referred to in sections 65 and 66 of the Day-Care Facilities Act.

(2) The Minister for Children and Social Affairs shall by order lay down rules governing the calculation of subsidies and co-payment for special club facility attendance.

#### Part 9

##### *Financial subsidies etc.*

##### *Subsidies to parents selecting private care*

**37.-38.** (Repealed)

##### *Subsidies to parents on child-care leave*

**39.**–(1) The municipal council may decide to pay a supplementary subsidy to parents receiving a benefit while on child-care leave, see the Child-Care Leave Act. The municipal council may decide that such subsidies shall be payable only to parents with children of a specific age group.

(2) The municipal council shall fix the amount of subsidies subject to a maximum of DKK 35,000 per year. The subsidies may be fixed so as to vary according to the age of the child.

(3) For employed persons on child-care leave, the total amount of the subsidy and the leave benefit combined cannot exceed 80 per cent of the previous income. For employed persons on child-care leave who are entitled to claim unemployment benefits, however, the total amount of the subsidy and the leave benefit combined shall be an amount at least equal to the amount of unemployment benefits to which the person on child-care leave would be entitled in case of full-time unemployment immediately prior to the leave, see the Act on Unemployment Insurance etc., unless the subsidy would thereby exceed the amount of the subsidy fixed by the municipal council, see subsection (2).

(4) For unemployed persons on child-care leave, the total amount of the subsidy and the leave benefit combined cannot exceed an amount equalling the amount of unemployment benefits to which the person on child-care leave was entitled subject to full-time unemployment immediately prior to the leave, see the Act on Unemployment Insurance etc.

(5) For unemployed persons on child-care leave for whom the entitlement to claim social assistance constitutes the basis for the leave benefit, the total amount of the subsidy and the leave benefit combined cannot exceed an amount equalling the social assistance to which the person on child-care leave would be entitled under section 25 of the Act on an Active Social Policy.

(6) The subsidy shall be payable by the municipality against documentation proving that the benefit is received while the claimant is on child-care leave.

**40.**–(1) The municipal council shall pay a special supplementary subsidy to single parents who

- (i) work in an employed or self-employed capacity;
- (ii) have children between the ages of 24 weeks and 5 years to whom the municipal council is unable to allocate places in a day-care facility, see sections 19 and 21 of the Day-Care Facilities Act; and
- (iii) opt for paid child-care leave, see the Child-Care Leave Act.

(2) Such supplementary subsidy shall be payable only to the parent with whom the child lives most of the time. If a child lives with both parents for an equal amount of time, the supplementary subsidy shall only be payable to the parent with whom the child has its registered address.

(3) The special supplementary subsidy under subsection (1) shall equal the difference between the benefit received while on child-care leave and the rate of social assistance payable to claimants with dependent children, see section 25 of the Act on an Active Social Policy.

(4) The total amount of the special supplementary subsidy and the leave benefit combined cannot exceed 80 per cent of the previous income.

(5) Where the municipal council, under section 39, pays a supplementary subsidy exceeding or equalling the subsidy referred to in subsection (1), only the subsidy provided for under section 39 shall be payable. If the special supplementary subsidy under subsection (1) exceeds the subsidy under section 39, only the subsidy under subsection (1) shall be payable.

(6) The subsidy shall be payable by the municipality against documentation proving that the claimant receives benefit while on child-care leave.

#### *Reimbursement of extra costs*

**41.-(1)** The municipal council shall reimburse the necessary extra costs of maintaining, in the home, a child under 18 years of age who has a substantial and permanent physical or mental impairment or who is living with a serious, chronic or long-term condition. It is a condition that the extra costs are incurred as a consequence of the functional impairment and are not reimbursable under any other provisions of this Act or any other legislation.

(2) The reimbursement shall be calculated on the basis of the probable extra costs incurred for the individual child, for instance extra costs of individual travel and leisure-time activities.

(3) The amount of reimbursement of the necessary extra costs may be granted where such estimated extra costs are at least DKK 4,596 per year (2015 level). The reimbursement shall be fixed on the basis of estimated extra costs per month and shall be rounded to the nearest full amount divisible by 100.

(4) Reimbursement under subsection (1) shall be subject to the condition that the directions of the municipal council regarding care etc. are followed.

(5) The Minister for Children and Social Affairs may by order lay down rules specifying the costs towards which reimbursement may be payable and the conditions for such reimbursement.

#### *Loss of earnings*

**42.-(1)** The municipal council shall pay compensation for loss of earnings to persons maintaining, in the home, a child under 18 years of age who has a substantial and permanent physical or mental impairment or who is living with a serious, chronic or long-term condition. Compensation shall be subject to the condition that the child is cared for in the home as a necessary consequence of the functional impairment and that it is most appropriate for the mother or father to care for the child.

(2) The requirement in subsection (1) that the child shall be maintained in the home shall not apply to any child referred to in subsection (1) who has been placed in out-of-home care under section 52(3)(vii) in connection with the child's hospital visit. It is a condition that the presence of the mother or father at the hospital is a necessary consequence of the child's functional impairment and that such presence is most appropriate for the child.

(3) The compensation shall be fixed on the basis of the previous gross income, always provided that the maximum amount of compensation shall be DKK 27,500 per month. The maximum amount shall be reduced at the ratio of hours compensated for loss of earnings to the total number of working hours. A pension scheme contribution amounting to 10 per cent of the gross compensation shall be calculated. Notwithstanding the foregoing, the contribution cannot exceed an amount equivalent to the contribution previously paid by the employer. Under the provisions of the Act on the Labour Market Supplementary Pension Scheme, the municipality shall pay Labour Market Supplementary Pension ("ATP") contributions in respect of the compensation for loss of earnings. The compensation claimant shall pay one third of the ATP contributions, and the municipality shall pay two thirds.

(4) The Minister for Children and Social Affairs shall lay down rules governing the calculation and adjustment of loss of earnings under subsection (3), including rules on calculation and payment of pension contributions and, on the recommendation of the Labour Market Supplementary Pension Fund, rules on payment of ATP contributions.

**43.–(1)** In the event of unemployment, the municipal council shall pay a special supplementary benefit to persons receiving compensation under section 42 for up to three months after the end of the month in which the person becomes unemployed. Payment of the special supplementary benefit shall be subject to the conditions that the person

- (i) has taken out unemployment insurance;
- (ii) is not eligible for unemployment benefit under the Act on Unemployment Insurance etc.;
- (iii) has not caused self-inflicted unemployment;
- (iv) has no reasonable offer of part-time employment; and
- (v) is not receiving other financial support under any other legislation.

(2) The municipal council shall pay the special supplementary benefit regardless of the income and assets of the claimant and their spouse.

(3) The benefit shall be an amount equal to the maximum amount of sickness benefits, see section 50(1) of the Act on Sickness Benefits. Notwithstanding the foregoing, the benefit cannot exceed an amount equivalent to 90 per cent of the claimant's earnings in their previous job.

(4) The special supplementary benefit shall be reduced by any amount received by the employee from their employer or from the Employees' Guarantee Fund in connection with the termination of employment.

(5) Pursuant to the Act on the Labour Market Supplementary Pension Scheme, the municipality shall pay ATP contributions in respect of the special supplementary benefit. The benefit claimant shall pay one third of the ATP contributions, and the municipality shall pay two thirds. The Minister for Children and Social Affairs may, on the recommendation of the Labour Market Supplementary Pension Fund, lay down rules on payment of contributions.

(6) Pursuant to section 17f(3) of the Act on the Labour Market Supplementary Pension Scheme, the municipality shall pay contributions to the Special Pension Savings Scheme in respect of the special supplementary benefit. The Minister for Children and Social Affairs shall by order, on the recommendation of the Labour Market Supplementary Pension Fund, lay down more specific rules on payment of contributions and reporting. If the savings amount is not paid on time, the provisions of section 17(2) to (4) and (6) of the Act on the Labour Market Supplementary Pension Scheme shall apply correspondingly.

## Part 10

### *Personal assistance and accompaniment*

**44.–(1)** The provisions of sections 83, 84(1) and 86(2) shall apply correspondingly to children in need thereof.

**45.–(1)** The municipal council shall offer 15 hours of accompaniment per month to young persons between 12 and 18 years of age who are prevented from moving around on their own due to a substantial and permanent physical or mental impairment. Notwithstanding the foregoing, this shall not apply to young persons between 12 and 18 years of age accommodated in residential facilities under section 52(3)(iv), (v) and (vii).

(2) Any person who is entitled to accompaniment, see subsection (1), shall be entitled to appoint a person for that purpose. Such appointment shall be subject to approval by the municipality and the person appointed shall be employed by the municipality.

(3) Persons with very close ties to the person entitled to accompaniment under subsection (1) are usually not allowed to be employed for that purpose.

(4) The recipient may save up hours within a period of six months. The municipal council shall issue guidelines for such saving practices.

(5) The recipient's expenses for the accompanying person's travel and other activities associated with the companion scheme are reimbursable up to a maximum of DKK 663 per year. The amount shall be payable by the municipal council at the request of the recipient.

(6) The Minister for Children and Social Affairs may by order lay down rules governing the conditions of the companion scheme.

Part 11

*Special support for children and young persons*

*Purpose*

**46.**—(1) The purpose of supporting children and young persons with special needs is to provide such children and young persons with the same opportunities for personal development, health and an independent adult life as their peers. The support shall be provided to safeguard the best interests of the child or young person and shall be designed to

- (i) ensure continuity in childhood and adolescence and a safe caring environment offering close and stable relations to adults, for instance by supporting the child's or young person's family relations and other networks;
- (ii) secure the child's or young person's opportunities for personal development and acquisition of skills for building social relations and networks;
- (iii) support the child's or young person's schooling and chances of completing an education;
- (iv) promote the health and well-being of the child or young person; and
- (v) prepare the child or young person for an independent adult life.

(2) The support shall be provided through early intervention and an integrated approach to ensure, to the extent possible, that any problems encountered are prevented and mitigated in the home or the immediate environment. Based on a case-by-case assessment, the support shall be adapted to the specific circumstances of the individual child or young person and the family.

(3) The support shall be based on the child's or young person's own resources, and the views of the child or young person shall always be given due weight in accordance with age and maturity. The difficulties of the child or young person shall, wherever possible, be resolved in cooperation with and with the assistance of the child's or young person's family. Where this is not possible, the background, purpose and content of the specific measure shall be clarified to the custodial parent as well as to the child or young person.

*Involvement of family and network*

**47.**—(1) The municipal council shall consider how to involve the family and network systematically.

**48.**—(1) Before the municipal council makes a decision under sections 51, 52, 52a, 56, 57a, 57b, 58, 62 and 63, section 65(2) and (3) and sections 68 to 71 and 75, a conversation with the child or young person shall be conducted on these matters. The conversation may be dispensed with if the child or young person was consulted immediately beforehand in connection with a child protection examination, see section 50. The conversation may be conducted without the consent and presence of the custodial parent where this serves the best interests of the child or young person.

(2) The conversation may be dispensed with in so far as factors such as the maturity of the child or the nature of the case strongly suggests that the decision should be made without a prior conversation. If the conversation cannot be conducted, steps shall be taken to establish the child's opinion about the planned decision.

*Personal adviser to children and young persons*

**48a.**—(1) A child or young person whose case is being considered under this Act shall, at any time during the case management process, be entitled to take advice from a third party.

(2) Subsection (1) shall not apply if the authority decides that the interests of the child or young person in taking advice from a third party should be subordinate to material public or private interests, or where legislation stipulates otherwise. The authority may also decide to overrule the child's or young person's choice of personal adviser if there are specific grounds to assume that the advisor will safeguard interests other than those of the child or young person.

(3) The authority may decide to exclude a personal adviser in whole or in part from attending a meeting where this is deemed to influence the child's or young person's willingness to express their opinion openly.

(4) Any personal adviser to a child or young person shall be at least 15 years of age and is subject to the non-disclosure provisions of section 152 of the Criminal Code.

**49.** (Repealed)



### *Exchange of information in early or preventive work*

**49a.**—(1) Schools, school-based leisure-time facilities, nurses, health visitors, medical practitioners, dentists and dental hygienists working in the municipal health care service, day-care facilities, after-school facilities and authorities performing duties in the field of socially disadvantaged children and young persons may mutually exchange information about the strictly private affairs concerning a child's or young person's personal and family-related circumstances if any such exchange of information must be deemed necessary in the context of any early or preventive cooperation on socially disadvantaged children and young persons.

(2) Any exchange of information under subsection (1) for the purpose of considering a case, if applicable, see Parts 11 and 12, pertaining to a specific child or young person shall be allowed only once at a meeting. In special cases, information may be exchanged at a subsequent meeting among the authorities and institutions referred to in subsection (1).

(3) Self-governing or private institutions, private clinics or private independent schools that perform duties for the authorities referred to in subsection (1) may, mutually and with the authorities and institutions referred to in subsection (1), exchange information to the same extent as mentioned in subsection (1).

(4) The authorities and institutions entitled to disclose information under subsections (1) to (3) are under no obligation to do so.

**49b.**—(1) Municipal authorities performing duties in the field of socially disadvantaged children and young persons as well as the police and the prosecution service may mutually exchange information about the strictly private affairs concerning a child's or young person's personal and family-related circumstances if any such exchange of information must be deemed necessary in the context of preventing assaults on children and young persons.

### *Child protection examination*

**50.**—(1) Where it must be assumed that a child or a young person needs special support, for instance due to a physical or mental impairment, the municipal council shall examine the circumstances of the child or young person. The examination, known as a child protection examination, shall, to the extent possible, be conducted in cooperation with the custodial parent and the young person aged 15 years or over. The examination shall be conducted as gently as circumstances allow and may not be more extensive than warranted by its purpose.

(2) The examination by the municipal council, see subsection (1), shall be based on a holistic approach which, unless specific circumstances mean that one or more of the following paragraphs are of no relevance to the child or young person concerned, shall relate to the child's or young person's

- (i) development and behaviour;
- (ii) family relations;
- (iii) school situation;
- (iv) health condition;
- (v) leisure-time activities and friendships; and
- (vi) other circumstances of relevance.

(3) The examination shall include a conversation with the child or young person. The conversation may be dispensed with in so far as factors such as the maturity of the child or young person or the nature of the case strongly suggest that the decision should be made without a prior conversation. If the conversation cannot be conducted, an attempt shall be made to establish the views of the child or young person. The conversation may be conducted without the consent and presence of the custodial parent where this serves the best interests of the child or young person.

(4) In conducting its examination, the municipal council shall identify resources and problems with the child, the family and the network. For young persons aged 15 or over, the examination shall identify any special circumstances to be considered in selecting the measures to be taken for this specific age group, see sections 52, 76 and 76a.

(5) In conducting its examination, the municipal council shall involve any professionals who already have knowledge of the circumstances of the child or young person and the family. This may be ensured through the involvement of health visitors, child and youth educators, psychologists, teachers or others. If necessary, the municipality shall have the child or young person examined by a medical practitioner or a licensed psychologist.

(6) The examination shall result in a reasoned decision as to whether there are grounds for implementing measures and, if so, the nature of such measures. Where measures have been implemented in parallel with the examination, see section 52(2), a decision shall also be made as to whether to continue such measures. Information shall be available about the position of the custodial parent and of the child or young person on the proposed measures and about any circumstances of the family or its surroundings that can contribute to overcoming the difficulties.

(7) The examination shall be completed within four months after the municipal council becomes aware that a child or young person may need special support. Where, exceptionally, an examination cannot be completed within four months, the municipal council shall prepare a provisional assessment and complete the examination as soon as possible thereafter.

(8) In connection with the examination, the municipal council shall assess whether to conduct an examination of any other children in the family. An examination may be conducted as one combined examination for two or more children in the family, always provided that the individual circumstances of the children shall be taken into account.

(9) Where it must be assumed that a child may develop a need for special support immediately after being born, the municipality shall examine the circumstances of the expecting parents in detail. The examination shall, to the extent possible, be conducted in cooperation with the expecting parents. Subsections (4) to (8) shall apply to the decision.

**50a.**—(1) The municipal councils in the region shall establish a children's house in each region to examine the circumstances of a child or young person if the child or young person has been exposed to assault or in case of suspicion of assault.

(2) The Minister for Children and Social Affairs may lay down rules governing the fitting-out, operation, funding and duties, etc. of the children's houses.

**50b.**—(1) Where a child or young person has been exposed to assault, or in case of suspicion of assault, the municipal council shall, for the purpose of the child protection examination under section 50, use the children's house to which the municipality is affiliated, see section 50a.

**50c.**—(1) During the consideration of a case involving the use of a children's house, see section 50a, the staff of the children's house, the police and the prosecution service, the health authorities, authorised healthcare professionals and municipal authorities performing duties in the field of socially disadvantaged children and young persons, may mutually exchange information about the strictly private affairs concerning the child's or young person's personal and family-related circumstances if any such exchange of information must be deemed necessary in the interests of the health and development of the child or young person.

**51.**—(1) Where it must be deemed necessary for determining whether there is an obvious risk of serious harm to the health or development of a child or young person, the Children and Young Persons Committee may decide, without the consent of the custodial parent and the young person aged 15 or over, to conduct the examination while the child or young person is staying in an institution or hospital, including a psychiatric ward. Any such examination shall be completed within two months of the decision by the Children and Young Persons Committee.

(2) Where it must be deemed necessary for determining whether there is an obvious risk of serious harm to the health or development of a child or young person, the Children and Young Persons Committee may decide, without the consent of the custodial parent and the young person aged 15 or over, to conduct the examination by using the children's house to which the municipality is affiliated, see section 50a.

(3) Any decision under subsections (1) and (2) may be made on a provisional basis pursuant to the provisions of section 75, provided the appropriate conditions are met.

### *Measures*

**52.**—(1) The municipal council shall decide on measures under subsection (3) where such measures must be deemed to be essential to a child's or young person's special need for support. The municipal council shall choose the measure or measures, which are best suited to resolve the problems and meet the needs identified in the course of the child protection examination under section 50. Any such decision shall be subject to the consent of the custodial parent, but see sections 56, 57a, 57b, 58, 68(2) and (3) and 68a. Any decision under subsection (3)(vii) shall also be subject to the consent of the young person aged 15 or over.

(2) Any support under subsection (3) may be implemented only after the completion of a child protection examination, see section 50. If warranted by special circumstances, however, provisional or immediate

support under subsection (3) hereof may be implemented in parallel with the examination.

(3) The municipal council may implement assistance measures of the following types:

- (i) Admission to a day-care facility, after-school facility, youth club, educational establishment, etc.;
- (ii) Practical, pedagogical or other support in the home;
- (iii) Family therapy or treatment of the child's or young person's problems;
- (iv) Residential accommodation, see section 55, for both the custodial parent, the child or young person and any other members of the family with a foster family, with a municipal foster family, in an approved facility or in a residential institution, see section 66(1)(i), (ii), (v) and (vi), or in an accommodation facility, see section 107;
- (v) A respite care arrangement, see section 55, with a foster family, a municipal foster family or a network foster family or in an accommodation facility or residential institution, see section 66(1)(i) to (iii), (v) and (vi);
- (vi) Appointment of a permanent contact person for the child or young person and for the whole family;
- (vii) Placement of the child or young person in a facility outside the home, see section 66;
- (viii) Arrangement of in-service training of the young person with a public or private employer and, in that connection, payment of reimbursement to the young person;
- (ix) Any other assistance designed to provide counselling, treatment and practical and pedagogical support.

(4) During pregnancy, the municipal council shall decide on measures under subsection (3)(ii), (iii), (iv), (vi) or (ix) and section 52a where such measures must be deemed to be essential to the child's special need for support after birth. The decision shall be made with the consent of the parents. Subsection (2) shall apply to the decision.

**52a.**—(1) The municipal council may decide to provide financial support to the custodial parent where this must be deemed to be essential to a child's or young person's special need for support, but see subsection (2). Financial support may be provided for:

- (i) Expenses incurred in connection with measures under section 52(3) or where such support replaces an otherwise more restrictive and extensive measure under section 52(3);
- (ii) Expenses incurred to prevent an out-of-home placement or to expedite the return of a child or young person;
- (iii) Expenses that can promote stable contact between parents and child during the period of out-of-home placement.

(2) Support under subsection (1)(i) shall be provided only where the custodial parent has inadequate funds to meet such expenses.

**53.**—(1) Any consent from the custodial parent and the young person aged 15 or over to a decision under section 52(3)(vii) shall include the purpose of the placement, see the first sentence of section 140(3).

**54.**—(1) The municipal council shall offer the custodial parent to appoint a support person in connection with the out-of-home placement of the child or young person, see section 52(3)(vii).

(2) During the period of out-of-home placement of the child or young person under section 52(3)(vii), the municipal council shall decide on support to parents under subsection (1), section 52(3) or any other legislation. The support shall contribute, to the extent possible, to resolving the problems that caused the placement with a view to support the parents in providing care for the child or young person on their return to the home, if applicable, or in their contact with the child or young person during the period of placement. The municipal council shall formulate a separate plan for the support to the parents.

(3) The municipal council may decide that the requirement of a separate plan for support to the parents, see subsection (2), may be dispensed with and that the parents should instead be offered an integrated plan for one or both parents, in cases where the parents are encountering complex and composite problems, where two or more plans may or shall be prepared for the measures to be taken and where this implies a need for coordination. The replacement of the separate plan by an integrated plan shall be subject to the consent of the parents.

**54a.**—(1) The municipal council shall assign a coordinator to young persons on whom a penalty has been imposed under section 74a of the Criminal Code. The coordinator shall be assigned to the young person for

the duration of the process and shall serve as the young person's counsellor, ensure coherence between phases and arrange meetings with the young person, the parents and any other relevant parties in order to maintain the objectives set out in the action plan, see section 140.

**55.–(1)** While accommodated in a residential facility under sections 52(3)(iv), (v) and (vii), 76(3)(i) and (iii) and 76a(2), the child, the young person or the expecting parents shall receive care, personal support, socio-pedagogical counselling and treatment. Moreover, in case of special needs, examinations and observations may be conducted, and therapy or any other treatment may be provided.

(2) A respite care arrangement provided during accommodation in a residential facility shall be provided as a service under subsection (1).

(3) Assistance under subsection (1) may be provided by the residential facility in which the child, young person or expecting parents are accommodated or otherwise.

(4) The municipal council shall reimburse any expenses for board and lodging in connection with residential accommodation for children and young persons where the accommodation is not subject to tariff funding, see section 174(1). For the first and second child or young person placed in the same facility, the remuneration shall be DKK 174 per day per child under 10 years of age and DKK 186 per child or young person aged 10 or over (2016 level). For the third child or young person and above placed in the same facility, the remuneration shall be DKK 162 per day per child or young person (2016 level) regardless of the child's or young person's age.

**56.–(1)** Any decision under section 52(3)(i) and (iii) in regard to the treatment of the child's or young person's problems and under section 52(3)(vi), see section 52(1), may be made, irrespective of whether the custodial parent objects to the implementation of the specific measure, where it must be deemed to be essential to the child's or young person's special need for support and where the purpose of the measure is assessed to be achievable despite the lack of consent.

**57.–(1)** Where a child or young person has no custodial parent, the municipal council shall, when and as appropriate, arrange for a suitable person to be appointed for that purpose.

(2) The municipal council shall also, when and as appropriate, contribute to the appointment of a suitable custodial parent if so requested by the State administration for the purpose of considering a case under section 15a(1) of the Act on Parental Responsibility.

#### *Parenting orders*

**57a.–(1)** The municipal council shall decide to issue a parenting order against the custodial parent, see subsection (3), where the development of a child or young person may be at risk and this is found to be due to the failure by the custodial parent to fulfil their parental responsibilities.

(2) The issue of a parenting order shall be conditional on the availability of information verifying

- (i) that the child or young person has unauthorised absences from school, or that the compulsory education requirement is not generally met;
- (ii) that the child or young person has engaged in criminal activity of a certain extent or gravity;
- (iii) that the child or young person has serious behavioural or adaptation problems; or
- (iv) that the custodial parent refuses to cooperate with the relevant authorities on resolving the child's or young person's problems.

(3) A parenting order shall specify one or more duties to act for the custodial parent, which are conducive to resolving the child's or young person's problems and are reasonably proportionate to the aim pursued. The order may stipulate that the custodial parent shall

- (i) secure the school attendance of the child or young person by personally accompanying the child or young person to school;
- (ii) attend parents' meetings and consultations concerning the schooling of the child or young person;
- (iii) secure the attendance of the child or young person at specific leisure-time activities by accompanying the child or young person to the relevant place;
- (iv) ensure that the child or young person is home at a specified time;
- (v) attend a parenting programme offered by the municipality; or
- (vi) attend meetings with relevant authorities for the purpose of resolving the child's or young person's problems.

(4) Where a parenting order under subsection (1) has been issued, the municipal council may decide under section 52(1) to implement measures pursuant to section 52(3)(i), (ii), (iii), (vi) and (ix), irrespective of whether the custodial parent objects to the implementation of the specific measure, where the purpose of the measure is assessed to be achievable despite the lack of consent.

(5) Any decision to issue parenting orders shall be made for a defined period of up to 12 months. A parenting order may be extended for periods not exceeding six months per extension.

(6) The municipal council shall inform the custodial parent that compliance with the parenting order is a condition for being entitled to the child and youth benefit, see the Act on Child and Youth Benefits, and for including the relevant child or young person in the calculation of housing benefits, see the Act on Individual Housing Benefits.

(7) If the municipality finds that any person who is subject to a parenting order under subsection (1) fails to comply with the order and that such non-compliance is not due to excusable circumstances, the municipal council shall make a decision pertaining to such non-compliance. Any such decision shall be valid for three months.

(8) The municipal council shall decide to discontinue the order where it finds

- (i) that the circumstances that gave rise to the order no longer exist; or
- (ii) that the parenting order is no longer conducive to resolving the child's or young person's problems.

#### *Juvenile orders*

**57b.**—(1) The municipal council shall decide to issue a juvenile order against a child or young person between 12 and 17 years of age where the child or young person displays behavioural problems or negative behaviour of such a nature that the development of a child or young person may be at risk and where the voluntary cooperation with the child or young person and the custodial parent on support under section 52(3) is deemed insufficient to mitigate the child's or young person's problems. The decision to issue a juvenile order may be made without the consent of the custodial parent.

(2) The issue of a juvenile order shall be conditional on the availability of information verifying that the child or young person

- (i) has unauthorised absences from school or that the compulsory education requirement is not generally met;
- (ii) has engaged in criminal activity of a certain extent or gravity;
- (iii) has serious behavioural and adaptation problems; or
- (iv) refuses to cooperate with the relevant authorities on resolving the child's or young person's problems.

(3) A juvenile order shall specify one or more duties to act for the child or young person, which are found conducive to resolving the child's or young person's problems and are reasonably proportionate to the aim pursued. The order may stipulate that the child or young person shall

- (i) submit to one or more measures under section 52(3)(i), (iii), (vi), (viii) or (ix);
- (ii) be home at a specified time; or
- (iii) contribute to remedying any harm or damage done.

(4) Where a juvenile order under subsection (1) has been issued, the municipal council may decide under section 52(1) to implement measures pursuant to section 52(3)(i), (iii), (vi), (viii) or (ix), irrespective of whether the custodial parent objects to the implementation of the specific measure, where the purpose of the measure is assessed to be achievable despite the lack of consent.

(5) Section 57a(5) and (8) shall apply correspondingly to juvenile orders under subsection (1).

(6) When deciding to issue a juvenile order under subsection (1), the municipal council shall consider whether also to issue a parenting order under section 57a.

(7) The police may provide assistance to the municipality in its exercise of powers under section 64(2) where such powers are exercised in connection with a decision to issue a juvenile order.

(8) Subject to consultation with the Minister for Justice, the Minister for Children and Social Affairs may lay down rules on the assistance provided by the police to municipalities in connection with the enforcement of juvenile orders.

#### *Network consultation meetings*

**57c.**—(1) Not later than seven days after having received evidence from the police showing that a young person under 18 years of age is suspected of having committed serious crime, the municipal council shall



call in the young person, the custodial parent, any relevant persons from the young person's network and relevant professionals for a network consultation meeting.

(2) Against the background of discussions at the network consultation meeting with the young person, the custodial parent, any relevant persons from the network and relevant professionals, the municipal council shall, after the meeting, draw up an action plan specifying the initiatives and duties to act that are capable of preventing further criminal activity.

(3) If, within one year of the network consultation meeting, see subsection (1), the municipal council receives evidence from the police showing that the young person under 18 years of age is suspected of ongoing, serious criminal activity, the municipal council shall, without convening a new network consultation meeting, assess whether the action plan needs to be revised.

#### *Children and young persons at risk of delinquency*

**57d.**—(1) In connection with the release of young persons under 18 years of age who have served a custodial sentence or have been held in custody on remand or surrogate remand, the municipal council shall give such persons an offer of social reintegration. The offer of social reintegration shall, to the extent possible, be established prior to the release and shall be of a duration of not less than six months after the release. The extent of the offer shall, as a minimum, correspond to a contact person appointed under section 52(3)(vi).

(2) The municipal council shall ensure that all children and young persons in secure institutions are offered screening with a view to identify psychiatric problems. Such screening shall be subject to the consent of the custodial parent and young persons aged 15 or over.

(3) The Minister for Children and Social Affairs shall lay down rules on the extent of the screening, including rules specifying who shall be allowed to perform the screening and when.

#### *Out-of-home placement without consent*

**58.**—(1) Where there is an obvious risk that the health or development of the child or young person will suffer major harm due to

- (i) inadequate care for or treatment of the child or young person;
- (ii) assault to which the child or young person has been exposed;
- (iii) substance misuse problems, criminal conduct or other severe social difficulties encountered by the child or young person; or

(iv) other behavioural or adaptation problems in the child or young person;

the Children and Young Persons Committee may decide, without the consent of the custodial parent and the young person aged 15 or over, that the child or young person shall be placed in out-of-home care, see section 52(3)(vii). A decision under the first sentence hereof may be made only where there are reasonable grounds to believe that the problems cannot be resolved during the child's or young person's continued stay in the home.

(2) Where strongly warranted by the best interests of the child or young person, the Children and Young Persons Committee may decide that the child or young person shall be placed in out-of-home care under subsection (1), irrespective of whether the custodial parent and the young person consent to a placement under section 52(3)(vii).

(3) Where a young person aged 15 or over agrees to be placed in care, the Children and Young Persons Committee may decide, notwithstanding the conditions set out in subsection (1), to place the young person in out-of-home care, see section 52(3)(vii), where such placement must be deemed to be essential to the young person's special needs and where the problems cannot be resolved during the young person's continued stay in the home.

(4) Any decision under subsections (1) to (3) may be made on a provisional basis pursuant to the provisions of section 75, provided the appropriate conditions are met.

**59.**—(1) Any recommendation to place a child or young person in out-of-home care under section 58 shall comprise

- (i) the child protection examination, see section 50, including a statement to the effect that the conditions of section 58 are deemed to be met and a description of the resources of the child, family and network that can contribute to overcoming the difficulties during the period of placement, see section 50(6);

- (ii) the action plan for the placement, see section 140, including the planned support and initiatives for the benefit of the child or young person and their family during and after the period of out-of-home placement; and
- (iii) the child's or young person's opinion about the planned measure.

**60.-61.** (Repealed)

**62.**—(1) If the child or young person has not been in out-of-home placement within the last year immediately preceding the date of the current placement of the child or young person, any continued application of a measure taken under section 58 for more than one year from the date of the relevant decision by the Children and Young Persons Committee shall be subject to a renewed decision by the committee.

(2) If the child or young person has been in out-of-home placement within the last year immediately preceding the date of the current placement of the child or young person, any continued application of a measure taken under section 58 for more than two years from the date of the relevant decision by the Children and Young Persons Committee shall be subject to a renewed decision by the committee.

(3) Where a decision under subsections (1) and (2) is brought before the National Social Appeals Board or the courts of law, the time limit shall be calculated from the date of the final decision or judgment. Notwithstanding the provisions of subsections (1) and (2), the Children and Young Persons Committee, the National Social Appeals Board or the court may set a shorter time limit for the renewed consideration by the committee.

(4) In decisions under section 58, the Children and Young Persons Committee may, in exceptional cases, set a longer time limit than the one provided for in subsections (1) to (3), where it is highly probable that the factors on which the decision is based must be assumed to apply beyond that time limit. The National Social Appeals Board and the court shall have similar powers.

(5) The Children and Young Persons Committee may, in special cases, decide that an out-of-home placement under section 58 of a child that has not attained one year shall apply for three years, if it is highly probable that the circumstances on which the decision of placement is based will prevail for this period of time. The National Social Appeals Board and the court shall have similar powers.

(6) Subsections (1) to (5) shall apply correspondingly to decisions made by the National Social Appeals Board under section 65(3).

*Medical examination and treatment without consent*

**63.**—(1) If the custodial parent fails to have a child or young person examined or treated for a life-threatening illness or an illness exposing the child or young person to the risk of substantial and permanent functional impairment, the Children and Young Persons Committee may decide to undertake such examination or treatment.

(2) Any decision under subsection (1) may be made on a provisional basis pursuant to the provisions of section 75, provided the appropriate conditions are met.

*Placement in partly locked residential institutions and partly locked wards in residential institutions*

**63a.**—(1) The Children and Young Persons Committee may decide to place children and young persons in partly locked residential institutions and partly locked wards in residential institutions, see section 52(3)(vii), cf. section 52(1), and section 58, provided the conditions of subsection (2) are met.

(2) Partly locked residential institutions and partly locked wards in residential institutions for children and young persons between 12 and 17 years of age, as provided for under section 66(1)(vi), may be used only where it is essential to the success of the socio-pedagogical treatment to be able to lock exit doors and windows at times or to be able to restrain the child or young person. Furthermore, the health or development of the child or young person shall be at risk of suffering serious harm due to

- (i) criminal conduct by the child or young person;
- (ii) substance misuse problems in the child or young person; or
- (iii) other behavioural or adaptation problems in the child or young person.

(3) The municipal council shall specify the framework and conditions for detention and restraint during any period of placement in a partly locked residential institution or in a partly locked ward in a residential institution, see sections 12 and 13 of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care.

(4) The Minister for Children and Social Affairs may lay down rules governing placement in and conditions during placement in partly locked residential institutions and partly locked wards in residential institutions.

*Placement in secure residential institutions*

**63b.**—(1) The Children and Young Persons Committee may decide to place children and young persons between 12 and 17 years of age in partly locked residential institutions, see section 52(3)(vii), cf. section 52(1), and section 58, provided the conditions of subsection (2)(i) and (ii) are met.

(2) A secure residential institution under section 66(1)(vi) may only be used for children and young persons where

- (i) it is absolutely essential in order to prevent the child or young person from harming themselves and where the risk of bodily harm cannot be averted in a safe and proper manner by way of other less restrictive measures;
- (ii) it is absolutely essential in an initial observation period in order to provide a basis for the further socio-pedagogical treatment;
- (iii) it is established, following the initial observation period under paragraph (ii), that it is absolutely essential to implement a long-term treatment programme in a secure ward or residential institution;
- (iv) the stay is an alternative to custody on remand, see section 765 of the Administration of Justice Act;
- (v) the stay counts towards the serving of a sentence imposed, see section 78(2) of the Sentence Enforcement Act etc., and the conditions of paragraph (i), (ii) or (iii) have also been met;
- (vi) the stay is part of a measure imposed, see section 74a of the Danish Criminal Code; or
- (vii) the child or young person is a foreign national (alien) under 15 years of age residing unlawfully in Denmark, see sections 36 and 37 of the Aliens Act.

(3) Where the conditions of subsection (1) are met for a child or young person aged 15 or over who is placed in a minimum-security residential institution, see section 66(1)(vi), to which a secure residential institution is also affiliated, the principal or deputy principal of the minimum-security residential institution, regardless of the circumstances providing the basis for the out-of-home placement, shall be allowed to make a provisional decision to transfer the child or young person to the secure residential institution. The transfer may be implemented immediately. Any such decision shall immediately be submitted to the Children and Young Persons Committee in the municipality of residence for decision-making, see subsection (1), cf. section 74(1)(vi).

(4) The municipal council shall specify the framework and conditions applying during any period of placement in a secure residential institution.

(5) The Minister for Children and Social Affairs may lay down rules governing the use of secure residential institutions, including rules on the entitlement of the municipal council to specify the framework and conditions for the individual placement and rules entitling the Children and Young Persons Committee to grant exemption from the age limit in subsection (1) in special situations in relation to children under 12 years of age.

*Placement in high secure wards*

**63c.**—(1) The Children and Young Persons Committee may decide to place children and young persons between 12 and 17 years of age in high secure wards, see section 52(3)(vii), cf. section 52(1), and section 58, provided the conditions of subsection (2) are met.

(2) A high secure ward under section 66(1)(vi) may only be used for children and young persons where

- (i) a basis exists for placing a child or young person in a secure residential institution under section 63b(2);
- (ii) placement in a secure residential institution is not or will not be sufficient as the child or young person, by displaying prior, particularly violent or psychologically deviant behaviour, has made the stay or continued stay in a secure ward or residential institution indefensible; and
- (iii) in relation to the child or young person displaying psychologically deviant behaviour, a written medical assessment is available, concluding that the child or young person is showing acute symptoms of a diagnosis.

(3) Where the conditions of subsection (2) are met for a child or young person aged 15 or over, the principal or deputy principal of a secure residential institution, regardless of whether the secure residential institution contains a high secure ward, shall be allowed to make a provisional decision to transfer the child

or young person to a high secure ward. Any such decision shall immediately be submitted to the Children and Young Persons Committee in the municipality of residence for decision-making, see subsection (1), cf. section 74(1)(vii).

(4) The municipal council shall specify the framework and conditions applying during any period of placement in a high secure ward.

(5) The Minister for Children and Social Affairs may lay down rules governing conditions in and the use of high secure wards, including rules on the entitlement of the municipal council to specify the framework and conditions for the individual placement and on the provision of information to the custodial parent.

#### *Enforcement of decisions and right of entry and search*

**64.**—(1) The municipal council shall ensure the enforcement of decisions under sections 51, 57b, 58, 63, 68(2) and 68a.

(2) Subject to proper proof of identity and without a court order, the municipality shall be entitled to enter and search the home, premises or possessions of a custodial parent of a child or young person, with powers to search for and remove a child or young person for the purpose of enforcing any decision referred to in subsection (1). The municipality may bring the child or young person to and from the place where the juvenile order is to be satisfied for the purpose of enforcing any decision under section 57b.

(3) The municipal council may decide that the municipality, subject to proper proof of identity and without a court order, shall be entitled to enter the home and premises of the custodial parent where

- (i) the right of access to the home is in the context of the child protection examination under section 50 and must be deemed necessary to determine whether there is an obvious risk of serious harm to the health or development of a child or young person; and
- (ii) the parents have opposed the possibility of assessing the child's or young person's support needs by way of other less restrictive measures.

(4) The police shall assist the municipality in the exercise of its powers under subsections (2) and (3). By agreement with the Minister for Justice, the Minister for Children and Social Affairs shall by order lay down rules on police assistance to the municipality.

(5) Every year, the Minister for Children and Social Affairs shall prepare a report on the application by municipalities of the provision of subsection (3).

#### *Powers of the National Social Appeals Board without appeal*

**65.**—(1) The National Social Appeals Board may of its own motion review cases involving support for children and young persons where it must be assumed that a municipal council, in a specific case, has failed to take the necessary case management steps or has failed to make the necessary decisions in accordance with the best interests of the child or young person. The National Social Appeals Board may in such cases order the municipal council to take the necessary case management steps or to make the necessary decisions.

(2) Where measures under section 52 or 52a are needed and the municipal council fails to implement such measures as appropriate, the National Social Appeals Board may, by itself, make a provisional decision to implement such measures.

(3) Moreover, the National Social Appeals Board may, by itself, make a decision under sections 51, 58, 63 and 68a.

(4) The National Social Appeals Board may order the municipal council to implement decisions under subsections (1) to (3) and may also order the decisions to be implemented within a specified time limit where this must be deemed necessary to serve the best interests of the child or young person.

(5) Where citizens, professionals or any other persons have grounds to assume that the municipal council has failed to take such case management steps or make such decisions as are prescribed in the Act in accordance with the best interests of the child or young person, these persons may notify the National Social Appeals Board thereof. The National Social Appeals Board shall subsequently assess whether a basis exists for reviewing the case pursuant to subsection (1).

**65a.** (Omitted)

#### *Placement facilities for children and young persons*

**66.**—(1) Placement facilities for children and young persons may be

- (i) foster families;
- (ii) municipal foster families;
- (iii) network foster families;
- (iv) own rooms, student hostels or hostel-like accommodation facilities;
- (v) accommodation facilities for children and young persons;
- (vi) residential institutions, including partly locked residential institutions and partly locked wards in residential institutions, and secure residential institutions and high secure wards; or
- (vii) places in continuation schools, private vocational schools and private elementary schools with boarding facilities.

(2) Any decision concerning the placement in a facility of children and young persons under section 54(3)(iv), (v) or (vii) shall be conditional on such placement facility being approved under section 66a(1)(ii), (2), (6) or (7) or under section 5 of the Act on Social Supervision.

(3) Residential institutions may be established and operated by a municipality, see section 4, or by regions, see section 5(1)(iii) and (iv) and (7), or as independent institutions entering into agreements with the relevant municipal or regional council.

**66a.**—(1) Foster families and municipal foster families for children and young persons, see section 66(1)(i) and (ii), shall be approved

- (i) as being generally suitable by the municipal council responsible for carrying out social supervision for the geographical area where the foster family resides, see sections 2 and 5 of the Act on Social Supervision, or
- (ii) as being specifically suitable in respect of one or more designated children or young persons by the placing municipality.

(2) Network foster families shall be subject to approval by the municipal council in the placing municipality as being specifically suitable in relation to a particular child or young person. Network foster families shall be reimbursed for any expenses incurred in connection with the child's or young person's stay and may, based on a specific assessment, receive full or partial compensation for loss of earnings.

(3) The municipal council approving the foster family as specifically suitable, see subsections (1)(ii) and (2), shall in connection with such approval offer the foster family a foster-parenting course.

(4) Once a decision has been made to place a child or young person with a foster family, a municipal foster family or a network foster family, see section 66(1)(i) to (iii), the municipal council that has a duty to offer assistance to the child or young person under the provisions of Parts 11 and 12 shall ensure that the foster family, during placement, continuously completes any requisite supplementary training. Moreover, the municipal council shall ensure the requisite supervision in conformity with the amount of care to be provided.

(5) The municipal council shall offer the requisite professional support to

- (i) network foster families in conformity with the amount of care to be provided and
- (ii) families who have adopted a child or young person who has previously been placed in foster care with the family.

(6) Own rooms, student hostels or hostel-like accommodation facilities where the young person controls their own home, see section 66(1)(iv), shall be subject to approval by the municipal council in the placing municipality as being specifically suitable in relation to the relevant young person.

(7) Where a continuation school, a private vocational school or a private elementary school with boarding facilities has eight or fewer places for placement of children or young persons under section 52(3)(vii), the individual position shall be subject to approval by the municipal council in the placing municipality as being specifically suitable in relation to the relevant child or young person.

(8) The municipal council's decisions under subsections (1)(ii) and (2), second sentence, shall be appealable pursuant to the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters. Decisions under subsections (2), first sentence, and (6) cannot be brought before any other administrative authority.

(9) The Minister for Children and Social Affairs may lay down rules on the approval and supervision of foster families, municipal foster families, network foster families, own rooms, etc., and approved places in continuation schools, private vocational schools or private elementary schools with boarding facilities, see subsections (1), (2), (6) and (7), rules on basic training and supervision for and supplementary training of foster families, municipal foster families and network foster families, rules on professional support to network



foster families and families who have adopted a child or young person who has previously been placed in foster care with the family, see subsections (3) to (5), and rules on compensation for, and calculation and adjustment of, loss of earnings, see the second sentence of subsection (2), for network foster families.

**67. (Repealed)**

*Discontinuation of measures and extension of placements*

**68.-(1)** Measures under section 52(3) shall be discontinued when the purpose of such measures has been achieved, when they no longer serve their purpose or when the young person attains 18 years of age, but see sections 76 and 76a.

(2) A child or young person in care may not be returned to their home until the municipal council has decided on the return and the length of the transitional period, see subsection (4). In special cases, the municipal council may decide not to apply a transitional period.

(3) Where the custodial parent requests the return of the child or young person who has been placed in care subject to consent under section 52(1), the municipal council shall decide the question of return within seven days of the date on which the request was filed. The same shall apply where a young person over 15 years of age who has been placed in care subject to consent under section 52(1) requests to be returned to their home.

(4) The municipal council shall determine the length of the transitional period. The transitional period may be up to six months long, and the length of the period shall be determined with due regard being given to

- (i) the possibility of ensuring the gentle and planned return of the child or young person;
- (ii) the planning of support, where required, for the child or young person or parents after the return pursuant to section 52(3)(i),(iii),(v) or (vi); and
- (iii) the opportunity for the municipality to assess whether a basis exists for making a decision under section 58 or 68a in situations where the parents have withdrawn their consent to voluntary placement under section 52(3)(vii).

(5) The transitional period shall be considered an extension of the existing placement under section 52(3)(vii).

(6) Where the municipal council decides that a child or young person in care under section 58 or 68a shall be returned to their home, the municipal council shall immediately inform the Children and Young Persons Committee thereof. Where the municipal council is not able to allow an application for the return of a child or young person, the matter shall be submitted to the Children and Young Persons Committee for decision-making, see section 58 or 68a.

(7) The municipal council may refuse to consider an application from parents for the return of a child or young person who has been placed in care under

- (i) section 58 subject to an extended time limit for reconsidering the application pursuant to section 62(5) where the circumstances of the parents, the placement facility, the child or the young person have not changed significantly; or
- (ii) section 68a where the circumstances of the placement facility, the child or the young person have not changed significantly.

(8) Where the application for the return of a child or young person is not rejected, the municipal council shall decide the question of return.

(9) Where the municipal council cannot allow the application for the return of a child or young person, the matter shall be submitted to the Children and Young Persons Committee for decision-making.

(10) The municipal council shall be under no obligation to consider an application for the return of a child or young person during the period when a matter is being reviewed by the National Social Appeals Board or pending before the court.

(11) Prior to the return of a child or young person, the municipal council shall revise the action plan, see section 140, or any relevant parts of an integrated plan, see section 140a, and specify the further measures to be taken in connection with the return. Where a penalty under section 74a of the Criminal Code has been imposed, the revision shall focus specifically on how to achieve the objectives of education or employment.

(12) Not later than six months before a young person's placement in care ends on their attainment of 18 years of age, the municipal council in the young person's municipality of residence shall decide whether the young person needs any aftercare measures or continued placement, see section 76a, and, if this is the case, decide on the measures to be implemented under section 76 or 76a. Prior thereto, the municipal

council shall, in consultation with the young person, revise the action plan or any relevant parts of an integrated plan and in that connection decide on the next stages in the young person's life in terms of education, employment and other circumstances of relevance.

(13) Where a young person between 18 and 22 years of age who was in care until their 18th birthday or who had a permanent contact person until their 18th birthday, changes municipality of residence, the municipality out of which the young person is moving shall, prior to the change of address, submit the young person's revised action plan or any relevant parts of an integrated plan, see subsection (12), to the new municipality of residence unless it has been decided to take measures provided for under section 76a. The submission of the action plan or any relevant parts of an integrated plan shall be subject to the consent of the young person and the custodial parent.

(14) The new municipality of residence shall decide within 30 days of receipt whether the young person needs support under section 76 and, in such case, shall decide on the measures to be implemented. Where support measures under section 76 are implemented, a new action plan shall be drawn up, see section 140, or any relevant parts of an integrated plan, see section 140a, shall be updated.

**68a.**—(1) The Children and Young Persons Committee may decide that a child or young person who has been placed in out-of-home care pursuant to section 52(3)(vii) for a period of not less than three years, shall remain in out-of-home care for an extended period of time if the child or young person has developed such strong ties to the placement facility that it must be assumed, in the short and long term, to serve the best interests of the child or young person to remain in the placement facility. Decisions to extend placement under the first sentence hereof shall not be submitted to the Children and Young Persons Committee for renewed decision-making pursuant to section 62.

(2) With respect to a child or young person aged 15 or over, any decision on extended placement under subsection (1) shall be subject to the consent of the child or young person.

(3) The Children and Young Persons Committee may decide to extend a placement under subsection (1), irrespective of whether the conditions of section 52(1) or section 58(1) are no longer met.

(4) Any decision by the Children and Young Persons Committee on extended placement, see subsection (1), shall be based on a recommendation prepared by the municipal council, which shall include

- (i) a revised examination of the circumstances of the child, see section 50;
- (ii) a revised action plan, see section 140;
- (iii) a psychological, medical or any other welfare assessment of the child's or young person's ties to the placement facility; and
- (iv) the child's or young person's opinion about extended placement.

#### *Municipal duties in connection with placement*

**68b.**—(1) The municipal council shall decide on the specific placement facility in accordance with the action plan, see section 140. At the time of choosing the facility, the municipal council shall decide on the schooling of the child or young person. If the placement facility is located in a municipality other than the child's or young person's municipality of residence, the municipality of residence shall notify the municipality of location prior to placement.

(2) In choosing the placement facility, the municipality shall choose the facility that is best suited to meet the needs of the child or young person. The municipality shall give priority to the possibility for the facility to offer close and stable adult relations, which shall include assessing whether placement with a foster family, see section 66(1)(i) to (iii), is the most appropriate solution.

(3) If the child or young person has siblings who are placed in out-of-home care, the municipal council shall choose the same placement facility unless otherwise warranted by the needs of the other siblings or the child or young person or by any other material aspects.

(4) Prior to placement, the municipal council shall help the child or young person find a person in the child's or young person's family or network who can be appointed as their support person during placement. The municipality may reimburse the support person's expenses for telephone, transport, etc. as and when needed.

**68c.**—(1) Where placement is with a view to adoption, the municipal council shall, to the extent possible, place the child or young person with a foster family who is prepared to adopt the child or young person.

(2) The municipal council shall offer professional support to foster families who have taken a child or young person into their care with a view to adopt the child or young person. Such professional support shall

be targeted at the pre-adoption situation.

*Authorities' duties in connection with adoption*

**68d.**—(1) In connection with a decision to place a child or young person in out-of-home care under section 52(3)(vii), see section 52(1), or section 58, where it must be assumed that the child or young person will be in care for several years, the municipal council shall consider whether, in the interests of continuity and stability during the child's or young person's upbringing, the child or young person should instead be adopted.

**68e.**—(1) If the municipal council finds that the adoption of a child or young person cannot be completed with the consent of the child's or young person's parents, see section 7 of the Adoption Act, and the municipal council finds that adoption can be completed without the parents' consent under section 9(2) to (4) of the Adoption Act, the municipal council shall submit the matter to the Children and Young Persons Committee.

(2) Any submission of a matter to the Children and Young Persons Committee under subsection (1) shall include a recommendation that the child or young person be adopted under section 9(2) to (4) of the Adoption Act. Such recommendation shall include the following:

- (i) The child protection examination, see section 50.
- (ii) The action plan, see section 140.
- (iii) A statement verifying that the conditions for adoption without consent under section 9(2) to (4) of the Adoption Act are met.
- (iv) Information about the child's or young person's opinion about the planned adoption, see section 6(1) and (3) of the Adoption Act.

(3) Any recommendation of adoption under section 9(3) or (4) of the Adoption Act shall also include a statement verifying that the conditions for placing the child or young person in out-of-home care as provided for in section 58(1) are met.

**68f.**—(1) On the basis of a recommendation from the municipal council, see section 68e(2), the Children and Young Persons Committee may, at a meeting, recommend to the National Social Appeals Board that it gives its consent to the adoption of the child or young person under section 9(2) to (4) of the Adoption Act.

(2) Before any such recommendation under subsection (1) is submitted, the Children and Young Persons Committee shall ensure the child or young person, the parents of the child or young person, the custodial parents of the child or young person and, if applicable, the foster parents of the child or young person and any legal and personal advisers to the child or young person are given an opportunity to be heard. As provided for in the first sentence hereof, foster parents shall be entitled to make a statement at the meeting of the Children and Young Persons Committee, but shall only be regarded as a party to the case if they apply for adoption of the child.

(3) A recommendation under subsection (1) will be adopted only if at least four of the committee's five members vote in favour of the recommendation. Such recommendation shall be made in writing and state the reasons on which it is based, and it shall be forwarded to the parties to the case, see subsection (2), the municipal council and the National Social Appeals Board. If the judge does not agree with the recommendation, a statement shall be entered in the committee's records, and the notification of the recommendation shall include a reference to the opinion of the judge. If the recommendation is not adopted, the parties to the case, see subsection (2), and the municipal council shall be notified thereof in writing. Such notification shall state the reasons on which the decision is based and include a reference to the opinion of the judge.

**68g.**—(1) If the National Social Appeals Board endorses the recommendation of the Children and Young Persons Committee under section 68f(1), the Board will give its consent to the adoption of the child without the consent of the parents. Such notification shall be in writing and state the reasons on which the decision is based and shall be forwarded to the parties to the case, see section 68 f(2), and the municipal council. If the National Social Appeals Board does not concur with the recommendation, the Board shall notify the parties to the case and the municipal council thereof. Such notification shall be in writing and state the reasons on which the decision is based.

**68h.**—(1) The Minister for Children and Social Affairs may lay down rules on the handling of cases under sections 68e to 68g.

### *Municipal duties during placement*

**69.**—(1) To the extent that it must be deemed necessary in view of the purpose of the placement, the municipal council shall, based on continuous supervision of the child or young person in the placement facility, see sections 70(2) and 148, decide to change placement facilities, treatments, education, etc. during placement.

(2) Any decision by the municipal council to change placement facilities shall be subject to the consent of the custodial parent and the young person aged 12 or over, but see subsection (3).

(3) Where no consent for a change of placement facility can be obtained, see subsection (2), the Children and Young Persons Committee shall decide to change placement facilities. In connection with this decision, the Children and Young Persons Committee shall, with due regard being given to the purpose of the placement and the child's or young person's need for continuity in their upbringing, consider whether the child's or young person's need for support is best accommodated by changing placement facilities. The decision on choice of a specific placement facility shall subsequently be made by the municipal council, see section 68 b(1).

(4) Any decision by the Children and Young Persons Committee to change placement facilities, see subsection (3), shall be based on a recommendation prepared by the municipal council, which shall include

- (i) the most recent action plan, see section 140;
- (ii) the child's or young person's opinion about the change of placement facility, see section 48;
- (iii) a description of whether additional support to the child or young person, see section 53(3)(ix) during their continued stay in the current placement facility is capable of accommodating the child's or young person's need for support;
- (iv) a description of the expected suitability of any new placement facility to accommodate the child's or young person's need for support and for close and stable adult relations;
- (v) an opinion from the current placement facility, see subsection (5); and
- (vi) other necessary information.

(5) Before making a decision on changed visitation rights and a decision on return or change of placement facility, the municipal council shall obtain an opinion from the relevant placement facility to shed light on the matter.

**70.**—(1) Within three months of the date on which a measure was implemented in respect of the child, the young person or the expecting parents, the municipal council shall assess whether the measure should be changed and whether the action plan, see section 140, or any relevant parts of an integrated plan, see section 140a, should be revised. Thereafter, the municipal council shall make such assessments at intervals not exceeding six months. Any decision to revise the action plan or any relevant parts of an integrated plan shall, to the extent possible, be made with the consent of the custodial parent and the young person aged 15 or over.

(2) Where a child or young person is placed in out-of-home care, the assessment of the measure under subsection (1) and of the need to revise the action plan or any relevant parts of an integrated plan shall be based on continuous supervision of the child or young person, see section 148(1), and after contact with the custodial parent. Supervision under section 148(1) shall comprise at least two annual visits to the placement facility where the municipality shall speak with the child or young person. The conversation shall, to the extent possible, be conducted without the presence of facility staff. The assessment shall include a decision as to whether circumstances other than those hitherto described, see section 140, are of relevance and, if this is the case, such circumstances shall be incorporated into a revised action plan or any relevant parts of an integrated plan.

(3) Where a penalty has been imposed on a young person under section 74a of the Criminal Code, the assessment and revision of the action plan or an integrated action plan and measures shall focus specifically on ensuring that the young person enters education or employment. Prior to or at the time of the first assessment, a definite plan shall be formulated to establish how the overall objectives of education and employment shall be achieved during the penalty period.

(4) Where a plan has been prepared for the support for parents under section 54(2) or (3), the municipal council shall offer to revise the plan as and when needed. The municipal council shall offer such revision of the plan within three months of the date on which the child or young person was placed in care. Thereafter, the municipal council shall make an assessment at intervals not exceeding twelve months to determine

whether a need exists for offering a revision of the plan or any relevant parts of an integrated plan.

#### *Visitation and contact*

71.–(1) The child or young person shall have a right of visitation and contact with their parents and network, including without limitation siblings, grandparents, other family members, friends, etc., during the period of out-of-home placement. With due regard being given to the best interests of the child or young person, to the protection of the health and development of the child or young person and to the protection of the child or young person against assault, the municipal council shall facilitate the maintenance of contact between the child or young person and the parents and network. In regard to visitation planning, emphasis shall be placed on ensuring that it is possible for the child or young person, also in the longer term, to build and maintain close relations to the parents and network. For that purpose, the municipal council has a duty to ensure that parents receive information about the everyday life of their child and to promote close cooperation between the parents and the placement facility. Any right of visitation and contact, whether agreed between the parents or provided for under the Parental Responsibility Act, shall continue to apply while the child or young person is in out-of-home placement, but may be subject to adjustment or suspension under the provisions of subsections (2) to (5).

(2) Where necessary, the municipal council shall determine the scope and exercise of visitation and contact rights and may specify particular conditions for visitation and contact. In making this decision, the municipal council shall have special regard to the best interests of the child or young person and to the purpose of the placement. The first sentence hereof shall not authorise the municipal council to make decisions according to which visitation and contact may only occur less than once a month. Any such decision shall be considered as equivalent to breaking off contact and shall be made by the Children and Young Persons Committee under subsections (3) and (4). The municipal council may decide, subject to the consent of the custodial parent and the young person aged 15 or over, that visitation between the parents and the child or young person shall be supported through the presence of a third party.

(3) Where this is necessary in view of the health or development of the child or young person, the Children and Young Persons Committee may decide, for a specified period, that the right of visitation may only be exercised in the presence of a municipal representative. Subject to the same conditions and likewise for a specified period, it may be decided to break off contact between the parents and the child or young person by way of visitation or contact by letter, email or telephone, and it may also be decided that the facility in which the child or young person is placed in care may not be disclosed to the parents or network.

(4) Where it is known or assumed that any person with whom the child or young person is to have visitation has committed an assault on a child or young person, the Children and Young Persons Committee shall, unless special circumstances dictate otherwise, decide, for a specified period, to break off that person's contact with the child or young person by way of visitation or contact by letter, email or telephone or decide that the right of visitation may only be exercised in the presence of a municipal representative.

(5) Subsections (2) to (4) shall apply correspondingly during the course of a child protection examination under section 50 while the child or young person is staying in an institution or hospital or in connection with the use of the children's house to which the municipality is affiliated, see section 50a, cf. section 51(1) and (2).

(6) Any decision under subsections (3) and (4) may be made on a provisional basis pursuant to the provisions of section 75, provided the appropriate conditions are met.

(7) Any decision to monitor the child's or young person's postal mail correspondence, telephone calls or other communications with parents shall be subject to the provisions of section 15(1) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care.

(8) The municipal council in the child's municipality of residence may provide support towards the parents' transport costs in connection with meetings in the child's municipality of residence.

#### *Legal assistance, access to records, etc.*

72.–(1) The municipal council shall offer the custodial parent and the young person aged 12 or over free legal assistance in connection with a case involving

- (i) an examination under section 51;
- (ii) out-of-home placement under section 58;
- (iii) continued placement under section 62;
- (iv) a medical examination or treatment under section 63;



- (v) placement in partly locked residential institutions and partly locked wards in residential institutions under section 63a(1);
- (vi) placement in secure residential institutions under section 63b(1);
- (vii) placement in high secure wards under section 63c(1) and (3);
- (viii) extended placement under section 68a;
- (ix) approval of a provisional decision under section 75(3);
- (x) change of placement facility under section 68b(3);
- (xi) breaking off contact etc. under section 71(3) to (5);
- (xii) detention within the meaning of section 11(1) and (2) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care; and
- (xiii) monitoring of correspondence and telephone calls under section 15(1) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care.

(2) The custodial parent and the young person aged 12 or over and the foster parents shall be offered free legal assistance in cases involving the moving or returning of a child or young person from the care of a private foster family under section 78(4).

(3) The non-custodial parent shall be offered free legal assistance if involved in a case concerning broken-off contact etc. under section 71(3) to (5) or a case concerning the monitoring of correspondence and telephone calls under section 15(1) of the Act on Adult Responsibility for Children and Young Persons.

(4) The rules applying to cases in which free legal aid is granted, see Part 31 of the Administration of Justice Act, shall likewise apply to lawyers' fees and reimbursement of lawyers' expenses.

**73.**–(1) Prior to making a decision in a case falling within section 72, the municipal council shall notify the custodial parent and the young person aged 12 or over of the right to gain access to records provided for under the Public Administration Act and the right to be heard before the decision is made.

(2) The municipal council shall likewise notify the persons mentioned in section 72(2) and (3) of any decisions referred to in the said provisions.

**74.**–(1) The Children and Young Persons Committee shall, at a meeting, make a decision on

- (i) an examination under section 51;
- (ii) out-of-home placement under section 58;
- (iii) continued placement under section 62;
- (iv) a medical examination or treatment under section 63;
- (v) placement in partly locked residential institutions and partly locked wards in residential institutions under section 63a(1);
- (vi) placement in secure residential institutions under section 63b(1);
- (vii) placement in high secure wards under section 63c(1) and (3);
- (viii) extended placement under section 68a;
- (ix) approval of a provisional decision under section 75(3);
- (x) change of placement facility under section 68b(3);
- (xi) breaking off contact etc. under section 71(3) to (5);
- (xii) the moving or return of a child or young person under section 78(4);
- (xiii) detention within the meaning of section 11(1) and (2) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care; and
- (xiv) monitoring of correspondence and telephone calls under section 15(1) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care.

(2) Before a decision is made, the custodial parent, the child or young person, the lawyer and any other personal adviser to the custodial parent or the child or young person shall be given the opportunity to be heard by the Children and Young Persons Committee. The opportunity for the child or young person under the first sentence hereof may be dispensed with if the child has not attained 12 years of age, or where it must be assumed to be detrimental to the best interests of the child or young person.

(3) Subsection (2) shall apply correspondingly to the non-custodial parent before a decision is made under sections 71(3) to (5) and 15(2) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care. Subsection (2) shall likewise apply correspondingly to foster parents before a decision is made

under section 78(4).

(4) Any decision under sections 51, 58, 62, 63, 63a(1), 63b(1), 63c(1) and (3), 68a, 69(3), 71(3) to (5) and 75(3) of this Act and sections 11(1) and (2) and 15(1) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care shall be subject to votes in favour of such decision from at least four out of the five members of the Children and Young Persons Committee. Decisions under section 78(4) shall be by a simple majority of votes.

(5) If the judge does not agree with the decision, a statement to that effect shall be entered in the committee's records, and the notification of the committee's decision shall include a reference to the dissenting opinion of the judge.

(6) Notification of decisions by the Children and Young Persons Committee shall be given in writing. The decisions shall be reasoned and include a reference to the right of appeal.

#### *Provisional decisions*

**75.**—(1) The chairman or, in their absence, the deputy chairman of the Children and Young Persons Committee shall be entitled to make provisional decisions under sections 51, 58, 63, 63a(1), 63b(1), 63c(1) and (3), 68a, 69(3), 71(3) to (5) and 78(4) of this Act and sections 11(1) and (2) and 15(1) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care, which, because of the immediate needs of the child or young person, cannot be deferred pending consideration by the Children and Young Persons Committee.

(2) Within 24 hours of the implementation of a provisional decision, the custodial parent and any other parties, see section 72, shall be given written notification of the decision and the reasons for the decision. Such notification shall also give particulars of the right of access to case records provided for by the Public Administration Act, the right to be heard and to receive free legal assistance.

(3) Any provisional decision under subsection (1) shall be submitted to the Children and Young Persons Committee for approval as soon as possible but not later than seven days from the implementation of the decision, regardless of whether the measure has been discontinued.

(4) Any decision approved under subsection (3) shall be effective for one month. Any decision concerning section 51 shall remain effective until the conclusion of the examination, subject to a maximum period of two months from the date of the provisional decision under subsection (1). Any decision concerning section 78(4) shall remain effective pending a new decision to move or return a child or young person.

(5) The director general of the National Social Appeals Board shall have the same powers as the chairman of the Children and Young Persons Committee, see subsections (1) and (2), and may order the municipal council to implement the decision. The provisional decision shall remain effective for one month, subject to the time limits provided for in the second and third sentences of subsection (4). The director general may, in exceptional cases, direct that the provisional decision shall be subject to approval by the National Social Appeals Board within the time limit set out in subsection (3).

(6) Where the Children and Young Persons Committee fails to make a decision within one month in accordance with the director general's provisional decision, see subsection (5), the Children and Young Persons Committee shall immediately inform the National Social Appeals Board thereof. The decision by the Children and Young Persons Committee shall not be effective until the director general has decided, as soon as possible but not later than ten days after the decision, whether the decision shall be effective. If the director general decides that the decision by the Children and Young Persons Committee shall not be effective, the National Social Appeals Board shall make a decision in accordance with the provision of section 65(3) within eight weeks of the date of the decision by the Children and Young Persons Committee.

## Part 12

### *Services for young persons between 18 and 22 of age*

**76.**—(1) The municipal council shall offer assistance under subsections (2) to (5) to young persons between 18 and 22 years of age where it must be deemed to be essential to the young person's need for support, and where the young person consents thereto. The assistance shall contribute to ensuring a smooth transition to an independent life and shall, for that purpose, focus on supporting the young person's education and employment and other circumstances of relevance, including steps to obtain independent housing.

(2) The municipal council may decide that the appointment of a permanent contact person, see section 52(3)(vi), may be continued after the young person attains 18 years of age.

(3) In respect to a young person who is or was placed in out-of-home care in a facility under the provisions of Part 11 immediately prior to attaining 18 years of age, the municipal council may decide

- (i) to continue residential accommodation, see section 55, in a placement facility, see section 66;
- (ii) to appoint a permanent contact person for the young person, see section 52(3)(vi);
- (iii) to establish a social reintegration scheme, see section 55, in the placement facility where the young person is currently accommodated; and
- (iv) to grant other forms of support designed to contribute to a smooth transition to an independent life for the young person.

(4) The municipal council may decide that any support under subsection (2) or (3) may be granted or re-established until the young person attains 23 years of age if

- (i) the young person has previously turned down support and the need still exists;
- (ii) the young person's situation changes with the effect that a need for support arises at a later time; or
- (iii) support has ceased, see subsection (7), and the need for support arises anew.

(5) The municipal council shall offer support to any young person who, immediately prior to attaining 18 years of age, is or was placed in care without the consent of the custodial parent, and to any young person aged 15 or over, see section 58, in the form of a contact person until the young person attains 23 years of age. Such support shall be offered to young persons who are not offered support in the form of continued residential accommodation under subsection (3)(i).

(6) The municipal council shall offer support to any young person who, immediately prior to attaining 18 years of age, is or was placed in out-of-home care, see section 52(3)(vii), in own rooms, student hostels or hostel-like accommodation facilities, see section 66(1)(iv), in the form of a contact person until the young person attains 19 years of age. Such support shall be offered to young persons who are not offered support in the form of continued residential accommodation under subsection (3)(i).

(7) Services and measures offered under subsections (2) to (6) shall cease when they no longer serve their purpose in view of the young person's need for support or when the young person attains 23 years of age.

(8) To the extent possible, the municipal council shall ensure that young persons who have been in out-of-home care under the provisions of Part 11 are given the opportunity, immediately before attaining 18 years of age, to return to the former placement facility for a brief period, regardless of whether measures under subsection (3) or section 76a(2) are implemented.

**76a.**—(1) The municipal council shall offer assistance under subsections (2) and (3) to young persons between 18 and 22 years of age who have a substantial and permanent physical or mental impairment where it must be deemed to be essential to the young person's need for support and where the young person or their guardian consents thereto. Such assistance shall contribute to ensuring a smooth transition to adult life and shall, for that purpose, focus on care and preparation for the young person's next accommodation facility.

(2) In respect of young persons who have a substantial and permanent physical or mental impairment and, immediately prior to attaining 18 years of age, have been placed in out-of-home care under the provisions of Part 11 with a foster family under section 66(1)(i) to (iii), the municipal council may decide to continue residential accommodation, see section 52. Where the young person's foster family is no longer found suitable as a foster family for the young person in question, the municipal council may offer the young person to be placed in care with another foster family with whom the young person has close relations and feels safe. Placement in care with another foster family shall be offered provided the conditions of subsection (1) are met.

(3) Any continued accommodation in a residential facility under subsection (2) shall cease when it no longer serves its purpose in view of the young person's need for support or when the young person attains 23 years of age, whichever is earlier.

## Part 13

### *Private child-care facilities without public subsidies*

#### *Private day care*

77. (Repealed)

### *Private residential foster care*

**78.**—(1) No person may take a child under 14 years of age into private residential foster care for a consecutive period exceeding three months without a licence from the municipal council in the municipality of location.

(2) A foster care licence may be issued only where it must be assumed, following an examination of the foster care facility, that such care will benefit the child. When issuing such a licence, the municipality shall direct the attention of the custodial parent to the provisions of subsection (4).

(3) The custodial parent shall ensure that the care facility has obtained the requisite licence.

(4) The Children and Young Persons Committee in the custodial parent's municipality of residence may, on application by the foster parents or the child or young person, decide that a child or young person may not be moved or returned from the care of a private foster family if it must be assumed to be detrimental to the best interests of the child or young person. Prior to any such decision, an opinion shall be obtained from the municipality of location.

(5) Any decision under subsection (4) may be made on a provisional basis pursuant to the provisions of section 75, provided the appropriate conditions are met.

(6) The provisions of subsections (1) to (5) shall not apply where one of the parents has sole custody, but the child or young person is placed in residential accommodation with the other parent.

(7) Residential foster care homes, which receive children and young persons under 18 years of age and are operated on a private basis without public funding, may only be established and operated subject to a licence from the municipal council in the municipality of location. The municipal council in the municipality of location shall supervise conditions in the care home.

## **Title V**

### **Adults**

#### **Part 14**

### *General services*

**79.**—(1) The municipal council may implement or subsidise general services designed to serve activating and preventive purposes. The municipal council shall issue guidelines for the categories of persons who are entitled to benefit from such services.

(2) Decisions under subsection (1) cannot be brought before any other administrative authority.

(3) The Minister for Senior Citizens shall by order lay down rules on payment for services provided under subsection (1), including rules on the calculation of the income basis for such payment (means-testing).

**79a.**—(1) The municipal council shall offer at least one annual preventive home visit to all citizens aged 80 or over who are residents of the municipality, but see subsections (2) and (3).

(2) The municipal council shall offer a preventive home visit to all citizens who are residents of the municipality between their 75th and 76th birthdays.

(3) The municipal council shall offer preventive home visits as and when needed to citizens between 65 and 79 of age who are particularly at risk of developing a social, mental or physical impairment and who are residents of the municipality.

(4) The municipal council shall plan such visits as and when needed, but see subsections (1) and (2).

(5) The municipal council may decide that citizens receiving both personal care and practical help and assistance under section 83 be excluded from the preventive home visiting scheme.

(6) The Minister for Senior Citizens may lay down rules governing the municipal obligations under subsections (1) to (5), including rules on coordination with other general municipal preventive and activating measures and on ways to implement the preventive home visit other than by arranging an in-home visit.

### *Homelessness*

**80.**—(1) The municipal council shall allocate temporary shelter against payment if a single person or a family is homeless. Such payment cannot exceed the rental value of the accommodation allocated or the usual rent payable in the local area by a single person or a family of the size in question.

## Part 15

### *Purpose*

**81.–(1)** The purpose of providing support under this Act to adults who have a physical or mental impairment or special social problems is to ensure that the individual is offered coherent and integrated measures satisfying the specific needs of the individual. The support shall be provided for the purpose of strengthening the individual's own opportunities and responsibility for gaining self-development and reaching their full potential to the extent possible for the individual. Further, the purpose is to ensure that the individual can maintain their current functional capacity and to provide compensation, attention and care. The measures offered to adults shall therefore be

- (i) to prevent any aggravation of the problems facing the individual;
- (ii) to support the individual's opportunities for maintaining their own resources or promoting increased independence and to improve the individual's social and personal functions and improve the individual's potential for self-expression through contact, offers of social interaction, activity, treatment, attention and care;
- (iii) to encourage inclusion in society, for instance contribute to increasing the individual's opportunities for participation in education, employment and social relations; and
- (iv) to ensure integrated support services addressing the particular needs of the individual in their own home, including in accommodation facilities under the Act on Social Housing etc. or in accommodation facilities provided for under this Act.

**81a.–(1)** At a meeting, the municipal council shall decide on and publish a dignity policy that describes the core values and priorities in regard to personal assistance, attention and care, etc. provided under the Act on Social Services to persons who have attained old-age pension age, see section 1 of the Act on Social Pensions.

(2) The Minister for Senior Citizens shall lay down rules on the municipal council's obligations under subsections (1).

**82.–(1)** The municipal council shall provide assistance under this Act in compliance with the purpose, see section 81, to persons with a substantial mental impairment who are unable to attend to their own interests, regardless of whether the individual has consented. Notwithstanding the foregoing, assistance may not be given under the use of physical coercion.

(2) The municipal council shall establish whether any relative or other person can be involved in the safeguarding of the interests of a person who has a substantial mental impairment. The municipal council shall consider whether a need exists for requesting the State administration to appoint a guardian under the Legal Guardianship Act.

## Part 15a

### *Early preventive measures*

#### *Offer of group-based assistance and support*

**82a.–(1)** For the benefit of persons who have a physical or mental impairment or social problems and persons who are at risk of developing functional impairment or social problems, the municipal council may implement or subsidise offers of group-based assistance, care or support, as well as group-based rehabilitation and assistance for the development of skills. It is a condition that the municipal council believes that participation in such offers will be able to improve the recipient's current functional capacity or prevent the aggravation of the functional impairment or social problems.

(2) Any decision by the municipal council under subsection (1) cannot be brought before any other administrative authority.

#### *Offers of individual, temporary socio-pedagogical assistance and support*

**82b.–(1)** For the benefit of persons who have a physical or mental impairment or social problems and persons who are at risk of developing functional impairment or social problems, the municipal council may implement or subsidise offers of temporary individual assistance, care or support as well as temporary individual rehabilitation and assistance for the development of skills. The offer may be provided for a period



of up to six months. It is a condition that the municipal council believes that the offer will be able to improve the recipient's current functional capacity or prevent the aggravation of the functional impairment or social problems.

(2) Any decision by the municipal council under subsection (1) cannot be brought before any other administrative authority.

#### *Social emergency facilities*

**82c.**—(1) The municipal council may establish and operate social emergency facilities. Such facilities may be established and operated in cooperation with other municipalities, regions and private-sector contractors.

(2) The purpose of a social emergency facility is to offer immediate support, care and counselling to persons with mental disabilities.

#### *Assistance and support established in cooperation with volunteers*

**82d.**—(1) For the benefit of persons who have a physical or mental impairment or social problems and persons who are at risk of developing functional impairment or social problems, the municipal council may offer support under sections 82a and 82b established in cooperation with voluntary social organisation and associations. It is a condition that the municipal council believes that participation in such offers will be able to improve the recipient's current functional capacity or prevent the aggravation of the functional impairment or social problems.

(2) Any decision by the municipal council under subsection (1) cannot be brought before any other administrative authority.

### Part 16

#### *Personal assistance, attention and care and powers of attorney for personal care*

**83.**—(1) The municipal council shall offer

- (i) personal assistance and care;
- (ii) assistance or support for necessary practical tasks in the home; and
- (iii) a meals service.

(2) The services under subsection (1) shall be offered to persons who are unable to carry out these tasks themselves due to a temporary or permanent physical or mental impairment or special social problems.

(3) Prior to assessing the need for assistance under subsection (1), the municipal council shall assess whether any service under section 83a will be able to improve the relevant person's functional capacity and, thereby, reduce the need for assistance under subsection (1).

(4) Any assistance offered under subsection (1) shall contribute partly to maintaining physical or mental skills, partly to mitigating serious consequences of physical or mental impairment or special social problems.

(5) The municipal council shall set individual objectives for any assistance under subsection (1) to the individual receiving such assistance. The assistance shall be adapted to suit the needs of the recipient from time to time.

(6) In connection with the completion of a rehabilitation programme under section 83a, the municipal council shall assess the recipient's need for assistance under section 83.

(7) The services under subsection (1) cannot be offered as general services under section 79.

(8) In arranging for the care and attention etc. for a person with a diagnosis of dementia, the municipality shall, to the extent possible, respect that person's guiding directions as to the future with respect to housing, attention and care (powers of attorney for personal care).

**83a.**—(1) The municipal council shall offer a short-term and time-limited rehabilitation programme to persons with functional impairment if the rehabilitation programme is assessed to be able to improve the person's functional capacity and, thereby, reduce the need for assistance under section 83(1). Such assessment shall be individual and specific and be based on the recipient's resources and needs.

(2) The rehabilitation programme, see subsection (1), shall be organised and provided as an integrated and multidisciplinary service. The municipal council shall set individual objectives for the rehabilitation programme in cooperation with the individual recipient at whom the programme is targeted.

(3) The objectives and time frame of the rehabilitation programme shall form part of an overall description

of the programme. Where the objectives need to be changed during the rehabilitation programme, such changes shall be made in cooperation with the recipient.

(4) The municipal council shall offer the recipient under a rehabilitation programme the required assistance and support during the programme with a view to reaching the preset objectives, see subsection (2). Such assistance and support shall from time to time be adapted to developments in the recipient's functional capacity. If the recipient does not complete a rehabilitation programme, the municipal council shall assess the recipient's need for assistance under section 83, see section 83(6).

**84.–(1)** The municipal council shall offer substitute or respite care services to a spouse, parents or any other close relatives caring for a person with a physical or mental impairment.

(2) The municipality may provide temporary accommodation to persons who, for a period, have special needs for attention and care.

**85.–(1)** The municipal council shall offer assistance, care or support as well as rehabilitation and help in developing skills to persons who are in need thereof due to a substantial physical or mental impairment or special social problems.

**86.–(1)** The municipal council shall offer rehabilitation services to mitigate a physical impairment caused by an illness, which is not treated in connection with hospitalisation.

(2) The municipal council shall offer assistance in maintaining physical or mental skills to persons who are in need thereof due to a physical or mental impairment or special social problems.

**87.–(1)** The municipal council shall ensure that the tasks and services referred to in sections 83 to 85 are available 24 hours a day when and as appropriate.

#### *Decisions etc.*

**88.–(1)** The municipal council shall decide on the granting of personal assistance and care etc. in accordance with the provisions of this Part. The municipal council shall consider applications for assistance under section 83 on a case-by-case basis, subject to a specific assessment of the assistance needed for the tasks the recipient is unable to carry out. In assessing the need for assistance, the municipal council shall consider all applications for assistance from the applicant.

(2) Any services under section 86 shall be offered on a case-by-case basis, subject to an assessment of the need for rehabilitation or training. Rehabilitation services under section 86(1) shall be offered for the purpose of restoring, to the extent possible, the person's functional capacity to the pre-illness level. Any services under section 86(2) shall be offered to persons who need individual training measures to be able to maintain physical or mental skills.

**89.–(1)** In connection with any decision made under this Part, the applicant shall be notified in writing of the type of assistance granted. The municipal council may, in the event of minor beneficial adjustments in the assistance, omit to notify the citizen thereof in writing anew.

**90.–(1)** Any assistance under sections 83 and 86 shall be provided in accordance with the decision made by the municipal council under sections 88 and 89. The municipal council shall ensure that any assistance granted under section 83 is provided within a reasonable time limit if the contractor is unable to observe the agreements on the provision of assistance concluded in connection with the decision under section 88(1).

(2) In connection with the decision on assistance under section 83, the municipal council shall notify the recipient of the assistance where to contact the authority if the assistance granted is not provided in accordance with the decision.

#### *Planning and provision of assistance*

**91.–(1)** The municipal council shall give recipients of assistance under section 83 the option of choosing between two or more contractors providing such assistance, one of whom may be a municipal contractor.

(2) To meet its obligation pursuant to subsection (1), the municipal council shall, as a minimum,

- (i) enter into contracts with two or more contractors; or
- (ii) offer recipients a free-choice certificate, which shall give citizens eligible for assistance under section 83 the right in their sole discretion to enter into an agreement with a CVR-registered business enterprise on the performance of such assistance, but see subsection (3).

(3) The municipal council may in special cases decide not to offer a citizen assistance under subsection (2)(ii).

(4) The municipal council shall ensure that citizens receiving a free-choice certificate under subsection (2)(ii) receive guidance on the scheme.

(5) The municipal council shall fix the value of the free-choice certificate, see subsection (2)(ii), for each of the service categories under section 83 the municipal council has decided to offer in the scheme. The municipal council shall pay the contractor chosen by the citizen, see subsection (2)(ii), at the price corresponding to the value of the free-choice certificate, see subsection (6).

(6) The Minister for Senior Citizens shall lay down rules on contractors' duty of notification, see subsection (2)(i) and (ii), on the municipal council's planning of the free-choice certificate scheme, see subsection (2)(ii), and on the basis of calculation for and publication of the value of the free-choice certificate.

**92.–(1)** The municipal council shall draw up a written emergency response plan providing guidelines for how the municipal council shall handle bankruptcies among private-sector contractors providing personal care and practical help and assistance services with whom the municipal council has entered into contracts, see section 91(2)(i).

(2) The municipal council shall require the provision of a bank guarantee or similar security at the time of entering into a contract with any private-sector contractor providing personal care and practical help and assistance services.

(3) At the time of entering into a contract with any private-sector contractor providing personal care and practical help and assistance services, the municipal council shall require as follows:

- (i) Prior to contract conclusion and once during the term of the contract, the private-sector contractor shall submit financial statements for tax purposes to the municipality.
- (ii) Any private-sector contractor who, under the Financial Statements Act, is subject to a requirement to prepare financial statements and a requirement to arrange for the financial statements to be audited, shall, prior to contract conclusion and once during the term of the contract, submit audited financial statements to the municipality or inform the municipality where the financial statements are available at [www.cvr.dk](http://www.cvr.dk). If the contractor has not yet presented financial statements under the Financial Statements Act, the municipal council shall be entitled to impose requirements of other appropriate documentation.
- (iii) The private-sector contractor shall submit documentation to prove that, at the time of contract conclusion, the contractor has no overdue payable debt of DKK 50,000 or more to public authorities concerning taxes, duties or contributions to social security schemes under Danish law or the law of the country in which the applicant or tenderer is established.

(4) The municipal council may in special cases dispense with the requirement in subsection (3)(iii).

(5) Municipal councils that employ an approval plan for providing the free choice of personal care and practical help and assistance, which implies that the price is set without price competition, shall recalculate settlement prices as and when needed and at least once a year.

**93.–(1)** The provisions of sections 91 and 94 shall not apply to nursing home residents etc., see section 192, residents in assisted living homes falling within the scope of the Act on Social Housing etc. or the Act on Housing for Older People and Persons with Disabilities, tenants and residents in private care dwellings falling within the scope of the Act on Private Care Dwellings and tenants in similar housing units.

(2) The municipal council shall specify and publish the quality requirements to be imposed on contractors providing municipal services to the categories of persons set out in subsection (1), see section 139. If the municipal council is responsible for other parts of the operation of the types of housing set out in subsection (1), the municipal council shall also specify and publish the quality requirements applicable in connection with the performance of these duties.

(3) The Minister for Senior Citizens shall by order lay down rules on the specification and publication etc. of the municipal council's quality requirements under subsection (2).

**94.–(1)** Any person who is entitled to receive assistance or support under section 83 shall be entitled to appoint a person to carry out the tasks. Such appointment shall be subject to approval by the municipal council, who shall subsequently enter into a contract with the appointed person on the scope and content of the tasks, on reliability of delivery, see section 90, and on payment, etc.

**94a.–(1)** Persons receiving assistance under section 83 may elect to receive full or partial assistance other than the assistance decided on, see sections 88 and 89. Any service turned down under the first sentence hereof cannot later be claimed under section 90.

**94b.** (Repealed)

*Subsidy in cash*

**95.**—(1) If the municipal council is unable to make the necessary assistance available to a person in need of assistance under sections 83 and 84, the municipal council may instead pay a subsidy towards the cost of assistance engaged by the person in question themselves.

(2) Any person who has a substantial and permanent physical or mental impairment and needs personal assistance and care and support for carrying out necessary practical tasks in the home for more than 20 hours per week may choose to claim a subsidy towards the cost of assistance engaged by the person in question themselves.

(3) Notwithstanding the foregoing, the municipal council may in special cases decide that any assistance under subsection (2) shall continue to be provided in kind or by payment to a connected person who is caring for the impaired person in whole or in part. Unless the connected person has entered into an agreement on a transfer of the subsidy as provided for under subsection (4), the connected person shall be entitled to undertake the caring duties for up to 48 hours per week. Where the caring duties are shared between two or more connected persons who are also subsidy claimants, the second sentence hereof shall apply to the connected persons combined. In special cases, however, the municipal council may decide that one or more connected persons are entitled to undertake the caring duties for more than 48 hours per week.

(4) Subsidies towards the employment of assistants under subsections (1) to (3) shall be payable subject to the capability of the claimant to act as the assistants' supervisor. It is also a condition that the claimant is capable of acting as the assistants' employer unless the claimant enters into an agreement with a connected person or an association or private business enterprise approved by the social supervisory authority to the effect that the subsidy shall be transferred to the connected person, association or private business enterprise and that such person, association or enterprise shall subsequently be the assistants' employer. The employer's powers over the assistants with respect to the employment and dismissal of assistants shall in that case be exercised by the connected person, association or private business enterprise in consultation with the claimant.

(5) In situations where the claimant is also the employer, the municipal council shall offer to handle payment of remuneration etc.

**96.**—(1) The municipal council shall offer citizen-controlled personal assistance. Citizen-controlled personal assistance shall be offered in the form of subsidies reimbursing the cost of employing assistants to care for, supervise and accompany citizens who have a substantial and permanent physical or mental impairment and need this very special support.

(2) Subsidies towards the employment of assistants under subsection (1) shall be payable subject to the capability of the citizen to act as the assistants' supervisor. It is also a condition that the citizen is capable of acting as the assistants' employer unless the citizen enters into an agreement with a connected person or an association or private business enterprise approved by the social supervisory authority to the effect that the subsidy shall be transferred to the connected person, association or private business enterprise and that such person, association or enterprise shall subsequently be the assistants' employer. The employer's powers over the assistants with respect to the employment and dismissal of assistants shall in that case be exercised by the connected person, association or private business enterprise in consultation with the claimant.

(3) The municipal council may offer citizen-controlled personal assistance to citizens not falling within subsection (1) if the municipal council believes that this will be the best opportunity for ensuring the provision of integrated and coherent assistance to the citizen.

(4) In situations where the citizen or a connected person is the employer, the municipal council shall offer to handle payment of remuneration etc.

**96a.**—(1) The Minister for Children and Social Affairs may lay down rules for the calculation of subsidies for citizen-controlled personal assistance by the municipal council, including rules on reimbursement of the cost of assistants' remuneration, costs involved in the performance of employer duties and administrative duties etc. and any other costs incurred by the citizen in connection with the assistance received.

(2) Where the citizen or any connected person is receiving the subsidy towards the employment of assistants under section 95 or citizen-controlled personal assistance under section 96, the subsidy shall be payable monthly in advance. Where it has been agreed that the subsidy shall be transferred to an approved

association or private business enterprise, the subsidy shall be payable monthly in arrears.

(3) The Minister for Children and Social Affairs shall lay down rules on payment and adjustment of subsidies, financial reporting and repayment of subsidies.

**96b.**—(1) Where a person moves out of a municipality that pays subsidies under sections 95 and 96, the former municipality of residence, notwithstanding the provisions of section 9 of the Act on Legal Protection and Administration in Social Matters, shall continue to pay such subsidies until the new municipality of residence has made a decision on subsidies under sections 95 and 96.

(2) Where a municipality has paid subsidies under subsection (1), the municipality shall be entitled to reimbursement thereof from the new municipality of residence. The claim for reimbursement shall include any subsidies paid by the former municipality of residence after the citizen moved out of that municipality until the date of the new municipality's decision.

**96c.**—(1) Where a citizen receiving a subsidy under sections 95 and 96 dies, the subsidy shall cease on the last day of the month in which the citizen died, but see subsection (2).

(2) Notwithstanding the foregoing, the municipal council shall reimburse the cost of assistants for at least one month after the last day of the month in which the citizen died.

(3) The Minister for Children and Social Affairs may lay down rules on payment.

#### *Accompaniment and contact person*

**97.**—(1) The municipal council shall offer 15 hours of accompaniment per month to persons under old-age pension age pursuant to section 1a of the Act on Social Pensions, provided always that the age limit shall not be less than 67 years. Accompaniment shall be offered to persons who are prevented from moving around on their own due to a substantial and permanent physical or mental impairment.

(2) Persons who have been found eligible for accompaniment before attaining old-age pension age, see section 1a of the Act on Social Pensions, shall remain so entitled after attaining old-age pension age.

(3) Any person who is entitled to accompaniment, see subsection (1) or (2), shall be entitled to appoint a person for that purpose. Such appointment shall be subject to approval by the municipality, and the person appointed shall be employed by the municipality.

(4) Persons with very close ties to the person entitled to accompaniment under subsection (1) or (2) shall usually not be allowed to be employed for that purpose.

(5) The municipal council may decide to offer persons who are entitled to accompaniment, see subsection (1) or (2), to have the benefit paid by way of a subsidy in cash to an accompanying person to be engaged by the persons themselves. Any person entitled to accompaniment shall be free to decide whether to accept the offer.

(6) The recipient may save up hours within a period of six months. The municipal council shall issue guidelines for such saving practices.

(7) The recipient's expenses for the accompanying person's travel and other activities associated with the companion scheme are reimbursable up to a maximum of DKK 663 per year. The amount shall be payable by the municipal council at the request of the recipient.

(8) No accompaniment may be granted under this provision to any person benefiting from the personal assistance scheme under section 96.

(9) The Minister for Children and Social Affairs may by order lay down rules governing the conditions of the companion scheme.

**98.**—(1) The municipal council shall, when and as appropriate, offer assistance to deaf and blind persons by making a special contact person available.

**99.**—(1) The municipality shall offer to make support and contact persons available to persons with mental disabilities, to persons with drug or alcohol misuse and to persons with special social problems who either have no home or are unable to stay in their own home.

#### Part 17

#### *Reimbursement of necessary extra costs*

**100.**—(1) The municipal council shall pay reimbursement of any necessary extra costs involved in pursuing daily activities to persons between 18 years of age and old-age pension age, see section 1a of the Act on Social Pensions, with a permanent physical or mental impairment and to persons with a permanent physical



or mental impairment who have deferred their claim for old-age pension under section 15a of the Act on Social Pensions. It is a condition that the extra costs are a consequence of the functional impairment and are not reimbursable under any other legislation or other provisions of this Act.

(2) The subsidy shall be calculated on the basis of the likely extra costs incurred by the individual, for instance extra costs of individual travel, favours and leisure-time activities.

(3) A subsidy for any necessary extra costs may be provided where the likely extra costs amount to not less than DKK 6,408 per year, corresponding to DKK 534 per month. The subsidy shall be a standard amount of DKK 1,000 per month if the likely extra costs are in the range of DKK 534 to DKK 1,500 per month and a standard amount of DKK 2,000 per month if the likely extra costs are in the range of DKK 1,501 to DKK 2,500 per month. Where the citizen is able to document extra costs in excess of DKK 2,500 per month, the subsidy shall be paid in an amount corresponding to the actual extra costs.

(4) The Minister for Children and Social Affairs shall by order lay down rules specifying the costs towards which assistance may be provided, including rules specifying the persons who shall be eligible for reimbursement of extra costs.

(5) Persons receiving pension benefits under section 14 of the Act on the Highest, Intermediate, Increased Ordinary and Ordinary Anticipatory Pension, etc. shall not be entitled to subsidies under this provision, unless they have also been granted a subsidy in cash under section 95 or citizen-controlled personal assistance under section 96.

## Part 18

### *Treatment*

**101.**—(1) The municipal council shall offer treatment of drug misusers.

(2) Any treatment offered under subsection (1) shall be initiated within 14 days of the date on which the misuser contacted the municipality.

(3) The Minister for Children and Social Affairs shall by order lay down rules on treatment under subsections (1) and (2) of drug misusers under 18 years of age in special cases.

(4) Any person who has been assessed to be eligible for treatment may choose to be treated in another public treatment facility or private treatment facility comparable to the facility available to the person in question under subsection (1).

(5) The time limit in subsection (2) may be dispensed with if the person chooses to be treated in a public or private treatment facility other than the facility designated by the municipal council in its eligibility assessment under subsection (1).

(6) The right to choose under subsection (4) hereof may be limited where the interests of the person in question so warrant.

**101a.**—(1) The municipal council shall offer anonymous, outpatient treatment for drug misuse to persons who are drug misusers requiring treatment, but who have no other social problems for which assistance is provided under Title V.

(2) The municipal council shall enter into agreements with two or more contractor facilities providing anonymous, outpatient treatment for drug misuse, see subsection (1), and at least one of these facilities shall be located outside the municipality.

(3) The municipal council shall ensure that any person who wishes to receive anonymous, outpatient drug misuse treatment, see subsection (1), is allowed to inquire anonymously to the municipality through a website or by telephone and make an appointment for a clarifying interview to identify the need for treatment. The clarifying interview shall be organised in a manner fulfilling the requirement of anonymity.

(4) The municipal council shall decide on treatment under subsection (1) on the basis of a clarifying interview, see subsection (3), after which the person will be referred to the treatment facilities with which the municipal council has entered into an agreement as provided for under subsection (2).

(5) The municipal council may decide that any facilities providing services with whom contractor agreements have been entered into, see subsection (2), are required to process inquiries, see subsection (3), and make a decision on treatment based on a clarifying interview.

(6) Decisions on treatment under subsections (4) and (5) cannot be brought before any other administrative authority.

(7) Treatment under subsection (1) shall take place separately from any treatment services offered under section 101 and in a manner fulfilling the requirement of anonymity.

(8) Treatment under subsection (1) shall constitute a defined treatment programme of short duration and include group treatment and the possibility of an individual, concluding conversation.

**102.–(1)** In addition to the services set out in section 85, the municipal council may offer treatment of persons with a substantial and permanent physical or mental impairment or with special social problems. Such treatment shall be offered where this is necessary for the purpose of preserving or improving the physical, mental or social functions of the citizen and where this cannot be achieved through any treatment services or programmes provided for under any other legislation.

#### Part 19

##### *Sheltered employment and activity and social interaction programmes*

**103.–(1)** The municipal council shall offer sheltered employment to persons under old-age pension age, see section 1a of the Act on Social Pensions, who, due to substantial physical or mental impairment or special social problems, are unable to find or maintain employment in the labour market on normal terms, and who are not provided for under any other legislation.

(2) The municipal council may offer special employment programmes to persons with special social problems.

**104.–(1)** The municipal council shall offer activity and social interaction programmes to persons with a substantial physical or mental impairment or special social problems for the purpose of preserving or improving their personal skills or living conditions.

**105.–(1)** The municipal council shall remunerate persons in employment under sections 103 and 104 on a performance-related basis.

(2) The Minister for Children and Social Affairs shall by order lay down rules governing remuneration etc. under subsection (1) and rules governing support towards travelling expenses in connection with services and programmes provided for under sections 103 and 104.

**106.–(1)** Any production generated through sheltered employment and in the course of activity and social interaction programmes shall not be allowed to expose any other business enterprises to unfair competition.

(2) LGDK (Local Government Denmark) shall issue guidelines on calculation rules for production in sheltered employment and in activity and social interaction programmes.

#### Part 20

##### *Accommodation facilities*

**107.–(1)** The municipal council may offer temporary accommodation to persons in need thereof due to a substantial physical or mental impairment or special social problems.

(2) The municipal council shall offer temporary accommodation

- (i) to persons with a substantial physical or mental impairment who need extensive assistance for simple everyday functions, care or, for a period, special treatment-related support; and
- (ii) to persons with a physical impairment or special social problems who need care or treatment and who are unable to cope without support due to the said difficulties.

**108.–(1)** The municipal council shall offer accommodation in facilities suitable for long-term stays to persons who, due to a substantial and permanent physical or mental impairment, need extensive assistance for simple everyday functions or care, attention or treatment, where such needs cannot be satisfied in any other way.

(2) Persons who are accommodated in facilities provided for under subsection (1) and who wish to move to another municipality are entitled to be offered similar accommodation in another municipality. To exercise this choice, the person in question shall meet the conditions for admission to such accommodation facilities both in the originating municipality and in the receiving municipality.

(3) The right to exercise a choice under subsection (2) shall include the right for any spouse, cohabitant or registered civil partner to remain a member of the household. Where a person wishes to ensure that their spouse, cohabitant or registered civil partner remains a member of the household, the accommodation offered under subsection (1) shall be suitable for two persons. If the person with the physical or mental disability, see subsection (2), dies, the surviving spouse, cohabitant or partner shall be entitled to remain in the accommodation.

(4) Where a citizen is accommodated in a facility under subsection (1), the municipal council shall be entitled to make an eligibility assessment decision for a special place in a psychiatric ward, see section 42b(1) of the Act on the Use of Force in Psychiatric Health Services, subject to the citizen's consent to the termination of the citizen's residential unit in the facility under subsection (1).

(5) The Minister for Children and Social Affairs shall by order lay down rules governing the conditions for being offered accommodation in facilities provided for under subsection (2) and rules specifying to what extent the provision of subsection (2) shall apply to persons who are admitted to a particular accommodation facility without consent under section 129a.

(6) The Minister for Children and Social Affairs shall by order lay down rules imposing duties on a region or one or more municipalities to admit any persons residing in the Faeroe Islands and persons residing in Greenland to accommodation facilities falling within subsection (1).

(7) The Minister for Children and Social Affairs shall by order lay down rules on special security measures in accommodation facilities falling within subsection (1) and rules imposing duties on a region or one or more municipalities to admit any persons to accommodation facilities falling within subsection (1) where such persons

- (i) are required by court order to submit to a psychiatric examination;
- (ii) have been ordered by the court to be accommodated in facilities for persons with a substantial mental impairment or to be subjected to supervision, which shall include the possibility of administrative placement; or
- (iii) as a condition for a dismissal of charges or a release on parole, have been ordered by the court to be accommodated in facilities for persons with a substantial mental impairment or to be subjected to supervision, which shall include the possibility of administrative placement.

**109.–(1)** The municipal council shall offer temporary accommodation facilities to women who have been exposed to violence, threats of violence or a corresponding crisis in regard to family or cohabitation relationships. The women may be accompanied by children and shall receive care and support during their stay.

(2) Any admission of a person to the accommodation facility may be made anonymously on the application of that person or by referral from public authorities.

(3) The manager shall decide on admissions and discharges.

(4) Accommodation facilities under subsection (1) shall, within three weekdays of a decision on admission to the accommodation facility, notify the municipal council in the municipality, which has a duty to provide assistance under this Act, see sections 9 to 9b of the Act on Legal Protection and Administration in Social Matters.

(5) Accommodation facilities under subsection (1) shall, to the extent possible before the discharge from the accommodation facility but not later than three weekdays after such discharge, notify the municipal council in the municipality, which has a duty to provide assistance under this Act, see sections 9 to 9b of the Act on Legal Protection and Administration in Social Matters.

(6) Notifications under subsections (4) and (5) shall include, as a minimum, the names and civil registration numbers of the woman and children, if applicable, as well as the date of and reasons for the admission and discharge, respectively. For women admitted to the accommodation facility anonymously, see subsection (2), the names and civil registration numbers of the woman and children, if applicable, shall be omitted, and steps shall be taken to ensure that the woman's anonymity is maintained.

(7) The municipal council shall offer introductory and coordinating support and counselling to women residing in accommodation facilities falling within this provision. Introductory counselling shall be initiated as early as possible after notification of admission to the accommodation facility and shall introduce the woman to the coordinating counselling and establish contact between the woman and a staff member undertaking such coordinating counselling. Coordinating counselling shall be provided with respect to housing, finances, labour market, schooling, day-care facilities, healthcare system, etc. and shall support the individual elements of any other services offered by the municipal council. Counselling shall be initiated before or at the time when preparations for the discharge from the accommodation facility commence and shall be provided until the woman and children, if applicable, are settled in their own home.

(8) The municipal council shall offer psychological treatment to children accompanying their mother during her stay in accommodation facilities falling within this provision. Treatment shall comprise at least four hours and not more than 10 hours depending on the needs of the child. Treatment shall be provided by a licensed

psychologist. The obligation to offer psychological treatment shall apply irrespective of the length of the stay. The service shall be initiated during the actual stay or immediately thereafter.

**110.**—(1) The municipal council shall offer temporary accommodation in facilities to persons with special social problems who either have no home or are unable to stay in their own home and who need accommodation facilities and offers of activating support, care and subsequent assistance.

(2) Any admission of a person to accommodation facilities under subsection (1) may be made anonymously on the application of that person or by referral from public authorities.

(3) The manager shall decide on admissions and discharges.

(4) Accommodation facilities under subsection (1) shall, within three weekdays of a decision on admission to the accommodation facility, notify the municipal council in the municipality, which has a duty to provide assistance under this Act, see sections 9 to 9b of the Act on Legal Protection and Administration in Social Matters.

(5) Accommodation facilities under subsection (1) shall, to the extent possible before the discharge from the accommodation facility but not later than three weekdays after such discharge, notify the municipal council in the municipality, which has a duty to provide assistance under this Act, see sections 9 to 9b of the Act on Legal Protection and Administration in Social Matters.

(6) Notifications under subsections (4) and (5) shall, as a minimum, include the name and civil registration number of the person as well as the date of and reasons for the admission and discharge respectively.

**111.**—(1) Accommodation facilities under this Act shall not be subject to rent legislation.

(2) The Minister for Children and Social Affairs shall lay down rules on the rights of tenants residing in long-term accommodation facilities under this Act.

## **Title VI** **Technical aids etc.**

### Part 21

#### *Technical aids, home adaptations and travel*

##### *Technical aids*

**112.**—(1) The municipal council shall grant support for technical aids to persons who have a permanent physical or mental impairment where the aid

- (i) will mitigate the permanent consequences of the functional impairment significantly;
- (ii) will facilitate daily life in the home significantly; or
- (iii) is necessary to enable the person to pursue an occupation.

(2) The municipal council may decide that a specific technical aid shall be supplied by particular contractors. In connection with the conclusion of supply contracts by the municipal council, representatives of the users shall be involved in the drafting of requirements specifications.

(3) The applicant may choose the supplier of technical aids, but see subsection (4). If the municipal council has entered into a supply contract and the applicant wishes to use a supplier other than the supplier with whom the municipal council has entered into the supply contract, the applicant shall purchase the technical aid personally and subsequently be reimbursed for the expenses incurred in that connection up to an amount equivalent to the price for which the municipality could have acquired the aid from its supplier. If the municipal council has not entered into a supply contract, the applicant shall be free to choose a supplier, and support shall in such case be granted on presentation of a receipt up to an amount equivalent to the price for the best suitable and cheapest technical aid.

(4) The applicant's right to choose the supplier of technical aids under subsection (3) shall not apply if the municipal council can make an aid available that is completely identical to the aid the applicant wishes to purchase from another supplier.

(5) The Minister for Children and Social Affairs may by order lay down rules on

- (i) the specification of the technical aids for which support is available and the right of replacement;
- (ii) the extent to which a share of the cost of acquisition, repairs and operation of any technical aid is payable by the recipient;
- (iii) when support for a technical aid may be provided as a loan or supplied as a benefit in kind;

- (iv) whether special conditions for support shall apply to certain technical aids, including the possibility of having certain aids supplied from a public institution; and
- (v) whether certain technical aids can be made available in connection with an accommodation facility.

**112a.**—(1) Any application for support for technical aids, see section 112, shall be submitted to the municipal council by means of the digital solution made available by the council (digital self-service). Applications not submitted by means of digital self-service shall be rejected by the municipal council, but see subsections (2) and (3).

(2) If special circumstances apply, as a result of which the citizen cannot be expected to be able to use digital self-service, the municipal council shall allow the application to be submitted in a manner other than through digital self-service under subsection (1). The municipal council shall direct how an application falling within the first sentence hereof shall be submitted, including whether submission shall be made orally or in writing.

(3) In very exceptional cases in addition to the cases set out in subsection (2), the municipal council may elect not to reject an application, which is not submitted through digital self-service if, based on an overall financial assessment, it is clearly an advantage for the municipal council to receive the application in a non-digital manner.

(4) A digital application is deemed to have been received when it is available to the municipal council.

#### *Consumer durables*

**113.**—(1) The municipal council shall provide assistance for the purchase of consumer durables where the conditions of section 112(1) are met. Notwithstanding the foregoing, assistance shall not be provided for consumer durables normally found among the household effects in a home.

(2) Assistance shall only be provided where the cost exceeds DKK 500.

(3) The assistance shall amount to 50 per cent of the price of a general standard product of the relevant nature.

(4) Where, as a result of the functional impairment, a consumer durable is required the cost of which exceeds the price of a general standard product, or where the functional impairment necessitates a special adaptation of the consumer durable, the municipality shall pay any necessary extra costs, see subsection (1).

(5) If the consumer durable serves exclusively as a technical aid for the purpose of mitigating the functional impairment, the municipality shall pay the acquisition costs in full, see subsection (1). The assistance may be granted as a loan.

(6) The Minister for Children and Social Affairs may by order lay down rules on

- (i) the specification of the consumer durables for which assistance is available and the right of replacement; and
- (ii) the extent to which a share of the cost of repairs and operation of any consumer durable is payable by the recipient.

#### *Common provisions on technical aids and consumer durables*

**113a.**—(1) In simple and unambiguous cases concerning support for technical aids and consumer durables, the municipal council may decide to base its decision exclusively on the application received. In such cases, the application shall contain any information necessary for decision-making and a solemn declaration certifying the correctness of such information or any other relevant documentation thereof.

**113b.**—(1) The municipal council may provide support for technical aids or consumer durables for a limited period of time to persons who have a temporary physical or mental impairment if all other conditions for being eligible for support under section 112(1) or 113(1) are met. Such support shall in all circumstances be provided in kind and no co-payment shall be charged to the citizen.

(2) Support for the relevant technical aid or consumer durable under subsection (1) may be provided only once within the same limited period of time.

#### *Support for cars*

**114.**—(1) The municipal council shall provide support towards the purchase of cars to persons with a permanent physical or mental impairment where such impairment substantially

- (i) reduces the possibility of finding or maintaining employment without the use of a car;



- (ii) reduces the possibility of completing an education without the use of a car; or
- (iii) restricts mobility where the person pursues activities outside the home, which imply a significant need for transport by car.

(2) Any support under subsection (1) shall be provided by way of an interest-free loan up to a limit of DKK 187,000.

(3) If the price of the cheapest suitable car exceeds the loan limit set out in subsection (2), an interest-free and non-amortising loan shall be granted for payment of the difference between the loan limit and the price of the cheapest suitable car.

(4) The Minister for Children and Social Affairs shall by order lay down rules on

- (i) the conditions for obtaining support under subsections (1) and (3) and the conditions applying to such support, including rules specifying the persons who shall be eligible for support;
- (ii) the procedure in connection with the testing and choice of cars, including rules on private players' participation therein;
- (iii) repayment of loans and the income basis for such repayment and rules on deferment of payments on and cancellation of car loans as a result of inability to pay and as a result of withdrawal in connection with changes in physical or mental functional capacity or any circumstances related thereto;
- (iv) the right to receive support towards the cost of replacing a car for which support has been granted, see subsections (1) to (3), including rules on the procedure in connection with the re-granting of support for the purchase of a car and on the application of proceeds from the disposal of a car for which support was previously granted, including in connection with re-granted support for the purchase of a car;
- (v) support for necessary adaptations etc., including the extent to which a share of the cost of adaptations is payable by the recipient;
- (vi) the extent to which subsidies are available towards the cost of driving lessons etc.;
- (vii) support to persons who bring a car into Denmark at the time of their entry; and
- (viii) the extent to which a child or young person under 18 years of age who falls within the category of eligible persons, see subsection (1), and who are placed in out-of-home care under section 52(3)(vii) can maintain or obtain support for the purchase of a car.

**115.–(1)** Any support provided for under sections 112, 113, 113b and 114 shall be granted subject to the condition that the technical aid, consumer durable or car in question cannot be granted under any other legislation.

#### *Home adaptations*

**116.–(1)** The municipal council shall provide assistance towards the cost of adapting the homes of persons who have a permanent physical or mental impairment where such adaptations are required to make the home better suited to accommodate the resident.

(2) Any person who has been granted assistance under subsection (1) may, if they wish to use a builder other than the one chosen by the municipal council, elect to arrange for the performance of the home adaptation work at their own discretion and be reimbursed for the expenses incurred in that connection up to an amount equivalent to the price for which the municipality could have had the adaptation work performed by its chosen builder. Likewise, the applicant shall be entitled to choose materials other than those selected by the municipal council.

(3) The Minister for Children and Social Affairs shall lay down rules on the right under subsection (2) to choose a builder and materials in connection with any decision to grant assistance towards the cost of home adaptation work, including rules on requirements for builders and on the possibility of agreeing to return adaptations and equipment after use and to reinstate the accommodation and the conditions applying thereto.

(4) In exceptional cases where assistance under subsection (1) is inadequate to make the home a suitable place of abode, the municipal council may contribute towards the cost of acquiring alternative housing for persons who have a substantial and permanent physical or mental impairment. It is a condition that no other housing can be allocated to meet the needs of the person in question.

(5) Persons receiving social pension benefits are not eligible for assistance under subsection (4) unless

such persons are benefiting from the personal assistance scheme under section 96.

(6) The Minister for Children and Social Affairs shall by order lay down rules on the extent, to which assistance under subsections (1), (2) and (4) shall be repayable, including the extent to which any repayable amount may be secured by a mortgage on the property.

#### *Support for individual travel*

**117.**—(1) The municipal council may grant subsidies to any person who, due to a permanent physical or mental impairment, needs individual means of transport for travelling.

(2) Decisions by the municipal council on assistance under this provision cannot be brought before any other administrative authority.

### Part 22

#### *Caring for a connected person with a disability or serious illness*

**118.**—(1) Any person who demonstrates attachment to the labour market and wishes to care for a connected person with a substantial and permanent physical or mental impairment or a serious, chronic or long-term, including terminal, condition in the home, shall be employed by the municipal council where

- (i) the alternative to care in the home is residential accommodation outside the home, or the amount of care needed corresponds to a full-time job;
- (ii) the parties agree to establish the care arrangement; and
- (iii) the municipal council finds that there are no material considerations that weigh against the person in question (the “carer”) caring for the connected person.

(2) The carer shall be employed by the municipality in which the connected person is resident. The salary shall amount to DKK 16,556 per month. A total pension contribution of 12 per cent shall be paid into a pension scheme, 4 per cent of which shall be withheld from the salary, and 8 per cent of the salary shall be contributed by the employer.

(3) The carer may be employed for up to six months to care for the connected person. The employment period may be extended for up to three months if warranted by special circumstances. The employment period may be divided into periods of 30 days. Subject to agreement with the employer who has granted the carer leave of absence to care for a connected person, the employment period may be divided into shorter periods. The employment period may be shared by two or more persons provided they all meet the conditions for employment under subsection (1).

(4) Where the employment period is shared by two or more persons, the total salary cannot exceed the salary set out in subsection (2). The salary shall be payable on a pro-rata basis according to the proportion worked in the care scheme.

(5) Only one care scheme shall be granted for one continuous illness or disability. Notwithstanding the foregoing, the connected person may be enrolled in the care scheme again if the person concerned develops another illness or functional impairment as set out in subsection (1) and if all other conditions are met.

(6) An employment contract shall be concluded between the carer and the municipal council, setting out the employment terms and conditions, including the identity of the connected person, the duration of the employment, the duties and responsibilities, notice periods, etc. If the employment is terminated prematurely due to excusable circumstances, the municipality shall pay one month’s salary to the carer after the end of the month in which the contract is terminated. If the carer finds another basic income support during the said period, the obligation of the municipality shall cease to apply.

### Part 23

#### *Caring for terminally ill persons*

**119.**—(1) Any person caring for a connected person who wishes to die in their own home shall, on application, be entitled to constant care allowance as set out in section 120. Payment of constant care allowance shall be subject to the condition that hospital treatment must be assumed to be futile on medical grounds and that the ill person’s condition does not require hospital admission or extended hospitalisation, admission to a nursing home, assisted living flat, etc. Furthermore, it is a condition that the ill person agrees to the establishment of the constant care relationship.

(2) An employer who pays salary to an employee during their absence from work while caring for a connected person under subsection (1) so as to ensure that the employee suffers no loss of earned income

shall be entitled to receive the amount that would otherwise be payable to the employee by way of constant care allowance under section 120(1).

**120.**—(1) Constant care allowance under section 119 shall amount to 1.5 times the amount of sickness benefits to which the recipient would have been entitled under the Act on Sickness Benefits in case of that person's illness, but see subsection (2). For self-employed earners who have not joined the voluntary insurance scheme or who are entitled to benefits from the third day of absence under the voluntary insurance scheme, constant care allowance shall be payable from the first day of absence from work. The amount of constant care allowance payable cannot exceed the previous income, see section 47 of the Act on Sickness Benefits.

(2) Persons who are not entitled to constant care allowance under subsection (1) shall receive constant care allowance in an amount of DKK 11,609 per month. Persons who are entitled to constant care allowance under subsection (1) may instead elect to receive payment of the amount set out in the first sentence hereof. In that case, see the first and second sentences hereof, the constant care allowance shall not be paid in addition to any other public income support benefit. Where two or more persons are joint carers, the allowance shall be reduced according to the proportionate share of the amount of care provided by the individual carer.

(3) Where two or more persons are joint carers, the total constant care allowance cannot exceed 1.5 times the maximum amount of sickness benefits payable under section 50(1) of the Act on Sickness Benefits.

(4) In exceptional cases, the municipal council may decide to pay constant care allowance in excess of the amount set out in subsections (1) to (3).

**121.**—(1) The entitlement to constant care allowance shall cease on termination of the care relationship. On the death of the care-dependent person, the entitlement to constant care allowance shall be retained for up to 14 days after the date of death. Any admission to hospital or similar of the care-dependent person for a short period of time shall not in itself cause the termination of entitlement to constant care allowance.

(2) The municipal council may, in exceptional cases, decide that the entitlement to constant care allowance shall cease if care in the patient's home can no longer be deemed to be expedient.

#### *Nursing requisites etc.*

**122.**—(1) Where the cost of nursing requisites and similar is not covered otherwise, the municipal council may contribute assistance towards such cost where

- (i) a connected person cares for a terminally ill person in connection with an established constant care relationship, see section 119;
- (ii) the municipality provides the care in whole or in part, or the municipal council pays a subsidy towards the cost of assistance engaged by the family itself; or
- (iii) a hospice provides the care.

(2) The assistance shall be provided irrespective of the financial position of the person or family.

### **Title VII**

#### **Use of force and other restrictions on the right of self-determination**

##### Part 24

##### *Use of force*

**123.-123d.** (Repealed)

##### *Scope of application*

**124.**—(1) The purpose of the provisions of this Title VII is to limit the use of force and any other restrictions on the right to self-determination to a strict minimum. Such restrictions may never be used as substitutes for attention, care and socio-pedagogical assistance.

(2) Prior to any form of use of force and other restrictions on the right to self-determination, the municipality shall do everything possible to obtain the person's voluntary consent to any necessary measure.

(3) Any use of force shall be in reasonable proportion to the intended result. Where less restrictive measures are sufficient, such measures shall be applied.

(4) Use of force shall be applied as gently and as briefly as possible and with utmost consideration for the

person in question and any other persons present, thereby avoiding undue infringement or inconvenience.

(5) Restrictive measures within the meaning of section 126 may be carried out by employees in facilities operated by the region or by the private-sector contractors who, following a municipal eligibility assessment, provide services to the person in question, see section 124a. It shall be the duty of the municipal council to provide guidance to private-sector service contractors on the conditions for taking restrictive measures pursuant to section 126, including the reporting requirement, see section 136. With respect to facilities established by the regional council, the duty to provide guidance under the second sentence hereof shall lie with the regional council.

**124a.**–(1) The provisions of sections 124 to 137 shall apply to persons with a substantial and permanent mental impairment who are receiving personal and practical assistance and socio-pedagogical assistance etc. under sections 83 to 87, treatment under sections 101 and 102 or offers of activating measures under sections 103 and 104 and who do not consent to any measure under sections 125 to 129a. It is a condition that the requisite professional documentation of the mental impairment is available.

#### *Alarm systems*

**125.**–(1) The municipal council may decide to use personal alarm or paging systems for a person for a limited period of time where

- (i) there is a risk that in leaving the accommodation or day facility, the person in question may cause bodily injury to themselves or to other persons; and
- (ii) the circumstances of the given situation make the measure necessary to avert this risk.

(2) For persons where the functional impairment, see section 124a, is a consequence of an acquired mental impairment that is progressive, the use of personal alarm and paging systems may be implemented unless the person in question objects to such use. If the person objects to the use of a personal alarm or paging system, the municipal council may decide to use such a system, see subsection (1). Any decision under the second sentence hereof may be made valid for an indefinite period.

(3) The municipal council may decide to use special door opening devices at external doors for one or more persons for a limited period of time where there is an imminent risk that in leaving the accommodation or day facility, one or more persons may cause substantial bodily injury to themselves or to other persons; and

- (i) the circumstances of the given situation make the measure absolutely necessary to avert this risk; and
- (ii) all other measures available under the Act have been used in vain.

(4) If any measures under subsection (3) are implemented, a door alarm shall be installed in the interests of the free movement of residents to ensure that residents who are unable to operate the special door opening device obtain the necessary help for this purpose. Residents covered by the measure provided for under subsection (3) may therefore only be detained if the provision of section 127 is applied concurrently.

#### *Restraint etc.*

**126.**–(1) The municipal council may decide to use physical force in restraining a person or taking a person to another day room where

- (i) there is an imminent risk that the person may cause substantial bodily injury to themselves or to other persons; and
- (ii) the circumstances of the given situation make the measure absolutely necessary.

**126a.**–(1) The municipal council may, in exceptional cases, decide to use physical force for a limited period in restraining a person where this must be deemed to be absolutely necessary to exercise the duty of care, see section 82(1), in personal hygiene situations. At the same time, attempts shall be made through the action plan, see section 136(2), to ensure the avoidance of the use of force in future personal hygiene situations.

#### *Detention in the home*

**127.**–(1) Subject to the same conditions as those set out in section 125(3), the municipal council may decide to use physical force by way of restraint to prevent a person from leaving the home or to take the person back to the home.

(2) The municipal council shall decide on the period during which a person may be detained in the home

and shall consider from time to time whether a less restrictive measure may be taken.

#### *Use of fabric braces*

**128.**—(1) The municipal council may decide to restrain a person by a fabric brace fastened to a wheelchair or any other technical aid, bed, chair or toilet so as to prevent falls where there is an imminent risk that a person may cause substantial bodily injury to themselves and where the circumstances of the given situation make the measure absolutely necessary.

(2) The municipal council shall decide on the period during which the protective measures falling within subsection (1) may be applied and shall consider from time to time whether a less restrictive measure may be taken.

#### *Admission to special accommodation facilities without consent*

**129.**—(1) The municipal council may, see section 131, recommend that the State administration decide that a person who objects to moving or lacks the capacity to give informed consent thereto, but see subsection (2), shall be admitted to a particular accommodation facility under this Act, an accommodation facility in residential properties built under Act No. 378 of 10 June 1987 on Housing for the Elderly and People with Disabilities (now repealed), a private care dwelling under the Act on Private Care Dwellings or an accommodation facility under the Act on Social Housing etc. where

- (i) it is absolutely essential to ensure that the person in question receives the necessary assistance; and
- (ii) the assistance cannot be provided in the person's existing home; and
- (iii) the person in question cannot foresee the consequences of their actions; and
- (iv) the person in question risks exposing themselves to substantial bodily injury; and
- (v) it would be irresponsible not to arrange for the person to move.

(2) In regard to persons with a substantial and permanent mental impairment, see section 124a, who do not object to moving, but who lack the capacity to give informed consent to moving, and where the mental functional impairment is a consequence of an acquired mental impairment that is progressive, the municipal council may decide to admit such a person to a particular accommodation facility provided that the municipal council's recommendation is endorsed by the guardian appointed by the State administration, see section 131, where

- (i) admission to an accommodation facility with associated services is essential to ensure that the person in question receives the necessary assistance; and
- (ii) such admission, in the specific case, is found to offer the person in question the most expedient solution in terms of care.

(3) In regard to persons who have created a lasting power of attorney, which covers any matters set out in subsection (2) and has come into effect, see section 7(1) of the Act on Lasting Powers of Attorney, the municipal council's recommendation to refer the person to other accommodation as provided for under subsection (2) may be endorsed by the lasting attorney.

(4) The municipal council may, in exceptional cases, recommend that the State administration should decide that any person who has been admitted to an accommodation facility under subsection (1) and lacks the capacity to give informed consent may be referred to another corresponding housing unit where care can be provided for the person in question, irrespective of whether the conditions of subsection (1)(i) to (v) have not been met, if this is deemed to be in the best interests of that person, including the possibilities for the person to remain in contact with their relatives.

(5) If any spouse, cohabitant or other relative can no longer provide the necessary assistance for and supervision of the person in question, this shall be included in the municipal council's assessment under subsections (1) and (2).

(6) The municipal council's decision under subsection (2), may be appealed to the State administration pursuant to the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters. If the municipal council's recommendation is not endorsed by the guardian appointed by the State administration, see section 131, or by the lasting attorney, see subsection (3), the municipal council shall make a recommendation to the State administration to make a decision on admission or referral to a particular accommodation facility under subsection (2).



*Admission to a particular accommodation facility without consent in cases of significant danger to others or particularly threatening or particularly harassing behaviour*

**129a.**—(1) The municipal council may recommend that the State administration decide that a person with a substantial and permanent mental impairment as a result of a mental disability who objects to moving or lacks the capacity to give informed consent thereto shall, in special cases, be admitted to a particular accommodation facility under section 108 of this Act where

- (i) the person in question poses a significant danger to or displays a particularly threatening or particularly harassing behaviour towards other residents or staff members;
- (ii) it would be irresponsible to the other residents and in terms of staff safety not to arrange for the person to move;
- (iii) the circumstances of the given situation make the measure absolutely necessary; and
- (iv) it can be established that the new accommodation facility is better suited to accommodate the relevant person's needs for support.

*Procedure, administration, etc.*

**130.**—(1) To make decisions pursuant to sections 125, 126a, 127 and 128, the municipal council shall have at its disposal

- (i) the requisite professional documentation of the functional impairment;
- (ii) information about the socio-pedagogical assistance and care under Part 16 implemented prior to the planned decision to implement the measures;
- (iii) information about the expected period during which the measures will be required; and
- (iv) any comments from relatives and, if applicable, a guardian on the planned measures.

*Decisions by State administration on admission to special accommodation facilities without consent*

**131.**—(1) The State administration shall decide on admission to special accommodation facilities without consent under section 129 on the recommendation of the municipal council. The State administration's decision shall be made within two weeks of receipt of the municipal council's recommendation.

(2) The recommendation shall include an account of

- (i) the basis on which the conditions of section 129 are deemed to be met;
- (ii) the requisite professional documentation of the functional impairment;
- (iii) the assistance and care under Part 16 that were implemented or offered to the relevant person or the family before the recommendation of admission to a special accommodation facility was decided on;
- (iv) the adaptation and fitting-out of the new home and the personal assistance, care and support, etc. that may subsequently be made available; and
- (v) any comments of the person, the relatives and, if applicable, the guardian on the prospect of moving, including but not limited to whether the persons who have a right of appeal under section 134(3) are prepared to endorse the municipal council's recommendation.

(3) A spouse or any other connected person cohabiting with the person involved in the case shall be entitled to appeal against any refusal by the municipal council to recommend admission to special accommodation facilities under this provision. The appeal may be filed with the State administration, but not with any other administrative appeals authority. The provisions of sections 66 to 69, section 70, first sentence, and section 74 of the Act on Legal Protection and Administration in Social Matters shall apply to the filing of appeals with the State administration.

(4) If the person involved does not already have a guardian, the municipal council shall, when recommending the person to move, request the State administration to appoint a guardian under the Legal Guardianship Act.

(5) If necessary, the municipality may request the police to assist in the enforcement of a decision to move the person.

**131a.**—(1) The State administration shall, on the recommendation of the municipal council, decide on the admission of a person to a particular accommodation facility under section 129a. The State administration shall make its decision within two weeks of receipt of the municipal council's recommendation.

- (2) The recommendation shall include an account of
- (i) the basis on which the conditions of section 129a are deemed to be met;
  - (ii) the requisite professional documentation of the mental disability and the resulting substantial and permanent mental impairment;
  - (iii) the requisite documentation proving that the person in question poses a significant danger to or displays a particularly threatening or particularly harassing behaviour towards other residents or staff members;
  - (iv) the assistance, socio-pedagogical assistance and other measures under Title V of the Act that were implemented or offered to the relevant person to prevent their dangerous, threatening or harassing behaviour before the recommendation of admission to a particular accommodation facility was decided on;
  - (v) the adaptation and fitting-out of the new home and the personal assistance, care and support, etc. that may subsequently be made available; and
  - (vi) any comments of the person, the relatives and, if applicable, the guardian on the prospect of moving, including but not limited to whether the persons who have a right of appeal under section 134(3) are prepared to endorse the municipal council's recommendation.
- (3) The municipal council shall, in connection with the recommendation, consider whether a need exists for requesting the State administration to appoint a guardian under the Legal Guardianship Act.
- (4) If necessary, the municipal council may request the police to assist in the enforcement of a decision to move the person.

#### *Legal assistance*

- 132.**—(1) The municipal council shall ensure that the person involved receives legal assistance for the purpose of safeguarding their interests in cases concerning
- (i) detention in the home etc. against the person's will under section 127; or
  - (ii) admission to special accommodation facilities under sections 129(1) and 129a.
- (2) The authority shall pay legal costs, comprising the lawyer's fees and expenses, in accordance with the same rules as those applying to cases in which free legal aid is granted, see Part 31 of the Administration of Justice Act.

#### *Appeals to the National Social Appeals Board*

- 133.**—(1) Decisions by the municipal council under sections 125, 126, 126a, 127, 128, 137b and 137c(2) may be appealed to the National Social Appeals Board under the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters.
- (2) Decisions on restrictive measures under section 126, which are carried out by private-sector contractors, staff members in regional facilities or private-sector contractors in facilities established by the regional council may be appealed to the National Social Appeals Board under the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters, see subsection (1). The appeal shall be filed with the municipal council responsible for the citizen's stay in the facility, see sections 9 and 9b of the Act on Legal Protection and Administration in Social Matters. The municipal council shall consider the appeal pursuant to section 66 of the Act on Legal Protection and Administration in Social Matters.
- (3) A spouse, relative, guardian or any other representative of the person to whom the measure relates may appeal against the municipal council's decision where the person affected is unable to do so.
- 134.**—(1) Decisions by the State administration under section 131 on the admission to a particular accommodation facility under section 129 may be appealed to the National Social Appeals Board within four weeks of the date on which the applicant was notified of the decision.
- (2) The person to whom the decision relates or the municipal council shall be entitled to appeal against the decisions set forth in subsection (1).
- (3) A spouse, relative, guardian or any other representative of the person to whom a measure relates may appeal against the State administration's decision where the person affected is unable to do so.
- (4) For the purpose of the review of an appeal by the National Social Appeals Board, the provisions of Parts 9 and 10 of the Act on Legal Protection and Administration in Social Matters shall apply, except for section 66 of Part 10 of that Act.

#### *Judicial review*

**135.**—(1) Provided an application is made to the National Social Appeals Board within four weeks of the date on which the applicant was notified of the decision, the applicant may demand that the decision be brought before the court under the provisions of Part 43a of the Administration of Justice Act where the decision by the National Social Appeals Board concerns

- i. detention in the home etc. under section 127; or
- ii. admission to special accommodation facilities under sections 129 and 129a.

#### *Registration, reporting and action plans*

**136.**—(1) Admission to accommodation facilities under section 129 and any form of use of force, including but not limited to use of force in connection with measures under sections 125 to 128, shall be registered and reported by the facility to the municipal council responsible for the citizen's stay in the facility, see sections 9 and 9b of the Act on Legal Protection and Administration in Social Matters and to the municipal council in the municipality that supervises the operation of the facility, see section 148a of this Act or section 2 of the Act on Social Supervision. If the citizen to whom the report relates is staying in a regional or municipal accommodation facility, such facility shall also notify the municipal or regional operator on the use of force.

(2) The municipal council shall draw up action plans in accordance with section 141 for persons in relation to whom any measures under subsection (1) are taken.

#### *Authorisations etc.*

**137.**—(1) The Minister for Children and Social Affairs shall by order lay down rules governing the implementation of measures, registration, reporting, approval and drawing up of action plans, see sections 125 to 131 and 136.

(2) The Minister for Children and Social Affairs shall by order lay down rules on the appointment of lawyers providing assistance in cases under sections 127, 129 and 129a and rules on legal representation in such cases, see section 132.

#### *Regulation of visiting restrictions etc.*

**137a.**—(1) Persons residing in assisted living flats, nursing homes or any other accommodation facilities with affiliated staff and communal residential areas shall decide themselves by whom they would like to be visited, but see sections 137b(1) and 137c(2).

**137b.**—(1) The municipal council may decide to restrict certain visitors' access to communal residential areas in accommodation facilities referred to in section 137a where

- (i) the visitor commits violence or threatens to commit violence against the other residents or staff members or, in any other manner, displays a behaviour that endangers the safety of other residents or staff members;
- (ii) the visitor, without being physically violent, disturbs or harasses the other residents or staff members; or
- (iii) the visitor's behaviour is extremely discomforting to the other residents or staff members by engendering a general sense of insecurity through the visitor's presence in the communal residential areas or acts disrupting the ambience of the communal residential areas or by impeding the provision of necessary assistance under the Act on Social Services.

(2) The municipal council shall, by a decision under subsection (1), ensure that the visitor can gain access to the part of the housing unit whereover the resident exercises an exclusive right of control.

**137c.**—(1) The municipal council may not decide to restrict specific visitors' access to the part of the housing unit whereover the resident exercises an exclusive right of control.

(2) Notwithstanding the foregoing, the municipal council may decide that certain visitors behaving towards the staff in a manner as described in section 137b(1)(i) and (ii) shall not be allowed access to this part of the housing unit during periods when assistance for which the resident has been assessed eligible under the Act on Social Services is provided.

**137d.**—(1) Decisions under sections 137b(1) and 137c(2) shall be made at a meeting of the municipal

council or the standing committee or, in the case of corporate-model municipalities, by the corporation member responsible for the services provided for under section 83 of the Act on Social Services.

(2) Notwithstanding the foregoing, the State administration shall be entitled to make provisional decisions under sections 137b and 137c(2), which, because of immediate needs, cannot be deferred pending consideration by the municipal council or the standing committee, see subsection (1).

(3) Any provisional decision under subsection (2) shall, as soon as possible after its implementation, be submitted for approval by the authority empowered to make decisions under subsection (1).

(4) Decisions under sections 137b and 137c(2) shall in each case be limited to a strict minimum. The extent and duration of the visiting restriction shall be specified in the decision. Any decision in this context may only be made provided that attempts have been made to take less restrictive measures against the visitor.

(5) Decisions under sections 137b and 137c(2) shall be made in respect of both the visitor and the resident.

(6) Decisions under sections 137b and 137c(2) may be appealed to the National Social Appeals Board, see the provisions of section 133(1).

#### Part 24a

#### *Enforcement of sanctions under criminal law etc.*

##### *Scope and purpose*

**137e.**—(1) A decision may be made to take restrictive measures under sections 137g(1) and (2), 137h(1), 137i(1) and 137j(1) against persons with a mental impairment who, in accordance with any judgment, sentence or order of a criminal court, have been committed to an accommodation facility, see section 108.

(2) In regard to persons falling within subsection (1) who have been committed to an accommodation facility, see section 108, with secure wards, it may also be decided to take restrictive measures under sections 137h(3) to (5) and 137(2).

(3) A decision may be made to take restrictive measures under section 137h(7) against visitors to persons falling within subsection (1).

(4) This Part shall not apply to persons who remain in the accommodation facility, see section 108, after the criminal law sanction has been lifted.

##### *Authority*

**137f.**—(1) The municipal council in the municipality, which has a duty to provide assistance, see sections 9 and 9a of the Act on Legal Protection and Administration in Social Matters, shall make decisions on the restrictive measures set out in sections 137g(1) and (2), 137h(1), (3) to (5) and (7), 137i(1) and 137j(1) and (2).

(2) Notwithstanding the foregoing, the manager and deputy manager of the accommodation facility, see section 108, may make provisional decisions, see sections 137g(1) and (2), 137h(1), (3) to (5) and (7), 137i(1) and 137j(1) and (2), on restrictive measures in cases where the implementation of the measure is urgent and cannot be deferred pending consideration by the municipal council. Provisional decisions, see the first sentence hereof, may be made by managers and deputy managers of accommodation facilities, see section 108, operated by municipalities, regions and private-sector contractors.

(3) Any provisional decision, see subsection (2), shall as soon as possible be submitted to the municipal council for approval, see subsection (1).

(4) Restrictive measures within the meaning of sections 137g(1) and (2), 137h(1), (3) to (5) and (7), 137i(1) and 137j(1) and (2) may be carried out by employees in accommodation facilities, see section 108, operated by municipalities, regions or private-sector contractors.

(5) Any decision concerning restrictive measures within the meaning of sections 137g(1) and (2), 137h(1), (3) to (5) and (7), 137i(1) and 137j(1) and (2) shall be allowed only where the purpose of the measure cannot be appropriately achieved by applying less restrictive measures.

### *Individual restrictive measures*

#### *Restriction on the person placed in an accommodation facility's Internet and telephone access*

**137g.**—(1) A decision may, without a court order, be made to monitor the person placed in an accommodation facility's use of telephone and Internet in specific cases where this is deemed necessary for the protection of order or security, including for the purpose of deterring or preventing crime.

(2) A decision may, without a court order, be made to interrupt or prevent the person placed in an accommodation facility's telephone and Internet access where this is necessary for the protection of order or security, including for the purpose of deterring or preventing crime.

(3) Notwithstanding the foregoing, the person placed in an accommodation facility's communications with public authorities, lawyers, guardians or court-appointed guardians may not be monitored, interrupted or prevented.

(4) Any operator of an accommodation facility, see section 108, with secure wards may decide to impose, on the entire facility, a general prohibition on the possession or use of computers, mobile phones, tablets and other devices enabling Internet access. Where a prohibition under subsection (1) is imposed, the operator shall ensure that the persons placed in the facility gain Internet access by other means.

### *Searches*

**137h.**—(1) A decision may, without a court order, be made to search the day room and possessions of a person placed in an accommodation facility, see section 108, where this is deemed necessary for the protection of order or security, including for the purpose of deterring or preventing crime. At least two employees shall participate in the search of the person placed in an accommodation facility's day room and possessions.

(2) In accommodation facilities, see section 108, with secure wards, scanners may be used to prevent persons placed in the facility or visitors to persons placed in the facility from possessing any effects capable of endangering the order or security of the accommodation facility or being used to commit a new crime.

(3) In relation to any person placed in an accommodation facility, see section 108, with secure wards, where reasonable grounds exist for suspecting that the person placed in the facility is in possession of effects capable of endangering the order or security of the accommodation facility or being used to commit a new crime and an attempt has been made to counter the risk involved with the use of a scanner under subsection (2), a decision may be made to conduct a search to establish what effects the person placed in the facility has on their person. At least two employees shall participate in the search at all times. A strip search may only be conducted and attended by two employees of the same sex as the person placed in the facility.

(4) In relation to any person placed in an accommodation facility, see section 108, with secure wards, where reasonable grounds exist for suspecting that the postal mail contains effects capable of endangering the order or security of the accommodation facility or being used to commit a new crime, a decision may, without a court order, be made to open and check the person placed in the facility's mail. The restrictive measure shall be performed in the presence of the person placed in the facility. Notwithstanding the foregoing, the restrictive measure may be performed without the presence of the person placed in the facility where this is necessary for the protection of order and security. The person placed in the facility shall in such a case be informed immediately after the restrictive measure has been performed.

(5) Any mail, which should not be delivered to the person placed in the facility for reasons set forth in subsection (4) shall be returned, but may be withheld for as long as this is deemed necessary for reasons of security. The sender shall be notified of the mail being withheld.

(6) Any person placed in an accommodation facility shall have the right to unmonitored postal mail correspondence with public authorities, lawyers, guardians and court-appointed guardians.

(7) In relation to any visitor to a person placed in an accommodation facility, where reasonable grounds exist for suspecting that the visitor is in possession of effects capable of endangering the order or security of the accommodation facility or being used to commit a new crime and an attempt has been made to counter the risk involved with the use of a scanner under subsection (2), a decision may be made to search effects, including bags, purses and parcels brought into an accommodation facility, see section 108, with secure wards. Any such search may also include the visitor's outer garments. The decision shall be made in relation to both the visitor and the relevant person placed in the facility. A search of effects, which the visitor is carrying on their body shall be permitted only where reasonable grounds exist for suspecting that the visitor



will smuggle effects into the facility.

(8) Any effects, which, for reasons set forth in subsection (7), should not be brought into an accommodation facility, see section 108, with secure wards, may be withheld and stored in a locked room or cabinet during the visit and returned to the visitor when they leave the facility. The same shall apply to any effects found with the use of a scanner under subsection (2).

#### *Forfeiture of the person placed in an accommodation facility's effects*

**137i.**—(1) A decision may, without a court order, be made to forfeit any effects in the possession of a person placed in an accommodation facility, see section 108, where this is deemed necessary for the protection of order or security, including for the purpose of deterring or preventing crime.

(2) Where effects in the possession of the person placed in an accommodation facility are forfeited, the staff members shall make a list of such effects. The person placed in the facility shall be notified of the forfeiture and receive a copy of the list.

#### *Locking of the person placed in an accommodation facility's housing unit for the night and confinement in protection room*

**137j.**—(1) A decision may, without a court order, be made that a person placed in an accommodation facility, see section 108, should be locked up in their housing unit at night for up to eight hours in the period between 9 pm and 8 am if there is an imminent risk that the person placed in the facility will otherwise escape from the facility.

(2) It may be decided that a person placed in an accommodation facility under section 108 with secure wards shall be confined in a protection room where there is an impending danger that the person placed in the facility will harm themselves. Any such confinement shall be as short as possible and may not last beyond two hours.

(3) To decide on any restrictive measures under subsections (1) and (2), it is a condition that

- (i) the restrictive measure is safe and proper and does not pose a health hazard to the person placed in the facility;
- (ii) the person placed in the facility is not suicidal;
- (iii) a staff call system is available to the person placed in the facility in the housing unit or protection room, which the person placed in the facility is able to operate, allowing the person placed in the facility to call for staff assistance;
- (iv) the person placed in the facility has access to a toilet and water in their housing unit or in the protection room; and
- (v) regular monitoring is carried out in the period during which the person placed in the facility is locked up.

#### *Duration of restrictive measures*

**137k.**—(1) Restrictive measures shall be lifted immediately when the conditions for applying such measures no longer exist.

(2) The municipality or person who decided to take a restrictive measure, see section 137f(1) to (3), shall regularly consider the question of lifting the restriction.

#### *Right of appeal*

**137l.**—(1) Decisions on restrictive measures, see sections 137g(1) and (2), 137h(1), (3) to (5) and (7), 137i(1) and 137j(1) and (2), may be appealed to the National Social Appeals Board pursuant to the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters.

(2) A guardian, court-appointed guardian, spouse, relative or any other representative of the person to whom the restrictive measure relates may appeal against the decision where the person affected is unable to do so.

#### *Registration and reporting*

**137m.**—(1) Any restrictive measure within the meaning of sections 137g(1) and (2), 137h(1), (3) to (5) and (7), 137i(1) and 137j(1) and (2), which has been or was implemented shall be registered within 24 hours. Any such registration shall be reported without undue delay by the principal or deputy principal of the accommodation facility, see section 108, to the municipal council, which has a duty to provide assistance,

see sections 9 and 9a of the Act on Legal Protection and Administration in Social Matters. The registration shall include information stating

- (i) the name of the person placed in an accommodation facility;
- (ii) the date and hour of the measure;
- (iii) the duration of the measure;
- (iv) the nature of the measure; and
- (v) the reason for the measure.

(2) In case of any restrictive measure within the meaning of section 137h(7), the registration under subsection (1) shall also include information about the name of the visitor.

(3) The person placed in an accommodation facility against whom the restrictive measure is or was targeted shall be notified of the registration and be offered the possibility of adding their own account.

(4) At the end of each month, the manager or deputy manager of the accommodation facility, see section 108, shall send their comments and a copy of the registrations, see subsection (1), to the municipal council, which has a duty to provide assistance, see sections 9 and 9a of the Act on Legal Protection and Administration in Social Matters, and to the social supervisory authority, which supervises the operation of the accommodation facility, see section 2 of the Act on Social Supervision. Where any measure has been or was implemented in a municipal or regional facility, the manager or deputy manager shall also inform the municipal or regional operator about the measure.

## **Title VIII**

### **Administration etc.**

#### Part 25

#### *Quality standards and action plans*

##### *Quality standards*

**138.**—(1) The municipal council may decide, within the scope of this Act, to fix general, recommended service levels for the local implementation of assistance services provided for under the Act.

**139.**—(1) The Minister for Children and Social Affairs may by order lay down rules providing that the municipal council shall make decisions on the content, scope and provision of services for adults under this Act and follow up such decisions, but see subsection (2).

(2) The Minister for Senior Citizens may lay down rules providing that the municipal council shall make decisions on the content, scope and provision of services for adults under sections 79, 79a, 83, 83a, 84, 86, 119 to 122 and 192 and follow up such decisions.

##### *Action plans*

**140.**—(1) The municipal council shall draw up an action plan before deciding on any measures under sections 52, 76 and 76a. Where the drawing up of the action plan cannot be deferred due to the best interests of the child or young person, a brief statement of the purpose of the specific measure shall be sufficient. In such case, the municipal council shall draw up an action plan as soon as possible, but within four months.

(2) For young persons under 18 years of age diagnosed with a drug misuse requiring treatment, the municipal council shall draw up an action plan for the treatment to be implemented and for the provision of necessary support to the young person. The action plan shall be drawn up in consultation with the young person and their family.

(3) An action plan shall state the purpose of the measures and the type of measures required to achieve such purpose. The action plan shall be based on the results of the child protection examination identifying the circumstances of the child or young person, see section 50. In relation to the problems addressed in the examination, the action plan shall contain specific objectives for the welfare and development of the child or young person in compliance with the overall purpose of the support, see section 46. Moreover, in relation to young persons aged 16 or over, the action plan shall set specific objectives for the young person's transition to adult life, including employment and education objectives.

(4) An action plan shall also indicate the expected duration of the measures. In cases involving out-of-home placement, see sections 52(3)(vii) and 58, an action plan shall also state the types of support to be

implemented separately and targeted at the family during the period when the child or young person is in out-of-home care as well as during the period after the return of the child or young person.

(5) Where a penalty has been imposed on a young person under section 74a of the Criminal Code, the action plan shall include a definite plan for how the young person, as soon as possible but not later than at the end of the penalty period, will enter education or employment.

(6) One combined action plan for two or more children in the family may be drawn up. The action plan shall in such case take the individual circumstances of the children into account.

(7) Where a child or young person is placed in an accommodation facility under section 66 or is found eligible for treatment in a facility for drug misusers under section 101, relevant parts of the action plan shall be submitted to the treatment facility.

**140a.**—(1) When drawing up an action plan for a child or young person, see section 140, the municipal council may offer that any elements of an action plan, see section 140(1), (3), (4) and (6), that relate to the parents be replaced by an integrated plan. In regard to young persons between 16 and 23 years of age, the municipal council may offer the replacement of the action plan, see section 140(1) to (5), by an integrated plan.

(2) The integrated plan, see subsection (1), may be offered to parents and young persons encountering complex and composite problems, where two or more plans may or shall be prepared for the measures to be taken and where this implies a need for coordination. The replacement of the action plan by an integrated plan shall be subject to the consent of the custodial parent and the young person aged 16 or over.

(3) The integrated plan shall contain the social measures and initiatives and set out any other relevant initiatives provided for under any other legislation. The integrated plan shall meet the requirements for the contents of an action plan under section 140, (1) to (5).

**141.**—(1) Where assistance is provided to persons under old-age pension age, see section 1a of the Act on Social Pensions under Title V, the municipal council shall estimate, in the context of the measures taken, whether it is expedient to offer to draw up an action plan in respect of the measures, but see subsections (2) and (6). In this estimate, due consideration shall be given to the citizen's request for an action plan and to the nature and scope of the measures.

(2) The municipal council shall offer to draw up an action plan where the assistance is provided to

- (i) persons with a substantial physical or mental impairment; or
- (ii) persons with serious social problems who either cannot stay in their own home or, if so, only with considerable support, or who generally need considerable support for improving their potential for personal development.

(3) The action plan shall specify

- (i) the purpose of the measures;
- (ii) the measures necessary to achieve the purpose;
- (iii) the expected duration of the measures; and
- (iv) any other special factors relating to accommodation, employment, personal assistance, treatment, technical aids, etc.

(4) The action plan should be drawn up on the basis of the citizen's situation and, to the extent possible, in consultation with the citizen concerned.

(5) Where a person is found eligible for a social accommodation facility under sections 107 to 110 or a treatment facility for drug misusers under section 101, relevant parts of the action plan shall be submitted to the facility.

(6) The municipal council's obligations under subsections (1) to (5) shall not apply to persons who are offered anonymous, outpatient treatment for drug misuse under section 101a.

(7) The municipal council may offer to replace the action plan, see subsections (1) and (2), by an integrated plan where the citizens are encountering complex and composite problems, where two or more plans may or shall be prepared for the measures to be taken and where this implies a need for coordination. The replacement of the action plan by an integrated plan shall be subject to the consent of the citizen. If the action plan is replaced by an integrated plan, the requirements of subsections (3) and (4) shall still be met.

## Part 26

*Follow-up, supervision and payment for supervision***142.-145.** (Repealed)

**146.**—(1) The municipal council shall supervise the conditions under which children, young persons under 18 years of age and expecting parents are living in the municipality.

(2) The municipal council shall discharge its supervisory duties under subsection (1) in a manner enabling it to identify, as soon as possible, any cases where a child or young person under 18 years of age must be assumed to need special support or where a child must be assumed to acquire a need for special support immediately after being born.

**147.** (Repealed)

**148.**—(1) The municipal council in the municipality, which has a duty to provide assistance under this Act, see sections 9 to 9b of the Act on Legal Protection and Administration in Social Matters, shall supervise any services and facilities decided by the municipal council in that municipality in respect of the individual person, see section 3(1). Supervision shall not include general operational supervision, see section 148a and the Act on Social Supervision.

(2) The municipal council in the municipality, which has a duty to provide assistance under this Act, see sections 9 to 9b of the Act on Legal Protection and Administration in Social Matters, shall continuously follow up the individual cases to ensure that the assistance still serves its purpose. The municipal council shall in that connection, in particular, be attentive to determining whether the provision of any other forms of assistance is needed. Such follow-up shall be based on the recipient's conditions and, to the extent possible, in consultation with the recipient.

(3) If, in connection with its supervision pursuant to subsection (1), the municipal council that is responsible for the citizen's stay in the facility, see sections 9 and 9b of the Act on Legal Protection and Administration in Social Matters, becomes aware of matters of concern in any facility covered by the Act on Social Supervision, the municipal council shall notify the municipal council, which, under section 2 of the Act on Social Supervision, is responsible for supervising the operation of the facility.

**148a.**—(1) The municipal council shall conduct general operational supervision of its own facilities under this Act, which do not fall within section 4 of the Act on Social Supervision, and of any private facilities under this Act located in the municipality, which do not fall within section 4 of the Act on Social Supervision. Such operational supervision shall include supervision of facility staff, buildings and finances.

(2) Notwithstanding the foregoing, supervision under subsection (1) shall not include facilities where another municipal or regional council has entered into an agreement on the use of all places in the facility and on supervision.

(3) Supervision under subsection (1) shall not include foster families and municipal foster families, see section 66(1)(i) and (ii), who have been approved as being specifically suitable under section 66a(1)(ii), or network foster families, see section 66(1)(iii), and own rooms etc., see section 66(1)(iv).

(4) The municipal council may delegate its powers under this provision to the social supervisory authority, see section 3(1)(ii) of the Act on Social Supervision.

(5) The Minister for Children and Social Affairs may lay down rules regulating operational supervision.

**149.**—(1) The municipal and regional councils shall set a tariff for general operational supervision, see sections 5(8) and 148a, which shall be payable by the facilities included in supervision.

(2) The tariff under subsection (1) shall be calculated on the basis of the average expenses involved in supervising the facility or the type of facility.

**150.**—(1) The Patient Safety Authority shall supervise the personal assistance, attention and care provided under sections 83 to 87 by the registrable municipal and private entities under section 150c(1) and (2).

(2) The Patient Safety Authority shall conduct the supervision under subsection (1) on the basis of an ongoing assessment of where personal assistance, attention and care may be most at risk of non-compliance with the required quality. The Patient Safety Authority shall also, if there are reasonable grounds to suspect non-compliance, conduct supervision under subsection (1) where this is deemed necessary for an entity to achieve the required quality of personal assistance, attention and care.

(3) If the Patient Safety Authority becomes aware of any non-compliance, non-conformity or matters of concern in connection with supervision under subsection (1), the Authority shall notify the relevant registrable entity and the municipal council in the municipality of location.

(4) If the municipal council in the municipality of location is notified of any non-compliance, non-conformity or matters of concern under subsection (3), the municipal council shall inform the municipal councils responsible for the assistance to the individual citizen, see sections 9 and 9b of the Act on Legal Protection and Administration in Social Matters, when such citizens may be affected.

(5) The Patient Safety Authority shall lay down rules for assessing the quality of personal assistance, attention and care, including through identification of criteria and indicators.

**150a.**–(1) The registrable entity shall provide such information as is necessary in the context of the supervision at the request of the Danish Patient Safety Authority.

(2) The Patient Safety Authority, subject to proper proof of identity and without a court order, shall at all times, in the context of the supervision set out in section 150(1), be allowed access to all registrable entities included in supervision.

**150b.**–(1) The Patient Safety Authority shall prepare a supervision report after every supervision visit undertaken in accordance with section 150(1). The Patient Safety Authority shall prepare an annual summary of observations and assessments resulting from the supervisions under section 150(1).

(2) The Patient Safety Authority shall lay down rules on the publication of supervision reports and summaries, see subsection (1).

**150c.**–(1) The following entities shall register with the Patient Safety Authority, but see subsection (2):

- (i) Nursing homes etc., see section 192.
- (ii) Assisted living homes falling within the Act on Social Housing etc. or the Act on Housing for Older People and Persons with Disabilities.
- (iii) Private care dwellings falling within the Act on Private Care Dwellings.
- (iv) Other corresponding housing units, including but not limited to temporary places where assistance is provided from service areas and permanent staff are affiliated.
- (v) Contractors providing assistance under section 83, see section 91.

(2) The overview of entities subject to a duty of registration in subsection (1) does not include entities where the assistance and support for citizens in the entity to a considerable extent include support within the meaning of section 85.

(3) The Patient Safety Authority shall lay down rules on registration under subsection (1), including rules specifying that registration shall be made electronically.

**150d.**–(1) Where warranted by the circumstances of the registrable unit, the Patient Safety Authority may order the relevant entity to observe certain requirements for the professional social and healthcare services or, temporarily, to suspend operations of the professional social and healthcare services in whole or in part.

(2) Decisions under subsection (1) cannot be brought before any other administrative authority.

(3) The Patient Safety Authority shall lay down rules on the publication of decisions made under subsection (1).

**151.**–(1) The municipality of location shall supervise the performance of the municipal duties under sections 83, 83a and 86 to ensure that the municipal council's decisions under these provisions are complied with and that the quality standards adopted by the municipal council are duly observed, see section 139.

(2) As part of the duty of supervision under subsection (1), the municipal council shall undertake at least one announced and one unannounced visit every year to nursing homes etc., see section 192, to assisted living homes falling within the scope of the Act on Social Housing etc. or the Act on Housing for Older People and Persons with Disabilities, and to other corresponding housing units in the municipality. Supervision shall include any assistance, support, etc. provided to residents and tenants receiving municipal services. Supervision may not be undertaken by any contractors or persons providing services in the area.

(3) The municipal council's duty under subsections (1) and (2) shall not apply to facilities covered by the social supervisory authority, see section 4 of the Act on Social Supervision.

**151a.**–(1) With respect to tenants and residents of private care dwellings, the obligation to follow up on individual cases and the duty of supervision, see section 148(1) and (2) and section 151(1), shall lie with the municipal council in the municipality where the private care dwellings are located.

(2) The municipal council's duty of supervision shall include at least one announced and one unannounced visit to the private care dwellings every year. Supervision shall include any assistance, support, etc. provided to residents and tenants receiving municipal services. Supervision may not be undertaken by any contractor



providing private care dwellings or by any person working for such a contractor included in supervision.

(3) In the context of each supervision visit, the municipal council shall ensure that the service generally provided in the private care dwellings meets the requirements of the licence held by the contractor providing the private care dwellings.

**151b.**—(1) Where, during a supervision visit to private care dwellings, the municipal council finds that a citizen does not receive the assistance to which they are entitled in accordance with the decision, the municipal council shall inform the citizen and the municipality that has made the decision under this Act if that municipality is not identical to the municipality of location.

(2) The municipal council may issue, to the contractor providing private care dwellings, any such order as is required to ensure that assistance is provided in accordance with the decision. The municipal council shall inform the contractor providing private care dwellings that any failure to provide assistance in accordance with the decision may result in the matter being reported to the National Board of Social Services. If the contractor providing private care dwellings fails to comply with the order, the municipal council shall immediately report the matter to the National Board of Social Services. The municipal council shall prepare a recommendation for use in connection with the decisions of the National Board of Social Services.

**151c.**—(1) The municipal council shall formulate and publish a policy for the supervision of services offered under section 83, which are covered by the rules on free choice of contractor under section 91.

(2) The supervision policy shall lay down municipal procedures for undertaking supervision of such services and for following up on the supervision.

(3) In connection with decisions on the service level for services offered under section 83 and on the preparation of quality standards under section 139, the municipal council shall follow up on the supervision policy at least once a year, for instance by making any such adjustments as are necessary.

## Part 27

### *Duty of notification*

**152.**—(1) Where a family with one or more children under 18 years of age or expecting parents are moving out of one municipality to another, and the originating municipality finds that one or more children or the expecting parents need special support due to the possible special needs of the child following birth, the originating municipality shall notify the receiving municipality thereof.

(2) In connection with any notification under subsection (1), the originating municipality shall transmit any necessary case documents, including a summary of any relevant assessments made by that municipality in the case.

**153.**—(1) Persons performing public functions or holding public offices shall notify the municipal council if, in the exercise of their duties, they learn or have grounds to assume that

- (i) a child or young person under 18 years of age may need special support;
- (ii) a child may need special support immediately after being born because of the circumstances of the expecting parents;
- (iii) a child or young person under 18 years of age may need special support due to the child's or young person's unlawful absence from school or failure to meet the compulsory education requirement; or
- (iv) a child or young person under 18 years of age has been exposed to assault.

(2) The Minister for Children and Social Affairs may lay down rules on the duty of notification for other groups of persons who, in the pursuit of their occupations, learn of circumstances or have grounds to assume that circumstances exist, which may give rise to taking measures under this Act. The Minister for Children and Social Affairs may also lay down rules, which impose on other groups of persons a duty of notification under subsection (1)(ii) in connection with activities pursued independently of their occupations.

**153a.**—(1) General medical practitioners, medical specialists and any other persons working within social and health services may, subject to the consent of the custodial parent, disclose information about children and young persons under 18 of age with impaired vision to the John F. Kennedy Institute – the National Eye Clinic for the Visually Impaired. The John F. Kennedy Institute may, subject to the consent of the custodial parent, disclose such information to the social, health and education authorities.

(2) The Minister for Health may lay down rules on the disclosure of information to and from the John F. Kennedy Institute under subsection (1).

**154.**—(1) Any person who learns that a child or young person under 18 years of age is being exposed to

neglect or degrading treatment by their parents or other caregivers or is living under conditions endangering their health or development has a duty to notify the municipality thereof.

**155.**—(1) The municipal council shall ensure a timely and systematic assessment of all notifications under sections 152 to 154 for the purpose of determining whether the child or young person needs special support. The municipal council shall perform a central registration of the notifications for the purpose of supporting the planning of measures.

(2) Within 24 hours of receiving a notification under subsection (1), the municipal council shall assess whether the health or development of the child or young person is at risk and whether there is a need for implementing immediate measures targeted at the child or young person.

**155a.**—(1) When the municipal council receives a notification about a child or young person in respect of whom the municipal council has already implemented measures, the municipal council shall review the case. One or more persons who work for the authority engaged in solving tasks in the field of socially disadvantaged children and young persons and who have not previously been involved with the consideration of the case, shall participate in the review.

(2) For the purpose of assessing a notification under sections 152 to 154, see subsection (1), a conversation may be conducted with the child or young person. The conversation may be conducted without the consent and presence of the custodial parent, where this serves the best interests of the child or young person. In the event of any notification of an assault on a child or young person, a conversation shall be conducted with the child or young person. In the event of any notification of an assault on a child or young person allegedly committed by the child's or young person's parents, the conversation shall be conducted without the consent and presence of the custodial parent.

(3) A conversation under this provision may be dispensed with in so far as the maturity of the child or young person or the nature of the case suggests that the assessment should be made without a prior conversation.

**155b.**—(1) Within six business days of receiving a notification under sections 152 to 154, the municipal council shall acknowledge receipt of the notification to the notifier.

(2) The municipal council shall inform the notifier under section 153 whether it has initiated an investigation or taken measures pertaining to the child or young person to whom the notification relates. Notwithstanding the foregoing, this shall not apply where special circumstances exist.

(3) The municipal council may, by a notification under section 153, inform the notifier about the type of measure it has initiated and about the planned duration thereof if any such information could be of crucial importance for the support, which the notifier, in the exercise of their duties, is capable of providing to the child or young person. Notwithstanding the foregoing, this shall not apply where special circumstances exist.

## Part 28

### *Penalty provisions*

**156.**—(1) Any person who incites or assists a child or young person in out-of-home care under this Act to escape, or who hides such an escaped child or young person, shall be liable to imprisonment for a term not exceeding two years or, in the case of mitigating circumstances, to a fine.

**157.**—(1) Any person who, contrary to the provisions of this Act, places a child or young person in care, takes a child or young person into care, or removes a child or young person from a foster family, shall be liable to a fine.

**157a.**—(1) Any registrable entity, which fails to provide the required information under section 150a(1), fails to register under section 150c(1) or fails to observe any order under section 150d(1) shall be liable to a fine.

(2) In regulations issued in pursuance of sections 150b(2) and 150d(3), the Patient Safety Authority may lay down provisions governing the penalty as a fine for contravention of the provisions of the regulations.

**157b.**—(1) Companies etc. (legal persons) may incur criminal liability under the provisions of Part 5 of the Criminal Code.

Part 29

*Payment and repayment, etc.*

*Payment*

**158.**—(1) Unless otherwise provided under this Act, any person receiving assistance, whether personally or for their spouse or children, shall pay for any such assistance received.

(2) The Minister for Children and Social Affairs may by order lay down rules on the charging of fees if payment for services provided under this Act is overdue.

**159.**—(1) The Minister for Children and Social Affairs may lay down rules providing that the parents and the child or young person shall pay for the residential accommodation, see section 52(3)(vii). Payment for residential accommodation under section 52(3)(vii) shall not be charged when provided as extended placement under section 68a.

**160.**—(1) The young person shall pay for residential accommodation, see sections 76(3)(i) and 76a(2), and for accommodation under a social reintegration scheme as provided for in section 76(3)(iii) in accordance with rules laid down by order by the Minister for Children and Social Affairs.

**161.**—(1) Payment may be charged for staff costs for meals service schemes under section 83(1)(iii) and for assistance under section 84 if the citizen is not at the same time receiving assistance under sections 41, 42, 96 or 100.

(2) The Minister for Children and Social Affairs shall by order lay down rules on payment for services under sections 85 and 97 to 99 and rules on the calculation and income basis for payment for such services.

(3) The Minister for Senior Citizens shall lay down rules on payment for services under sections 83, 83a, 84 and 86 and the calculation and income basis for payment for such services.

(4) The Minister for Senior Citizens shall lay down rules on the recipient's maximum co-payment for meals service under section 83(1)(iii), including rules on adjustment of co-payment.

**162.** (Repealed)

**163.**—(1) The general rules governing assistance under this Act shall apply to accommodation in facilities provided for under sections 107 to 110.

(2) Residents shall pay for accommodation in facilities under sections 107 to 110, but see subsection (3). For residents in long-term accommodation facilities, see section 108, such payment shall be fixed on the basis of the cost of operating the building. Residents in temporary accommodation facilities who maintain their own housing while staying in the facilities will generally not pay for the accommodation facility.

(3) The Minister for Children and Social Affairs shall by order lay down rules governing payment and the reduction of payment by an amount to be calculated according to rules as similar as possible to the provisions of the Act on Individual Housing Benefits.

**163a.**—(1) The municipality allocating transition housing to a tenant, see section 63 of the Act on Social Housing etc., shall reimburse the tenant for the difference between the tenant's rent expense and other mandatory payments, after deduction of support under the Act on Individual Housing Benefits and the amount, see section 163(2), which the tenant should have paid for accommodation in a facility falling within section 107 or 110. The tenant's expenses for any lease premium or deposit shall not be included in the calculation of the reimbursement. The Minister for Children and Social Affairs shall by order lay down rules on the matters referred to in this provision.

*Repayment*

**164.**—(1) The municipal council shall decide on repayment

- (i) where a person has acted in bad faith in failing to provide information as required under the Act on Legal Protection and Administration in Social Matters; or
- (ii) where a person has knowingly received assistance under this Act without being entitled thereto.

**164a.** (Repealed)

**165.**—(1) Claims for repayment shall be enforced by the municipality pursuant to rules laid down by the Minister for Children and Social Affairs in consultation with the Minister for Taxation. In this connection, it may be decided that a payment plan shall cease if the debtor defaults on payment in spite of past-due

notices.

(2) The repayment claim shall cease to apply after a period of five years has elapsed from the discontinuation of the assistance without any financial possibility of enforcing the claim. Where the repayment claim is transferred to the debt collection authority, the first sentence hereof shall not be applicable as from the receipt of the claim by the debt collection authority. The Limitation Act shall apply as from the date of receipt, provided always that the earliest date a repayment claim shall become statute-barred is three years after the claim is received by the debt collection authority, see the first sentence of section 18a(2) of the Act on Collection of Overdue Debts to Public Authorities. If the repayment claim is returned to the municipality, the first sentence hereof shall apply anew.

#### Part 29a

##### *Discontinuation of payment of benefits in certain special cases*

**165a.**—(1) Payment of benefits under sections 42, 95(2), 96 and 100 shall cease for persons knowingly evading criminal prosecution in Denmark in cases where

- (i) the person is being held in custody on remand;
- (ii) the police are searching for the person with a view to taking the person into custody; or
- (iii) an order for custody has been issued against the person.

(2) Payment of benefits under sections 42, 95(2), 96 and 100 above shall likewise cease for persons knowingly evading enforcement in Denmark if an unconditional prison sentence or any other criminal law sanction involving or presenting the risk of imprisonment has been imposed on the person in question.

(3) Benefits paid in arrears, see subsections (1) and (2), shall cease with effect from the date on which the person evaded criminal prosecution or enforcement of a sentence. Payment of prepaid benefits, see subsections (1) and (2), shall cease with effect from the month following the month in which the person in question evaded criminal prosecution or enforcement of a sentence.

(4) Where a criminal prosecution, see subsection (1), is not followed by a conviction, the part of the benefits remaining unpaid while the person was evading prosecution, shall be paid back. Notwithstanding the foregoing, back-dated benefits shall not be paid to the estate of the deceased if the person dies before sentence is pronounced in the case.

**165b.**—(1) The police or the Prison and Probation Service shall notify the municipality of the evasion if the authority has a presumption that a person who is knowingly evading criminal prosecution, see section 165a(1), or enforcement of a sentence in Denmark, see section 165a(2), is at the same time receiving benefits covered by section 165a(1) and (2).

#### Part 30

##### *Appeals and judicial review*

**166.**—(1) Unless otherwise provided by this Act or by the Act on Legal Protection and Administration in Social Matters, decisions by the municipal council may be appealed to the National Social Appeals Board under the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters.

(2) Decisions by the manager of the accommodation facility under sections 109(3) and 110(3) may be appealed to the National Social Appeals Board under the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters.

**166a.** (Repealed)

**167.**—(1) The following decisions may be appealed by the child or young person aged 12 or over to the National Social Appeals Board in accordance with the provisions of the Act on Legal Protection and Administration in Social Matters:

- (i) Preventive measures and out-of-home placement under section 52(3).
- (ii) Juvenile orders under section 57b.
- (iii) Return of a child or young person and transitional period under section 68(2).
- (iv) Choice of placement facility under section 68b(1).
- (v) Treatment and education etc. under section 69(1).
- (vi) Visitation and contact under section 71(2).

(2) In so far as any decision under subsection (1)(v) and (vi) relates to the non-custodial parent, the decision may likewise be appealed to the National Social Appeals Board.

(3) Decisions in cases concerning a personal adviser to a child or young person under section 48a may be appealed to the National Social Appeals Board by the child or young person in accordance with the provisions of the Act on Legal Protection and Administration in Social Matters.

(4) Decisions on aftercare measures under section 76 or continued placement under section 76a made in pursuance of section 68(12) and (14) before the young person attains 18 years of age may be appealed to the National Social Appeals Board by the young person in accordance with the provisions of the Act on Legal Protection and Administration in Social Matters.

#### *Decisions by the Children and Young Persons Committee*

##### *Appeals to the National Social Appeals Board*

**168.**—(1) Decisions made by the Children and Young Persons Committee, see section 74, may be appealed to the National Social Appeals Board within four weeks of the date on which the applicant was notified of the decision. Notwithstanding the foregoing, an appeal against a decision under section 75(3) cannot be reviewed by the National Social Appeals Board while proceedings concerning out-of-home placement under section 58 are pending before the Children and Young Persons Committee.

(2) The custodial parent and the young person aged 12 or over shall be entitled to bring a case before the National Social Appeals Board. Decisions under sections 71(3) to (5) of this Act and section 15(1) of the Act on Adult Responsibility for Children and Young Persons in Out-of-Home Care, which relate to the non-custodial parent may also be appealed by the non-custodial parent to the National Social Appeals Board. Moreover, foster parents may appeal against decisions under section 78(4).

(3) Where a case is brought before the National Social Appeals Board, this shall not prevent the implementation of any measures etc. decided upon. Notwithstanding the foregoing, the director general may, in exceptional circumstances, determine that a decision shall not be implemented until the National Social Appeals Board has made its decision on the case.

(4) Sections 72, 73 and 74(2) and (3) shall apply correspondingly to proceedings before the National Social Appeals Board. This shall also apply where the National Social Appeals Board, of its own motion, reviews a case involving support for children and young persons, see section 65, and the National Social Appeals Board finds in this connection that it cannot be ruled out that the proceedings may result in the Board making a decision under section 65(3) by itself.

(5) In connection with the review of a case by the National Social Appeals Board, the custodial parent and the young person aged 12 or over shall be entitled to reimbursement of transport costs incurred to attend meetings in the National Social Appeals Board.

#### *Judicial review*

**169.**—(1) Provided an application is made to the National Social Appeals Board within four weeks of the date on which the applicant was notified of the decision, the applicant may demand that the decision be brought before the court.

(2) Where a decision by the National Social Appeals Board has been affirmed by a court judgment, a further review by the court may only be demanded where the case has once more been submitted to the National Social Appeals Board for decision-making.

**170.**—(1) The district court shall be assisted for the purpose of the main proceedings by an assessor who is an expert in child welfare, and by an assessor who is an expert in child or youth psychiatry or psychology.

(2) Cases shall be processed in pursuance of the provisions of the Administration of Justice Act pertaining to civil proceedings, including Part 43a on reviews of administrative detention subject to the amendments set out in this Part.

(3) The custodial parent and the young person aged 12 or over shall be deemed to be the parties to the case, regardless of whether or not the person in question has demanded that the decision be brought before the court.

(4) The court may direct that proceedings be conducted behind closed doors.

(5) The name, occupation or address of any person referred to during the proceedings shall not, without the permission of the court, be disclosed in public transcripts of the court proceedings or the judgment, nor shall the identities of the said persons be made public in any other way. Any contravention of this prohibition



shall be punishable by a fine.

(6) In case of dissenting judgments, the names of the judges shall not be stated.

**171.-(1)** The decision of the district court may not be brought before the High Court. Notwithstanding the foregoing, the Appeals Permission Board may grant leave to appeal if the case is of general public importance or where otherwise warranted by special circumstances. Petition for leave to appeal shall be submitted to the Board within four weeks of the date of the judgment. Notwithstanding the foregoing, the Board may, in exceptional cases, grant leave if the application is submitted later, but still within one year of the date of the judgment.

**172.-(1)** The expert assessors referred to in section 170 shall be appointed by the Court Administration subject to consultation with the Minister for Children and Social Affairs. The Court Administration shall decide on their number, remuneration and travel allowance. The assessors appointed shall be of full age and may not be under legal guardianship under section 5 of the Legal Guardianship Act or under financial guardianship under section 7 of the Legal Guardianship Act, and they shall be trustworthy and of good character.

(2) Appointment shall be for a term of four years. An assessor shall retire at the end of the month in which they attain 70 years of age.

(3) No person who satisfies the requirements under subsection (1) may refuse to accept appointment, unless they are over 65 of age or has any other reasonable ground for being excused.

(4) The assignment of an expert assessor to a specific case from among those appointed shall be effected by the presiding judge. No person may be so assigned who would be excluded from acting as a judge in the case under sections 60 and 61 of the Administration of Justice Act.

#### Part 30a

##### *Authorisations etc.*

**172a.-(1)** The Minister for Children and Social Affairs may lay down rules governing the processing of cases under this Act, which fall within the scope of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (the Hague Child Protection Convention). The Minister may also lay down rules governing the entitlement of municipalities to charge payment for measures taken with reference to the convention.

### Title IX

#### Funding, tariffs and reimbursement, etc.

#### Part 31

##### *Funding and tariffs*

**173.-(1)** The municipality shall pay in full all costs and expenses under this Act.

**174.-(1)** The municipal, regional or private contractor shall set recommended tariffs for services and facilities under this Act, but see subsection (3). Such tariffs shall be calculated on the basis of all budgeted, direct and indirect long-term costs of providing the service or operating the facility.

(2) If a municipality uses another municipality's or a region's services or facilities under this Act, any claim for payment for such use, based on the calculated tariffs, see subsection (1), shall be presented within 12 months of the provision of assistance.

(3) The Minister for Children and Social Affairs shall lay down rules on the calculation of tariffs, including rules on the basis for the calculation, the services and facilities under the Act that fall within the scope of subsection (1) and the situations in which derogation from subsection (1) is allowed.

(4) The Minister for Children and Social Affairs may by order lay down rules governing the principles for the funding by municipalities of the most specialised nationwide and regional services and facilities.

(5) The Minister for Children and Social Affairs may lay down rules on the funding of stays in secure residential institutions under section 63b(2)(iv) to (vii) for children and young persons residing unlawfully in Denmark.

(6) The Minister for Children and Social Affairs may lay down rules governing the collection of a fixed tariff from municipalities where young persons under 18 years of age are accommodated in facilities under the

Prison and Probation Service.

**175.**—(1) The State shall pay all expenses for the national organisation for knowledge and specialist counselling services and the Social Services Gateway, see Part 4.

*State reimbursement*

**176.**—(1) Where expenses for assistance and support under the Act for any person under 67 years of age, in a specific case, exceed DKK 950,000 per year, the State shall reimburse 25 per cent of the part of the municipality's expenses exceeding the said amount, but see section 176a. For the part of the expenses exceeding DKK 1,770,000 per year, the State reimbursement rate shall be 50 per cent, but see section 176a.

(2) The Minister for Children and Social Affairs may by order lay down rules on State reimbursement under this provision.

(3) In 2007, the State reimbursement rate shall be 25 per cent from DKK 0.4 million per year and 50 per cent from DKK 0.8 million per year. In 2008, the reimbursement rate shall be 25 per cent from DKK 0.5 million per year and 50 per cent from DKK 1 million per year. In 2009, the reimbursement rate shall be 25 per cent from DKK 0.6 million per year and 50 per cent from DKK 1.2 million per year.

**176a.**—(1) Where the municipality's expenses for assistance and support under the Act for any person who is under 18 years of age or receives support under section 76 or 76a, in a specific case, exceed DKK 710,000 per year, the State shall reimburse 25 per cent of the part of the municipality's expenses exceeding the said amount. For the part of the expenses exceeding DKK 1,420,000 million per year, the State reimbursement rate shall be 50 per cent.

(2) The reimbursement limits and rates set out in subsection (1) shall likewise apply to a municipality's total expenses for assistance and support where four or more children in the same household are placed in out-of-home care under section 52(3)(vii) or are in a placement facility under section 76(3)(i) or (iii) or section 76a(2).

(3) The Minister for Children and Social Affairs may lay down rules on State reimbursement under subsections (1) and (2).

**177.**—(1) The State shall reimburse 50 per cent of any municipality's expenses for:

- (i) Subsidies under section 41 towards the extra costs of maintaining, in the home, a child under 18 years of age who has a substantial and permanent physical or mental impairment.
- (ii) Assistance under section 42 to compensate for loss of earnings for persons maintaining, in the home, a child under 18 years of age who has a substantial and permanent physical or mental impairment etc.
- (iii) Free legal assistance, see section 72.
- (iv) Subsidies under section 100 to reimburse the necessary extra cost of maintaining persons who have a substantial and permanent physical or mental impairment.
- (v) Accommodation facilities under sections 109 and 110, including expenses for assistance, support, employment and activity programmes, etc. offered in connection with the accommodation facility.

**178.**—(1) The Minister for Children and Social Affairs may decide that the expenses relating to temporary accommodation facilities under sections 109 and 110(1), including expenses for assistance, support, employment and activity programmes, etc. offered in connection with the accommodation facility, in special cases shall be payable in full by the State, either by way of subsidies or by way of an interest-free and non-amortising loan.

(2) The Minister for Children and Social Affairs may decide that the expenses relating to employment, activity and social interaction programmes under sections 103 and 104 for persons with special social problems, in exceptional cases, shall be payable in full by the State, either by way of subsidies or by way of an interest-free and non-amortising loan.

**179.**—(1) The State shall reimburse in advance all reimbursable expenses incurred by a municipality under this Act.

**180.**—(1) The State shall pay all expenses for the independent counselling scheme provided for under section 15.

### *Intergovernmental reimbursement under EU law*

**180a.**—(1) The State shall reimburse the municipalities for the cost of services and benefits under this Act, where such cost falls within the provisions of EU law on intergovernmental reimbursement, the municipality shall submit a claim for such reimbursement, and the State shall receive the claimed reimbursement from the social security authorities of the debtor state.

(2) Subject to consultation with the Minister for Children and Social Affairs, the Minister for Health shall lay down rules governing the national administrative implementation of intergovernmental reimbursement under EU law.

### *Costs in connection with aliens*

**181.**—(1) Under the provisions of subsections (2) and (3), the State shall pay all costs incurred in connection with any alien issued with a residence permit under

- (i) section 7 or 8 of the Aliens Act;
- (ii) section 9b of the Aliens Act;
- (iii) section 9c(1) of the Aliens Act, immediately following a residence permit under section 9b of the Aliens Act;
- (iv) section 9(1)(i) or (ii) of the Aliens Act, due to a connection to a person permanently residing in Denmark, where that person has been issued with a permanent residence permit under one of the provisions referred to in paragraphs (i) to (iii), or where the connection can be traced back to such a person;
- (v) section 9c(1) of the Aliens Act where the permit has been issued to a person over 18 years of age whose father or mother had been issued with a residence permit under one of the provisions referred to in paragraph (i);
- (vi) section 9c(1) of the Aliens Act where the permit has been issued to the spouse or child of a person issued with a residence permit as referred to in paragraphs (ii) and (iii);
- (vii) section 9c of the Aliens Act where the permit has been issued to an alien seeking asylum;
- (viii) section 9c(1) of the Aliens Act where the permit has been issued due to a connection to a minor alien seeking asylum who has been issued with a residence permit under section 7 or 9c of the Aliens Act; or
- (ix) section 9e of the Aliens Act.

(2) The State shall pay the full costs of assistance under sections 11(3), 41 to 42, 52(3)(i) to (vi), (viii) and (ix), 52a, 54, 76(2) and (3)(ii), 96, 98 and 100 during the first three years from the date of issue of the residence permit.

(3) Notwithstanding the provisions of subsection (2), the State shall pay any municipality's expenses incurred in connection with

- (i) aliens who, due to a substantial and permanent physical or mental impairment, are accommodated in a residential facility within 24 months of the date of issue of the residence permit, but only until the alien in question has been self-reliant for a consecutive period of two years; and
- (ii) aliens where the permit has been issued to a minor alien seeking asylum, but only until the recipient attains 18 years of age or until the minor's parents obtain lawful residence in Denmark.

### *Adjustment*

**182.**—(1) The amount set out in section 41 shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount in Danish kroner (DKK). The first such adjustment shall be made on 1 January 2016.

(2) The amount set out in section 32a(6) shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2009.

(3) The amount set out in section 42(3) shall be adjusted on 1 January of each year at 2.0 per cent plus or minus an adjustment percentage for the relevant fiscal year, see the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2012.

(4) The amount set out in sections 45(5) and 97(7) shall be adjusted on 1 January of each year at the rate

adjustment percentage, see the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2006.

(5) The amounts set out in section 55(4) shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amounts shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2017.

(6) The amounts set out in section 100(3) shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amounts shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2019.

(7) The amount set out in section 114(2) shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount in DKK divisible by 1,000.

(8) The amount set out in section 118(2) shall be adjusted on 1 January of each year at 2.0 per cent plus or minus an adjustment percentage for the relevant fiscal year, see the Rate Adjustment Percentage Act. The amount so adjusted shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2006.

(9) The amount set out in section 120(2) shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount in DKK. The first such adjustment shall be made on 1 January 2006.

(10) Deductions and the maximum hourly payment, to be fixed pursuant to section 161(1), shall be adjusted on 1 January of each year at the rate adjustment percentage, see the Rate Adjustment Percentage Act. Deductions shall be rounded to the nearest full amount in DKK divisible by 100. The maximum hourly payment shall be rounded to the nearest full amount in DKK.

(11) The amounts set out in sections 176 and 176a shall be adjusted on 1 January of each year, the first time on 1 January 2013, at the rate adjustment percentage, see the Rate Adjustment Percentage Act. The amounts shall be rounded to the nearest full amount in DKK divisible by 10,000.

**183.-(1)** The income basis under sections 114 and 161 shall be calculated by the Customs and Tax Administration on the basis of data for the latest full income year. The calculation shall be applied with effect from the second calendar year after the end of the income year.

(2) The provisions of the Tax Administration Act governing appeals against decisions about preliminary income assessment shall apply correspondingly to appeals against decisions about income basis.

## Part 32

### *Experimental provisions*

**184.-(1)** To stimulate experimental initiatives and development in the social services area, the Ministry for Children and Social Affairs may, on application from a municipal council, a regional council or a private facility, approve the derogation from the provisions of the Act in connection with experimental arrangements, but see subsection (3). Approval shall be granted for a limited trial period. Approval shall be subject to an evaluation of the experimental arrangements.

(2) Approval under subsection (1) may not be granted for:

- (i) Any experimental arrangements, which would place citizens in a worse position than under the Act;
- (ii) Any experimental arrangements concerning special day-care and club facilities for children and young persons with a substantial and permanent physical or mental impairment, see sections 32 and 36, which would involve derogation from the general rules on parents' co-payment;
- (iii) Any experimental arrangements imposing extra costs on the State;
- (iv) Any experimental arrangements involving derogation from the rules on supervision;
- (v) Any experimental arrangements involving derogation from the rules on appeal.

(3) Approval under subsection (1) for experimental arrangements involving derogation from sections 79, 79a, 81a, 83, 83a, 84, 86, 88, 90 to 94a, 119 to 122, 139(2), 161(1), (3) and (4), 192 and 192a shall be granted by the Ministry of Health.

(4) The Minister for Children and Social Affairs shall every year publish a status report on the use of experimental arrangements in the social services area.

**185.** (Repealed)

## Part 33

*Agreement for the transfer of regional facilities*

**186.**—(1) Under the provisions of this Act, any municipal council shall once in each election term be entitled to take over regional facilities located in the municipality. A municipal council wishing to take over a regional facility under the first sentence hereof shall notify the regional council thereof on or before 1 January of the third year of the election term. Takeover shall take effect on or before 1 January of the fourth year of the election term.

(2) Notwithstanding the foregoing, any takeover as set out in subsection (1) may take effect at other times where a regional facility is taken over pursuant to section 186a(1) by an order issued pursuant to section 13c(2).

(3) At the request of the municipal council, the regional council shall prepare a draft agreement between the regional council and the municipal council.

(4) A municipal council taking over a facility under subsection (1) shall be bound by the following terms and conditions:

(i) The facility shall be available to other municipalities to the extent provided for in the framework agreement, see section 6.

(ii) The municipal council shall assume the obligation of the regional council to coordinate the capacity and composition of the most highly specialised nationwide and regional facilities.

(5) The municipal council in the municipality of location taking over a facility under subsection (1) shall take over all assets and liabilities, rights and obligations and staff associated with the operation of the facility. If the values of assets and liabilities do not match, the municipal council taking over the regional facility, or the regional council, shall be compensated accordingly.

(6) The duties and rights provided for under the Act on Employees' Rights in the event of Transfer of Undertakings shall apply correspondingly to any staff falling within subsection (5) who are employed subject to a collective agreement, provisions on pay and working conditions laid down or approved by a public authority, or individual agreements, and who are not covered by the Act on Employees' Rights in the event of Transfer of Undertakings.

(7) Public servants who are transferred due to a municipal council taking over a regional facility under subsection (1) shall be taken into the employment of the new employing authority on terms corresponding to the former terms of employment.

(8) On retirement from such employment, public servants covered by subsection (7) shall receive payment of the aggregate public servants pension from the new employing authority.

(9) The Minister for Children and Social Affairs may lay down rules on the takeover of assets and liabilities, rights and obligations and staff of the facility under subsection (5), including but not limited to rules on the distribution between the region and the municipality of location of the pension obligation pertaining to public servants and other employees falling within subsection (5).

**186a.**—(1) After the National Board of Social Services' announcement of or request for renewed consideration under section 13b(2) and (3), and subject to approval by the National Board of Social Services, a municipal council may take over other municipalities' facilities and regional facilities provided for under this Act.

(2) Subsection (1) shall apply correspondingly to the taking over by a region of municipal facilities and regional facilities in other regions under section 13b(2) and (3) of this Act.

(3) Where an order is issued to combine one or two small facilities under section 13c(2) into one facility, a municipal council may take over other municipalities' facilities and regional facilities provided for under this Act.

(4) Subsection (3) shall apply correspondingly to the taking over by a region of municipal facilities and regional facilities in other regions under section 13c(2) of this Act.

(5) Where facilities are taken over pursuant to subsections (1) to (4), section 186(2) to (9) shall apply.

**187.**—(1) Any municipal council in the region may request that any desire on the part of a municipal council in a municipality of location to take over a regional facility, see section 186(1), be considered by the contact committee.

(2) At least once in each election term, the contact committee shall discuss whether any social facilities in the region could more appropriately be transferred to the responsibility of the municipality of location.



188. (Repealed)

Part 34

*Commencement and transitional provisions*

**189.**—(1) This Act shall come into force on 1 January 2007.

(2) The Act on Social Services, see Consolidation Act No. 708 of 29 June 2004, shall be repealed.

(3) The provisions of sections 6 and 194 shall come into force on 1 January 2006. The provisions of sections 190 and 191 shall come into force on 1 July 2005.

(4) Services and facilities established prior to 1 January 2007 shall be registered in the Social Services Gateway before 1 April 2007, see section 14(2).

(5) The provision of section 179 shall be effective from the payment of advance reimbursement at the end of December 2006.

**190.**—(1) Any county facility to be taken over by a regional council on 1 January 2007 in pursuance of the other provisions of this Act shall, on 1 January 2007, be taken over by the municipal council of the municipality in which the facility will be located on 1 January 2007, provided the municipal council makes a binding decision on or before 15 February 2006 to take over the county facility and informs the county council accordingly. If the facility is to be taken over by a municipality, which will be established on 1 January 2007, the binding decision referred to under the first sentence hereof shall be made by the amalgamation committee.

(2) The authority taking over the county facility shall take over all assets and liabilities, rights and obligations and staff associated with the operation of the facility. If the values of assets and liabilities do not match, the authority taking over the county facility, or the county council, shall be compensated accordingly. Assets and liabilities, rights and obligations and staff to be taken over in pursuance of the first and second sentences hereof shall be taken over separately in proportion to the distribution of assets and liabilities, rights and obligations as well as staff pursuant to the provisions of the Act on Certain Procedural Issues in Connection with the Local Government Reform.

(3) Subject to consultation with the Minister for Children and Social Affairs, the Minister for Economic Affairs and the Interior may lay down rules governing the takeover of assets and liabilities, rights and obligations and staff under subsection (2).

(4) Section 186(4) and (6) to (8) shall apply correspondingly where a county facility is taken over by a municipality of location under subsection (1).

**191.**—(1) The county council shall for each county facility draw up a statement of assets and liabilities, rights and obligations and staff to be taken over by the authority taking over the county facility under section 190(2).

(2) On or before 1 January 2006, the county council shall draw up the statement referred to in subsection (1) for the authorities to which the county council's duties and responsibilities will be transferred under the legislation pertaining to the local government reform, with a view to reaching an agreement between the county council of the one part and the authorities to which the county council's duties and responsibilities will be transferred of the other part, specifying the assets and liabilities, the rights and obligations and the staff to be taken over by the authority taking over the county facility under section 190(2).

(3) The drawing up and presentation of the statement referred to in subsection (1) and the conclusion of the agreement referred to in subsection (2) shall be undertaken in connection with the drawing up and presentation of a draft agreement and conclusion of an agreement on the distribution of the county's remaining assets and liabilities, rights and obligations and staff. The statement referred to in subsection (1) shall be drawn up and presented, and the agreement referred to in subsection (2) shall be concluded in accordance with the provisions of Part 3 of the Act on Certain Procedural Issues in Connection with the Local Government Reform.

(4) If the agreement referred to in subsection (2) has not been concluded by 1 April 2006, or if one of the authorities referred to in subsection (2) declares the negotiations closed without a result, an agreement shall be entered into, and the division council's proposed compromise and decision shall be adopted as to the assets and liabilities, rights and obligations and staff to be taken over by the authority taking over the county facility under section 190(2), in connection with the agreement, adoption and decision as to the distribution of the county authorities' remaining assets and liabilities, rights and obligations and staff. The agreement shall be entered into, and the division council's proposed compromise and decision as to the assets and

liabilities, rights and obligations and staff to be taken over by the authority taking over the county facility under section 190(2) shall be adopted in accordance with the provisions of Parts 3 and 4 of the Act on Certain Procedural Issues in Connection with the Local Government Reform.

(5) Rules provided for in section 17 and Part 4 of the Act on Certain Procedural Issues in Connection with the Local Government Reform shall apply unless the Minister for Economic Affairs and the Interior, after consultation with the Minister for Children and Minister, decides otherwise.

(6) Subject to consultation with the Minister for Social Affairs, the Minister for Economic Affairs and the Interior may lay down rules governing the preparation and presentation by the county council of a statement under subsection (1) and governing the conclusion of agreement, adoption of proposed compromise and the division council's decision as to the assets and liabilities, rights and obligations and staff to be taken over under subsection (2) by the authority taking over the county facility. The Minister for Economic Affairs and the Interior may thereby derogate from subsections (1) to (5) and section 190.

**192.**—(1) The regional council and the municipal council shall operate the existing nursing homes and sheltered housing under the current provisions of the Social Assistance Act. However, the municipality may not charge payment for special services etc. relating to stays in nursing homes. The Minister for Senior Citizens shall by order lay down rules to that effect, including rules adapted to the rules governing retirement housing and assisted living accommodation under the Act on Social Housing etc. and rules on protection against involuntary moves within a nursing home or sheltered accommodation facility.

**192a.**—(1) The municipal council shall ensure that any older person who has a special need for accommodation in a nursing home, see section 192, or in a non-profit care home, see section 5(2) of the Act on Social Housing etc., is offered such accommodation within two months of being placed on a waiting list.

(2) The availability guarantee under subsection (1) shall not apply, however, where the older person has chosen a specific nursing home or a specific non-profit care home under the provisions of section 58a of the Act on Social Housing etc.

(3) The Minister for Senior Citizens shall lay down rules governing the placement on waiting lists and time limits for offers of non-profit care home or nursing home accommodation.

**193.** (Repealed)

**194.**—(1) With effect from 1 January 2007, the municipal councils shall take over county-operated residential institutions, see section 66(1)(vi), for children and young persons who, due to social or behavioural problems, need to be placed in out-of-home care, but see subsection (2), and the municipalities shall become parties to agreements for private facilities approved by the counties.

(2) A municipal council taking over residential institutions, see subsection (1), may agree in 2006 with the region's preparation committee, notwithstanding subsection (1), that the regional council on behalf of the municipality of location shall continue the operation of residential institutions after 1 January 2007 provided that such institutions fall within subsection (1) and are owned by the municipality of location.

For municipalities established on 1 January 2007, agreements under the first sentence hereof may be entered into by the amalgamation committee.

**195.**—(1) With effect from 1 January 2007, the regional councils shall take over facilities under section 5(1) and (3), which have been established by the counties, thereby becoming parties to agreements for private facilities approved by the counties within the region.

(2) Notwithstanding the foregoing, the regional councils shall not take over responsibility for facilities, see section 5(1) and (3), established or approved by the municipalities of Copenhagen, Frederiksberg or Bornholm.

(3) With effect from 1 January 2007, the regional councils shall take over responsibility for facilities established under sections 5 and 6 of the then applicable Act on Decentralisation of Care for the Mentally Deficient and other Special Care etc.

**195a.** (Repealed)

**195b.** (Repealed)

**196.**—(1) This Act shall not extend to the Faeroe Islands and Greenland.

(2) According to agreement with the home rule governments of the Faeroe Islands (Landsstýrið) and

Greenland (Naalakkersuisut), the Minister for Children and Social Affairs shall by order lay down rules on eligibility assessment, payment and reimbursement, action plans, powers to act and pay, governing law and visiting trips etc. for persons taking up residence in Denmark at the instance of the social authorities of the Faeroe Islands or Greenland and benefiting from services or facilities under this Act. Likewise, rules may by order be laid down according to agreement for persons leaving Denmark to take up residence in the Faeroe Islands or Greenland at the instance of the Danish social authorities. Likewise, rules may by order be laid down according to agreement providing for a duty of notification between the social authorities of Denmark and Greenland and between the social authorities of Denmark and the Faeroe Islands.

(3) Any dispute arising between the social authorities of the Faeroe Islands or Greenland and the Danish social authorities relating to their duties and obligations under these rules shall be settled by the National Social Appeals Board.

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Act No. 550 of 26 May 2010 (Connection between eligibility assessment powers and funding responsibility in the specialised social area)<sup>1</sup>) contains the following commencement and transitional provisions:

**3.**

(1) This Act shall come into force on 1 August 2010.

(2)-(6) (Omitted)

**4.**

(1) In regard to children and young persons under 18 years of age who were placed in out-of-home care prior to 1 July 2003, the duty to provide assistance under the Act on Social Services shall be taken over by the municipality, which is liable to pay reimbursement pursuant to the third sentence of section 4(4) of Act No. 1168 of 19 December 2003 to amend the Act on Legal Protection and Administration in Social Matters and other Acts when the young person attains 18 years of age if, immediately following the placement, the young person is accommodated in any accommodation facility falling within section 9(7) of the Act on Legal Protection and Administration in Social Matters, as set out in section 1(ii) of this Act.

(2)-(7) (Omitted)

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Act No. 595 of 18 June 2012 (Responsibility for supplementary training and supervision of foster families and party status for 12 to 14-year-olds in judicial reviews of cases concerning special support to children and young persons etc.)<sup>2</sup>) contains the following commencement and transitional provision:

**2.**

(1) This Act shall come into force on 1 July 2012.

(2) Section 1(vi) shall apply to cases, which the National Social Appeals Board reviews of its own motion after the commencement of the Act.

(3) Section 1(vii) shall apply to cases brought before the courts after the commencement of the Act.

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Act No. 1462 of 17 December 2013 (Possibility of continued placement of young persons between 18 and 22 years of age with a functional impairment and an amendment of the rules on responsibility for ensuring supervision and supplementary training of foster families etc.)<sup>3</sup>) contains the following commencement and transitional provisions:

**4.**

This Act shall come into force on 1 January 2014.

**5.**

(1) In regard to children and young persons under 18 years of age who were placed in out-of-home care prior to 1 July 2003, the duty to provide assistance under the Act on Social Services shall be taken over by the municipality, which is liable to pay reimbursement pursuant to the third sentence of section 4(4) of Act No. 1168 of 19 December 2003 to amend the Act on Legal Protection and Administration in Social Matters and other Acts when the young person attains 18 years of age if, immediately following the placement, the young person's stay with a foster family is extended under section 76a of the Act on Social Services, as set out in section 1(viii) of this Act. The municipality shall retain its duty to provide assistance under the Act on Social Services if, immediately following the stay with the foster family under section 76a of the Act on Social Services, as set out in section 1(viii) of this Act, the young person is accommodated in any accommodation facility falling within section 9(7) of the Act on Legal Protection and Administration in Social Matters.

(2) If the municipal council, which, under the first sentence of subsection (1), is required to take over the duty to provide assistance under the Act on Social Services, was not the young person's municipality of residence immediately prior thereto, the municipal council may decide, before the young person attains the age of 18, with due regard being given to the circumstances of the person concerned and for administrative purposes, not to take over the duty to provide assistance under the Act on Social Services to the person concerned. The decision mentioned in the first sentence hereof not to take over the duty to provide assistance may be brought before the National Social Appeals Board pursuant to Part 10 of the Act on Legal Protection and Administration in Social Matters.

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Act No. 737 of 25 June 2014 (Amendment of the rules on civil proceedings and expert surveys and appraisals, increase in amount limit for appeals, introduction of part-time scheme for judges etc., media advertising of forced sales, enforcement of digital loan documents, written appeal procedure in criminal cases with concordant evidence, etc.)<sup>4</sup>) contains the following commencement and transitional provision:

**12.**

(1) This Act shall come into force on 1 July 2014, but see subsection (2).

(2) (Omitted)

(3) Sections 1(xxix), (liv) to (lxvi), (lxxviii) to (lxii), (lxxiv), (lxxv) and (lxxxii) to (lxxxvi), 3(ii), 5 and 11 shall only apply to decisions made by the court after the commencement of the Act. Decisions made by the court before the commencement of the Act shall be subject to the then applicable provisions.

(4) (Omitted)

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Act No. 529 of 29 April 2015 (Professional support to network foster families etc., amendment of decision-making powers in cases concerning a change of placement facility and lowering of the age for consent in decisions for a change of placement facility, etc.)<sup>5</sup>) contains the following commencement and transitional provision:

**3.**

(1) This Act shall come into force on 1 October 2015.

(2) The Act shall not apply to cases, which, at the commencement of the Act, are pending before the Children and Young Persons Committee or the National Social Appeals Board under section 69(3) and (4) of the Act on Social Services. The provisions applicable prior to the commencement of the Act shall apply to such cases.

Act No. 379 of 27 April 2016 (Revision of the in-home training session scheme, including a specification of the requirement of needs identification, determining requirements of the employment of the skills of healthcare professionals, clarification of the rules for loss of earnings etc.)<sup>6)</sup> contains the following commencement and transitional provision:

**2.**

(1) This Act shall come into force on 1 July 2016.

(2) Any approval given under the current provision of section 32(6) of the Act on Social Services shall continue to apply after the commencement of the Act.

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Act No. 1543 of 13 December 2016 (Lasting powers of attorney in the social services area etc.)<sup>7)</sup> contains the following commencement provision:

**4.**

(1) This Act shall come into force on 1 January 2017, but see subsection (2).

(2) The Minister for Children and Social Affairs shall determine the date of commencement of section 1(iv) and (v)<sup>8)</sup>.

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Act No. 1544 of 13 December 2016 (Follow-up to the social supervision reform etc.)<sup>9)</sup> contains the following commencement and transitional provisions:

**4.**

This Act shall come into force on 1 January 2017.

**5.**

(1) Municipal facilities providing assistance and support under sections 83 to 87, 97, 98 and 102 of the Act on Social Services where any housing unit connected to the facility is leased by the municipal council to residents in accordance with the Rent Act, and where the facility was established before the commencement of the Act, may be approved by the social supervisory authority under section 5(1), see section 4(1)(iii), of the Act on Social Supervision as amended by section 1(iv) of this Act from the commencement of the Act. The municipal council may only lease out the housing unit connected to a municipal facility providing assistance and support under sections 83 to 87, 97, 98 and 102 of the Act on Social Services if the facility was established before the commencement of the Act.

(2) Facilities, which were established prior to the commencement of the Act and may be approved by the social supervisory authority under section 5(1), see section 4(1)(iii), of the Act on Social Supervision as amended by section 1(iv) of this Act from the commencement of the Act, shall be subject to approval by the social supervisory authority under the provisions of the Act on Social Supervision prior to 1 January 2019. The approval shall be made on the initiative of the social supervisory authority or on application from the individual facility, which shall be similar to an accommodation facility. The facilities referred to in the first sentence hereof shall be subject to operational supervision, see section 7 of the Act on Social Supervision, from the commencement of the Act. As a result of the inspection undertaken in connection with the approval of the facilities referred to in the first sentence hereof under the provisions of the Act on Social Supervision in the period from the commencement of the Act until 1 January 2019, no supervision visit shall be conducted in the year in question, see section 7(3) of the Act on Social Supervision.

(3) The National Social Appeals Board may, on request, decide that any appeal against the decisions of the social supervisory authority concerning the withdrawal of the approval of a facility, see section 19(2) of



the Act on Social Supervision, as set out in section 1(xxxvi) of this Act, provided the appeal has been filed prior to the commencement of the Act, shall have a suspensive effect.

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Act No. 237 of 15 March 2017 (Insurance of volunteers etc.)<sup>10</sup> contains the following commencement and transitional provision:

**2.**

(1) This Act shall come into force on 1 July 2017.

(2) Any liability and accident insurance taken out by the municipal council and the regional council, respectively, prior to the commencement of the Act to provide cover for citizens who, in connection with action to discharge municipal or regional duties, are engaged in volunteering measures in the municipality and region, respectively.

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Act No. 661 of 8 June 2017 (Extension of the rules on admission to a particular accommodation facility without consent etc.)<sup>11</sup> contains the following commencement provision:

**3.**

This Act shall come into force on 15 July 2017.

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Act No. 660 of 8 June 2017 (Improvement and clarification of the possibility of taking early preventive measures under the Act on Social Services, simplification of the system for calculating the reimbursement of extra costs, introduction of a period of notice for the implementation of decisions to withdraw or reduce assistance under the Act on Social Services etc.)<sup>12</sup> contains the following commencement and transitional provision:

**4.**

(1) This Act shall come into force on 1 January 2018, but see subsection (2).

(2) (Omitted)

(3) Associations and private business enterprises, which, on 1 January 2018, are performing employer functions under schemes involving subsidies in cash for the employment of assistants and citizen-controlled personal assistance as provided for under sections 95 and 96 of the Act on Social Services shall, on or before 1 July 2019, be approved in accordance with the provisions of Part 3a of the Act on Social Supervision, as set out section 2(vi) of this Act.

(4) On or before 1 January 2019, the municipal council shall arrange for the recalculation of all cases concerning reimbursement of extra costs where subsidies are being paid under the former provisions, in accordance with the provisions of section 100(3) of the Act on Social Services, as set out in section 1(x) of this Act.

(5) Section 1(xv) shall only apply to decisions made after the commencement of the Act.

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Act No. 1544 of 19 December 2017 (Amendment of the rules governing increased loans for payment of disabled cars, experimental arrangements in the social services area, random checks of information reported to the Social Services Gateway and simplification of the framework agreement concept as well as marking of dwellings suitable for dementia care etc.)<sup>13</sup> contains the following commencement and transitional provision:

#### 4.

(1) This Act shall come into force on 1 January 2018.

(2) Municipal and regional councils shall conclude the first framework agreements in the social services area and the area of social housing for older people, see section 6 of the Act on Social Services as amended by section 1(i) to (iii) of this Act and section 185b(3) of the Act on Social Housing etc. as amended by section 2(ii) and (iii) of this Act, in 2018 with effect from the years 2019 to 2020. A framework agreement shall subsequently be concluded every two years.

(3) Section 1(x) of the Act shall apply to any decisions under section 131a of the Act on Social Services, which are made by the State administration after 1 January 2018. The provisions of section 134 of the Act on Social Services shall apply correspondingly to decisions under section 131a of the Act on Social Services made by the State administration prior to 1 January 2018, provided always that the State administration's decision may be brought before the National Social Appeals Board later than four weeks after the date on which the applicant was notified of the decision. Notwithstanding the foregoing, a decision by the State administration cannot be brought before the National Social Appeals Board as provided for under the second sentence hereof after 1 April 2018. Section 72(5) of the Act on Legal Protection and Administration in Social Matters shall not apply to complaints against decisions made by the State administration prior to 1 January 2018.

(4) Any rules laid down in pursuance of section 14(5), which becomes subsection (8) of the Act on Social Services, see Consolidation Act No. 988 of 17 August 2017, shall remain in force until repealed or replaced by new rules.

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Act No. 221 of 20 March 2018 (Possibility of imposing a prohibition on entities that enable Internet access, measures to search effects and use of protection room etc. in accommodation facilities with secure wards)<sup>14</sup>) contains the following commencement provision:

#### 2.

This Act shall come into force on 1 April 2018.

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Act No. 551 of 29 May 2018 (Simplification of rules governing the collection of overdue debts to public authorities etc., handling of statute-barring, etc.)<sup>15</sup>) contains the following commencement provision:

#### 11.

(1) This Act shall come into force on 1 June 2018, but see subsection (2).

(2)-(4) (Omitted)

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Act No. 559 of 29 May 2018 (Prevention of bankruptcies in the home-help service area)<sup>16</sup>) contains the following commencement and transitional provision:

#### 2.

(1) This Act shall come into force on 1 July 2018.

(2) Section 92(2) to (5) of the Act on Social Services as set out in section 1(i) of this Act shall not apply to duties, tasks and agreements exposed to competition under an approval plan initiated prior to the commencement of the Act.

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Act No. 560 of 29 May 2018 (Strengthened supervision in the old-age area)<sup>17</sup>) contains the following

commencement provision:

**3.**

(1) This Act shall come into force on 1 July 2018, but see subsection (2).

(2) (Omitted)

(3) Sections 150 to 150d, 157a and 157b of the Act on Social Services, as set out in section 1 of this Act, shall be repealed on 31 December 2021.

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Act No. 561 of 29 May 2018 (Overview of nursing homes)<sup>18</sup>) contains the following commencement provision:

**2.**

This Act shall come into force on 1 July 2018.

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Act No. 707 of 8 June 2018 (Possibility of drawing up an integrated plan for citizens encountering complex and composite problems)<sup>19</sup>) contains the following commencement provision:

**7.**

This Act shall come into force on 1 July 2018.

*Danish Ministry for Children and Social Affairs, 30 August 2018*

For the Minister  
Malene Vestergaard

/ Anita Hørby

- 1) The legislative amendment pertains to sections 14, 136 and 148.
- 2) The legislative amendment pertains to sections 69, 142, 167, 168 and 170.
- 3) The legislative amendment pertains to sections 50, 55, 66a, 68, 76, 76a, 140, 160, 167 and 176a.
- 4) The legislative amendment pertains to section 171.
- 5) The legislative amendment pertains to sections 52, 66, 66a, 69, 72, 74, 75 and 167.
- 6) The legislative amendment pertains to sections 32, 32a, 182 and 195b.
- 7) The transitional provision of section 4(1) of Act No. 1543 of 13 December 2016 pertains to sections 75, 168, 131, 174, 181 and 196.
- 8) Section 1(iv) and (v) of Act No. 1543 of 13 December 2016 came into force on 1 October 2017, see Executive Order No. 1061 of 6 September 2017.
- 9) The transitional provision of section 4(2) of Act No. 1543 of 13 December 2016 pertains to section 129.
- 10) The legislative amendment pertains to sections 18 and 18a.
- 11) The legislative amendment pertains to section 108(4) and (5), section 124a, the heading before section 129a, and sections 129a, 131a, 132(1)(ii), 134(1), 135(ii), 136(1), first sentence, and 137(2).
- 12) The legislative amendment pertains to section 1(2) and (3), sections 3a and 81, Part 15a (sections 82a to 82d), 95(3) and (4), 96(2), 100(3), 109(3), 110(3), 113a, 113b, 115, 166(2) and 186(6).
- 13) The legislative amendment pertains to sections 6(1), (3) and (4), 7, 8, 14(4) to (8), 114(2) and (3), 134(1) and 184.
- 14) The legislative amendment pertains to sections 137e, 137f and 137g(4), the heading before section 137h, section 137h(2) to (8), the heading before section 137j and sections 137j, 137 l(1) and 137m.
- 15) The legislative amendment pertains to section 165(2).
- 16) The legislative amendment pertains to section 92.
- 17) The legislative amendment pertains to sections 150 to 150d, 157a and 157b.
- 18) The legislative amendment pertains to section 14a.
- 19) The legislative amendment pertains to sections 54(3), 68(11) to (14), 70, 140(7), 140a and 141(5) and (7).