

# Consolidation Act on Social Services

This Act hereby consolidates the Act on Social Services, cf. Consolidation Act No. 979 of 1 October 2008, as amended by Act No. 1587 of 20 December 2006 (section 15), Act No. 549 of 17 June 2008 (section 1(viii)-(xi)), Act No. 1118 of 26 November 2008 (section 1), Act No. 1336 of 19 December 2008 (section 151), Act No. 1346 of 19 December 2008 (section 1), Act No. 314 of 28 April 2009 (section 1), Act No. 315 of 28 April 2009 (section 1), Act No. 316 of 28 April 2009 (section 2(ii)), Act No. 317 of 28 April 2009 (section 1), Act No. 318 of 28 April 2009 (section 1), Act No. 388 of 25 May 2009 (section 1) and Act No. 390 of 25 May 2009 (section 1).

The amendments pursuant to section 10 of Act No. 434 of 8 May 2006 have not been incorporated into this Consolidation Act since the Minister for Justice shall determine the effective date of these amendments; cf. section 15(3) of Act No. 434 of 8 May 2006.

The amendments pursuant to section 9 of Act No. 346 of 18 April 2007 have not been incorporated into this Consolidation Act since the provision was repealed before entering into force, pursuant to section 125 of Act No. 1336 of 19 December 2007.

The amendments pursuant to section 1(i) - (vii) and (xii) – (xvi) of Act No. 549 of 17 June 2008 have been incorporated into Consolidation Act No. 979 of 1 October 2008.

The amendments pursuant to section 2(i) of Act No. 316 of 28 April 2009 have not been incorporated into this Consolidation Act since the amendments will not come into force until 1 January 2010.

## Part I

### *Introduction*

#### Chapter 1

#### Objects and scope

**1(1)** The objects of this Act are

- (i) to offer counselling and support so as to prevent social problems;
- (ii) to offer a number of general services designed to serve as preventive measures at the same time; and
- (iii) to satisfy needs resulting from impaired physical or mental function or special social problems.

(2) The object of the assistance provided under this Act is to improve the capability of the individual recipient to be self-reliant, or to facilitate his/her daily life and enhance the quality of life.

(3) The assistance provided under this Act is based on the individual recipient's personal responsibility and the responsibility for his/her family. The assistance will be provided on the basis of the recipient's particular needs and conditions and in consultation with the individual recipient.

**2(1)** Any person who is lawfully resident in Denmark is entitled to assistance under this Act.

(2) The Minister for Social Affairs shall lay down rules specifying any assistance that may continue to be provided to a person residing outside Denmark on a temporary basis and the conditions for the provision of such assistance.

(3) By agreement with other states or international organisations the municipal council may grant assistance for long-term care or treatment, etc., in Denmark to a person who has a special connection to Denmark, but who is not a Danish resident at the date of application. The same shall apply to the care or treatment, etc., of a Danish resident taking up residence in another country to which he/she has a special connection.

2 a (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, cf. section 192 below, with staff having special expertise in caring for persons suffering from the KZ syndrome.

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

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

(3) The Minister for Social Affairs shall lay down specific rules governing compliance with the conditions for eligibility.

## Chapter 2

### Municipalities and regions

**3(1)** The municipal council shall make decisions as to facilities provided for under this Act.

(2) In the decisions by the municipal council as to the facilities provided for under sections 32, 36, 101, 103, 104 and 107-110 below, information shall be provided about decisions on the specific initiatives to be implemented and the purposes thereof. If the specific initiatives are altered substantially, any decision to do so shall be subject to Parts 3-7 of the Public Administration Act. Decisions to alter the specific initiatives substantially may be brought before the social complaints boards pursuant to the provisions of Part 10 of the Act on Legal Protection and Administration in Social Matters.

**4(1)** It shall be the responsibility of the municipal council to ensure that all necessary facilities under this Act are available.

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

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

- (i) facilities under sections 103 and 104, 107(2) and 108-110;
- (ii) special daytime and club facilities for children and young persons with substantial and permanent impairment of physical or mental function under sections 32 and 36;
- (iii) residential institutions for children and young persons with impaired physical or mental function, cf. section 67(2);
- (iv) secure residential institutions, cf. section 67(3); and
- (v) facilities for treatment of drug addicts under section 101.

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

(3) By agreement with the municipal councils in the region, the regional council shall establish facilities under sections 83-87, 97, 98 and 102 below for long-term accommodation for persons with substantial and permanent impairment of physical or mental function under the Act on General Housing etc.

(4) The regional council discharges its obligation under subsections (1)–(3) hereof by using its own facilities and by cooperating with municipalities, other regions or private facilities.

(5) The municipal council may establish facilities covered by subsections (1)–(3) hereof.

(6) The regional council may operate the facilities referred to in section 67(1) subject to agreement under section 194(2).

(7) The regional council shall supervise facilities covered by subsections (1), (3) and (6) hereof. However, this shall not apply to facilities for the use and supervision of which a municipal council has entered into a general agreement. The regional council shall deal with any notifications of forcible measures, cf. sections 123(3) and 136(1) below.

(8) The regional council may, by application from the municipal council, undertake such municipal operations as are naturally associated with the region's responsibilities, and in respect of which the region therefore has special powers.

**6 (1)** The municipal council shall prepare an annual report on the needs for and anticipated use of facilities, cf. section 5 above, in the region.

(2) The regional council and the municipal councils in the region shall enter into an annual framework agreement on or before 15 October for the establishment, adaptation and development of facilities by the regional council, cf. section 5 above. The framework agreement shall be discussed and supplemented as and when required. The regional council shall ensure that the facilities in the region are used in accordance with the framework agreement.

(3) The regional council shall coordinate the capacity and composition of the most highly specialised nation- and region-wide facilities.

(4) The Minister for Social Affairs may by order lay down specific rules on the annual report and framework agreement under subsections (1) and (2) hereof, on which nation- and region-wide facilities will be covered by subsection (3) hereof, and on the development plan under section 9 below.

**7** The municipal council shall provide information about facilities covered by section 4 above to the Social Services Gateway, cf. section 14 below.

**8** The regional council shall provide information about facilities covered by section 5 above to the Social Services Gateway, cf. section 14 below.

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

## Part II

### Counselling and knowledge development

#### Chapter 3

##### Counselling by municipal authorities

**10(1)** The municipal council shall ensure that everybody is given the opportunity to obtain free counselling. The object of such counselling is to prevent social problems and to help the citizen to overcome immediate difficulties and in the longer term enable the citizen to deal with problems as they arise. Counselling may be provided separately or in connection with any other assistance under this Act or under any other legislation.

(2) Counselling may be provided on an anonymous and open basis.

(3) In connection with the counselling the municipal council shall seek to prove whether the recipient is in need of any other assistance under this Act or under any other legislation.

(4) The municipal council shall provide counselling as to the choice of technical aids and consumer products as well as instructions in the use thereof. This obligation may be discharged in cooperation with other municipalities.

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

**11(1)** The municipal council shall ensure that the parents of children or young persons, or any other persons having the actual care of a child or a young person, are offered free family-related counselling designed to resolve any problem or difficulty in the family. The municipal council shall offer such counselling through fieldwork specifically targeted at persons who must be assumed to be in need of counselling due to particular circumstances. The offer of counselling shall also apply to expectant parents.

(2) Parents as well as children and young persons seeking counselling under subsection (1) hereof only may receive such counselling on an anonymous and open basis.

(3) The municipal council shall provide free counselling, examination and treatment of children and young persons with behavioural difficulties or substantial impairment of physical and mental function as well as their families. These obligations may be discharged in cooperation with other municipalities.

(4) The municipal council shall establish a family counselling scheme designed specifically for families with children under the age of 18 with considerably and permanently impaired physical or mental function. Counselling shall be offered within three months after the date on which the municipal council is informed that such impairment has been established.

(5) The Minister for the Interior and Social Affairs shall lay down specific rules regulating the family counselling scheme.

#### *Adults*

**12(1)** The municipal council shall offer free counselling of persons with impaired physical or mental function or with special social problems. Such free counselling shall include fieldwork.

(2) The obligations under subsection (1) hereof may be discharged in cooperation with other municipalities.

#### *Chapter 4*

##### *National knowledge and special counselling organisation Social Services Gateway and an independent consultant scheme*

**13 (1)** The national knowledge and special counselling organisation will provide municipal authorities and citizens with free advisory special counselling in the most highly specialised and complex individual cases. Free special counselling will likewise be provided to municipal authorities, regions and institutions, etc., as well as to citizens in relation to special education and specialised pedagogical assistance.

(2) The national knowledge and special counselling organisation will provide free advisory fact-finding and clarification services for municipal authorities and citizens in the few, most rarely occurring, special and complex cases where the requisite expertise is unlikely to be available in the individual municipality or among the services provided by the region. Free assistance is likewise provided for fact-finding and clarification by the municipal authorities concerning special education and specialised pedagogical assistance. The municipal council shall make decisions as to referrals of citizens under the first sentence hereof.

(3) The national knowledge and special counselling organisation shall decide on any services to be provided under subsections (1) and (2) hereof. Such decisions may not be brought before any other administrative authority.

(4) The national knowledge and special counselling organisation shall secure a systematic collection, development, processing and presentation of professional knowledge in the social services area. The knowledge and special

counselling organisation shall arrange for coordination and participation in testing, research and information activities in the technical aid field.

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

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

13 a (1) The national knowledge and special counselling organisation shall refund any necessary transport costs to and from special counselling and any other necessary travelling expenses in connection with counselling when citizens are receiving free advisory special counselling under section 13(1) and (3) above.

(2) To be refundable under subsection (1) hereof, transportation shall be effected by the cheapest means of transport in the given circumstances.

(3) Expenses incurred will only be refundable under subsection (1) hereof where the distance travelled to the place of counselling exceeds a limit specified by the Minister for Social Affairs.

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

**14 (1)** The Minister for Social Affairs shall collect and present information on municipal, regional and private services and facilities under sections 32 and 36, 67(1)-(3), 101, 103, 104 and 107-110 and 142(1), (4) and (5) below, in a national survey (Social Services Gateway).

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

(3) The Minister for Social Affairs may make announced and unannounced supervisory visits to the registered facilities in order to ensure that the actual conditions are in accordance with registrations in the Social Services Gateway. Following such visits, the Minister for Social Affairs may give notice of any inconsistencies to the municipal council of the municipality or the regional council of the region responsible for supervising the relevant facility, and may also notify the municipal councils of the users' residential municipalities. The Minister for Social Affairs shall submit the supervision reports to the councils for the disabled and the councils of users and relatives in the municipalities involved.

(4) The Minister for Social Affairs shall by order lay down specific rules on the Social Services Gateway, including on the duty of municipal and regional authorities to provide information to the Social Services Gateway. In addition, the Minister for Social Affairs may decide that the Social Services Gateway is to include other services and facilities than the services and facilities referred to in subsection (1) hereof.

**15. A** scheme of independent consultants shall provide free counselling and guidance in cases concerning persons with impaired physical or mental function.

### Part III

#### User involvement

#### Chapter 5

##### User involvement, advisory bodies, etc.

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

(2) The municipal council may set up one or more councils advising the municipal council as to the planning of the initiatives provided for by this Act. The municipal council shall determine the scope and content of the tasks and responsibilities of such councils.

**17(1)** The municipal council shall set up councils of users and relatives in connection with nursing homes etc., cf. section 192 below, care homes falling under the scope of the Act on General Housing etc. or the Act on Housing for the Elderly and Persons with Handicaps, and other similar housing. The municipal council shall decide on the composition of such councils, having regard to local conditions, always provided that users and relatives shall constitute a majority of the council members. The object of the council is to represent the interests of the residents and the tenants, and the council shall be consulted when the guidelines for the daily care and attendance in the housing units in question are determined, including guidelines for menus, working routines, activities, social life, etc. This provision applies only to residents and tenants of the said types of accommodation who are receiving municipal services.

(2) The municipal council shall in consultation with the council lay down the rules and regulations governing its work. The rules and regulations shall, for example, comprise rules for the election of members, election periods and the powers and responsibilities of the council.

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

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

(3) The scope of the cooperation shall be specified by the individual municipal council.

(4) The Minister for Social Affairs shall lay down guidelines for submission by the municipal council of reports on the local development of the voluntary social work and guidelines for the central follow-up.

#### Part IV

#### Children and young persons

#### Chapter 6

#### General provisions

**19(1)** The municipal council shall ensure that the measures and activities affecting children, young persons and their families are implemented in such a manner as to promote the development, well-being and independence of children and young persons. This applies to the implementation of measures of a general and preventive nature, as well as more target-oriented measures relating to children and young persons with impaired physical or mental function or any other particular need for support.

(2) The municipal council shall prepare a cohesive child policy designed to secure cohesion between the general and preventive work and the targeted-oriented measures relating to children and young persons in need of special support. The cohesive child policy shall be formulated in writing, be adopted by the municipal council, and be published.

(3) The municipal council shall ensure that the measures implemented under this Act in respect of children and young persons with impaired physical or mental function or any other particular need for support complement any other statutory measures implemented in respect of the same children and young persons.

#### Chapter 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 a decision on assistance to children in special need of assistance or support due to substantial and permanent impairment of physical or mental function. Assistance may be provided in special day-care facilities, cf. subsection (3), in special club facilities, cf. section 36, or in connection with other facilities hereunder or the Day-Care Facilities Act. Assistance may also be provided in part or in full by parents in the home; cf. subsections (6)-(8) below.

(2) The Minister for the Interior and Social Affairs shall lay down rules governing cooperation with parents, the involvement of the child or young person, clarification of the child's or young person's needs and municipal practices, including the establishment of municipal teams for the clarification of the child's impaired functions and committees charged with referring the child to a facility.

(3) The municipal council shall ensure that day-care facilities are available for the requisite number of children who due to considerably and permanently impaired physical or mental function are in need of special support, treatment, etc. where such needs cannot be satisfied by attending conventional day-care facilities or after-school facilities pursuant to the Day-Care Facilities Act.

(4) The Minister for the Interior and Social Affairs shall by order lay down rules governing parents' boards in special daytime facilities.

(5) The Minister for the Interior and Social Affairs shall by order lay down rules governing the calculation of subsidies and own payment for special daytime facility attendance.

(6) At the request of the custodial parent or other person having custody, the municipal council shall in accordance with the conditions set out in subsections (2) and (3) above approve that parents provide assistance in the home pursuant to subsection (1) above. Assistance provided in the home shall meet the needs and requirements of the child or young person, and the parents shall be capable of fulfilling the task. Physical training of the child in the home shall be provided in accordance with documented training methods. The municipal council shall, on a regular basis, supervise the activities involving the child.

(7) The municipal council shall in part cover lost earnings pursuant to sections 42 and 43 hereof of parents who support and train a child or a young person under the age of 18 suffering from considerably and permanently impaired physical or mental function in the home.

(8) The municipal council shall arrange for training equipment, courses, assistants, etc. when parents train a child or a young person at home. The cost of training equipment, courses, assistants, etc. for the child or young person payable by the municipal council shall not exceed DKK 500,000 on an annual basis.

(9) The Minister for the Interior and Social Affairs shall lay down specific rules on support in the home, including rules governing verifiable methods, regular supervision of activities as well as training equipment, courses, assistants, etc.

## Chapter 8

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

**33-36** (Repealed)

#### Special club facilities

**36(1)** The municipal council shall ensure that access is available in special club facilities for the requisite number of older children and young persons with special needs for support, treatment, etc., due to substantial and permanent impairment of physical or mental function which cannot be satisfied by attendance at one of the facilities specified in sections 65 and 66 of the Day-Care Facilities Act.

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

## Chapter 9

### Financial subsidies etc.

#### Subsidies for parents electing private care

**37** (Repealed)

**38**(Repealed)

**39(1)** The municipal council may decide to pay supplementary subsidies to parents in receipt of benefits while on child-care leave, cf. 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 a year. 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 benefits received while on leave shall not exceed 80% of the previous income level. For employed persons on child-care leave who are entitled to receive unemployment benefits, however, the total amount of the subsidy and the benefits received while on leave shall correspond at least to the amount of unemployment benefits to which the person on child-care leave would be entitled subject to full-time unemployment immediately prior to the leave, cf. the Act on Unemployment Insurance etc., unless the subsidy would thereby exceed the amount of the subsidy fixed by the municipal council, cf. subsection (2) hereof.

(4) For unemployed persons on child-care leave, the total amount of the subsidy and the benefits received while on leave shall not 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, cf. the Act on Unemployment Insurance etc.

(5) For unemployed persons on child-care leave for whom the entitlement to financial support constitutes the basis for the benefits received while on child-care leave, the total amount of the subsidy and the said benefits shall not exceed an amount equalling the financial 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 municipal council against documentation of the receipt of benefits while on child-care leave.

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

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

(2) The said supplementary subsidy shall be payable only to the parent in whose home the child is staying most often. If a child is staying equally often with both parents, the supplementary subsidy shall only be payable to the parent with whom the child has his/her registered address.

(3) The special supplementary subsidy under subsection (1) hereof amounts to the difference between the benefits received while on child-care leave and the rate of financial assistance payable to recipients with dependent children, cf. section 25 of the Act on an Active Social Policy.

(4) The total amount of the special supplementary subsidy and the benefits received while on child-care leave shall not exceed 80% of the previous income level.

(5) Where the municipal council pays a supplementary subsidy exceeding or equalling subsidies under subsection (1) hereof, only the subsidy under section 39 above shall be payable. If the special supplementary subsidy payable under subsection (1) hereof exceeds the subsidy payable under section 39 above, only the subsidy under subsection (1) hereof shall be payable.

(6) The subsidy shall be payable by the municipal council against documentation that the recipient is in receipt of benefits while on child-care leave.

#### *Reimbursement of extra costs*

**41(1)** The municipal council shall cover any necessary extra costs of maintenance in the home in respect of a child under 18 with substantial and impaired physical or mental function or serious, chronic or long-term illness. It is a condition that the extra costs are incurred as a result of the impaired function.

(2) Reimbursement of extra costs shall be calculated on the basis of a monthly standard amount of DKK 2,424. In calculating the amount of reimbursement, regard shall be had to the specific needs, and the amount shall comprise one or more eighths of the standard amount. Reimbursement may be payable at more than one standard amount.

(3) The amount of reimbursement shall comprise at least one-eighth of the standard amount set out in subsection (2) hereof. For the reimbursement to be payable, it must be rendered probable that extra costs corresponding to 12 times one-eighth of the standard amount have been incurred within any one year.

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

(5) The Minister for the Interior and Social Affairs may by order lay down rules pertaining to the costs in respect of 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 a child under 18 in the home whose physical or mental function is substantially and permanently impaired, or who is suffering from serious, chronic or long-term illness. Compensation shall be subject to the condition that the child is cared for at home as a necessary consequence of the impaired function, and that it is most expedient for the mother or father to care for the child. The compensation shall be fixed on the basis of the previous gross income level. Pension contributions amounting to 6% of the gross compensation as at 1 January 2003 and 10% of the gross compensation as at 1 January 2004 shall be included. However, the contribution shall not exceed an amount equivalent to the contribution previously paid by the employers. Pursuant to the Act on the Labour Market Supplementary Pension Scheme, the municipal council shall pay Labour Market Supplementary Pension ("ATP") contributions in respect of the compensation for loss of earnings. The person receiving compensation shall pay one-third of the ATP contributions, and the municipal authorities shall pay two-thirds.

(2) The Minister for the Interior and Social Affairs shall lay down rules governing the calculation and adjustment of loss of earnings under subsection (1) hereof, including the inclusion and payment of pension contributions and, on the recommendation of the Labour Market Supplementary Pension Fund, rules governing the payment of expenses for ATP contributions.

**43(1)** In the event of unemployment, the municipal council shall pay a special supplement to persons receiving compensation under section 42 above for up to three (3) months after the end of the month in which the person becomes unemployed. Payment of compensation shall be conditional upon the person

- (i) having taken out unemployment insurance;
- (ii) not being eligible for unemployment benefit under the Act on Unemployment Insurance etc.;
- (iii) not being subject to self-induced unemployment;
- (iv) not having a reasonable offer of part-time employment; and
- (v) not receiving other financial support under any other legislation.

(2) The municipal council shall pay the special supplement regardless of the income and property situation of the recipient and his/her spouse.

(3) The amount of the special supplement shall be equivalent to the maximum amount of sickness benefits, cf. section 50(1) of the Act on Benefits in the Event of Illness or Childbirth, but not exceeding an amount corresponding to 90% of the recipient's pay in his/her previous job.

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

(5) Pursuant to the Act on the Labour Market Supplementary Pension Scheme, the municipal council shall pay ATP contributions in respect of the special supplement. The recipient shall pay one-third of the ATP contributions, and the municipal council shall pay two-thirds. The Minister for the Interior and Social Affairs may lay down rules on the payment of contributions on the recommendation of the Labour Market Supplementary Pension Fund.

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

## Chapter 10

### Personal assistance and attendance

**44** The provisions of sections 83 and 86(2) hereof shall apply correspondingly to children where required.

**45** (1) The municipal council shall provide 15 hours of attendance a month for young persons between the ages of 16 and 18 who are unable to get around on their own due to substantial and permanent impairment of physical or mental function. However, this shall not apply to young persons between the ages of 16 and 18 accommodated in residential facilities pursuant to section 52(3)(iv), (v) or (viii).

(2) A person who is entitled to attendance, cf. subsection (1) hereof, is entitled to designate a person for the purpose. The municipal council shall approve and employ the person so designated.

(3) Persons with very close ties to the person entitled to attendance under subsection (1) hereof will not normally be employed.

(4) The recipient may save up hours for a 6-month period. The municipal council shall lay down guidelines to that effect.

(5) Any expenses incurred by the recipient for transportation and other activities relating to the attendance may be reimbursed up to an amount of DKK 663 a year. The amount will be granted by the municipal council upon application by the recipient.

(6) The Minister for the Interior and Social Affairs may by order lay down rules governing the specific requirements for the attendance scheme.

## Chapter 11

### Special support for children and young persons

#### Object

**46** (1) The object of assisting children and young persons with special needs is to secure the best possible conditions for the upbringing of such children and young persons, thereby providing them with the same opportunities for self-expression, personal development, maturity and health as their contemporaries, despite their individual problems.

(2) The support must be provided at an early stage and on a continuing basis, so that any initial problems affecting the child or the young person may as far as possible be remedied in the home or the immediate environment. On the basis of a case-by-case assessment the support must be adapted to the specific situation of the individual child or young person and his/her family.

(3) The views of the child or young person shall always be considered, and proper importance shall be attributed to such views in accordance with the age and maturity of the child or young person in question.

(4) Where possible, the difficulties of the child or young person shall be resolved in consultation and cooperation with his/her family. Where this is not possible, the background, object and constituent features of the specific measure taken must be explained to the custodial parent or other person having custody, as well as to the child or young person.

(5) In the application of the provisions of this Chapter 11, paramount importance shall be attributed to the fact that the support is provided for the benefit of the child or young person, the object being to ensure that the child or young person has a stable and satisfactory contact to one or more adults and experiences continuity in his/her childhood and youth.

#### *Involvement of family and network*

**47** The municipal council shall consider how to systematically involve family and network.

**48** (1) Before the municipal council makes a decision under sections 51, 52, 56, 57 a, 57 b, 58, 62 and 63, 65(2) and (4) and 68-71 and 75, the child or young person must be consulted.

(2) The consultation may be dispensed with if factors such as the maturity of the child or the nature of the case strongly suggest that the decision should be made without prior consultation. If consultation cannot be carried out, steps must be taken to establish the child's position to the contemplated decision.

#### *Children's and young people's adviser*

**48 a** (1) A child or young person whose case is being considered pursuant to this Part of the Act shall at any time during the consideration of the case be entitled to the assistance of a third party.

(2) Subsection (1) above shall not apply where the authority finds that the interest of the child or young person in being assisted by a third person shall be subordinate to the interests of public authorities or private individuals, or where legislation stipulates otherwise. The authority may also decide to overrule the child's or young person's choice of adviser where certain circumstances give grounds to assume that the adviser may protect other interests than those of the child or young person.

(3) The authority may decide to exclude an adviser in part or in full from attending a meeting where this is deemed to influence whether the child's or young person's willingness to express his/her opinion openly.

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

### *Investigations*

**49** (1) For the benefit of children and young persons in need of special support, the municipal council shall set up an inter-professional group charged with establishing the requisite contact at an early stage and on a continuing basis with medical, social, educational, psychological or other professionals.

(2) A member of the group shall be designated as the person responsible for coordinating the initiatives to be taken in respect of the individual child or young person.

50 (1) Where it must be assumed that a child or a young person is in need of special support, partly due to impaired physical or mental function, the municipal council shall ensure that the conditions of the child or the young person are investigated. Any decision to do so shall be made with the consent of the custodial parent or other person having custody and a young person over the age of 15, but see subsection (9) hereof and section 51 below.

(2) In the course of its investigations, cf. subsection (1) hereof, the municipal council shall make an overall evaluation of the following factors relating to the child's or young person's

- (i) development and behaviour;
- (ii) family;
- (iii) school;
- (iv) health;
- (v) leisure time activities and friendships; and
- (vi) other relevant factors.

(3) In the course of its investigations the municipal council shall seek to uncover resources and problems in the child, the family and the network. For young persons over the age of 15, the investigation shall seek to uncover special factors to be considered in selecting the measures to be taken for the specific age group, cf. sections 52 and 76 below.

(4) In the course of its investigations, the municipal council shall involve any professionals who already have some knowledge of the conditions of the child or young person and his/her family. This may be effected by securing the involvement of health nurses, pedagogues, psychologists, teachers or others, cf. section 49 above. If necessary, the municipal council shall have the child or young person examined by a medical doctor or a registered psychologist.

(5) Any such examination shall not be any more comprehensive than required by their purpose and shall be conducted as gently as possible in the given situation.

(6) Examinations shall lead to a reasoned decision as to whether there are grounds for implementing measures and if so the nature of such measures. The position of the custodial parent or other person having custody and of the child or young person to the proposed measures must be indicated, and so must any conditions in the family or its surroundings likely to facilitate a resolution of the difficulties.

(7) Investigations must be completed within four (4) months after the municipal council has become aware that a child or young person may be in need of special support. Where, exceptionally, an investigation cannot be completed within 4 months, the municipal council shall prepare a provisional assessment and complete the investigation as soon as possible thereafter.

(8) In connection with an investigation, the municipal council must assess whether to carry out an investigation of any other children in the family.

(9) Where the custodial parent or other person having custody or a young person over the age of 15 does not give his/her consent, cf. subsection (1) hereof, the investigation may be conducted without such consent by obtaining any required information available, cf. section 11 c (1)(i) of the Act on Legal Protection and Administration in Social Matters.

(10) Where it is assumed that a child may require special support immediately after being born, the municipal authorities shall investigate the circumstances of the expectant parents in detail. Any decision in this regard shall be made with the consent of the parents. The decision shall be subject to subsections (3)-(9).

**51(1)** Where it is deemed necessary in order to determine whether there is an obvious risk of serious damage 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 or other person having custody and the young person over the age of 15, to conduct an examination of the child or young person during his/her stay at an institution or admission to a hospital, including a psychiatric ward. Any such examination must be completed within two (2) months of the decision by the children and young persons committee.

(2) Provided the requirements are satisfied, a decision under subsection (1) hereof may be made on a provisional basis under the provisions of section 75 below.

#### *Measures*

**52 (1)** The municipal council shall decide on measures under subsection (3) hereof to be taken where this must be deemed to be of material importance, having regard to a child's or young person's special needs for support. Any such decision shall be subject to the consent of the custodial parent or other person having custody, but see sections 56, 57 a, 57 b, 58, 68(2) and (3) and section 68 a below. Any decision under subsection (3)(viii) hereof shall also be subject to the consent of the young person over the age of 15.

(2) In the absence of special conditions, support can only be implemented after completion of an investigation, cf. section 50 or 51. The municipal council shall at all times choose the least restrictive suitable measure(s) for the resolution of the problems uncovered in the course of such investigation.

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

- (i) consulting assistance relating to the conditions of the child or young person. The municipal council may in this connection decide that the child or young person is to seek admission to a daytime facility, after-school facility, youth club, training or education establishment, etc.;
- (ii) practical, pedagogical or other support in the home;
- (iii) family therapy or specific treatment of the child's or young person's problems;
- (iv) residential accommodation, cf. section 55 below, for both the custodial parent or other person having custody, the child or young person and other members of the family, with a foster family, at an approved facility or in an institution, cf. section 66(i), (iv) or (v), or in an accommodation facility, cf. section 107 or section 144.
- (v) a relief care arrangement, cf. section 55, with a network foster family, a foster family, at an approved facility or in a residential institution, cf. section 66(i), (ii), (iv) or (v);
- (vi) appointment of a welfare officer for the child or young person;
- (vii) appointment of a permanent contact person for the child or young person and for the whole family;
- (viii) placing the child or young person in a care facility outside the home, cf. section 66;
- (ix) arrangement of in-service training of the young person with a public or private employer, and in that connection payment of compensation to the young person;
- (x) any other support designed to provide counselling, treatment and practical or pedagogical support.

(4) The municipal council may contribute towards the expenses associated with measures under subsection (3) hereof, and provide financial support where such support replaces an otherwise more restrictive and comprehensive measure

under subsection (3) hereof. The support may be provided where the custodial parent or other person having custody is not in a position to do so.

(5) The municipal council may contribute towards expenses incurred in seeking to prevent a child being placed in care, to accelerate the return of a child, or to promote a stable contact between parents and children during a period when one or more children are placed in care.

(6) In the case of a pregnancy, the municipal council shall decide on measures pursuant to subsection (3) (ii), (iii), (iv), (vii) or (x) and subsections (4) and (5) above where such measures are deemed to be of significant importance to the child's specific need for support after birth. The decision shall be made with the consent of the parents. The decision shall be subject to subsection (2) above.

**53** Any consent from the custodial parent or other person having custody, or from a young person over the age of 15, to a decision under section 52(3)(viii) shall include the object for which the child or young person has been placed in care; cf. the first sentence of section 140(5).

**54** The municipal council shall offer the custodial parent or other person having custody to appoint a support person in connection with the child or young person being placed in care, cf. sections 52(3)(viii).

**54 a** The municipal council shall assign a coordinator to young persons who have been sentenced subject to section 74 a of the Criminal Code. The coordinator shall be assigned to the young person for the duration of the process and shall be the young person's counsellor, shall ensure coherence between phases and arrange meetings with the young person, his/her parents and other relevant parties in order to maintain the goals laid down in the action plan; cf. section 140 hereof.

**55** (1) While accommodated in a residential facility under sections 52(3)(vi), (v) and (viii) and 76(3)(i) and (vi) hereof, the child or young person or the expectant parents shall receive care, personal support, socio-pedagogical counselling and treatment. In case of special needs, examinations may be conducted and observation and therapy or other treatment be provided.

(2) Relief arrangement provided during accommodation in a residential facility will be provided as a service under subsection (1) hereof.

(3) Assistance under subsection (1) hereof may be provided by the facility in which the child, young person or expectant parents are accommodated on a full-time basis or otherwise.

**56** Any decision under section 52(3)(i), (vi) or (vii), cf. section 52(1), may be made notwithstanding that the custodial parent or other person having custody does not wish to have the specific measure implemented, where it is deemed to be of material importance to the special need of the child or young person for support, and where the object of the measure is deemed to be feasible despite the lack of consent. Any such decision shall be made during a meeting of the committee handling individual cases which is responsible for the area in question under section 17 of the Act on Legal Protection and Administration in Social Matters. In corporation-model municipalities the decision shall be made by the relevant corporation member.

**57** Where there is no custodial parent or other person having custody of a child or young person, the municipal council shall if necessary arrange for a suitable person to be appointed for that purpose.

#### *Parenting orders*

**57 a** (1) The municipal council shall decide to issue a parenting order against the custodial parent or other person having custody, cf. subsection (3) below, where there is a risk that the development of a child or young person is in danger, and

this is considered to be due to the failure on the part of the custodial parent or other person having custody to live up to his/her parental responsibilities.

(2) The issue of a parenting order is subject to the availability of information

- (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 conduct of a certain extent or seriousness;
- (iii) that the child or young person has serious behavioural or adjustment problems; or
- (iv) that the custodial parent or other person having custody refuses to cooperate with the relevant authorities in solving the problems of the child or young person.

(3) A parenting order specifies one or more duties to act for the custodial parent or other person having custody which must be conducive to a resolution of the child's or young person's problems, and must be reasonably proportionate to the purpose. In this connection, it may be stipulated that the custodial parent or other person having custody 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 at home at specified times;
- (v) attend a parenting programme offered by the municipal council; or
- (vi) attend meetings with relevant authorities about finding solutions to the problems of the child or young person.

(4) Where a decision to issue parenting orders pursuant to subsection (1) has been made, the municipal council may make a decision pursuant to section 52(1) hereof to initiate measures pursuant to section 52(3)(i), (ii), (iii), (vii) and (x) hereof, irrespective of whether the custodial parent or other person having custody objects to such measures being initiated if it is deemed likely that the purpose of the measure may be achieved regardless of the lack of consent..

(5) Decisions to issue parenting orders shall be subject to maximum periods of 12 months. A parenting order may be extended by maximum periods of 6 months at a time.

(6) The municipal council shall inform the custodial parent or other person having custody that the payment of child benefits is subject to compliance with the parenting order, cf. the Act on Child Benefits.

(7) If the municipal council finds that a person who is subject to a parenting order under subsection (1) hereof 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 apply for three (3) months.

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

- (i) that the facts giving rise to the order no longer exist; or
- (ii) that the parenting order is no longer suitable for solving the problems of the child or young person.

#### *Juvenile orders*

**57 b** The municipal council shall decide to issue a juvenile order against a child or young person between the ages of 12 and 17 where the child or young person displays behavioural problems or negative behaviour placing the development of the child or young person at risk and where the voluntary cooperation of the child or young person and the custodial parent or the person having custody on support pursuant to section 52(3) hereof is not deemed sufficient to alleviate the child's or young person's problems. A decision to issue a juvenile order may be made without the consent of the custodial parent or the person having custody.

(2) A decision to issue a juvenile order is conditional on information verifying

- (i) Unlawful absence from school or non-compliance with the rules on compulsory education in general
- (ii) criminal activities of a certain scope or severity
- (iii) serious behavioural and adaptation problems.
- (iv) non-cooperation with the relevant authorities on solving the child's or young person's problems

(3) A juvenile order shall state one or more actual obligations to be met by the child or young person which are deemed appropriate with respect to solving the child's or young person's problems and which are reasonable compared with the objective. The order may stipulate that the child or young person must

- (i) subject to one or more measures pursuant to section 52(3)(i), (iii), (vi), (vii), (ix) or (x)
- (ii) be home at a specified time or
- (iii) contribute to remedying any damage done

(4) Where a juvenile order has been issued pursuant to subsection (1) above, the municipal council may pursuant to section 52(1) decide to initiate measures pursuant to section 52(3)(i), (iii), (vi), (vii), (ix) or (x), irrespective of whether the custodial parent or other person having custody objects to such measure being initiated where it is deemed likely that the purpose of the measure may be achieved regardless of the lack of consent.

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

(6) When issuing a juvenile order pursuant to subsection (1), the municipal council must consider whether also to issue a parenting order pursuant to section 57 a.

(7) The Minister for the Interior and Social Affairs may by order and subject to consultation with the Minister for Justice lay down specific rules governing the implementation of an experimental scheme under which the police shall assist the municipal authorities in the enforcement of the juvenile order.

#### *Care proceedings without consent*

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

- (i) inadequate care for or treatment of the child or young person;
- (ii) violence or other serious ill-treatment;
- (iii) substance abuse, criminal conduct or other serious social difficulties on the part of the child or young person; or
- (iv) other behavioural or adjustment problems in the child or young person,

the children and young persons committee may decide, without the consent of the custodial parent or other person having custody and the young person over the age of 15, that the child or young person is to be placed in care, cf. section 52(3)(viii) above. A decision under the first sentence hereof shall only be available where there is a reasonable presumption that the problems cannot be resolved during the child's or young person's continued stay in the home.

(2) Where it is in the child's or young person's best interests, the children and young persons committee may decide that the child or young person is to be placed in care in pursuance of subsection (1) hereof, notwithstanding that the custodial parent or other person having custody and the young person may have consented to a placement under section 52(3)(viii) above.

(3) Where a young person over the age of 15 agrees to be placed in care, the children and young persons committee may decide – notwithstanding the conditions set out in subsection (1) hereof – to place the young person in care, cf. section 52(3)(viii) above where such placement must be deemed to be of material importance, having regard to the special needs of the young person, and where the problems cannot be resolved during the young person's continued stay in his/her home.

(4) Any decision under subsections (1)-(3) hereof may be made on a provisional basis subject to the rules provided under section 45 below, provided the requirements are met.

**59** A recommendation of placing a child or young person in care under section 58 above shall include an account of

- (i) the grounds on which the requirements of section 58 are deemed to be satisfied;
- (ii) the measures under section 52(3) above having been implemented or offered to the family, and the reasons why measures of the said type are now deemed to be inadequate or unsuitable;
- (iii) any conditions in or relating to the family and the child or young person or his/her surroundings likely to contribute to a resolution of the difficulties while the child or young person is in care;
- (iv) the action plan for the period in care, cf. section 140 below, including the proposed support and initiatives for the benefit of the child or young person and his/her family during the said period and thereafter; and
- (v) the attitude of the child or young person to the proposed measure.

**60 (Repealed)**

**61 (Repealed)**

**62** (1) If the child or young person has not been in care for the last year immediately preceding the date of the current placement of the child or young person, the continued application of a measure taken under section 58 above 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 care within the last year immediately preceding the date of the current placement of the child or young person, the continued application of a measure taken under section 58 above for more than two (2) 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 case under subsections (1) or (2) hereof is brought before the Social Appeals Board or the courts, the period shall run from the date of the final decision or judgment. Notwithstanding the provisions of subsections (1) and (2) hereof, the children and young persons committee, the Social Appeals Board or the court may stipulate a shorter period for the renewed consideration by the committee.

(4) In decisions under section 58 above, the children and young persons committee may exceptionally stipulate a longer period than the one set out in subsections (1)-(3) hereof, where the factors on which the decision is based will most likely continue to apply beyond that period. The Social Appeals Board and the court will have similar powers.

(5) The children and young persons committee may exceptionally stipulate that placement pursuant to section 58 of a child who has not reached the age of 1 shall apply for three years if it is deemed highly probable that the conditions on which placement is based will prevail for this period of time. The National Social Appeals Board and the court hold similar powers.

(6) Subsections (1)-(5) hereof shall apply correspondingly to decisions made by the Social Appeals Board under section 65(4) below.

*Medical examination and treatment without consent*

**63** (1) If the custodial parent or other person having custody fails to have a child or young person examined or treated for

a life-threatening disease or a disease involving the risk of substantial and permanent impairment of function, the children and young persons committee may decide to undertake such examination or treatment.

(2) Any decision under subsection (1) hereof may be made on a provisional basis subject to the provisions of section 75 below provided the requirements are met.

#### *Enforcement*

64 (1) Decisions under sections 51, 58, 63, 68(3) and 68 a above shall be enforceable by the municipal council.

(2) Subject to proper identification and without a court order, the municipal council is entitled to enter and search the home and property of a custodial parent or other person having custody of a child or young person, with powers to look for and remove a child or young person for the purpose of enforcing any decision referred to in subsection (1) hereof.

(3) The police shall assist the municipal council in the exercise of its powers under subsection (2) hereof. The Minister for the Interior and Social Affairs shall, in consultation with the Minister for Justice, by order lay down rules on police assistance for the municipal council.

#### *Powers of the complaints board and the Social Appeals Board without a complaint*

65 (1) If the municipal council fails to undertake the necessary investigations, cf. section 50 above, fails to conduct the necessary consultations with the child or young person, cf. section 48 above, fails to prepare the necessary action plans, cf. section 140 below, or fails to carry out the necessary revisions of action plans, cf. sections 68 or 70, or to return the child or young person to his/her home subject to the necessary transitional period, cf. section 68(2) and (3), fails to take into account the best interests of the child when making a decision on the choice of placement facility, including choice of placement facility when transferring the child or young person from one placement facility to another and access to the child's or young person's social network, cf. section 69(1) and (2) or fails to talk to the child or young person at least once a year during visits to the facility, cf. section 148 below, the complaints board may decide

- (a) that an investigation is to be implemented, cf. section 50 above;
- (b) that the child or young person is to be consulted, cf. section 48 above;
- (c) that an action plan is to be prepared, cf. section 140 below;
- (d) that an action plan is to be revised, cf. sections 68 or 70 below;
- (e) that a new decision to return the child or young person to his/her home is reached making sufficient allowance for the best interests of the child with respect to the transitional period and the length of such period; cf. section 68(2) and (3)
- (f) that a new decision to return the child or young person to his/her home is reached making sufficient allowance for the best interests of the child with respect to placement facility, change of placement facility and access to the child's or young person's social network, cf. section 69(1) and (2); and
- (g) that visits to the facility must involve talking to the child or young person, cf. section 148 below.

(2) Where there is a need for measures under section 52 above, and the municipal council fails to implement such measures, the complaints board may order the municipal council to make a decision, or make a provisional decision, to implement measures.

(3) The social complaints board may order the municipal council to enforce decisions under subsections (1) and (2) hereof. The social complaints board may order the municipal council to enforce decisions under subsection (1)(a) and (b) within a specified time limit where this is deemed necessary to protect the best interests of the child or young person.

(4) The Social Appeals Board has the same powers as the complaints board and may in addition make decisions under sections 51, 58, 63 and 68 a, ordering the municipal council to enforce such decisions.

*Facilities for children and young persons*

66 Facilities for children and young persons may be

- (i) foster families, cf. section 142(1) below;
- (ii) network foster families, cf. section 142(2) below;
- (iii) own rooms, hostels or similar facilities, cf. section 142(4) below;
- (iv) accommodation facilities for children and young persons, cf. section 142(5) below; or
- (v) residential institutions, cf. section 67 below.

**67** (1) The municipal council shall ensure that the necessary number of places are available in residential institutions for children and young persons needing to be placed in care due to social or behavioural problems. In this connection, the municipal council shall ensure that the requisite access and availability of out-patient treatment are provided in such institutions.

(2) The municipal council shall ensure that the necessary number of places are available in residential institutions for children and young persons needing to be placed in care due to impairment of physical or mental function.

(3) The municipal council shall ensure that the necessary number of places are available in secure residential institutions.

(4) Residential institutions may be established and operated by a municipality, cf. section 4 above, or a region, cf. section 5 above, or as independent institutions entering into agreements with the relevant municipal or regional council.

*Cessation of measures and extension of placement*

**68** (1) Measures under section 52(3) shall be discontinued when their object has been achieved, when they no longer serve their purpose or when the young person has attained the age of 18.

(2) The return of a child or young person in care to his/her home is conditional on a decision by the municipal council with respect to the return and length of the transitional period, cf. subsection (4). Under special circumstances, the municipal council may decide not to apply a transitional period.

(3) Where the custodial parent or another person having custody applies for 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 not later than seven days from the date on which the application is filed. The same shall apply where a young person over the age of 15, who has been placed in care subject to consent under section 52(1), requests to be returned to his/her home.

(4) The municipal council shall decide the length of the transitional period. The transitional period may be up to six months and shall be subject to

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

(5) The transitional period shall be considered an extension of existing placement pursuant to section 52(3)(viii).

(6) Where the municipal council decides to return a child or young person placed in care pursuant to section 58 or 68 a to his/her home, the municipal council shall inform the child and young person without delay. If the municipal council is not able to allow a request for the return of a child or young person, the matter shall be submitted to the children and young persons committee; cf. section 58 or 68 a.

(7) The municipal council may refuse to consider a request from parents for the return of a child or young person placed in care pursuant to

- (i) section 58 subject to a pro-longed re-examination deadline pursuant to section 62(5) if the conditions of the parents, placement facility, the child or young person have not changed materially, or
- (ii) section 68 a if the conditions of the placement facility, the child or young person have not changed materially

(8) Where the application for the return of a child or young person is not denied, the municipal council shall make a decision on return.

(9) Where the municipal council cannot grant the application for the return of a child or young person, the matter shall be submitted for decision by the child and young persons committee.

(10) The municipal council is under no obligation to consider an application for the return of a child or young person during the period when a matter is being considered by the Social Appeals Board or the Court.

(11) Prior to the return of a child or young person, the municipal council shall revise the action plan, cf. section 140 below, specifying the proposed further measures in connection with the return. Where a sanction pursuant to section 74 a of the Criminal Code has been imposed, the revision shall focus specifically on how to meet any goals with respect to education and employment.

(12) No later than six (6) months before the end of a young person's period in care when he/she attains the age of 18, the municipal council of the young person's residential municipality shall decide whether the young person is in need of any subsequent measures and, where this is considered the case, decide on the implementation of such measures pursuant to section 76 below. Prior to this, the municipal council shall, in consultation with the young person, revise the action plan and in that connection decide on the type of guidance and support to be provided to the young person in terms of training and education, employment and other relevant matters.

**68 a (1)** The children and young persons committee may decide that a child or young person, who has been placed in care pursuant to section 52(3)(viii) for a period of no less than three years, shall remain in care for an extended period of time if the child or young person has developed such a strong attachment to the placement facility that it is deemed in the best interests of the child or young person to remain in the placement facility. Decisions with respect to extended care pursuant to subsection (1) shall not be submitted to the children and young persons committee for renewed decision pursuant to section 62.

(2) With respect to a child or young person, who has attained the age of 15, a decision on extended care pursuant to subsection (1) is conditional on the consent of the child or young person.

(3) The children and young persons committee may decide to extend care pursuant to subsection (1) irrespective of whether the provisions of section 52(1) or section 58(1) are no longer fulfilled.

(4) A decision by the children and young persons committee on extended care shall be based on a recommendation prepared by the municipal council which includes

- (i) a revised investigation of the child's conditions; cf. section 50
- (ii) a revised action plan; cf. section 140
- (iii) a psychological, medial or other expert assessment of the child's or young person's attachment to the placement facility; and
- (iv) the child's or young person's opinion on extended care.

### *Municipal duties during placement in care*

69 (1) The municipal council shall decide upon the choice of the concrete facility of placement in accordance with the action plan, cf. section 140 below. At the time of choosing the facility, the municipal council shall decide on the schooling of the child or young person. If the facility is located in a municipality other than the residential municipality of the child or young person, the residential municipality shall notify the local municipality of location before placing the child or young person in care.

(2) To any extent necessary in view of the object of placing a child or young person in care, the municipal council shall, based on continuous supervision of the child or young person at the care facility, decide on any change of facility, treatment, training and education, companionship with persons from the network, etc., during the placement, cf. section 148 below.

(3) The decision by the municipal council as to a change of care facility shall be subject to consent from the custodial parent or other person having custody and the young person aged 15 or more, but see subsections (4) and (5) hereof.

(4) Where a child or young person has been placed in care with consent under section 52(3)(viii) above, and where consent to a change of care facility cannot be obtained, the children and young persons committee may make a decision under section 58 above provided that the conditions have been met. The decision as to the choice of facility of placement will subsequently be made by the municipal council, cf. subsection (1) hereof.

(5) Where a child or young person has been placed in care without consent under sections 58 or 68 a above, and where consent to a change of facility cannot be obtained, the children and young persons committee may make a renewed decision under sections 58 or 68 a above, provided that the conditions have been met. The custodial parent or other person having custody and the young person over the age of 15 may, however, agree that such new decision under sections 58 or 68 a above is not required. Any decision on the choice of facility shall subsequently be made by the municipal council, cf. subsection (1) hereof, irrespective of whether the children and young persons committee re-examines the grounds for placing the child or young person in care.

**70** (1) Within three (3) months of the date on which a measure has been implemented in respect of the child or young person or the expectant parents, the municipal council shall assess whether the measure is to be amended, and whether the action plan, cf. section 140 below, is to be revised. Thereafter the municipal council shall make such assessments at intervals not exceeding 12 months. Where a child or young person is in care, the assessment must be based on the supervision from time to time of the child or young person at the care facility, cf. section 148(1) below, and after contact with the custodial parent or other person having custody. The assessment shall comprise the elements of the action plan and the initiatives that are directed at the child or young person, as well as the elements relating to the initiatives taken in respect of the family. Any decision to revise the action plan shall, if possible, be made with consent from the custodial parent or other person having custody and the young person over the age of 15.

(2) Where a young person has been sentenced pursuant to section 74 a of the Criminal Code, the assessment and revision of the action plan and measures shall focus specifically on ensuring the young person's education or employment. No later than in connection with the first review, it must be established how the overall goals of education and employment are to be reached in the course of the sanction.

(3) Where a special plan has been prepared for the support for parents under section 140(8) below, the municipal council shall offer to revise that plan as and when needed. The municipal council shall offer to revise the plan no later than three (3) months after the child or young person has been placed in care. Thereafter, the municipal council shall make an assessment at intervals of no more than twelve (12) months to determine whether it is necessary to offer to revise plan.

### *Access and contact*

**71** (1) The parents and the child or young person have a right to access and contact while the child or young person is in care. The municipal council shall ensure that the connection between the parents and the child or young person is maintained. 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 cooperation between the parents and the care facility. A right to access and contact, whether agreed between the parties or stipulated under the provisions of the Parental Responsibility Act, will continue to apply while the child or young person is in care, but may be subject to adjustment or suspension under the provisions of subsections (2)-(4) hereof.

(2) Where necessary, the municipal council shall determine the scope and exercise of access and contact and may specify particular conditions. In making the determination, the municipal council will have special regard to the best interests of the child or young person and to the purpose for which the child or young person has been placed in care. The municipal council is not authorised to make a determination according to which access and contact will only be available less than once a month. Any such determination would be tantamount to severing the connection and must be made by the children and young persons committee under subsection (3) hereof. The municipal council may decide, subject to the consent of the custodial parent or other person having custody and the young person over the age of 15, that the contact between the parents and the child or young person is to 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 that for a specified period access may only be exercised under the supervision of a municipal representative. Subject to the same conditions and likewise for a specified period, it may be decided to sever the connection between the parents and the child or young person by way of access or contact by letter, e-mail or telephone; or it may be decided that the address of the facility in which the child or young person is accommodated is not to be disclosed to the parents.

(4) Any decision under subsection (3) hereof may be made on a provisional basis under the provisions of section 75 below if the conditions are satisfied.

(5) Any decision to monitor the correspondence, telephone conversations or other communications of the child or young person with the parents shall be subject to the provisions of section 123(2) below.

(6) The municipal council of the child's residential municipality may subsidise the parents' transport costs in connection with meetings in the child's residential municipality.

*Legal assistance, access to records, etc.*

**72** (1) The municipal council shall offer the custodial parent or other person having custody and the young person over the age of 15 free legal assistance in connection with a matter involving

- (i) undertaking of an investigation under section 51 above;
- (ii) placing a child or young person in care under section 58 above;
- (iii) upholding placement under section 62 above;
- (iv) medical examination or treatment under section 63 above;
- (v) extending placement under section 68 a above;
- (vi) approval of a provisional decision under section 75 (3) below;
- (vii) change of facility under section 69(4) or (5), cf. section 58 above;
- (viii) interruption of connection etc. under section 71(3); and
- (ix) monitoring of letters and telephone calls, cf. section 123(2) below.

(2) The custodial parent or other person having custody and the young person over the age of 15 and the foster parents must be offered free legal representation in proceedings about moving or returning a child or young person from the care of a private foster family under section 78(4) below.

(3) The non-custodial parent must be offered free legal assistance in cases concerning the interruption of the connection etc. under section 71(3) above or monitoring of correspondence and telephone conversations under section 123, stk. 2 below.

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

**73** (1) Prior to making a decision in a case as mentioned in section 72 above, the municipal council shall notify the custodial parent or other person having custody and the young person over the age of 15 of the right of 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 listed in section 72(2) and (3) above of the decisions referred to in the said provisions.

**74** (1) The children and young persons committee shall in a meeting decide on the following

- (i) investigation under section 51 above;
- (ii) placing a child or young person in care under section 58 above;
- (iii) upholding placement under section 62 above;
- (iv) medical examination or treatment under section 63 above;
- (v) extending placement under section 68 a above;
- (vi) approval of a provisional decision under section 75(3) below;
- (vii) change of facility under section 69(4) or (5), cf. section 58 above;
- (viii) interruption of connection etc. under section 71(3) above;
- (ix) moving or returning a child or young person under section 78(4) below;
- (x) monitoring of letters and telephone conversations under section 123(2) below; and
- (xi) recommendation to the Social Appeals Board of adoption without consent, cf. the Adoption Act.

(2) Before a decision is made, the custodial parent or other person having custody, the child or young person, the legal adviser and any other adviser to the custodial parent or other person having custody 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 the age of 12, or where it is deemed to be harmful to the child or young person.

(3) Before a decision under section 71(3) above or section 123(2) below is made, subsection (2) hereof shall apply correspondingly for the non-custodial parent. Subsection (2) hereof shall likewise be applied to foster parents prior to a decision under section 78(4) below.

(4) Any decision under sections 51, 58, 62, 63, 68 a, 69(4) and (5), 71(3), 75(3) and 123(2) and any decision as to recommendation of adoption, cf. subsection (1)(xi) hereof shall be subject to votes in favour of such decision from at least four (4) out of the five (5) members of the children and young persons committee. Decisions under section 78(4) below shall be by a simple majority of votes.

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

(6) Notice of decisions by the children and young persons committee shall be given in writing. The decisions shall be reasoned and shall include a reference to the right to complain and appeal.

#### *Provisional decisions*

**75** (1) Decisions under sections 51, 58, 63, 68 a, 71(3), 78(4) and 123(2) which because of the immediate needs of the

child or young person cannot be deferred pending consideration by the children and young persons committee, may be made on a provisional basis by the chairman of the committee or in his/her absence by the deputy chairman.

(2) The custodial parent or other person having custody and any other parties, cf. section 72 above, shall within 24 hours of the implementation of a provisional decision be given written notice of the decision and the reasons for the decision. Such notice 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) A provisional decision under subsection (1) hereof shall be submitted to the children and young persons committee for their approval as soon as possible and no later than 7 days from the implementation of the decision, whether or not the measure has been discontinued.

(4) A decision approved under subsection (3) hereof shall be effective for one (1) month. A decision concerning section 51 above shall remain effective until the conclusion of the investigation, subject to a maximum period of two (2) months from the date of the provisional decision under subsection (1) hereof. A decision concerning section 78(4) below shall remain effective pending a new decision on removal or return.

(5) The director of the Social Appeals Board shall have the same powers as the chairman of the children and young persons committee, cf. subsections (1) and (2), and may order the municipal council to implement the decision. The provisional decision shall remain effective for a month, subject however to the time limits provided for in the second and third sentences of subsection (4) hereof. The director may exceptionally direct that the provisional decision must be approved by the Social Appeals Board within the time limit specified in subsection (3) hereof.

(6) Where the children and young persons committee fails to make a decision in accordance with the director's provisional decision, cf. subsection (5) hereof, the children and young persons committee shall inform the Social Appeals Board without delay. The decision by the children and young persons committee shall not be effective until the director has decided, as soon as possible and within a maximum period of ten (10) days, whether the decision is to be effective. If the director decides that the decision by the children and young persons committee is not to be effective, the Social Appeals Board shall make a decision subject to the provision of section 65(4) within eight (8) weeks from the date of the decision by the children and young persons committee.

## Chapter 12

### *Measures for young persons aged between 18 and 22*

**76** (1) The municipal council shall offer assistance under subsections (2) and (3) for young persons aged between 18 and 22 where it is deemed to be of vital importance, having regard to the need of the young person for support, and where the young person agrees thereto.

(2) The municipal council may decide that the appointment of a welfare officer or a permanent contact person, cf. section 52(3)(vi) and (vii) may be continued or be renewed after the young person attains the age of 18.

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

- (i) that full-time accommodation, cf. section 55 above, in a care facility, cf. section 66 above, may be continued or re-established;
- (ii) to appoint a welfare officer for the young person, cf. section 52(3)(vi) above;
- (iii) to appoint a permanent contact person for the young person, cf. 52(3)(vii) above; and
- (iv) to establish a phasing-out plan, cf. section 55 above, in the care facility where the young person is currently accommodated.

(4) Measures under subsections (2) and (3) shall cease when they no longer serve their purpose, having regard to the young person's need for support, or when the young person attains the age of 23.

(5) If possible, the municipal council shall ensure that young persons who have been in care under the provisions of Chapter 11 are given the opportunity immediately before attaining the age of 18 to return to the previous care facility for a brief period, whether or not measures under subsection (3) hereof are implemented.

## Chapter 13

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

#### *Private day care*

**77** (Repealed)

**78** (1) No person may take a child under 14 into private residential foster care for a continuous period exceeding three (3) months without a licence from the local municipal council.

(2) A foster care licence may be issued only where it is deemed to be of benefit to the child, following an investigation of the care facility. When issuing such permission, the municipal authorities shall refer the custodial parent or other person having custody to the provisions of subsection (4) hereof.

(3) The custodial parent or other person having custody shall ensure that the care facility has obtained the requisite licence.

(4) The children and young persons committee in the residential municipality of the custodial parent or other person having custody may upon request by the foster parents or the child or young person decide that a child or young person is not to be moved or returned from the care of a private foster family if it must be assumed to harm the child or young person. Prior to any such decision, the views of the authorities in the municipality of location must be obtained.

(5) A decision under subsection (4) hereof may be made on a provisional basis under the provisions of section 75 above provided the requirements are met.

(6) The rules of subsections (1)-(5) hereof shall not apply where one of the parents has sole custody, but the child is placed in the home of the other parent on a full-time basis.

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

## Part V

### Adults

## Chapter 14

### *General measures*

**79** (1) The municipal council may implement or subsidise general measures aimed at activation and prevention. The municipal council shall lay down guidelines for the groups entitled to the benefit of such measures.

(2) Decisions under subsection (1) hereof shall not be brought before any other administrative authority.

(3) The Minister for the Interior and Social Affairs shall by order lay down rules governing payment for measures implemented under subsection (1) hereof.

#### Homelessness

**80** The municipal council shall allocate temporary housing against payment if a single person or a family is homeless.

Such payment shall not 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.

## Chapter 15

### *Purpose*

**81** The municipal council shall offer special initiatives for adults with impaired physical or mental function or with special social problems. The purpose of such initiatives is

- (i) to prevent a deterioration of the problems facing the individual;
- (ii) to improve the individual's social and personal functions and development potential;
- (iii) to improve the individual's potential for self-expression through contact, social and other activities, treatment, care and attendance; and
- (iv) to provide all-round services addressing the particular needs of the individual in his/her own home, including accommodation facilities under the Act on General Housing etc., or in accommodation facilities under this Act.

**82** (1) The municipal council shall grant assistance under this Act, having regard to the purposes, cf. section 81 above, to persons with substantial impairment of mental function who are unable to attend to their own interests, whether or not the individual has consented. However, assistance shall not be granted by the use of physical coercion.

(2) The municipal council shall be responsible for establishing whether any relative or other person is in a position to safeguard the interests of a person with substantial impairment of mental function. The municipal council shall consider whether the regional state administration should be requested to appoint a legal guardian under the Legal Guardianship Act.

## Chapter 16

### *Personal assistance, care and attendance and "care testaments"*

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

- (i) personal care and assistance; and
- (ii) assistance or support for necessary practical work in the home.

(2) The assistance under subsection (1) hereof shall be offered to persons who are unable to carry out the said activities due to temporary or permanent impairment of physical or mental function or special social problems.

(3) The assistance offered under subsection (1) hereof shall not be available as general measures offered under section 79 above.

(4) In arranging for the care and attendance etc. for a person with a diagnosis of dementia, the municipal council shall as far as possible respect his/her guiding directions as to the future with respect to housing, care and attendance ("care testament").

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

(2) The municipal council may provide temporary accommodation for persons with temporary special needs for care and attendance.

**85** The municipal council shall offer assistance, care or support and exercise or help in developing skills to persons with special needs due to substantial impairment of physical or mental function or special social problems.

**86** (1) The municipal council shall offer rehabilitation measures to remedy the impairment of physical function caused by a disease which is not treated in connection with a stay in hospital.

(2) The municipal council shall provide assistance in maintaining physical or mental skills to persons with special needs due to impaired physical or mental function.

**87** The municipal council shall ensure that the activities listed in sections 83-85 shall be available around the clock, if necessary.

*Decisions etc.*

**88** (1) The municipal council shall decide on the granting of personal care and assistance, etc. in accordance with the provisions of this Chapter 14. The municipal council shall consider applications for assistance under section 83 on a case-by-case basis, subject to an assessment of the assistance needed for the tasks that the applicant is unable to perform. In assessing the need for assistance, the municipal council shall consider all applications for assistance from the applicant.

(2) The assistance specified under section 83 above shall contribute partly to maintain physical or mental skills, partly to remedy the most serious consequences of impaired physical or mental function or special social problems. The assistance shall be adapted from time to time to the specific needs of the recipient.

(3) The assistance specified under section 86 above shall be provided on a case-by-case basis, subject to assessment of the need for rehabilitation or exercise. Rehabilitation measures under section 86(1) above shall be provided for the purpose of restoring, if possible, the physical and mental function of the person to the level prior to the disease. Assistance provided under section 86(2) shall be provided to persons in need of individual exercise in order to maintain physical or mental skills.

**89** (1) The decision shall be communicated to the applicant by written notice accompanied by a written motivation. A decision shall state which of the applications for assistance have been granted and which have not been granted by the municipal council, cf. section 88(1), as well as the specific requirements in terms of reliability of delivery in connection with the implementation of the decision, cf. 90(1) below.

(2) For the purpose of the decision under subsection (1) hereof, the municipal council shall prepare a plan. As a minimum, the plan shall contain information about the functions covered by the assistance, the object of the assistance, and the period during which assistance is to be provided. The plan shall be completed in cooperation with the applicant and will be returned to the applicant in connection with the decision.

(3) For nursing home residents etc., cf. section 192 below, tenants in buildings of sheltered housing units falling within the scope of the Act on General Housing etc. or the Act on Housing for the Elderly and Persons with Handicaps, and tenants of similar housing units, the plan referred to in subsection (2) hereof shall also include information about the overall program for the care and attendance to be provided to the applicant. The first sentence hereof comprises only the residents and tenants in the specified types of housing who are receiving municipal services. The plan shall be completed in cooperation with the applicant, his/her closest relative or another closely connected person and the applicant's general practitioner, if applicable. The plan shall be returned to the applicant in connection with the decision.

(4) With respect to a decision on assistance pursuant to section 83, the municipal council shall provide information on whom to contact on behalf of the authority if the person receiving the assistance has any questions regarding personal care and practical work in the home or if the assistance granted is not provided as agreed; cf. section 90

**90** Assistance under sections 83 and 86 above shall be provided in accordance with the decision made by the municipal council under sections 88-89 above. The municipal council shall ensure that the assistance granted under section 83

above is provided within a reasonable time if the supplier is unable to observe the agreements on the provision of assistance made in connection with the decision under section 88(1) above.

*Planning and provision of assistance*

**91** (1) The municipal council shall provide recipients of assistance under section 83 above with a selection of suppliers of such assistance. For that purpose the municipal council shall ensure that qualified private suppliers are provided access to supply services under section 83 above. The municipal council shall stipulate and publish the quality requirements to be met by suppliers of personal and practical assistance under section 83 above, cf. section 139 below, including the measures required from the suppliers in pursuance of section 90(1) above to ensure that the decisions made under section 83 above may be implemented. The quality requirements must be fair, specific and well-founded and must not distort competition.

(2) The municipal council may elect to secure the right of qualified suppliers to provide services under subsection (1) hereof through the use of the tender model. Following a tender procedure under the first sentence hereof, the municipal council shall enter into contracts with at least two (2) qualified suppliers of different types of services under section 83 above. The contracts must be entered into with the suppliers submitting the most economically advantageous tenders. The basis of the tender documents shall be the quality requirements stipulated under subsection (1) hereof.

(3) If it is impossible after a tender procedure to enter into contracts in accordance with the condition in subsection (2) hereof and the conditions laid down under section 92(6), the rules governing approval of any qualified supplier under subsections (4)-(7) shall apply.

(4) If the municipal council does not use the procurement model, cf. subsection (2), the municipal council shall secure qualified suppliers' entitlement to provide services under subsection (1) hereof by way of the approval model. In addition to the quality requirements to be stipulated under subsection (1) hereof, the municipal council shall set up and publish the price requirements to which the suppliers of price demands made to suppliers of personal and practical assistance under section 83 below, cf. section 139 below.

(5) If the municipal council has elected to provide qualified suppliers with access to supply services under section 83 by way of the approval model, the municipal council shall approve and enter into contracts with all suppliers meeting the requirements under the third sentence of subsection (1) and subsection (4) hereof, but see section 92(6) below.

(6) The price requirements under subsection (4) hereof shall be specified by the municipal council based on a calculation of the average long-term costs of providing personal and practical assistance in accordance with the quality requirements, cf. subsection (1) hereof.

(7) Price requirements specified under subsection (6) hereof may be dispensed with on grounds of expected improvement of efficiency in the municipal supplier or changes of the municipal quality standard, cf. section 139 below. The price specification may likewise be dispensed with if a municipal council having elected to use the approval model, cf. subsection (4) hereof, elects to carry out a tender procedure with a view to finding a private main supplier of the services under section 83 above, instead of the municipal supplier.

(8) Following a tender procedure under the second sentence of subsection (7) hereof, the price requirement will be specified to the other suppliers the municipal council is to contract with under subsection (5) hereof, in respect of the municipality's cost of the contract with the private supplier having won the tender. It is a condition that the supplier having won the tender accepts that the contract to be entered into following the tender forms the basis of the municipal council's contracting with other suppliers under subsection (5) hereof. It is a further condition that the municipality's contract with the supplier having won the tender is public.

(9) The municipal council shall make supplementary payments to private suppliers where it turns out later that the specified price requirements are lower than the actual cost of providing personal and practical assistance, cf. sections (6) and (7) hereof.

**92 (1)** A supplier having entered into contracts with one or more municipal councils, cf. section 91(2) and (5) above, shall in general be deemed to be qualified to provide assistance under section 83 above. However, the municipal council may refuse to contract with the supplier if the supplier's qualifications do not comply with the quality requirements stipulated by the municipal council, cf. section 91(1) above. The municipal council shall inform the supplier in writing of the reason why the municipal council is unwilling to enter into a contract.

(2) A person who is entitled to receive assistance or support under section 83, cf. section 88(1) above, must decide which of the suppliers the municipal council has contracted with is to provide the assistance. With respect to a decision on assistance pursuant to section 83, the municipal council shall provide information about all approved suppliers, and any information material prepared by such suppliers shall be distributed to the persons who have been granted assistance under section 83 above. In the event of any changes in the group of suppliers, persons who have been granted assistance under section 83 above shall be informed accordingly

(3) Where the distribution of material results in considerable expenses on the part of the municipal authorities, the supplier may be required to pay the additional cost of distributing the material.

(4) The Minister for the Interior and Social Affairs may lay down specific rules regulating when the municipal council shall be entitled to demand payment from the supplier.

(5) The municipal council shall enter into a written agreement with the selected supplier concerning the provision of the agreed assistance under section 88(1) on reliability of delivery under section 90(1) and on payment etc.

(6) The Minister for the Interior and Social Affairs shall by order lay down rules governing calculation and publication etc. of the quality and price requirements stipulated by the municipal council under section 91(1) and (4), rules governing tendering under the tender model, cf. section 91(2) above, rules governing supplementary payment by private suppliers, cf. section 91(9) and rules governing when the municipal council may be exempted from the duty to enter into a contract, cf. section 91(5) above.

**93 (1)** The provisions of sections 91, 92, 94 and 94 b shall not apply to nursing home residents etc., cf. section 192 below, care home residents falling within the scope of the Act on General Housing etc. or the Act on Housing for the Elderly and Persons with Handicaps, tenants and residents of private care dwellings within the scope of the Act on Private Care Dwellings, and tenants of similar housing units.

(2) The municipal council shall specify and publish the quality requirements to be made on suppliers of municipal services for the groups set out in subsection (1) hereof, cf. section 139 below. If the municipal council is responsible for other parts of the operation of the housing mentioned in the subsection (1) hereof, the municipal council shall also set up and publish the quality requirements applicable in connection with the performance of these duties.

(3) The Minister for the Interior and Social Affairs shall by order lay down rules on the determination and publication etc. of the municipal quality requirements under subsection (2) hereof.

**94** A person who is entitled to receive assistance or support under section 83 above may elect to designate a person to carry out the duties. Such designation shall be subject to approval by the municipal council, which is then to contract with the designated person as to the scope and content of his/her duties, reliability of delivery, cf. section 90(1) above, payment, etc.

**94 a.** Persons receiving assistance under section 83 above may elect to receive other assistance, whether in full or in part, than the assistance decided upon, cf. sections 88-89 above. Any assistance declined under the first sentence hereof cannot later be required to be provided under section 90(1) above.

**94 b (1)** The municipal council shall establish a scheme offering citizens who have been granted assistance pursuant to section 83 the opportunity to choose a service certificate allowing them to employ an individual or enter into an

agreement with a company to provide assistance; cf. subsection (2). The municipal council may decide which service categories to include in the scheme.

(2) The municipal council shall decide whether to offer citizens who have been granted assistance pursuant to section 83 the opportunity to choose a service certificate. The municipal council may, however, in special cases decide not to offer a citizen assistance under subsection (1).

(3) A citizen, who has chosen a service certificate, and who chooses to employ an individual to provide the assistance, shall be considered such individual's employer. Such citizen may, however, assign the right to employ an individual to provide assistance under the service certificate to a closely connected person, an organisation or private undertaking which will subsequently be considered the employer of the person providing the assistance.

(4) The municipal council is under a duty to inform citizens who have chosen a service certificate about any legal consequences of the service certificate scheme.

(5) The Minister for the Interior and Social Affairs shall lay down rules governing the calculation of the value of the service certificate.

#### *Subsidies in cash*

95 (1) If the municipal council is unable to provide the necessary assistance for a person in need of assistance under sections 83-84, the municipal council may instead pay a subsidy towards any assistance engaged by such person.

(2) Any person with substantial and permanent impairment of physical or mental function and in need of personal assistance and care and of support for the performance of necessary practical work in the home for more than 20 hours a week may elect to receive a subsidy towards any assistance engaged by him/her.

(3) In special cases, however, the municipal council may decide that assistance under subsection (2) hereof is to continue to be provided in kind or by payment to a closely connected person who is caring for the recipient in part or in full.

(4) Subsidies towards assistance under subsections (1)-(3) above shall be payable subject to the capability of the recipient to act as the assistants' supervisor. It is also a condition that the recipient can act as the assistants' employer, unless the recipient enters into an agreement with a closely connected person, an association or private undertaking to the effect that the subsidy is transferred to the closely connected person, association or private undertaking which is subsequently considered the assistants' employer. In that case, authority as employer of the assistants with respect to the employment and dismissal of assistants shall be exercised by the closely connected person, association or private undertaking in cooperation with the recipient.

(5) Where the recipient is also the employer, the municipal council shall offer to handle the 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 to cover the cost of employing care assistants and supervision and attendance of citizens with considerably and permanently impaired physical or mental function who require special support.

(2) Subsidies towards assistance under subsection (1) hereof shall be payable subject to the capability of the citizen to act as the assistants' supervisor. It is also a condition that the citizen can act as the assistants' employer, unless the citizen enters into an agreement with a closely connected person, an association or private undertaking to the effect that the subsidy is transferred to the closely connected person, association or private undertaking which is subsequently the assistants' employer. In that case, authority as employer of the assistants with respect to the employment and dismissal of assistants shall be exercised by the closely connected person, association or private undertaking in cooperation with the citizen.

(3) The municipal council may offer citizen-controlled personal assistance to citizens not covered by subsection (1) if the municipal council finds that this will ensure that the citizen receives comprehensive and coherent assistance.

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

**96 a** (1) The Minister for the Interior and Social Affairs may lay down specific rules on the municipal council's fixing of subsidies for citizen-controlled personal assistance, including the cost of assistants' remuneration, the performance of employer and administrative duties, etc. and other expenses on behalf of the citizen incurred in connection with the assistance provided.

(2) Subsidies for citizen-controlled personal assistance pursuant to sections 95 and 96 above shall be payable monthly in advance.

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

**96 b** (1) Where a person moves out of a municipality that pays subsidies pursuant to sections 95 and 96 above, the former residential municipality, 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 residential municipality has come to a decision regarding subsidies under sections 95 and 96 above.

(2) Where the municipal authorities have paid subsidies under subsection (1), the municipality shall be entitled to reimbursement from the new residential municipality. The reimbursement claim includes subsidies paid by the former residential municipality after the citizen moved out of municipality until the date of the new municipality's decision.

**96 c** (1) Where a citizen who receives a subsidy under sections 95 and 96 above dies, the subsidy shall lapse on the final day of the month in which the citizen dies, but see also subsection (2).

(2) The municipal council, however, shall cover the cost of assistants for at least one month after the final day of the month in which the citizen dies.

(3) The Minister for the Interior and Social Affairs shall lay down specific rules on payment.

#### *Attendance and contact person*

**97** (1) The municipal council shall grant 15 hours of attendance to persons under the state pension age pursuant to section 1 a of the Act on Social Pensions, provided that the age limit is not less than 67 years. Attendance shall be granted to persons whose freedom of movement is impeded due to substantial and permanent impairment of physical or mental function.

(2) Persons entitled to attendance before reaching the state pension age, cf. section 1 a of the Act on Social Pensions, will remain so entitled after attaining the state pension age.

(3) A person who is entitled to attendance, cf. subsection (1) or (2) hereof, is entitled to designate a person for the purpose. Such designation shall be subject to approval by the municipal council, and the person designated will be employed by the municipal council.

(4) Persons with close connections to the person entitled to attendance under subsection (1) or (2) hereof will not normally be employed for that purpose.

(5) The municipal council may decide to offer to pay a person entitled to attendance, cf. subsections (1) and (2) hereof, a subsidy in cash for an attendant to be engaged by the recipient. The recipient is free to decide whether to accept the offer.

(6) The recipient may save up hours within a period of six (6) months. The municipal council shall lay down guidelines to that effect.

(7) The recipient's expenses for the attendant's transportation and other activities associated with the attendance scheme may be covered by an amount of up to DKK 663 a year. The amount will be payable by the municipal council upon application by the recipient.

(8) No attendance may be granted under this provision to any person receiving assistance under section 96 above.

(9) The Minister for the Interior and Social Affairs may be order lay down rules governing the specific requirements for the attendance scheme.

**98** The municipal council shall grant the required assistance to deaf-and-blind persons, by way of a special contact person.

**99** The municipal council shall offer to provide support and contact persons for persons with mental diseases, for persons with drug or alcohol abuse and for persons with special social problems who either have no home or are unable to stay in their home.

## Chapter 17

### Payment of necessary extra costs

100 (1) The municipal council shall pay any necessary extra costs relating to the personal day-to-day maintenance of persons between the age of 18 and the state pension age, cf. section 1 a of the Act on Social Pensions, with permanent impairment of physical or mental function, and of persons with permanent impairment of physical or mental function who have deferred their claim for old-age pension pursuant to section 15 a of the Act on Social Pensions. It shall be a condition that the extra costs are a result of the impaired function and are not recoverable under any other legislation or under other provisions of this Act.

(2) The subsidy shall be calculated on the basis of the probable extra costs incurred by the individual person, e.g. extra costs for individual transportation, assistance and leisure-time activities.

(3) Subsidies for the necessary extra costs may be granted if such estimated extra costs amount to no less than DKK 6,000 per year, corresponding to DKK 500 per month. The subsidy shall be calculated as a basic amount of DKK 1,500 per month. The basic amount shall be increased for the first time by DKK 500 per month to DKK 2,000 per month if the estimated extra costs exceed DKK 21,000 per year, corresponding to DKK 1,750 per month. Subsequently, the basic amount shall be increased by DKK 500 per month each time the extra costs increase by DKK 6,000 per year or DKK 500 per month. The subsidy shall be rounded to the nearest full amount divisible by 500.

(4) The Minister for the Interior and Social Affairs shall by order lay down rules governing the delimitation of costs for which subsidies may be granted, and on what conditions, including who shall be eligible for extra cost subsidies.

(5) Persons who have been awarded pension under section 14 of the Act on the Highest, Intermediate, Increased Ordinary and Ordinary Anticipatory Pension, etc., are not entitled to subsidies under this provision, unless they have also been granted citizen-controlled personal assistance under section 96 above.

## Chapter 18

### *Treatment*

**101** (1) The municipal council shall provide for treatment of drug addicts.

(2) Treatment under subsection (1) hereof shall be implemented no later than 14 days after the application to the municipal authorities.

(3) The Minister for the Interior and Social Affairs shall by order lay down rules pertaining to treatment, under subsections (1) and (2) hereof, of drug addicts under the age of 18 in special cases.

(4) A person who has been assessed to be eligible for treatment, may elect to be treated at another public treatment facility or approved private treatment facility comparable to the facility available to him/her pursuant to subsection (1) hereof.

(5) The time limit specified in subsection (2) hereof may be dispensed with if the person elects to be treated at another public or approved private facility than the facility designated by the municipal council under subsection (1) hereof.

(6) The right to choose pursuant to subsection (4) hereof may be limited where consideration for the person in question so warrants.

**102** In addition to assistance under section 85 above, the municipal council may provide for treatment of persons with substantial and permanent impairment of physical or mental function or with special social problems where this is necessary for the purpose of preserving or improving the physical, mental or social functions of the individual, and where this cannot be achieved through the treatment provided for under any other legislation.

### Chapter 19

#### *Sheltered employment and social and other activities*

103 (1) The municipal council shall provide sheltered employment for persons under the state pension age, cf. section 1 a of the Act on Social Pensions who on account of substantial impairment of physical or mental function or special social problems are unable to find or maintain employment on the labour market on normal terms, and who are not provided for under any other legislation.

(2) The municipal council may provide special employment opportunities to persons with special social problems.

**104** The municipal council shall provide social and other activities for persons with substantial impairment of physical or mental function or special social problems for the purpose of preserving or improving their personal skills or living situation.

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

(2) The Minister for the Interior and Social Affairs shall by order lay down rules governing remuneration etc. under subsection (1) hereof and rules governing subsidies for transportation costs in connection with activities provided for under sections 103-104 above.

**106** (1) Any production generated through sheltered employment or social and other activities shall not subject other businesses to unfair competition.

(2) LGDK (Local Government Denmark) shall prepare guidance as to the calculation rules for production in sheltered employment and in social and other activities.

## Chapter 20

### *Accommodation facilities*

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

(2) The municipal council shall provide temporary accommodation

- (i) for persons with substantial impairment of physical or mental function who are in need of care or of extensive assistance for general day-to-day functions, or who need specialised treatment-related support for a period; and
- (ii) for persons with impaired mental function or special social problems who are in need of care or treatment, and who are unable to manage without support due to the said difficulties.

**108** (1) The municipal council shall provide accommodation in facilities suitable for long-term accommodation for persons in need of extensive assistance for general day-to-day functions or care, attendance or treatment, where such needs cannot be addressed in any other way.

(2) Persons accepting offers of accommodation under subsection (1) hereof, and wishing to move to another municipality will be entitled to be offered similar accommodation in another municipality. This is subject to the condition that the person in question satisfies the requirements for admission to his/her previous and present residential municipality.

(3) The right to the exercise of a choice under subsection (2) hereof shall include the right for any spouse, cohabiting or registered partner to remain part of the household. Where a person wishes his/her spouse, cohabiting or registered partner to remain part of the household, the accommodation offered under subsection (1) hereof must be suitable for two persons. If the person in question who is physically or mentally disabled, cf. subsection (2), dies, the surviving spouse or partner will be entitled to stay on.

(4) The Minister for the Interior and Social Affairs shall by order lay down rules governing the conditions for being offered accommodation facilities under subsection (2) hereof.

(5) The Minister for the Interior and Social Affairs shall by order lay down rules stipulating duties for a region or several municipalities to accept persons residing in the Faeroe Islands and persons residing in Greenland in accommodation facilities covered by subsection (1) hereof.

(6) The Minister for the Interior and Social Affairs shall by order lay down rules on security measures in accommodation facilities covered by subsection (1) hereof, and on duties for a region or one or more municipalities to accept persons in the accommodation facilities covered by subsection (1) hereof if such persons

- (i) are to undergo a court-ordered psychiatric examination;
- (ii) have been ordered by the court to be accommodated in facilities for persons with substantial impairment of physical function or to be subject to supervision, possibly including administrative accommodation; or
- (iii) as a condition for a dismissal of charges or a release on parole are to be accommodated in facilities for persons with substantial impairment of mental function or to be subject to supervision, possibly including administrative accommodation

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

(2) Admission to accommodation facilities may be anonymous subject to the applicant's own application or by referral from public authorities.

(3) The manager shall decide on admissions.

(4) The municipal council shall offer support and counselling by a family counsellor to women with children residing in a facility of a type comprised by this subsection. Counselling shall be provided with respect to housing, finances, labour market, education, day-care facilities, health sector, etc. and shall support the individual elements of the facilities otherwise provided by the municipal council. Counselling shall be initiated when the process of relocation from the facility is initiated and until the woman and her children have settled in their own home.

(5) The municipal council shall offer psychological treatment to children accompanying their mother during her stay in a facility comprised by this subsection. Treatment shall comprise at least four hours and no 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 applies irrespective of the length of the stay. The offer shall be given during the actual stay or immediately in continuation thereof.

**110** (1) The municipal council shall provide temporary accommodation in facilities for persons with special problems who have no home or who cannot stay in their own home, and who are in need of accommodation and activating support, care and subsequent assistance.

(2) Admission to accommodation facilities under subsection (1) may be anonymous subject to the applicant's own application or by referral from public authorities.

(3) The manager shall decide on admissions.

**111** Accommodation facilities under this Act are not subject to the rent legislation.

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

## Part VI

### Technical aids etc.

#### Chapter 21

#### *Technical aids, layout and interior design, and transportation*

##### Technical aids

**112** (1) The municipal council shall grant support for technical aids for persons with permanent impairment of physical or mental function where the aid

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

(2) The municipal council may direct that a specific 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 performance specifications.

(3) For particularly personal aids, the applicant may elect to purchase the aid if he/she wishes to use another supplier than the supplier named by the municipal council and subsequently have all expenses reimbursed, subject to a maximum amount equivalent to the price at which the municipal council could have acquired the aid from its supplier. If the municipal council has not entered into a supply contract, the applicant is free to choose a supplier. Particularly personal aids shall mean wheelchairs requiring personal adjustment and necessarily used for most of the hours of the day, orthopaedic footwear, artificial arms and legs, supportive corsets and bandages etc., wigs, breast implants, ostomy-related aids and visual aids borne on the body for persons with impaired vision or medico-optically defined permanent visual impairments. Wheelchairs for which support has been received under this Act shall be deemed to constitute loans and shall be returned to the municipal authorities when no longer needed by their former users.

(4) Where an applicant over the age of 18 chooses another supplier than the one named by the municipal council, a subsidy of up to DKK 5,420 per hearing aid shall be granted provided the applicant has been referred for hearing-aid consultation by an ear nose and throat specialist. The subsidy shall cover testing, hearing aid, adjustment, servicing and guarantee and is inclusive of VAT. The amount of the subsidy shall not exceed the actual costs and shall only be granted in respect of hearing aids from approved suppliers.

(5) The Minister for the Interior and Health shall by order lay down rules on safeguarding of the quality of the services provided by private suppliers of hearing aids, including rules on the approval of private suppliers and recovery of the cost of issuing and maintaining such approval.

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

- (i) the delimitation of the aids for which subsidies are available, and the right of replacement;
- (ii) the proportion of the cost of acquisition, repairs and operation of a specific aid;
- (iii) when a subsidised aid may be granted as a loan or be supplied as a non-cash benefit;
- (iv) whether certain aids are to be subject to specific conditions, including the possibility of having certain aids supplied from a public institution; and
- (v) whether certain aids may be made available in connection with an accommodation facility.

#### *Consumer durables*

**113** (1) The municipal council shall provide assistance for the purchase of consumer products provided the requirements of section 112(1) above are satisfied; but no assistance shall be granted for consumer products 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% of the price of a general standard product.

(4) Where a consumer product is required due to the functional impairment the cost of which exceeds the price of a general standard product, or where due to the functional impairment special fitting or device is required in respect of the consumer product, the municipal authorities shall pay any necessary costs, cf. subsection (1) hereof.

(5) If the consumer product serves exclusively as an aid for the purpose of compensating for the functional impairment, the municipal authorities shall pay the acquisition costs in full, cf. subsection (1) hereof. The assistance may be granted by way of a loan.

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

- (i) the delimitation of consumer products for which assistance may be granted, and the right of replacement; and
- (ii) the proportion of the cost of repairs and operation of a consumer product which is payable by the recipient.

#### *Subsidies for cars*

**114** (1) Subsidies for the purchase of cars shall be available for persons with permanently impaired physical or mental function substantially reducing their freedom of movement or substantially reducing their possibilities of finding or maintaining employment or completing an education without the use of a car. The subsidy shall be granted by way of an interest-free loan of up to DKK 139,000.

(2) In exceptional situations connected with the functional impairment an interest- and repayment-free loan may be granted to cover the difference between the subsidy granted under subsection (1) hereof and the acquisition price.

(3) The Minister for the Interior and Social Affairs shall by order lay down rules on

- (i) the requirements for obtaining subsidies under subsections (1) and (2) hereof and on the specific conditions applying to such subsidies;
- (ii) repayment of loans, including extension or remission of loans, and the income basis for the purpose of repayment;
- (iii) the right to receive subsidies for replacement of a car for which subsidies were granted, cf. subsections (1) and (2) hereof;
- (iv) subsidies for necessary fitting etc., including the proportion payable by the recipient;
- (v) the extent to which subsidies are available for the cost of driving lessons etc.; and
- (vi) subsidies for persons bringing in cars when entering Denmark.

**115** Any subsidies under sections 112-114 above shall be granted subject to the condition that the aid, consumer product or car in question is not available under any other legislation.

#### *Layout and interior design*

**116** (1) The municipal council shall provide assistance in the layout and design of the homes of persons with permanently impaired physical or mental function where such layout or design is required in order to make the home better suited to accommodate the resident.

(2) In exceptional cases where assistance under subsection (1) hereof is inadequate to make the home a suitable place of accommodation, the municipal council may contribute towards the expenses of acquiring alternative accommodation for persons with substantial and permanent impairment of physical or mental function. It is a condition that no other accommodation can be allocated to cover the needs of the person in question.

(3) Persons receiving social pensions are not eligible for assistance under subsection (2) hereof, unless such persons are receiving assistance under section 96 above.

(4) The Minister for the Interior and Social Affairs shall by order lay down rules on whether assistance granted under subsections (1) and (2) hereof shall be repaid, including whether any amount repayable may be secured by a charge on the property.

#### *Subsidies for individual transportation*

**117** (1) The municipal council may grant subsidies to persons in need of individual transportation due to permanently impaired physical or mental function.

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

## Chapter 22

### *Care of closely connected persons with handicaps or suffering from serious diseases*

**118** (1) Persons who are attached to the labour market, and who wish to care for a closely connected person with substantial and permanent impairment of physical or mental function or serious, chronic or long-term, including terminal, illness in the person's home, must be employed by the municipal council where

- (i) the alternative to care in the home is residential accommodation away from the home, or the amount of care needed corresponds to a full-time job;
- (ii) the parties agree on establishing the care arrangement; and
- (iii) the municipal council considers that there are no strong indications against the person in question ("the carer") caring for the closely connected person.

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

(3) The carer may be employed for up to six (6) months to care for the closely connected person. The employment period may under special circumstances be extended for up to three months. 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 closely connected person, the employment period may be divided into shorter periods. The employment period may be shared by several individuals provided they all meet the conditions for employment under subsection (1).

(4) Where the employment period is shared by several individuals, the total salary shall not exceed the salary pursuant to subsection (2) above. The salary shall be payable on a pro-rata basis.

(5) Only one care scheme shall be granted for one continuous course of illness or handicap. The closely connected person may, however, be enrolled in the care scheme again if the person requiring care contracts another illness or function impairment pursuant to subsection (1) and if the conditions are otherwise met.

(6) An employment contract shall be made between the carer and the municipal council, setting out the employment terms and conditions, including the identity of the closely 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 municipal authorities 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 means of support during the said period, the obligation of the municipal authorities will lapse.

## Chapter 23

### *Care of terminal patients*

**119** (1) Upon application, a person caring for a closely connected person who wishes to die in his/her own home is entitled to constant care allowance as described in section 120 below. The 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 patient's condition does not require hospital admission or extended hospitalisation, admission to a nursing home, care home, etc. Further, it is a condition that the patient agrees to the establishment of the constant care relationship.

(2) An employer paying salary to an employee during his/her absence from work in connection with caring for a closely connected person under subsection (1) hereof, thereby ensuring that the employee suffers no loss of earnings, is entitled to payment of the amount otherwise payable to the employee by way of constant care allowance under section 120(1) below.

**120** (1) Constant care allowance under section 119 above shall amount to 1.5 times the amount of sickness benefits to which the recipient would have been entitled under the Act on Benefits in the event of Illness or Childbirth had he/she been ill, but see subsection (2) hereof. For self-employed who are not eligible for cover under 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 shall not exceed the former income, cf. section 47 of the Act on Benefits in the event of Illness or Childbirth.

(2) Persons who are not entitled to constant care allowance under subsection (1) hereof will be paid constant care allowance amounting to DKK 11,609 per month. Persons who are entitled to constant care allowance under subsection (1) hereof may instead elect payment of the amount specified in the first sentence hereof. In that case, cf. the first and second sentences hereof, the constant care allowance shall not be paid in addition to any other welfare benefits. Where several persons are joint carers, the amount will be reduced according to the respective proportions of the amount of care provided by the carers.

(3) Where several persons are joint carers, the total constant care allowance shall not exceed 1.5 times the maximum amount of benefits payable under section 50(1) of the Act on Benefits in the event of Illness or Childbirth.

(4) In exceptional cases the municipal council may decide to pay constant care allowance in excess of the amount specified in subsection (1)-(3) hereof.

**121** (1) The entitlement to constant care allowance shall cease on termination of the care relationship. Upon the death of the patient the entitlement to constant care allowance will be retained for up to 14 days after the date of the death. Any admission of the patient to hospital etc. for short periods shall not in itself cause the entitlement to constant care allowance to lapse.

(2) By way of exception, the municipal council may decide that the entitlement to constant care allowance shall lapse if continued care in the patient's home cannot be deemed to be expedient.  
Requisites etc.

**122** (1) Where the cost of requisites etc. is not covered otherwise, the municipal council may contribute towards such cost where

- (i) closely connected persons care for a terminal patient in connection with an established care relationship, cf. section 119;
- (ii) the municipal authorities are providing the care in full or in part, or where the municipal council contributes under section 95 towards any assistance engaged by the family; or
- (iv) a hospice is providing the care.

(2) The assistance shall be provided irrespective of the financial situation of the patient or the family.

## Part VII

### Forcible measures and other restrictions of the right of self-determination

#### Chapter 24

##### *Forcible measures*

##### *Children and young persons*

**123** (1) Secure wards, isolation, restraint, etc., in institutions designed for residential accommodation for children and young persons shall be used only if absolutely required in the given situation. The Minister for the Interior and Social

Affairs shall by order lay down rules governing such requirements. The locking of rooms in secure wards at night shall not be deemed to constitute isolation.

(2) When a child or young person is accommodated in a residential institutions for children and young persons, the children and young persons committee may, where necessary in view of the health or development of the child or young person, decide without a court order that the correspondence, telephone conversations or other communications of the child or young person with specified persons outside the institution shall be monitored. Any such decision shall apply for a specific period. Letters and other communications to or from public authorities or to or from a lawyer, cf. section 72(1) above, may not be monitored. Any decision under the first sentence hereof may be made on a provisional basis subject to the rules set out in section 75 above, provided the requirements are satisfied. The Minister for the Interior and Social Affairs shall by order lay down rules governing the monitoring of correspondence, telephone conversations and other communications.

(3) In residential care facilities provided by the municipal authorities, other than the facilities referred to in subsection (1) hereof, forcible measures may only be taken where absolutely required in the given situation.

(4) Any forcible measure taken shall be registered and notified by the facility to the municipal council of the municipality of location in respect of the facilities supervised by the municipal council, cf. section 148 a below, and to the regional council in respect of the facilities supervised by the regional council, cf. section 5(7) above. The municipal council or the regional council, as the case may be, shall give the residential municipality notice of any such notification, cf. section 9 a of the Act on Legal Protection and Administration in Social Matters. The Minister for the Interior and Social Affairs shall by order lay down rules on forcible measures and the registration and notification thereof.

(5) In respect of young persons placed in secure wards as a substitute for remand in custody pursuant to the relevant provisions of the Administration of Justice Act, the police may, where so required for investigative purposes, prohibit any visits to the young person or require any visits to be supervised. A young person is always entitled to receive unsupervised visits from his/her defence lawyer. For investigative purposes, the police may in addition require to see and, if necessary, stop the young person's letters before receipt or posting, and prohibit any telephone calls or other communications to or from persons outside the institution, or require any telephone calls or other communications to be subject to monitoring. The young person is entitled to unmonitored correspondence with the court, his/her defence lawyer, the Minister for Justice and the Parliamentary Commissioner (the Ombudsman). The young person must be notified of the decision made by the police and may require such decision to be brought before the court. The Minister for the Interior and Social Affairs shall by order lay down rules, in consultation with the Minister for Justice, governing visits, correspondence, telephone calls and any other communication.

**123 a** (1) A secured ward may be entitled to check what effects a child or young person placed on the ward keeps in his/her room where such inspection is necessary to enforce regulations and observe security precautions

- (i) when the child or the young person is placed on a secured ward
- (ii) before and after visits, and
- (iii) before and after leaving the secured ward

(2) The head of the institution or his/her authorised deputy may decide to inspect the child's or young person's body or room on suspicion that the child or young person holds effects the possession of which constitutes a violation of regulations and the non-observance of security precautions.

(3) Inspection of the effects kept by a child or young person in his/her room or on his/her body shall not be conducted if, given the purpose of the measure and the anticipated ensuing humiliation and discomfort, the measure is considered disproportionate.

(4) Any inspection shall be conducted as gently as circumstances allow

(5) The inspection of effects that a child or young person has in his/her possession or on his/her body shall only in exceptional circumstances be conducted and supervised by a person of a different gender than the young person.

(6) The head of the institution or his/her authorised deputy may decide to withhold effects in the possession of the child or young person where this is deemed necessary in order to observe regulations and security precautions.

(7) The Minister for the Interior and Social Affairs shall by order lay down rules governing the inspection of a child's or young person's body or room on secured wards.

### *Adults*

### *Scope*

**124** (1) The object of the provisions of this Part VII is to limit the use of forcible measures and other restrictions of the right of self-determination to the bare minimum. Such restrictions should never be used as substitutes for care, attention or socio-pedagogical assistance.

(2) The provisions of this Part shall apply to persons with substantial and permanent impairment of mental function who are receiving personal and practical help and socio-pedagogical assistance, etc., under sections 83-87 above, treatment under sections 101-102 above or social or other activities under sections 103-104 above, and who do not consent to measures under sections 125-129 below. It is a condition that the requisite professional documentation of the impairment of mental function is available.

(3) Prior to any forcible measures or other restrictions of the right of self-determination, the municipal authorities shall seek to procure the person's voluntary consent to any necessary measure.

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

(5) Forcible measures should be applied as gently and as briefly as possible, with due consideration for the individual person and any other persons present, thereby avoiding undue violation or inconvenience.

(6) Measures pursuant to section 126(1) may be conducted by employees at facilities operated by the region or private-sector suppliers who following a municipal eligibility assessment provide services to the person in question, cf. subsection (2) above. The municipal council shall inform private-sector service suppliers about the conditions for intervening pursuant to section 126(1), including the reporting requirement, cf. section 136. With respect to facilities established by the regional council, the duty to inform pursuant to the second sentence shall lie with the regional council.

### *Alarm systems*

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

- (i) there is a risk that in leaving the residential or day-care facility, the person in question may cause injury to him-/herself or to others; and
- (ii) the circumstances of the given situation make it necessary in order to avert this risk.

(2) The municipal council may decide to use special door opening devices at exit doors for one or more persons for a limited period where

- (i) there is an imminent risk that in leaving the residential or day-care facility, one or more persons may cause substantial injury to themselves or to others; and
- (ii) it is absolutely necessary to avert this risk in the given situation; and
- (iii) all other measures available under the law have been used in vain.

(3) If measures pursuant to subsection (2) hereof are implemented, an exit door alarm must be installed out of consideration for the free traffic of residents, such an alarm being designed to ensure that residents who are unable to operate the special door opening device will be getting the necessary help. Thus, residents covered by the measure taken under subsection (2) hereof can only be detained if the provision of section 127 below also applies.

*Restraint etc.*

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

- (i) there is an imminent risk that the person may cause substantial injury to him-/herself or others, and
- (ii) it is absolutely necessary in the given situation.

(2) By way of exception, the municipal council may decide to use physical force for a limited period to restrain a person where this must be deemed to be absolutely necessary in order to exercise the duty of care in personal hygiene situations. At the same time, attempts must be made through the occupational action plan, cf. section 136(2) below, to ensure that forcible measures may be avoided in future personal hygiene situations.

*Detention in the home*

**127** (1) Subject to the same conditions as in section 125(2), the municipal council may decide to apply physical force by way of restraint to prevent a person from leaving the home or to take him/her back to the home.

(2) The municipal council shall decide upon 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 adopted.

*Protective measures*

**128** (1) The municipal council may decide to restrain a person by a fabric brace fastened to a wheelchair or any other aid, bed, chair or toilet so as to prevent falls where there is an imminent risk that a person may cause substantial personal injury to him-/herself, and where absolutely required in the given situation.

(2) The municipal council shall decide upon the period during which the protective measures listed in subsection (1) hereof may be used and shall consider from time to time whether a less restrictive measure may be adopted.

*Admission to special accommodation facilities without consent*

**129** (1) The municipal council may, cf. section 131 below, recommend that the complaints board should decide that a person opposing removal or lacking the capacity to give informed consent thereto, but see subsection (2) hereof, is to be admitted to a specific accommodation facility under this Act, to a housing unit in accommodation built under Act No. 378 of 10 June 1987 (now repealed) on Housing for the Elderly and Persons with Handicaps or under the Act on General Housing etc., where

- (i) it is absolutely required in order 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 understand the consequences of his/her actions; and
- (iv) the person in question risks exposing him-/herself to substantial personal injury; and
- (v) it would be irresponsible not to arrange for the person to move.

(2) The municipal council may make decisions regarding admission to a specific accommodation facility for a person with substantial and permanent impairment of mental function, cf. section 124(2), who does not oppose removal, but who lacks the capacity to give informed consent to a moving, and where the mental functional impairment is a consequence of an age-related or subsequently acquired mental impairment that is progressive, provided that the municipal council's recommendation is accepted by the guardian appointed by the state administration, cf. section 131 below where

- (i) admission to a residential accommodation facility with associated service is necessary for the person in question to receive the necessary help; and
- (ii) in the specific case it is assessed as the most expedient care solution for the person in question.

(3) If any spouse, cohabiting partner or other relative can no longer provide the necessary assistance for and supervision of the person in question, this should be included in the assessment made by the municipal council under subsections (1)-(2) hereof.

(4) Appeal against the municipal council's decision under subsection (2) hereof lies to the social complaints board pursuant to the provisions of Chapter 10 of the Act on Legal Protection and Administration in Social Matters. If the municipal council's recommendation cannot be accepted by the guardian appointed by the state administration, cf. section 131 below, the municipal council shall make a recommendation to the complaints board to make a decision on admission or referral to a specific accommodation facility under subsection (2) hereof.

*Procedure, administration, etc.*

*Approval by the social complaints board*

**130** (1) Decisions by the municipal council under sections 125, 127 and 128 shall be submitted to the social complaints board for approval if made against the will of the person involved.

(2) Any submission to the social complaints board in the cases stated in subsection (1) hereof shall be accompanied by an account of

- (i) the basis on which the conditions for implementing the measures are deemed to be satisfied;
- (ii) the requisite professional documentation of the impaired function;
- (iii) the socio-pedagogical care and assistance under Chapter 16 implemented prior to recommendation of implementing the measures;
- (iv) the expected period during which the measures will be required; and
- (v) the comments to the measures by relatives and any guardian.

(3) The decision of the board as to whether the decisions under subsection (1) hereof may be approved shall be available within one (1) week after the board's receipt of the municipal council's decision. If the board cannot meet before the expiry of the said time limit, the chairman of the board may decide the matter under section 71(4) of the Act on Legal Protection and Administration in Social Matters. At its first meeting thereafter, the board shall consider the chairman's decision.

(4) The board must adopt the decisions under subsection (1) before implementation. Where exceptional cases require implementation before the decision of the complaints board is available, the decision must as soon as possible and

within two (2) weeks from implementation, the decision must as soon possible and no later than two (2) weeks after implementation, be submitted for approval subject to the rules of subsections (1) and (2) above.

*Decisions by social complaints board on admission to special accommodation facilities without consent*

**131** (1) The social complaints board shall decide on admission to special accommodation facilities without consent under section 129 above upon the recommendation of the municipal council. The board's decision shall be made no later than two (2) weeks after receipt of the municipal board's recommendation.

(2) The recommendation shall include an account of

- (i) the basis on which the conditions of section 129 above are deemed to be satisfied;
- (ii) the requisite professional documentation of the impaired function;
- (iii) the care and assistance under Chapter 16 implemented or offered to the person or his/her family before the recommendation of special accommodation was decided upon;
- (iv) the layout and design of the new accommodation and the personal assistance, care and support, etc., made available thereafter; and
- (v) the comments of the person in question, his/her relatives and any guardian to the move.

(3) A spouse or any other closely connected person living in shared accommodation with the person involved is entitled to complain of any refusal by the municipal council to recommend admission to special accommodation facilities under this provision. Such complaint may be brought before the social complaints board pursuant to the rules of Part 10 of the Act on Legal Protection and Administration in Social Matters, but may not be brought before any other administrative complaints authority.

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

(5) If necessary, the municipality may ask the police for assistance in the enforcement of a decision concerning a move.

*Legal assistance*

**132** (1) The municipal council shall ensure that the person involved receives legal assistance for the purpose of safeguarding his/her interests in case of

- (i) detention in the home etc. against his/her will under section 127 above; or
- (ii) admission to special accommodation facilities under section 129(1) above.

(2) The municipal authorities shall pay the legal costs, comprising the lawyer's fees and expenses under the rules applying to the grant of free legal aid, cf. Part 31 of the Administration of Justice Act.

*Complaints to the social complaints board*

**133** (1) Decisions by the municipal council under sections 125, 127 and 128 above which are not made against the will of the person in question and decisions under section 126 above may be brought before the complaints board under the rules provided for in Part 10 of the Act on Legal Protection and Administration in Social Matters.

(2) Complaints about measures pursuant to section 126(1) performed by private-sector suppliers may be brought before the social complaints board, cf. subsection (1). The complaint shall be submitted to the municipal council which will

consider the complaint pursuant to section 66 of the Act on Legal Protection and Administration in Social Matters, but see also subsection (3).

(3) Complaints about measures pursuant to section 126(1) performed by employees in regional facilities or by private-sector suppliers in facilities established by the regional council may be brought before the social complaints board, cf. subsection (1). The complaint shall be submitted to the regional council which will consider the complaint pursuant to section 66 of the Act on Legal Protection and Administration in Social Matters.

(4) A spouse, relative, legal guardian or any other representative of the person to whom a measure relates may complain of a decision by the municipal council where the person affected is unable to do so.

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

**134** (1) Any approval by the social complaints board under section 130 above of decisions on alarm systems etc. under section 125 above, detention in the home etc. under section 127 above, use of protective measures under section 128 above and decisions by the board under section 131 above on admission to special accommodation facilities under section 129 above may be brought before the National Social Appeals Board within four (4) weeks of the date on which notice of such decision was given to the party appealing.

(2) The person to whom a decision relates or the municipal council is entitled to appeal against the decisions listed in subsection (1) hereof.

(3) A spouse, relative, legal guardian or any other representative of the person to whom a measure relates may appeal against the approval by the social complaints board and the decision by the social complaints board where the person affected is unable to do so.

(4) For the purpose of the consideration of an appeal by the 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 sections 63 and 66 of Part 10 of the Act.

#### *Judicial review*

**135** Provided application is made to the National Social Appeals Board within four (4) weeks of the date on which notice of the decision was given to the party appealing, such party may demand that the decision be brought before the court subject to the provisions of Part 43 a 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 above; or
- (ii) admission to special accommodation facilities under section 129 above.

#### *Registration, notification and action plans*

**136** (1) Admission to special accommodation facilities under section 129 above and any forcible measures taken, including in connection with measures under sections 125-128 above, shall be registered and notified by the facility to the municipal council in respect of the facility supervised by the municipal council, cf. section 148 a below, and to the regional council in respect of the facilities supervised by the regional council, cf. section 5(7) above. The municipal or regional council shall give the residential municipality notice of any such notification, cf. 9 of the Act on Legal Protection and Administration in Social Matters.

(2) The municipal council shall draw up action plans in accordance with section 141 below for persons in relation to whom the measures referred to in subsection (1) hereof are implemented.

*Authorisations etc.*

**137(1)** The Minister for the Interior and Social Affairs shall by order lay down rules governing the implementation of measures, registration, notification, the approval and drawing up of action plans, cf. sections 125-131 and 136 above.

(2) The Minister for the Interior and Social Affairs shall by order lay down rules on the appointment of lawyers providing assistance in cases under sections 127 and 129 above and on the legal representation to be provided in such cases, cf. section 132 above.

Part VIII

Administration, etc.

Chapter 25

*Quality standards and action plans*

*Quality standards*

**138** The Minister for the Interior and Social Affairs may by order lay down rules to the effect that the municipal council shall make decisions on the content and provision of support for children and young persons in pursuance of this Act.

**139** The Minister for the Interior and Social Affairs may by order lay down rules to the effect that the municipal council shall make decisions on the content, scope and provision of services for adults under this Act and follow up on such decisions.

*Action plans*

**140 (1)** The municipal council shall draw up an action plan before deciding on any measures under sections 52 and 76. Where the drawing up of the action plan cannot be deferred due to consideration for the child or young person, a brief statement of the object of the specific measure will be sufficient. In that case, the municipal council shall draw up an action plan as soon as possible, but within four (4) months.

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

(3) For young persons under the age of 18 who have committed violent crime, the municipal council shall draw up an action plan designed to prevent further offending and to provide the necessary support for the young person. The action plan shall be drawn up in consultation with the young person and his/her family.

(4) The municipal council shall draw up a preliminary action plan, cf. subsection (3) hereof, no later than seven (7) days after the date on which the municipal authorities received documentation from the police of the crime committed. In this connection the possible issue of a juvenile order shall be considered; cf. section 57 b

(5) An action plan shall state the object of the initiatives and the type of initiative required to achieve such object. The action plan shall be based on the investigations carried out, cf. section 50 above, and shall set targets and interim targets in relation to the child's or young person's

- (i) development and behaviour;
- (ii) family matters;
- (iii) schooling;
- (iv) health and well-being;
- (v) leisure time and friendships; and
- (vi) any other matters of relevance.

(6) An action plan shall also indicate the expected duration of the initiative. In cases involving children or young persons placed in care, cf. sections 52(3)(viii) and 58 above, an action plan shall also state the types of support implemented separately in respect of the family during the period when the child or young person is placed in care as well as during the period after the return of the child or young person.

(7) With respect to a young person sentenced pursuant to section 74 a of the Criminal Code, the action plan shall include an actual plan for the education or employment of the young person to be initiated as soon as possible or following the expiry of the sanction at the latest.

(8) The municipal council shall offer the parents to draw of a separate plan for the support for the parents in connection with the placement of a child or young person in care.

**141** (1) Where assistance is granted to persons under the state pension age, cf. section 1 a of Act on Social Pensions under Part V above, the municipal council shall consider, as part of the initiatives taken, whether it may be expedient to offer to draw up an action plan in respect of the initiatives, but see subsection (2) hereof. In this connection, due regard must be had to the citizen's wish for an action plan as well as to the nature and scope of the initiatives.

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

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

(3) The action plan shall state

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

(4) The action plan should be drawn up on the basis of the recipient's conditions and, if possible, in consultation with the him/her.

Chapter 26  
*Approval, follow-up and supervision*

*Approval*

**142** (1) Foster families for children and young persons shall be subject to approval by the municipal council of the municipality of location as being generally suitable.

(2) Network foster families shall be subject to approval by the municipal council of the municipality placing a child or young person in care as being specifically suitable in relation to a particular child or young person.

(3) In connection with the approval referred to in subsections (1)-(2) hereof, the municipal council giving such approval shall ensure that the foster family attends a foster-parenting course. The course shall as a minimum equal four full course days.

(4) Private rooms, hostels and similar accommodation types where the young person is in control over his/her own housing unit shall be subject to approval by the municipal council of the municipality of location as being generally suitable.

(5) Residences for children and young persons shall be subject to approval by the municipal council of the municipality of location as being generally suitable. This shall not apply to facilities with which a municipal council has made a general agreement for the use of the residence, including for supervision.

(6) Decisions under subsections (1)-(5) hereof shall not be brought before any other administrative authority.

(7) Network foster families approved under subsection (2) shall be reimbursed for any expenses incurred in connection with the child's or young person's accommodation and may, subject to a specific assessment, recover any loss of earnings in full or in part. Any amount so granted shall be determined on the basis of the previous gross income.

(8) The Minister for the Interior and Social Affairs may by order fix the rates of reimbursement of expenses for board and lodging relating to the accommodation and of calculation and adjustment of loss of earnings under subsection (7) hereof.

**143(1)** The Minister for the Interior and Social Affairs may by order lay down specific rules governing approval and supervision of foster parents and accommodation facilities pursuant to section 142(1), (4) and (5) above.

(2) The Minister for the Interior and Social Affairs may by order lay down specific rules governing supervision of network foster families, cf. section 142(2) above.

**144 (1)** Private accommodation facilities under section 107 above shall be subject to approval by the municipal council of the municipality of location as being generally suitable. Such approval shall also cover any statutory assistance provided by the facility during the accommodation. This shall not apply to facilities with which a municipal or regional council has made a general agreement for the use of the facility, including for supervision.

(2) Private treatment facilities pursuant to section 101(1) shall be subject to approval by the municipal council of the municipality of location as being generally suitable. This shall not apply to facilities with which a municipal or regional council has made a general agreement for the use of a private treatment facility, including an agreement on supervision.

(3) Decisions under subsections (1) and (2) hereof shall not be brought before any other administrative authority.

(4) The Minister for the Interior and Social Affairs shall by order lay down specific rules governing the approval and supervision of accommodation facilities for adults.

(5) The Minister for the Interior and Social Affairs shall by order lay down specific rules governing the approval and supervision of treatment facilities under section 101.

**145.** Any approval given by the county council under the Act on Social Services prior to 1 January 2007 shall be taken over by the municipality of location, and shall apply until the agreed revision or termination thereof.

*Follow-up and supervision and payment for supervision*

**146 (1)** The municipal council shall supervise living conditions in the municipality for children, young persons under the age of 18 and expectant parents.

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

**147** (Repealed).

**148** (1) The municipal council of the residential municipality, cf. sections 9-9 b of the Act on Legal Protection and Administration in Social Matters, shall supervise the facilities and activities decided upon by the municipal council of the residential municipality in respect of the individual person, cf. section 3(1) above. The supervision shall not comprise general operational supervision, cf. section 148 a below.

(2) The municipal council of the residential municipality, cf. sections 9-9 b of the Act on Legal Protection and Administration in Social Matters, shall continually follow up on the individual cases to ensure that the assistance is still meeting its object. The municipal council shall in that connection note in particular whether it is necessary to provide any other forms of assistance. Such follow-up shall be based on the recipient's conditions and if possible in consultation with the recipient.

(3) While a child or young person is in care, the municipal council of the child's or young person's residential municipality, cf. sections 9 and 9 a of the Act on Legal Protection and Administration in Social Matters, shall ensure that the municipal authorities at least once every year talk to the child or young person during supervisory visits to the care facility.

**148 a** (1) The local municipal council shall undertake the general operational supervision of facility staff, premises and finances.

(2) General operational supervision shall not cover facilities where another municipality or region has made a general agreement for the use of all places in the facility and for supervision, or where the facility is subject to general operational supervision by the regional council, cf. section 5(7) above.

**149** The municipal and regional councils shall fix a rate for the general operational supervision, cf. section 5(7) and section 148 a payable by the facilities covered by the supervision.

**150** (Repealed)

**151** (1) The local municipal authorities, cf. section 148 a above, shall supervise the performance of the municipal duties under sections 83 and 86, thereby ensuring that the municipal council's decisions under the said provisions are complied with, and that the quality standards adopted by the municipal council are duly observed, cf. section 138-139 above.

(2) As part of the duty of supervision under subsection (1) hereof, the municipal council shall perform at least one announced and one unannounced visit every year in nursing homes etc., cf. section 192 below, in care homes falling within the scope of the Act on General Housing etc. or the Act on Housing for the Elderly and Persons with Handicaps, and in other corresponding housing units in the municipality. The supervision shall comprise the assistance etc. provided to the residents and tenants receiving municipal services. The supervision shall not be performed by suppliers or persons who provide services in the said area.

(3) After each supervision visit the municipal council shall prepare a supervision report to be used for the follow-up on the supervision visit. The supervision reports shall be published and be submitted for consultation to the council of users and relatives, cf. section 17 above, and to the municipal senior citizens' council, cf. section 30 of the Act on Legal Protection and Administration in Social Matters. Each user or relative shall be given the offer of regularly receiving the supervision

reports. At the request of the council of users and relatives or the municipal senior citizens' council, the municipal council shall offer to make an oral presentation to and discuss the supervision reports with the relevant council.

(4) At least once every year, the municipal council shall prepare and publish an overall report on the supervision under subsections (2)-(3) hereof and on the health-care supervision under section 219 of the Public Health Act. In addition, the report shall specify the results of the supervision as to the connection between the services decided upon and the services actually provided. The report shall be published and be submitted for consultation to the council of users and relatives, cf. section 17 above, and to the municipal senior citizens' council. The municipal council shall then discuss the report at a meeting for the purpose of following up on the supervision.

(5) The Minister for the Interior and Social Affairs shall by order lay down rules governing supervision pursuant to subsection (2) – (4). The Minister shall also lay down rules preventing members of the municipal council from participating in the actual supervision.

**151 a** (1) With respect to tenants and residents of private care dwellings, the obligation of follow-up of individual cases and supervision, cf. section 148(1) and (2) and section 151 (1), shall lie with the municipal council in the municipality in which the private care dwellings are located.

(2) The municipal council's supervisory obligations shall include at least one announced and one unannounced visits to the private care dwellings. Supervision shall comprise the assistance, etc. provided to residents and tenants receiving municipal services. Supervision shall not be performed by suppliers of private care dwellings or persons who provide services on behalf of the supplier of private care dwellings in the said area.

(3) ) After each supervision visit the municipal council shall prepare a supervision report to ensure that the service generally provided in the private care dwellings meets the requirements of the licence held by the supplier of private care dwellings. The municipal council shall publish the supervision report.

**151 b** (1) Where, during a supervision visit of private care dwellings, the municipal council finds that a citizen does not receive the assistance to which he/her is entitled under the decision, the municipal council shall inform the citizen and the municipality having made the decision pursuant to this Act where the municipality is not identical to the municipality in which the dwellings are located.

(2) The municipal council may issue any necessary order against the supplier of private care dwellings required to ensure that assistance is provided in accordance with the decision. The municipal council shall inform the supplier of private care dwellings that any failure to provide assistance in accordance with the decision may result in the supplier being reported to the National Board of Social Services. Where the supplier of private care dwellings does not 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 decisions made by the National Board of Social Services.

## Chapter 27 *Duty of notification*

**152** Where a family with one or more children under the age of 18 or expectant parents move from one municipality to another, and the authorities of the municipality which the family has left find that one or more children or the expectant parents are in need of special support due to the possible special needs of the child immediately following birth, they shall notify the authorities of the municipality in which the family has taken up residence.

**153(1)** The Minister for the Interior and Social Affairs may by order lay down rules providing for the notification of the municipal authorities by persons holding public office or providing public services who, in the exercise of their duties, learn or become aware of factors giving rise to the presumption that a child or young person under the age of 18 is in need of special support.

(2) The Minister for the Interior and Social Affairs may by order lay down rules providing for a duty of notification for other groups who in the exercise of their duties learn or become aware of factors giving rise to measures being taken under this Act.

(3) The Minister for the Interior and Social Affairs may by order lay down rules under which persons holding public office or providing public services shall notify the municipal authorities if, in the exercise of their duties, they learn or become aware of expectant parents with problems, giving rise to the presumption that the child may need special support immediately after being born. The Minister for the Interior and Social Affairs may by order lay down similar rules for other groups who may become aware of such matters in the exercise of their duties.

(4) The Minister for the Interior and Social Affairs may by order lay down rules under which

- (i) general medical practitioners, specialists and other groups working within the social and health services may pass on information about children and young persons under the age of 18 with impaired vision to the John F. Kennedy Institute – the National Eye Clinic for the Visually Impaired, so that the clinic may perform its treatment and administrative functions; and
- (ii) the John F. Kennedy Institute – the National Eye Clinic for the Visually Impaired may pass on the information referred to in para (i) hereof to the social, health and education authorities to ensure that any necessary measures designed to remedy the visual impairment may be implemented.

**154** Any person who learns or becomes aware that a child or young person under the age of 18 is being neglected or abused by his/her parents or other persons involved in his/her upbringing, or is living under conditions endangering his/her health or development, shall notify the municipal authorities.

**155** If the municipal authorities are notified that a child or young person may be in need of support, the municipal council shall acknowledge the receipt of such notification no later than six (6) business days after the date on which the notification was received. This also applies to notifications that expectant parents may be in need of special support immediately after giving birth.

#### Chapter 28 *Penal provisions*

**156** Any person who induces or assists a child or young person in care under this Act to escape, or who harbours such child or young person, shall be liable to imprisonment for up to two (2) years or, in the case of mitigating circumstances, to a fine.

**157** Any person who places or receives a child or young person in care, contrary to the provisions of this Act, or who removes a child or young person from a foster family, shall be liable to payment of a fine.

#### Chapter 29 Payment and repayment, etc.

##### *Payment*

**158** (1) Unless otherwise provided under this Act, any person receiving assistance, whether personally or for his/her spouse or children, shall pay for any assistance received.

(2) The Minister for the Interior and Social Affairs may by order lay down rules providing for the charging of fees for overdue payments of services under this Act.

**159** Subject to rules laid down by order by the Minister for the Interior and Social Services, the parents and the child or

young person shall pay for the residential accommodation, cf. sections 52(3)(viii) ,Payment for full-time facilities pursuant to section 52(3)(viii) shall not be charged when provided in continuation of placement pursuant to section 68 a.

**160** The young person shall pay for residential accommodation, cf. section 76(3)(i) above, and for accommodation under a phasing-out plan under section 76(3)(iv) above, subject to rules laid down by order by the Minister for Social Services.

**161(1)** The Minister for the Interior and Social Affairs shall by order lay down rules governing payment for assistance granted under Chapter 16 and governing the calculation of the income basis for such payment (means-testing).

(2) There will be no charge for the expenses for staff engaged where the assistance provided under sections 83(1) and 84-85 is permanent.

(3) Notwithstanding the provision of subsection (2) hereof, staff expenses may be charged in respect of meals services.

(4) The Minister for the Interior and Social Affairs may lay down specific rules on maximum own payment and the adjustment of payment for meal service schemes for residents in care homes or nursing homes, accommodation facilities subject to sections 107 and 108 of the Act on Social Services and similar facilities to which are attached care and service functions with ancillary staff.

**162** (Repealed)

**163 (1)** The general rules on assistance under this Act shall apply to accommodation in facilities under sections 107-110 above.

(2) Residents shall pay for accommodation in facilities under sections 107-110 above, but see subsection (3) hereof. For residents of long-term accommodation facilities, cf. section 108 above, such payment shall be fixed on the basis of the cost of operating the building. As a general rule, a resident of a temporary accommodation facility who maintains his/her current housing during the period at the accommodation facility, will incur no expenses in connection with the housing.

(3) The Minister for the Interior 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 under the Act on Housing Subsidies.

**163 a** The municipality allocating a phasing-out dwelling to a tenant, cf. section 63 of the Act on General Housing etc., shall reimburse the tenant for the difference between the tenant's rent expense and other mandatory payments, after deduction of subsidies under the Act on Housing Subsidies, and the amount, cf. section 163(2) above, which the tenant should have paid for accommodation in a facility under sections 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 the Interior and Social Affairs shall by order lay down specific rules about the matters referred to in this provision.

#### *Repayment*

**164** The municipal council shall decide on any 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, acting in bad faith, has received assistance under this Act without being entitled thereto

164 (Repealed)

**165** (1) Claims for repayment shall be enforced by the municipal authorities pursuant to rules laid down by the Minister for the Interior and Social Affairs in consultation with the Minister for Taxation. In this connection, it may be decided that an instalment scheme will lapse in case of the debtor's default despite demands for payment.

(2) The repayment claim will lapse after a period of five (5) years from cessation of the assistance without any financial possibility of enforcing the claim .

Chapter 29 a  
*Cessation of payment of benefits in certain cases*

**165 a** (1) Payment of benefits under sections 42, 95(2) and 96 and 100 shall cease for persons knowingly evading prosecution in Denmark if

- (i) such person has been remanded in custody;
- (ii) the police is looking for the person for the purpose of remanding the person in custody; or
- (iii) a remand order has been issued against the person.

(2) Payment of benefits under sections 42, 95(2) and 96 and 100 shall likewise cease for persons knowingly evading enforcement in Denmark if a suspended sentence or any other criminal sanction involving or possibly involving imprisonment has been imposed on the person in question.

(3) Benefits payable in arrears, cf. subsections (1) and (2) hereof shall cease with effect from the date on which the person evaded prosecution or enforcement. Benefits payable in advance, cf. subsections (1) and (2) hereof shall cease with effect for the month following the month in which the person evaded prosecution or enforcement.

(4) Where a prosecution, cf. subsection (1) hereof, is not followed by a conviction, the part of the benefits remaining unpaid while the person was evading prosecution, shall be paid back. However, the benefits will not be paid back to the estate of the deceased if the person dies before the final decision in the case.

**165 b** The police or the Department of Prisons and Probation shall notify the municipal authorities of the evasion if there is a suspicion that a person who is knowingly evading prosecution, cf. section 165a (1) or enforcement in Denmark, cf. section 165 a (2) above, is at the same time receiving benefits covered by section 165 a (1) and (2) above.

Chapter 30  
*Complaints 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 brought before the social complaints board in pursuance of the rules of Part 10 of the Act on Legal Protection and Administration in Social Matters.

(2) Any complaint of a decision on assistance under sections 83 and 84(1) shall not be brought before the social complaints board until

- (i) the complaint has been considered by the complaints council, cf. section 34(1)(i) of the Act on Legal Protection and Administration in Social Matters; and
- (ii) the municipal council has decided on the recommendation of the complaints council.

**166 a** Decisions of the social complaints board pursuant to section 65 may be brought before the National Social Appeals Board by the municipal council, the custodial parent or other person having custody or by a young person having attained the age of 15. Sections 66-74 of the Act on Legal Protection and Administration in Social Matters shall apply correspondingly.

**167** (1) Decisions on choice of accommodation facility or change of accommodation facility under section 69(1) and (2), decisions on juvenile orders under section 57 b and decisions on measures under section 52(3)(iii), (iv),(vii), (ix) and (x), cf. section 57 b(3) and (4) above may be brought before the social complaints board by the child or young person over the age of 12 and by the custodial parent or other person having custody, subject to the provisions of the Act on Legal Protection and Administration in Social Matters.

(2) Decisions about treatment, education, contact with persons from the network, etc., cf. section 69(2) above and decisions about access and contact under section 71(2) above, may be brought before the social complaints board by the young person over the age of 15 and by the custodial parent or other person having custody, subject to the provisions of the Act on Legal Protection and Administration in Social Matters. In so far as it relates to the non-custodial parent, a decision may likewise be brought before the social complaints board.

(3) Decisions in cases relating to the adviser of a child or young person subject to section 48 a may be brought before the social complaints board by the child or young person and the custodial parent or other person having custody subject to 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 by the children and young persons committee, cf. section 74 above, may be brought before the National Appeals Board within four (4) weeks of the date on which the applicant was given notice of the decision; but an appeal against a decision under section 75(3) above shall not be reviewed by the National Social Appeals Board while care proceedings under section 58 above are still pending before the children and young persons committee.

(2) The parties entitled to bring a case before the National Social Appeals Board are the custodial parent or other person having custody and the young person over the age of 15. In addition, decisions under sections 71(3) and 123(2) above relating to the non-custodial parent may be brought before the National Social Appeals Board. Also, foster parents may bring decisions under section 78(4) before the Social Appeals Board.

(3) Where a case is brought before the National Social Appeals Board, this shall not prevent the implementation of the measures etc. decided upon; but in exceptional cases the director of the may determine that a decision shall not be implemented until the Social Appeals Board has made its decision in the case.

(4) Sections 72, 73 and 74(2) and (3) above shall apply correspondingly to proceedings before the National Social Appeals Board. This shall also apply where the Social Appeals Board is considering a case under section 65(4) above.

(5) In connection with processing of a case before the National Social Appeals Board, the custodial parent or other person having custody and the young person over the age of 12 are entitled to recover transport costs for meetings in the National Social Appeals Board.

#### *Judicial review*

**169** (1) Subject to application to the National Social Appeals Board no later than four (4) weeks from the date when the applicant is given notice of a decision by the Social Appeals Board under sections 65(4) and 168 above, such decision may be required to be brought before the court.

(2) Where a decision by the National Social Appeals Board has been affirmed by a court order, a further review by the court may not be required unless the case has once more been submitted for decision by the Social Appeals Board.

**170** (1) The district court shall be assisted for the purpose of the principal 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 43 a on reviews of administrative detention with amendments as set out herein.

(3) The custodial parent or other person having custody and the young person over the age of 15 shall be deemed to be the parties, whether or not such persons have required 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 will not be stated.

**171** (Repealed)

**172** (1) The assessors referred to in section 170 above shall be appointed by the Court Administration subject to consultation with the Minister for Social Affairs. The Court Administration shall decide on their number, remuneration and travel allowance. The assessors appointed must be of full age and must 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 must be trustworthy and of good character.

(2) Appointments shall be for four (4) years. An assessor shall retire at the end of the month in which he/she attains the age of 70.

(3) No person who satisfies the requirements under subsection (1) hereof may refuse to accept appointment, unless he/she is over the age of 65 or has any other reasonable ground for being excused.

(4) The assignment of an 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 60-61 of the Administration of Justice Act.

Part IX  
Funding, tariffs and reimbursement etc.

Chapter 31  
*Funding and tariffs*

**173** The municipal authorities shall cover in full all expenses under this Act.

**174** (1) The municipal council shall stipulate a tariff for each individual municipal service, but see subsection (3) hereof.

(2) Tariffs under subsection (1) hereof shall be calculated on the basis of the long-term cost of providing the specific service or type of service.

(3) The Minister for the Interior and Social Affairs shall by order lay down rules on the calculation of tariffs and on the services to be covered by the provision.

(4) The Minister for the Interior and Social Affairs may by order lay down rules governing the principles for the funding by municipalities of the most specialised national and regional services.

**175** The state shall cover the expenses for the national knowledge and special counselling organisation and the Social Services Gateway, cf. Chapter 4.

### **State reimbursement**

**176** (1) Where the cost of assistance and support for a person under the age of 67 in a specific case exceeds an annual expense of DKK 0.8 m or more, the state shall reimburse 25% of the part of the municipal expenses exceeding the said amount. For the part of the expenses in excess of DKK 1.5 m a year, state reimbursement shall amount to 50%.

(2) The Minister for the Interior and Social Affairs may by order lay down more specific rules on state reimbursement under this provision.

(3) In 2007, state reimbursement will amount to 25% from DKK 0.4 m a year and 50% from DKK 0.8 m a year. In 2008, reimbursement will amount to 25% at DKK 0.5 m a year and 50% at DKK 1 m a year. In 2009, reimbursement will amount to 25% at DKK 0.6 m a year and 50% at DKK 1.2 m a year.

**177** The state shall reimburse 50% of the costs incurred by municipal authorities in respect of

- (i) Subsidies under section 41 above towards the extra cost of maintenance in the home of a child under the age of 18 with substantial and permanent impairment of physical or mental function.
- (ii) Assistance under section 42 above covering loss of earnings for persons maintaining a child under the age of 18 with substantial and permanent impairment of physical or mental function etc.
- (iii) Free legal assistance, cf. section 72 above.
- (iv) Subsidies under section 100 above towards payment of any necessary extra costs relating to the maintenance of persons with substantial and permanent impairment of physical or mental function.
- (v) Accommodation facilities under sections 109 and 110(1) above, including expenses for assistance, support, employment and activity programmes, etc., offered in connection with the accommodation facility.

**178**(1) The Minister for the Interior and Social Affairs may decide that in special cases the expenses relating to temporary accommodation facilities under sections 109 and 110(1) above, including expenses for assistance, support, employment and activity programmes, etc., offered in connection with the accommodation facility shall be payable in full by the state, either by way of subsidies or by way of interest- and instalment-free loans.

(2) The Minister for the Interior and Social Affairs may decide that in exceptional cases the expenses relating to employment, activity and community activities under sections 103-104 for persons with special social problems shall be payable in full by the state, either by way of subsidies or by way of interest- and instalment-free loans.

**179** The state shall reimburse in advance all refundable expenses incurred by municipal authorities under this Act.

**180** The state shall pay all expenses for the independent consultant scheme under section 15 above.

*Intergovernmental reimbursement under Community Law*

**180 a** (1) The state shall reimburse the municipal authorities for the cost of services under this Act where the cost is covered by Community Law provisions on intergovernmental reimbursement; the municipal authorities shall report any claim in this connection and the state shall receive the reported reimbursement from the social security authorities of the debtor state.

(2) The Minister for the Interior and Social Affairs shall lay down rules on the national administration of intergovernmental reimbursement pursuant to Community Law.

*Costs in connection with aliens*

**181** (1) Pursuant to subsections (2) and (3) hereof, the state shall pay all costs in connection with aliens issued with residence permits under

- (i) sections 7 or 8 of the Aliens Act;
- (ii) section 9b of the Aliens Act;
- (iii) section 9 c (1) of the Aliens Act, in direct continuation of 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 resident in Denmark, where that person has been issued with a permanent residence permit under one of the provisions referred to in paras (i)-(iii) hereof, or where the connection can be traced back to such a person;
- (v) section 9 c (1) of the Aliens Act, where the permit has been issued to a person over the age of 18 whose father or mother had been issued with a residence permit under one of the provisions referred to in para (i) hereof;
- (vi) section 9 c (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 paras (ii) and (iii) hereof;
- (vii) section 9 c of the Aliens Act, where the permit has been issued to an alien seeking asylum;
- (viii) section 9 c (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 sections 7 or 9 c of the Aliens Act;  
or
- (ix) section 9 e of the Aliens Act.

(2) The state shall cover in full all costs of assistance under sections 41-42, 52(3)(i)-(vii), (ix)-(x) and 52(4)-(5), 54, 76(2) and 76(3)(ii)-(iii), 96, 98 and 100 during the first three (3) years from the date of issue of the residence permit.

(3) Notwithstanding the provisions of subsection (2) hereof, the state shall cover costs incurred by municipal authorities in connection with

- (i) aliens placed in a residential facility within twelve (12) months of the date of issue of the residence permit, on grounds of substantial and permanent impairment of physical or mental function, but only until the person in question has been self-reliant for a continuous period of two (2) years; and
- (ii) aliens, where the permit has been issued to a minor alien seeking asylum, but only until the minor in question attains the age of 18, or until the minor's parents obtain legal residence in Denmark.

*Adjustment*

**182** (1) The amount set out in section 41 above shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount divisible by 8.

(2) The amount set out in section 32(8) above shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount. The first such adjustment shall be made on 1 January 2009

(3) The amount set out in sections 45(5) and 97(7) above shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount. The first such adjustment shall be made on 1 January 2006.

(4) The amount set out in section 112(4) above shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount.

(5) The amount set out in section 114(1) above shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount divisible by 1,000.

(6) The amount set out in section 118(2) above shall be adjusted at 1 January each year at 2.0 % plus or less an adjustment percentage for the relevant fiscal year, cf. the Rate Adjustment Percentage Act. The amount so adjusted shall be rounded to the nearest full amount. The first such adjustment shall be made at 1 January 2006.

(7) The amount set out in section 120(2) above shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The amount shall be rounded to the nearest full amount. The first such adjustment shall be made on 1 January 2006.

(8) Deductions and the maximum hourly payment, to be fixed under section 161(1) above, shall be adjusted on 1 January each year at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. Deductions shall be rounded to the nearest full amount divisible by 100. The maximum hourly payment shall be rounded to the nearest full amount.

(9) The amounts set out in section 176 above shall be adjusted on 1 January each year, beginning as at 1 January 2007, at the rate adjustment percentage, cf. the Rate Adjustment Percentage Act. The qualifying amounts shall be rounded to the nearest DKK 10,000.

**183** (1) The calculation of the income basis under sections 114 and 161 above will be effected by the Customs and Tax Administration on the basis of data for the latest full income year. The calculation will 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 complaints of decisions as to advance assessment of income shall apply correspondingly to complaints of decisions as to income basis.

#### Chapter 32 *Experimental provisions*

**184** (1) The Minister for the Interior and Social Affairs may, upon recommendation from the municipal council, consent to the provision during a trial period of other services than the services provided for under this Act.

(2) In addition, the Minister for the Interior and Social Affairs may, upon recommendation from the municipal council, for a trial period, approve of arrangements deviating from the rules on assessment of eligibility, services and funding. No experimental arrangements involving special day-care and club facilities for children and young persons with substantial and permanent impairment of physical or mental function, cf. sections 32 and 36 above, may be approved, however, which would result in any deviation from the general rules on parents' payments.

**185** (Repealed)

Chapter 33  
*Agreement for the transfer of regional facilities*

**186** (1) Under this Act, a municipal council may take over regional facilities located in the municipality. At the request of the municipal council the regional council shall prepare a draft agreement between the regional council and the municipal council.

(2) A municipal council taking over a facility under subsection (1) hereof shall be subject to the following terms and conditions:

- (i) The facility transferred shall be included in the annual framework agreement, cf. section 6 above, and shall be available to other municipal authorities with the scope provided for by the framework agreement.
- (ii) The municipal council assume the duties of the regional council to coordinate the capacity and composition of the most highly specialised national and regional facilities, cf. section 6(3) above.

(3) The municipal council of the local municipality taking over a facility under subsection (1) hereof shall take over all assets and liabilities, rights and obligations, and the staff employed for the running 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 therefore.

(4) 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 members covered by subsection (3) hereof who are employed subject to a collective agreement, provisions on wage and employment 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.

(5) Public servants who are transferred due to a municipal council taking over a regional facility under subsection (1) hereof shall be employed by the new employer authority subject to terms otherwise corresponding to the former terms of employment.

(6) On retirement from the said employment, public servants covered by subsection (5) hereof will receive the aggregate public servants pension from the new employer authority.

(7) Subject to consultation with the Minister of the Interior and Health, the Minister for the Interior and Social Affairs may lay down specific rules on taking over assets and liabilities, rights and duties, and employees of the facility under subsection (3) hereof, including rules on the distribution between region and municipality of location of pension commitments for public servants and other employees covered by subsection (3) hereof.

**187** (1) Any municipal council in the region may request that a wish from a municipal council of a municipality of location to take over a regional facility, cf. section 186(1) above, be considered by the contact committee.

(2) The contact committee shall at least once during every election period discuss whether any social facilities in the region could more appropriately become the responsibility of the authorities of the municipality of location.

*Development councils and reports*

**188** (1) A development council will be set up in each region for the period from 2007 up to and including 2010, which is to follow and discuss developments in the area of this Act and in the area of specialised teaching. The development council shall be composed, subject to negotiation between the municipal authorities in the region and the region, of representatives of the municipalities in the region, the region and the users in the region. The chairman of the development council shall be appointed by and among the representatives of the municipalities in the region.

(2) The state administration is the secretariat of the development council and shall pay the cost of secretariat assistance to the development council.

(3) Every year the municipal councils in the region and the regional council shall submit a report to the development council on the developments in the social and special education areas.

(4) Every year the development council shall prepare a report on developments for the Ministry of Social Affairs and the Ministry of Education. The report shall comprise investigations conducted by the development council, data from the information and analysis system referred to in subsection (5) hereof, and reports from the municipalities and the region, including the annual reports from the municipal authorities to the region in pursuance of section 6(1) above.

(5) Subject to consultation with the Minister for Education, the Minister for the Interior and Social Affairs shall by order lay down specific rules on

- (i) The reporting duty under subsections (3)-(4) hereof.
- (ii) A central information and analysis system for the purpose of the work of the development councils in the social area, including the collection of data and the conduct of special investigations designed to document developments. The information and analysis system may also be applied to the special education area. .
- (iii) The activities of the development council, including rules on per diem allowances, compensation for loss of earnings with documentation and reimbursement of expenses for the members of the development council who represent the users.

#### Chapter 34

#### *Commencement and transitional provisions*

**189** (1) This Act shall come into force on 1 January 2007.

(2) The Act on Social Services, cf. 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 section 190 and 191 shall come into force on 1 July 2005.

(4) All facilities established before 1 January 2007 shall be registered in the Social Services Gateway before 1 April 2007, cf. 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) A county facility which is to be taken over by a regional council on 1 January 2007 in pursuance of the other provisions of this Act, will 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 duties and the staff employed for the running of the facility. If the values of assets and liabilities do not match, the authority taking over the county facility, or the county council, must be compensated. Assets and liabilities, rights and duties 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 Municipal Reform.

(3) Subject to consultation with the Minister for Social Affairs, the Minister for the Interior and Health may lay down specific rules governing the taking over of assets and liabilities, rights and duties as well as staff under subsection (2) hereof.

(4) The provisions of section 186(2) and (4)-(6) shall apply correspondingly where a county facility is taken over by a municipality of location under subsection (1) hereof.

**191** (1) The county council shall for each county facility draw up a statement of the assets and liability, rights and obligations as well as employees to be taken over by the authority taking over the county facility under section 190(2) above.

(2) On or before 1 January 2006, the county council shall draw up the statement referred to in subsection (1) hereof for the authorities to which the county council's duties and responsibilities will be transferred under the legislation pertaining to the municipal 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) above.

(3) The drawing up and presentation of the statement referred to in subsection (1) hereof and the conclusion of the agreement referred to in subsection (2) hereof will be effected 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) hereof will be drawn up and presented, and the agreement referred to in subsection (2) hereof will be concluded in accordance with the provisions of Part 3 of the Act on Certain Procedural Issues in connection with the Municipal Reform.

(4) If the agreement referred to in subsection (2) hereof has not been concluded by 1 April 2006, or if one of the authorities referred to in subsection (2) hereof declares the negotiations closed without a result, agreement will be entered into, and the division council's proposed compromise and decision will 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) above, 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 will 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) above will be adopted in accordance with the provisions of Parts 3 and 4 of the Act on Certain Procedural Issues in connection with the Municipal Reform.

(5) Rules provided for by section 17 and Part 4 of the Act on Certain Procedural Issues in connection with the Municipal Reform shall apply unless the Minister for the Interior and Health decides otherwise, subject to consultation with the Minister for Social Affairs.

(6) Subject to consultation with the Minister for Social Affairs, the Minister for the Interior and Health may lay down specific rules governing the preparation and presentation by the county council of a statement under subsection (1) hereof 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) hereof by the authority taking over the county facility. The Minister for the Interior and Health may thereby derogate from subsections (1)-(5) hereof and section 190 above.

**192.** The regional council and the municipal council shall operate the existing nursing homes and sheltered housing pursuant to the relevant provisions of the Social Assistance Act in force until now. However, the municipal authorities shall not charge payment for special services, etc. relating to stays at residential care homes. The Minister for the Interior and Social Affairs shall by order lay down rules to that effect, including rules adapted to the rules governing housing for the elderly and care homes under the Act on General Housing etc., and rules on protection against involuntary moves within a nursing home or sheltered housing facility.

**192 a** (1) The municipal council shall offer elderly persons in special need of accommodation in a nursing home, cf. section 192 above, or in a care home, cf. section 5(2) of the Act on General Housing etc., such accommodation no later than two (2) months after entry on a waiting list.

(2) The availability guarantee under subsection (1) hereof shall not apply, however, where the person has chosen a specific nursing home or a specific care home under the provisions of section 58 a of the Act on General Housing etc.

(3) The Minister for the Interior and Social Affairs shall lay down specific rules on entry on waiting lists and time limits for offers of care home or nursing home accommodation.

**193** (Repealed)

**194** (1) With effect from 1 January 2007, municipal councils shall take over facilities under section 67(1) above which had been established by the counties, thereby becoming parties to agreements for private facilities approved by the counties, but see subsection (2) hereof.

(2) A municipal council which, under subsection (1) hereof, takes over facilities under section 67(1) above may, may agree in 2006 with the region's preparation committee, notwithstanding subsection (1) hereof, that the regional council on behalf of the municipality of location shall continue facilities under section 67(1) above after 1 January 2007 if such facilities are the property of 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 (2) above which had been established by the counties, thereby becoming parties to agreements for private facilities approved by the counties within the region.

(2) However, the regional councils will not assume responsibility for facilities, cf. section 5(1) and (2) which had been established or approved by the municipalities of Copenhagen, Frederiksberg or Bornholm.

(3) With effect from 1 January 2007, the regional councils shall assume responsibility for facilities established under sections 5-6 of the former Act on Decentralisation of Care for the Mentally Deficient and other Special Care etc.

**195 a**(1) The Minister for the Interior and Social Affairs shall present proposals for revision of the provisions Part VII of this Act to the Danish Parliament in the 2009-10 parliamentary session at the latest

(2) The Minister for the Interior and Social Affairs shall present proposals for revision of section 48 a hereof to the Danish Parliament in the 2009-10 parliamentary session at the latest.

**195 b** The Minister for the Interior and Social Affairs shall present proposals for revision of section 32(6)-(9) hereof to the Danish Parliament in the 2011-12 parliamentary session at the latest.

**196** (1) This Act shall not extend to the Faeroe Islands and Greenland.

(2) According to agreement with the self-governments of the Faeroe Islands and Greenland, the Minister for the Interior and Social Affairs shall by order lay down rules on assessment of eligibility, payment and reimbursement as well as visiting trips etc. for persons taking up residence in Denmark at the instance of the social authorities of the Faeroe Islands or Greenland and receiving assistance 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.

(3) Any dispute between the social authorities of the Faeroe Islands or Greenland and the Danish social authorities as to their duties under these provisions shall be brought before the National Social Appeals Board.