



## My Constitutional Act

MY CONSTITUTIONAL ACT  
WITH EXPLANATIONS

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Every citizen has the opportunity to work  
if the person in question has been convicted of an act that, in the  
interest of her existence in order to promote the  
Parliament.

grounds of his or her political or religious convictions or his or her descent  
ideas in print, in writing and orally,  
ship God according to their convictions, but nothing may be taught or done  
Censorship and other preventive

### **The Constitutional Act is the Foundation of Danish Democracy**

You can read about the division of power in society in the Constitutional Act. About the Folketing as the democratically elected assembly which passes laws that apply to all of us. About the Danish Government that must ensure that laws are complied with by us citizens and by the authorities that must ensure we have good schools, hospitals and libraries, etc. About the Courts that are independent of the Government and the Folketing because they have to pass judgement in conflicts between citizens and between the public authorities and citizens.

The Constitutional Act also sets out the rights you have as a citizen. We call them constitutional rights or human rights.

Some of the areas protected by constitutional rights are freedom of expression, the right to assemble and demonstrate for your opinions, and the right to form associations and to be a member of an association. The Constitutional Act also ensures that you have the right to be a member of a political party and to take part in political activities – even though such activities may be in opposition to the opinions of the Government or the majority. These rights are intended to ensure that democracy functions. The rules of the Constitutional Act on referendums and election to the Folketing, for example, would not be of much value if we were not entitled to discuss political issues and express our opinions.

Other areas protected by constitutional right include rules on personal liberty and ownership and the inviolability of the home. These rules are primarily intended to protect citizens against injustice on the part of the State. Anybody arrested by the police, for instance, has the right to demand that a judge considers his or her case within 24 hours. If the authorities wish to search somebody's home, private papers, or PC, as a principal rule, they must first have obtained permission from a judge. And if the authorities wish to expropriate somebody's house and demolish it in order to build a motorway or a railway across the lot, he or she is entitled to compensation corresponding to the value of the house and lot. In this way, the Constitutional Act imposes limits on how the State may intervene in people's private lives.

The Constitutional Act is designed to ensure a stable framework for political life and the political struggle for power. And the Constitutional Act must ensure that the rights of citizens are not violated. Both of these areas are safeguarded because it is more difficult to amend the Constitutional Act than other Acts. The Danish Constitutional Act has only been amended a few times since it was adopted more than 160 years ago. And the language in many of the sections has not been modernised since. Therefore, this booklet contains some explanatory comments on the individual Sections.

# 00 Contents

|           |                                                                |    |
|-----------|----------------------------------------------------------------|----|
| <b>01</b> | The Form of Government.....                                    | 2  |
| <b>02</b> | The Royal Family .....                                         | 4  |
| <b>03</b> | The Government.....                                            | 6  |
| <b>04</b> | Elections to Parliament .....                                  | 14 |
| <b>05</b> | The Work of Parliament.....                                    | 19 |
| <b>06</b> | The Courts.....                                                | 32 |
| <b>07</b> | The Evangelical-Lutheran Church of Denmark (Folkekirken) ..... | 38 |
| <b>08</b> | Citizens' Rights.....                                          | 40 |
| <b>09</b> | The Faeroe Islands, Greenland and Iceland .....                | 51 |
| <b>10</b> | Amendment of the Constitutional Act.....                       | 52 |
| <b>11</b> | The coming into force of the Constitutional Act .....          | 53 |



# 01 The Form of Government

**Part one primarily deals with the fact that Denmark is a monarchy and with the tripartite division of power.**

## Section 01

This Constitutional Act applies to all parts of the Kingdom of Denmark.

## Section 01

The Constitutional Act applies to Denmark, the Faeroe Islands and Greenland. Special home rule arrangements for the Faeroe Islands and special self-government arrangements for Greenland have been passed by law. These arrangements give the Faeroese and Greenlanders far-reaching autonomy in respect of their own affairs.

## Section 02

The form of government is a Constitutional Monarchy. The Crown is inherited by men and women in pursuance of the rules established in the Danish Act of Succession of 27 March 1953.

## Section 02

Denmark is governed by a Monarch, i.e. a King or a Queen. The current Monarch is Queen Margrethe the Second. She succeeded to the throne in 1972 when her father, King Frederik the Ninth, died. Although the Queen is Sovereign, she has no independent power. The country is governed by a Government accepted by the Folketing. Both men and women can inherit the Crown. The Danish Act of Succession describes the rules for who may inherit

the title when the King or Queen dies or abdicates. The Act is from 27 March 1953 when women received the right to succeed to the throne.

The 1953 Danish Act of Succession has the same status as the Constitutional Act because it is expressly mentioned in Section 2 and can therefore only be amended through the same comprehensive procedure as with an amendment to the Constitution.

On 2 June 2006 the Danish Parliament passed an amendment to the Act of Succession to the effect that the first-born – irrespective of gender – will always succeed to the throne. As prescribed by the Constitutional Act the Government reintroduced the unchanged Bill after a general election in 2007. This Bill was passed by Parliament on 24 February 2009, after which it was submitted to a binding referendum. The amendment was adopted in the referendum, which took place on 7 June 2009, as a majority comprising at least 40 per cent of all those entitled to vote voted in favour of the amendment.

## Section 03

Legislative power lies with the King and Parliament jointly. Executive power lies with the King. Judicial power lies with the Courts.

## Section 03

This provision concerns the tripartite division of power into legislative, executive and judicial powers. Power is divided between different authorities



(Parliament, the Government and the Courts) to prevent all power being in the hands of a single authority. This could lead to the abuse of power.

Under the Constitutional Act, the Queen and Parliament jointly have the power to legislate. However, this is not quite the case in reality. In practice, the Government and Parliament define Acts. The Queen only signs them. The Queen has to implement the Acts – she has the executive power. Today, this simply means that she only formally appoints the Ministers of a Government. In practice, it is the Ministers and their Ministries that subsequently make sure the laws are complied with.

The Queen has no influence on who will be a Minister. This is the Prime Minister's decision. Nor has the Queen any influence on which political parties will form a Government. Sections 12-15 cover this, among other things.

The Courts have the power to pass sentences. They decide whether people have broken Danish laws and must be punished. And they decide the outcome of cases in which citizens have mutual conflicts. The Courts also decide whether Ministries and Municipalities have broken laws and whether laws comply with the Constitutional Act.

In 1999, the Supreme Court ruled that what is known as the Tvind Act contravened Section 3 of the Constitutional Act: the provision in this Act that a number of Tvind Schools should no longer receive funds from the State was therefore invalid.

#### Section 04

The Evangelical-Lutheran Church of Denmark (Folkekirken) is the established Church of Denmark and, as such, is supported by the State.

#### Section 04

The Evangelical-Lutheran Church of Denmark is Christian. The Church of Denmark is Evangelical-Lutheran. This means that it is based on the Holy Bible, various ecclesiastical symbolic books, and the teachings of the German theologian Martin Luther, which formed the foundation of the Danish Reformation in 1536. The Church of Denmark is therefore a Protestant church. Until the first Constitutional Act was passed in 1849, the Church of Denmark was a State Church under the autocratic king. Today, the State has a duty to support the Church of Denmark financially and in other ways. The State can also choose to support other religious denominations, but is not under an obligation to do so.



## 02 The Royal Family

**Part two deals with the Royal Family in particular.**

### Section 5

The King cannot be Sovereign of other countries without the consent of Parliament.

### Section 5

The Queen cannot become Sovereign of another country as a matter of course. Parliament must first grant permission for this.

### Section 6

The King must belong to the Evangelical-Lutheran Church.

### Section 6

The Queen cannot decide which religious denomination she wishes to belong to. She must belong to the Evangelical-Lutheran Church. However, she need not necessarily be a member of the Evangelical-Lutheran Church of Denmark (Folkekirken). But in practice the Sovereign has always been a member of the Evangelical-Lutheran Church of Denmark.

### Section 7

The King is legally competent when he becomes 18 years of age. The same applies to the successor to the throne.

### Section 7

Being legally competent means that one make one's own decisions and can enter into binding agreements, concerning purchases, for example . This Section explains that a King is legally competent

when he becomes 18 years of age. The same applies to the successor to the throne. This provision may seem a little strange today, when everyone is legally competent at the age of 18 years. But that was not the case in 1953, when the Constitutional Act was last amended. At that time, ordinary people did not become legally competent until they were 21.

### Section 8

Before the King joins the Government, he makes a solemn written assurance in the Council of State to unswervingly observe the Constitutional Act. Two identical original copies of the assurance are issued, one is given to Parliament to be kept in its archive, the other is kept in the Danish National Archives. If, due to absence or for other reasons, the King is unable to make this assurance immediately on succeeding to the throne, the Council of State is responsible for government until he does so, unless anything to the contrary has been stipulated in an Act. If the King has already made this assurance as the successor to the throne, he immediately joins the Government on succeeding to the throne.

### Section 8

The Queen must promise that she will observe the Constitutional Act. She does this by signing a declaration in the Council of State. This is the name given to the meetings that the Queen holds with the Government. Two copies of the declaration must be kept. One is kept in Parliament archive. The other is kept in the Danish National Archives. The Danish National Archives are the State archives where all important documents are stored.



### Section 9

The provisions concerning the conduct of government if the King is not legally competent, is ill or is absent, are laid down in an Act. If there is no successor to the throne and the throne is vacant, Parliament chooses a King and establishes the future order of succession.

### Section 9

Parliament has passed an Act determining who will govern if the Queen is not legally competent or is prevented from being present. In practice, this means that the Queen has a deputy who takes her place when she is ill, travelling or on holiday, for instance. If the successor to the throne is legally competent, he or she deputises as a matter of course. If the successor to the throne is not legally competent (or if he or she is unable to act as a deputy), the Queen appoints a Regent.

The Queen's two sons, Crown Prince Frederik and Prince Joachim, have often deputised for the Queen. The Queen's sister, Princess Benedikte, has also been her deputy. If there are no successors to the throne, Parliament must choose a King and establish the order of succession that will apply in the future.

### Section 10

**Subsection 1.** The State's payment to the King for the term of his reign is established by an Act. This Act also determines which palaces and other State property will be placed at the King's disposal.

**Subsection 2.** The State's payment cannot be encumbered with debt.

### Section 10

**Subsection 1.** Parliament determines how much money the King or Queen shall have each year. The money is called a civil list annuity. The Queen receives DKK 71.1 million a year, of which DKK 7.1 million goes to Prince Henrik and DKK 1.1 million goes to Princess Benedikte (as at 1 January 2011). Parliament also decides which palaces and other State property the Queen may use. Other property includes the Royal Yacht "Dannebrog", which has been placed at the disposal of the Queen. The yacht is owned by the State.

**Subsection 2.** The Queen cannot borrow money on her civil list annuity.

### Section 11

Annuities for members of the Royal Family can be determined by an Act. The annuities cannot be received outside Denmark without the consent of Parliament.

### Section 11

Several members of the Royal Family receive an annual sum from the State. This is called an annuity. The Crown Prince, for instance, receives DKK 17.6 million, of which DKK 1.8 million goes to Crown Princess Mary (as at 1 January 2011). The members of the Royal Family may not reside abroad and receive their annuities there unless they have been granted permission to do so by Parliament in advance.



## 03 The Government

**Part three deals with the King and the Ministers. It establishes that the power of the King is restricted. The country is governed by a Government accepted by Parliament.**

### Section 12

With the limitations established in this Constitutional Act, the King has supreme authority over all public affairs in Denmark and exercises it via his Ministers.

### Section 12

It may almost seem as if the Queen decides everything. However, in reality this is not the case as the Constitutional Act contains major restrictions on which decisions she can make. The Queen exercises power via her Ministers in a Government: she has no independent power.

This is described in Sections 13 and 14.

### Section 13

The King is free from responsibility, his person is sacrosanct. The Ministers are responsible for the conduct of government, their responsibility is determined more explicitly by an Act.

### Section 13

The Queen has a very special legal status. She is not answerable for her actions. She must observe the laws of Denmark, but she cannot be indicted and sentenced by the Courts. On the other hand, the Queen has no power. The Ministers are responsible for what the Government does. Ministers' responsibility is explicitly established in a special Act called

the Danish Ministerial Responsibility Act. It was passed in 1964.

### Section 14

The King appoints and dismisses the Prime Minister and the other Ministers. He determines their number and the division of business between them. The King's signature on resolutions concerning legislation and the Government gives them validity when it is accompanied by the signature of one or more Ministers. Each Minister who has signed is responsible for the resolution.

### Section 14

The Constitutional Act gives the Queen the power to appoint the Prime Minister and the other Ministers. She also decides how many Ministers there are to be and what they are to do. In addition, she can dismiss them again. However, this is no longer how things work.

The Queen has no real influence on who will be a Minister or who will be dismissed. The Queen appoints the Ministers recommended by the Prime Minister. When a new Prime Minister is to be appointed, the current Prime Minister and the Queen decide which politician will be able to put together a majority of the Members of Parliament. The person in question may never have a majority against him or her. The Queen then appoints that person to be the new Prime Minister.

The Queen must sign all Acts and important resolutions passed by the Government. However,





the Acts and resolutions are valid only when one or more Ministers have also signed them. The Queen is not responsible for the Acts and resolutions she signs. It is the Ministers who are responsible for them.

### Section 15

**Subsection 1.** No Minister may remain in office after Parliament has expressed a lack of confidence in him. .

**Subsection 2.** If Parliament expresses its distrust of the Prime Minister, it shall demand the Minister's resignation unless a new general election is called. A Minister who has been the object of a no-confidence vote or who has tendered his resignation remains as an acting Minister until a new Minister has been appointed. Acting Ministers may only do what is necessary to ensure that the conduct of their official duties is undisturbed.

### Section 15

**Subsection 1.** If a majority in Parliament no longer has confidence in a Minister, the Minister must resign. This is done by the Members of Parliament voting on a what is known as a no-confidence motion.

**Subsection 2.** If Parliament expresses a lack of confidence in the Prime Minister, the Government must resign or call an election. The "old" Government remains as the acting Government until a new one has been elected. However, during this period, the Ministers may only carry out practical measures that are required to ensure that the Ministries and public administration can continue. Nothing else.

### Section 16

Ministers can be impeached by the King or Parliament for the conduct of their official duties. The Court of Impeachment decides cases brought against Ministers for the conduct of their official duties.

### Section 16

A Minister is responsible for the manner in which he or she manages his or her Ministry. If, for example, he or she neglects his or her work or is suspected of doing something illegal, Parliament can demand that he or she be brought before a special Court. This is called the Court of Impeachment and is described in Section 59. The Court of Impeachment decides whether the Minister is guilty. According to the wording of the Constitutional Act, the Queen can also demand that Ministers be impeached and brought before the Court of Impeachment. However, in practice, the Government has this right.

Since the Court of Impeachment was instituted in 1849, five cases have been brought before the Court, but only two Ministers have been found guilty. In 1910, the former Minister for the Interior, Sigurd Berg, was ordered to pay a fine for negligence in his supervision of Den Sjællandske Bondestands Sparekasse (The Zealand Farmers' Savings Bank) (the Alberti case). In 1995, the former Minister for Justice, Erik Ninn-Hansen, was given a suspended sentence of four months' imprisonment for having prevented Tamil refugees from bringing their families to Denmark (the Tamil case).



### Section 17

**Subsection 1.** The Ministers jointly constitute the Council of State, in which the successor to the throne also participates when he or she is legally competent. The King chairs the Council of State apart from in the case stated in Section 8 and the cases in which the legislature has granted the Council of State authority to conduct government in accordance with the provision in Section 9.

**Subsection 2.** All Acts and important governmental measures are discussed in the Council of State.

### Section 17

**Subsection 1.** The Council of State consists of all the Ministers, the Queen and the successor to the throne, if he or she is legally competent. The Queen chairs the meetings of the Council of State. If, for example, she is travelling, the meetings are chaired by her deputy, who is known as a Regent. These rules can be seen in Section 9.

**Subsection 2.** All Acts and important resolutions passed by the Government must be discussed in the Council of State. However, in practice, the resolutions are passed by the Government, not by the Council of State.

### Section 18

If the King is prevented from holding a Council of State, he can have the matter discussed in a Council of Ministers. This consists of all Ministers and is chaired by the Prime Minister. Each Minister must enter his vote in the minutes and decisions are made by a majority of votes. The Prime Minister submits the minutes of the discussions, that have

been signed by the Ministers present, to the King, who decides whether he approves of the decision made by the Council of Ministers or wants the matter discussed in the Council of State.

### Section 18

If the Queen is prevented from attending a Council of State, she can demand that the Ministers hold a meeting without her. This is called a Council of Ministers and consists of all Ministers. The Prime Minister chairs the meeting. The Queen can subsequently sign the Council of Ministers' resolutions. This Section is no longer of any great importance. In fact, no monarch has made use of this opportunity since 1869. On the other hand, the Government holds meetings of Ministers once a week. The meetings are of great practical importance, but are not mentioned in the Constitutional Act.

### Section 19

**Subsection 1.** The King shall act on behalf of the Kingdom in international affairs. However, without the consent of Parliament, he may not undertake any action that increases or decreases the area of the Kingdom, or enter into any obligation, for the fulfilment of which the participation of Parliament is necessary, or which is of major importance in some other way. Nor, without the consent of Parliament, can the King terminate any international agreement entered into with the consent of Parliament.

**Subsection 2.** With the exception of defending the Kingdom or Danish armed forces against armed aggression, the King is not entitled to use military



force against a foreign state without the consent of Parliament. Any measures that the King may take in pursuance of this provision must immediately be submitted to Parliament. If Parliament is not sitting, a sitting must immediately be convened.

**Subsection 3.** Parliament elects a Foreign Policy Committee from among its members and the Government consults this Committee before making any decision of major foreign policy import. More detailed rules on the Foreign Policy Committee are established in an Act.

### Section 19

The Queen exercises her power via her Ministers. She cannot be held responsible for what the Government does (Sections 12, 13 and 14). Therefore, the word “King” must be read as “the Government”.

**Subsection 1.** Parliament establishes the main direction of Denmark’s foreign policy. By far the majority of foreign policy decisions regarding agreements with other countries must be approved by Parliament. The Government cannot simply make a decision on its own initiative. This applies when Denmark enters into agreements with other countries on cooperation in NATO and the UN, for instance.

**Subsection 2.** Nor can the Government simply decide that Danish military forces must attack other countries. Parliament must be consulted first. However, there is one exception. The Government can use Danish forces for defence if Denmark is attacked by another country. However, the military measure must be submitted to Parliament

immediately afterwards. If Parliament is not sitting because of a holiday, for instance, a sitting must be convened immediately.

**Subsection 3.** Parliament must appoint a committee with which the Government must discuss major foreign policy decisions before the decisions are made. This committee is called the Foreign Policy Committee. The members of the Committee have a duty of confidentiality. They must not talk publicly about what they learn at the meetings.

### Section 20

**Subsection 1.** Powers that are granted to the authorities of the Kingdom under this Constitution may, by means of an Act and to a specific extent, be transferred to international authorities created by mutual agreement with other States to promote international legal order and cooperation.

**Subsection 2.** A majority of five-sixths of the Members of Parliament is required to pass Bills in this respect. If such a majority is not obtained, but the majority required to pass normal Bills is obtained, and the Government maintains the Bill, it is submitted to the parliamentary electors for approval or rejection in accordance with the rules established for referendums in Section 42.

### Section 20

**Subsection 1.** Denmark cooperates with other countries in organisations such as the EU. Situations may arise in which it is necessary for the international organisation to make decisions that the citizens of all Member States must observe. This Section of the Constitutional Act makes this



possible. It is called “surrendering sovereignty”. However, a number of conditions must be met. First and foremost, an Act must be passed. This must state how much power Denmark is surrendering.

**Subsection 2.** It is not sufficient for the Act to be passed by a simple majority in Parliament. At least 150 of the 179 members of Parliament must vote for the Bill. This is equivalent to five-sixths of the Members of Parliament. When normal Bills are to be passed, it is sufficient that there are more votes in favour than against. However, if the majority for a Bill on the surrender of sovereignty is less than five-sixths, the Bill must be submitted to a referendum before it can become an Act. The rules for referendums are stated in Section 42.

It was necessary to hold a referendum in accordance with Section 20 before Denmark became a member of the EC/EU in 1973. A large majority in Parliament was in favour of membership; 141 Members voted for and 34 voted against. But this was not a five-sixths majority. The referendum was held on 2 October 1972. Since then, there have been several referendums on amendments to the EC/EU Treaties in accordance with the rule in Section 20. An Act passed under Section 20 does not remain in force for ever. If a majority of Parliament so wishes, a treaty adopted in accordance with Section 20 can be revoked. This means that a majority in Parliament can decide that Danish membership of the EU should be terminated.

### Section 21

The King can have Bills and proposals for other resolutions submitted to Parliament.

### Section 21

The Government can have Bills and proposals for other resolutions submitted to Parliament. In fact, all Members of Parliament are entitled to submit Bills and make proposals. These are called private member's Bills and are discussed in Section 41 (1). But in practice, the procedure is slightly different. By far the majority of Bills originate with the Government. The Government also submits almost all of the Bills that are passed. This is because the Government is often supported by a majority in Parliament. The Government can also obtain assistance from the various Ministries, where there are experts to prepare the individual Bills.

### Section 22

A Bill passed by Parliament has legal force when it is affirmed by the King no later than 30 days after it has finally been passed. The King orders the promulgation of the Act and ensures that it is enforced.

### Section 22

The Queen affirms an Act by signing it. This means that the Act does not come into force until she has signed it.

A Sovereign has not refused to sign a Bill since 1865. The Constitutional Act is interpreted today in such a way that the Sovereign is not entitled to refuse to sign.



The Government must also sign the Bill. This is done by the Minister responsible for the area in question signing it. A Bill does not become an Act if the Government refuses to sign it for one reason or another, or if the Bill is not signed within 30 days. Acts must be published before they take effect for citizens. This is done by publishing them on [www.lovtidende.dk](http://www.lovtidende.dk).

### Section 23

In very urgent cases, when Parliament cannot be convened, the King can issue provisional Acts, but such Acts may not contravene the Constitutional Act and must always be submitted to Parliament for approval or rejection immediately after Parliament has been convened.

### Section 23

This Section concerns provisional Acts. If it is not possible to convene Parliament, the Government can issue a provisional Act on its own initiative. However, the Act must not contravene the Constitutional Act. And it must be debated in Parliament as soon as Parliament can be convened. A majority of Members can adopt or reject the Act.

This provision can only be used in very special cases. And only when it is impossible to convene Parliament. This could be due to war or natural disasters, for instance. However, it could also be due to a general election. After an election, it takes a few days until the new Members of Parliament can be convened. The Finance Act, however, cannot be passed as a provisional Act. This is stated in Section 46.

### Section 24

The King can grant pardons and amnesties. He may only pardon Ministers convicted by the Court of Impeachment with the consent of Parliament.

### Section 24

Originally, the King had the right to exempt people from a sentence or parts of a sentence. This is called a pardon. Today, the Minister for Justice has this right.

The Minister only pardons people if there are special personal circumstances in favour of a pardon. These could be illness, age or family circumstances, for instance. In practice, most pardons are granted before people have begun to serve their sentences. The Minister for Justice may also pardon a group of people sentenced for a crime. This is called an amnesty. In particular, the latter has been applied in connection with a number of political events. Most recently, at the end of the German occupation of Denmark in 1945.

The Government cannot pardon a Minister sentenced by the Court of Impeachment on its own initiative. The Government must propose a motion in Parliament and try to gain a majority for it.

### Section 25

The King gives notice, either directly or via the proper Government authorities, of any grants and exemptions from Acts that are current either in accordance with the rules in force before 5 June 1849, or for which authority is contained in an Act issued since that time.



### Section 25

The provision in Section 25 has a very special historical background. Before 1849, the King was an autocrat. He decided which Acts would be passed and he could also make exemptions from them. During the period up to the time the Constitutional Act was passed, normal legislative work had virtually come to a standstill. Instead, the King often made exemptions from Acts, with regard to divorces, for example. At the time it was very difficult to be divorced under the Acts in force. Nevertheless, some married people were granted divorces by the King.

When the Constitutional Act was passed in 1849, it was obvious that it would take a long time before all of the exemptions from previous Acts could be incorporated into new Acts. Therefore, Section 25 was created. The provision was primarily intended to facilitate the transition from autocracy. Today, the provision has virtually no significance. Most areas are now covered by an Act.

### Section 26

The King is entitled to coin money in accordance with the Constitutional Act.

### Section 26

The State issues Danish coins. While the State and thus the Government are also entitled to issue banknotes, this is not mentioned in the Constitutional Act.

In practice, the Danish Central Bank (Danmarks Nationalbank) has the exclusive right to issue

banknotes. This is stated in the Act on the Danish Central Bank.

### Section 27

**Subsection 1.** Rules on the employment of civil servants are established by an Act. Only Danish citizens may be employed as civil servants. Civil servants appointed by the King make a solemn declaration to abide by the Constitutional Act.

**Subsection 2.** Rules on the dismissal, transfer and retirement of civil servants are established by an Act, but cf. Section 64 on this.

**Subsection 3.** Civil servants appointed by the King may only be transferred without their consent if the income they receive in their position is not decreased and if they are given the choice between such a transfer and retirement with a pension in accordance with the general rules for this.

### Section 27

The State needs reliable, loyal civil servants who do not take bribes. Therefore, some of the most senior civil servants are employed according to special rules that protect them. They cannot be dismissed without a very good reason, for example. And they are entitled to a pension even if they are dismissed.

**Subsection 1.** The rules are established in an Act called the Danish Civil Servants' Act. The State's civil servants must be Danish subjects. This means that they must be Danish citizens. This requirement does not apply to municipal civil servants. Citizens of the EU and the Nordic countries can work as civil servants in Denmark without first becoming Danish citizens. Instead they are employed on terms similar



to those of civil servants.

**Subsection 2.** An Act also establishes rules for the dismissal, transfer and retirement of civil servants. The rules are in the Danish Civil Servants' Act and the Danish Civil Servants' Pension Act. However, judges may not be transferred against their will. This is stated in Section 64.

**Subsection 3.** Other civil servants can be transferred to new positions, for example. But this must not result in their pay decreasing. If they are transferred, they must have the opportunity to choose between the new job or retirement.



## 04 Elections to Parliament

**Part four primarily deals with the rules for election to Parliament.**

### Section 28

Parliament is an assembly consisting of a maximum of 179 Members, two of whom are elected in the Faeroe Islands and two in Greenland.

### Section 28

Parliament may not consist of more than 179 Members. Two Members are elected in the Faeroe Islands and two in Greenland.

### Section 29

**Subsection 1.** Any Danish citizen who permanently resides in Denmark and has reached the electoral age stated in Subsection 2 shall be entitled to vote at general elections, unless the person in question has been declared legally incompetent. An Act determines the extent to which criminal convictions and the receipt of social security benefits, regarded in legislation as poor relief, should entail the loss of the right to be elected to Parliament.

**Subsection 2.** Electoral age is the age that was determined by a majority of votes in a referendum in pursuance of the Act of 25 March 1953. The electoral age applicable from time to time can be amended by an Act. A Bill passed by Parliament for such an Act can only be affirmed by the King when the provision on changing the electoral age in accordance with Section 42 (5) has been submitted to a referendum that does not result in the provision lapsing.

### Section 29

**Subsection 1.** It is necessary to be a Danish citizen to be eligible to vote in a general election. Permanent residence in Denmark is also a requirement. This makes it necessary to be registered with the national register in Denmark. However, there are exceptions for some Danes residing abroad. For example, people who work for the Danish Ministry of Foreign Affairs or have been posted abroad by a Danish authority, company or society are entitled to vote. This also applies to people who are living abroad for educational or health-related reasons. Furthermore, it is possible to retain the right to vote by signing a document stating an intention to return to Denmark within two years of leaving the country. The rules are laid down in Section 2 of the Danish Election Act.

People who have been declared legally incompetent are not entitled to vote. This could be due to mental illness or mental disability, for instance. However, people who receive financial assistance from a municipality or have been convicted of a crime no longer lose the right to vote.

Neither the Constitutional Act nor any other Act mentions anything about the Queen's or her family's right to vote. However, in practice the Queen and her family do not vote. Nor are they listed in the electoral registers.

**Subsection 2.** In 1953, electoral age was 23 years. Since then, the electoral age has been reduced three times and it is 18 years today. Two things are required to change the electoral age. First, Parliament must pass an Act to change it. The Bill must then be submitted to a referendum, in





which a majority must not vote against it. However, this majority must consist of at least 30 per cent of all voters.

Things do not always go as politicians wish. In 1969, politicians wanted to reduce the electoral age from 21 to 18 years of age. However, the Danish population did not want this – it voted against the proposal. It was only in a referendum in 1978 that Danes voted in favour of reducing the electoral age to 18.

### Section 30

**Subsection 1.** Anybody who has the right to vote can be elected to Parliament unless the person in question has been convicted of an act that, in the general opinion, has made him or her unworthy to be a Member of Parliament.

**Subsection 2.** Civil servants who are elected as Members of Parliament do not need the Government's permission to accept election.

### Section 30

**Subsection 1.** Anybody who has the right to vote can also become a Member of Parliament. However, they must not have been convicted of anything that, in public opinion, makes them unworthy to sit in Parliament. Parliament decides whether a convicted Member is also unworthy.

In practice, the conviction is used as a guideline. If a Member of Parliament receives a custodial sentence, he or she must usually resign from Parliament. For instance, this happened to the former leader of the Progress Party (Fremskridtspartiet), Mogens Glistrup. He was found guilty of tax fraud and went to prison. Parliament therefore

considered him to be unworthy to sit in Parliament and voted him out in 1983. When he had served his sentence, he stood for election and was re-elected to Parliament in 1987 and Parliament now found him worthy.

**Subsection 2.** Civil servants, who work in ministries for instance, can be elected to Parliament. They do not need the Government's permission first. This provision differs from provisions on this in the constitutions of many other countries, where civil servants may not be Members of Parliament.

### Section 31

**Subsection 1.** Members of Parliament are elected by ordinary, direct, secret elections.

**Subsection 2.** The detailed rules for exercising the right to vote are established by the Danish Election Act, which, in order to ensure equal representation of the various views among voters, stipulates the method of election, including whether proportional representation is to be used in connection with the elections in single-member constituencies or not.

**Subsection 3.** The population, the number of voters and population density must be taken into consideration in connection with the local distribution of seats.

**Subsection 4.** The Danish Election Act establishes detailed rules regarding the election of deputies and their entry into Parliament, as well as rules regarding the procedure in cases where second ballots may be necessary.

**Subsection 5.** Special rules concerning Greenland's representation in Parliament can be established by an Act.



### Section 31

**Subsection 1.** All voters must have the opportunity to vote in general elections. Voters must be able to vote direct for the candidates who are standing for election to Parliament. And nobody must be able to see where they place their crosses. People can obtain help to vote if they have problems with seeing or reading the ballot paper, for instance. The ballot is still regarded as secret even if the helper sees where the cross is placed.

**Subsection 2.** The Danish Election Act states how elections are to be held. The Danish Election Act is passed by Parliament, but the Constitutional Act makes various demands on it. The Danish Election Act must ensure that all political opinions are represented equally. This is done by using a special method of counting votes that is called proportional representation. With this method, parties are allocated seats in relation to how many votes they receive. If a party receives ten per cent of all of the votes cast, for instance, it will also get about ten per cent of the seats in Parliament.

**Subsection 3.** The number of inhabitants, the number of voters and population density must be taken into consideration when working out how the seats are to be distributed. This provision makes allowances for thinly-populated areas of the country. It means that fewer votes are required to be elected in Northern Jutland, for instance, than in Copenhagen.

**Subsection 4.** If a Member of Parliament is ill or is on leave for a period of time, a deputy is summoned. These rules are in Parliament's Standing Orders. If a Member resigns from Parliament or dies, his or

her seat is transferred to a deputy. These rules are in the Danish Election Act.

The Members of Parliament do not have personal deputies. Under the Danish Election Act, the deputy must be taken from among the candidates in the party who were not elected to Parliament. The person at the top of the list is normally chosen. The Danish Election Act also contains a few provisions on second ballots. However, they are of no great practical significance. There has not been a second ballot since 1918.

**Subsection 5.** In Greenland, the two members of Parliament are elected by direct election. However, the provision gives Greenlanders the opportunity to use indirect elections instead.

### Section 32

**Subsection 1.** Members of Parliament are elected for four years.

**Subsection 2.** The King can at all times call an election, with the effect that the existing seats in Parliament lapse when the election has taken place. An election cannot be called after the appointment of a new Ministry, however, until the Prime Minister has presented himself before Parliament.

**Subsection 3.** The Prime Minister is responsible for holding a new election before the expiry of the electoral period.

**Subsection 4.** Seats never lapse before an election has taken place.

**Subsection 5.** Special rules can be established by an Act that determines the commencement and termination of seats in Parliament held by Members for the Faeroe Islands and Greenland.



**Subsection 6.** If a Member of Parliament is no longer eligible to sit, his seat lapses.

**Subsection 7.** When his or her election has been approved, every new Member gives a solemn assurance that he or she will abide by the Constitution.

## Section 32

**Subsection 1.** There must be a general election at least every four years.

**Subsection 2.** The Prime Minister can call an election before the four years have passed. This is a great advantage for the Government. It means that the Prime Minister can call an election at the time that is best for his or her party. The Prime Minister cannot call an election immediately after he has formed a Government. He or she must first “present himself or herself” to Parliament. This means that he or she must attend a debate and outline his or her plans in Parliament.

**Subsection 3.** The Prime Minister must ensure that an election is held before the four years have passed.

**Subsection 4.** When an election is called, the Members of Parliament retain their seats. Their seats are valid until the election is over. This also applies to Members of Parliament who are not standing for re-election.

**Subsection 5.** There are special Election Acts for the Faeroe Islands and Greenland.

**Subsection 6.** If a Member of Folketing is declared unworthy to sit in Parliament, he or she loses his or her seat. This also occurs if he or she moves abroad permanently or is declared legally incompetent.

Read more about eligibility in Section 33.

**Subsection 7.** A Member of Parliament must solemnly promise that he or she will abide by the Constitutional Act. This is done by signing a declaration. Failure to do so means he or she cannot participate in debates or vote in Parliament. Nor may he or she be a member of a parliamentary committee. These rules are in Parliament’s Standing Orders.

## Section 33

Parliament itself decides the validity of its Members’ election and questions regarding whether a Member has lost his or her eligibility.

## Section 33

Parliament itself decides whether an election has taken place correctly. It is almost always the case that a few people complain about mistakes in connection with an election. Such complaints could be about mistakes in lists of candidates or mistakes in counting ballot papers. If there is a complaint about an election, Parliament must investigate the matter. A temporary committee is set up to assess what happened. This is called the Scrutineers’ Committee. If a mistake has been made, Parliament must decide what the consequences of this will be. First and foremost, Parliament must decide whether the mistake is so serious that the election should be declared invalid. However, in most cases, agreement can be reached that the mistake has no significance for the final election result.

Parliament also deals with issues regarding Members’ eligibility. A permanent committee has



been set up to investigate Members' affairs during the time between elections. It is called the Scrutineers' Committee. Members who lose their eligibility cannot retain their seats in Parliament. The current practice is that they are "unworthy" to sit in Parliament if they have received a custodial sentence. Read more about this in Section 30.

If the Scrutineers' Committee decides that a Member has lost his or her eligibility, it tables a motion that he or she should lose his or her seat. This motion is put to the vote in Parliament.

#### **Section 34**

Parliament is inviolable. Anyone who infringes its security or freedom and anyone who issues or obeys any order with this intention is guilty of high treason.

#### **Section 34**

Parliament is the country's supreme authority. Any act that threatens Parliament's security or freedom to make decisions is regarded as high treason. Under the Danish Penal Code, this may be punished with imprisonment for up to 16 years or life. Even in cases where people have been ordered to attack Parliament, they are not exempt from liability. If, for example, a soldier or a police officer receives such an order, he must refuse to obey it. Nor is it permitted to disturb the work of Parliament by demonstrating in the Chamber, for instance. However, those who do so will not be indicted for high treason. But it is illegal and usually results in the imposition of a fine.

## 05 The Work of Parliament



**Part five deals with legislation and the rules for the work of Parliament in particular.**

### Section 35

**Subsection 1.** A newly-elected Folketing assembles at midday on the twelfth weekday after the date of the election unless the King has convened a sitting beforehand.

**Subsection 2.** Immediately after the seats have been validated, Parliament constitutes itself by electing the President and Vice-Presidents.

### Section 35

**Subsection 1.** Parliament must assemble at midday on the twelfth weekday after an election. Weekdays are the same as working days. So in practice, the provision means that Parliament must be convened no later than 14 days after an election. However, the Government may convene Parliament for its first sitting before 14 days have passed. If Parliament is not convened immediately, it may be because it takes some time to work out the precise results of an election.

**Subsection 2.** The Scrutineers' Committee is appointed at the first sitting in Parliament. The second sitting begins with a vote. This vote determines whether Parliament approves the election of all Members of Folketing, unless the Scrutineers' Committee has any objections. The Committee is discussed in Section 33. Parliament's President and four Vice-Presidents are then elected. The President is elected by a vote in the Chamber, while the four Vice-Presidents are appointed by the four largest parties. However, the

votes of the President's party do not count in this connection. The President is usually elected in an uncontested election. This means that only one candidate is presented and there is no actual voting. The President and Vice-Presidents are elected after general elections and at the beginning of each sessional year.

### Section 36

**Subsection 1.** The sessional year begins on the first Tuesday in October and ends on the same Tuesday in the following year.

**Subsection 2.** Members convene at midday and Parliament constitutes itself again on the first day of the sessional year.

### Section 36

**Subsection 1.** A sessional year begins on the first Tuesday in October and ends on the same Tuesday in the following year.

**Subsection 2.** Parliament convenes automatically when the sessional year begins. The President and the Vice-Presidents are then elected, as mentioned in Section 35.

### Section 37

Parliament convenes at the seat of Government. In extraordinary cases, however, Parliament can convene elsewhere in the Kingdom.

### Section 37

Parliament must hold its sittings near the seat of Government. There must be a close link between Ministers and Parliament because the Ministers play



an important role in the work of Parliament. They provide Members of Parliament with information and explanations. They take various initiatives in connection with Bills for new Acts or amendments to Acts, for instance. And they also implement Parliament's resolutions. Therefore, the Constitutional Act is largely based on the assumption that Ministers are personally present in Parliament. Read more about this in Section 40.

Situations may arise in which Parliament is unable to follow the Government, if the Government and Parliament are separated due to war or occupation, for instance. Therefore, the provision states that Parliament may convene elsewhere. But only in very special cases.

### Section 38

**Subsection 1.** The Prime Minister gives an outline of the general position of Denmark and of the measures the Government intends to take at the first sitting of the sessional year.

**Subsection 2.** A general debate takes place on the basis of this outline.

### Section 38

**Subsection 1.** The Prime Minister must deliver a speech at the first sitting of Parliament in October. He or she must provide an account of the Government's plans for the coming year in this speech. He or she must say which Bills and reforms the Government would like to pass. This speech is called the opening speech or the King's Speech. The latter is an old expression from the time when the King made the opening speech.

**Subsection 2.** When the speech has been delivered, it is debated. The President of Parliament has a duty to place the account on the agenda. The political debate may well last several days, and the parties in Parliament must have an opportunity to express their opinions on the Government's account. If a majority of Members of Parliament is unable to support the Government's plans, this can bring down the Government. Read more about this in Section 15. The Constitutional Act refers to the debate as a "general debate". This means that there are no limits on the subjects that may be raised.

### Section 39

The President of Parliament convenes a sitting of Parliament by announcing the agenda. The President has a duty to convene a sitting when at least two-fifths of the Members of Parliament or the Prime Minister submit a written request for a sitting accompanied by an agenda.

### Section 39

The President of Parliament convenes sittings of Parliament. He must also ensure that an agenda for the sitting is forwarded to Members. An agenda determines the subjects that can be discussed at the sitting. However, the President must also convene a sitting if two-fifths of the Members of Parliament submit a written request to this effect. This is equivalent to 72 Members. They must also have drawn up an agenda explaining the object of the sitting. The Prime Minister has the same right, but he or she must also give the President an agenda.



### Section 40

In their official capacity, Ministers have access to Parliament and are entitled to demand leave to speak during debates as often as they wish, provided they observe the Standing Orders. They have a right to vote only if they are also Members of Parliament.

### Section 40

This provision gives Ministers the right to participate in both open and closed sittings in the Chamber of Parliament. However, it does not give them the right to attend committee meetings. Ministers are not always elected Members of Parliament. Nevertheless, they are entitled to participate in sittings. They may also demand to speak in Parliament. A Minister is entitled to vote only if he or she is also an elected Member of Parliament.

When Parliament debates a proposal, the Minister whom the proposal concerns is nearly always present in the Chamber. This is true regardless of whether the proposal has been submitted by a Member of Parliament or the Government.

A Minister is also present in the Chamber of Parliament during question time and interpellation debates. The only exception is when Parliament debates subjects that only concern Parliament, for example elections to parliamentary committees or amendments to Parliament's Standing Orders.

### Section 41

**Subsection 1.** All Members of Parliament are

entitled to introduce Bills and proposals for other resolutions.

**Subsection 2.** A Bill cannot finally be passed until it has been read three times in Parliament.

**Subsection 3.** Two-fifths of the Members of Parliament may submit a request to the President that the third reading take place no earlier than twelve weekdays after the Bill has been passed at the second reading. The request must be in writing and signed by the participating Members. However, there can be no postponement of bills for Finance Acts, supplementary estimates, temporary appropriation Acts, Government loan Acts, Acts concerning the granting of citizenship, Acts concerning expropriation, Acts concerning indirect taxes and, in urgent cases, Bills for Acts, the commencement of which cannot be postponed due to the purpose of the Act.

**Subsection 4.** In the event of a general election and at the end of the sessional year, all Bills and proposals for other resolutions that have not already been finally passed lapse.

### Section 41

**Subsection 1.** Normally, it is the Government that takes the initiative for a new Act. However, under Section 41, all Members of Parliament may propose Acts and motions for parliamentary resolutions.

**Subsection 2.** A Bill must be read three times in Parliament before it can be passed. At the first reading, the Members of Parliament discuss the Bill in broad terms. The Government and Members of Parliament are entitled to propose amendments to a Bill, and Members decide on the proposed



amendments at the second reading. At the third reading, Members vote on the Bill as a whole.

**Subsection 3.** If 72 members so desire, they can request that the third reading be postponed. They can demand that the third reading take place no earlier than “twelve weekdays” after the second reading. This is the same as 12 working days. However, they must ask the President of Parliament for the postponement in writing. But the right to request postponement does not apply to all Bills.

Members are not entitled to request postponement when the debate concerns Finance Acts, supplementary estimates and temporary appropriation Acts or Bills concerning Government loans, citizenship, expropriation and indirect taxes. Expropriation means that the State seizes citizens' private property in return for compensation. Indirect taxes include VAT and duties on goods. Nor is it possible to request postponement if it is very important that an Act enter into force at a specific time.

**Subsection 4.** A Bill must have been passed before the first Tuesday in October, when a new sessional year begins. Otherwise it lapses. The same applies in the event of a general election. This provision is included to clear things up before a new sessional year begins.

## Section 42

**Subsection 1.** When a Bill has been passed by Parliament, within three weekdays of the final passing of the Bill, one-third of the Members of Parliament can ask the President for a referendum on the Bill. The request must be in writing and

signed by the participating Members.

**Subsection 2.** A Bill that can be subjected to a referendum, cf. Subsection 6, can be affirmed by the King before the expiry of the deadline stated in Subsection 1 or before the referendum requested has taken place, only in the case mentioned in Subsection 7.

**Subsection 3.** When a referendum on a Bill has been requested, within a deadline of five weekdays before the Bill is finally passed, Parliament can decide that the Bill shall lapse.

**Subsection 4.** If Parliament does not make a decision in pursuance of Subsection 3, notice that the Bill will be examined by referendum must be given to the Prime Minister as soon as possible and he or she subsequently has the Bill published with notice that a referendum will take place. A referendum can be held in accordance with the Prime Minister's decision no earlier than twelve and no later than eighteen weekdays after the announcement.

**Subsection 5.** Voters vote for and against the Bill in the referendum. For a Bill to lapse, it is necessary for a majority of the parliamentary electors participating in the referendum and at least 30 per cent of all those entitled to vote, to vote against the bill.

**Subsection 6.** Bills for Finance Acts, supplementary estimates, temporary appropriation Acts, Government loan Acts, Acts fixing the number and salaries of Government servants, wages and salaries Acts, pension Acts, Acts concerning the granting of citizenship, Acts concerning expropriation, Acts concerning direct and indirect taxes and Acts for the implementation of existing treaty obligations





cannot be the subject of referendums. The same applies to Bills for the Acts discussed in Sections 8, 9, 10 and 11 and any resolutions stated in Section 19 which may be in statutory form unless it is decided by a special Act that such a referendum is to take place for the latter. The rules in Section 88 apply to amendments to the Constitutional Act.

**Subsection 7.** In especially urgent cases, a Bill that can be the subject of a referendum can be affirmed by the King immediately after it has been passed if the Bill contains a provision to this effect. If, in pursuance of Subsection 1, one-third of the Members of Parliament request a referendum on the Bill or the affirmed Act, such a referendum is held according to the rules outlined above. If the Act is rejected in the referendum, this is announced by the Prime Minister without undue delay and no later than fourteen days after the referendum was held. The Act lapses from the date of the announcement.

**Subsection 8.** Detailed rules on referendums, including the extent to which they are to take place in the Faeroe Islands and in Greenland, are established by an Act.

## Section 42

This Section is the longest in the Constitutional Act, and it deals with the right to submit Bills to a referendum. It protects a large minority from being outvoted by a narrow majority.

**Subsection 1.** If an Act is passed, a minority can prevent it from entering into force immediately. The minority can demand that the Bill be submitted to a referendum. And if a majority of the population opposes the Act, the Bill cannot be enacted.

The minority must consist of at least 60 Members of Parliament, and they must act rapidly. A maximum of three working days may elapse after the Bill has been passed before the Members submit a written request for a referendum. The request and the signatures must be submitted to the President of Parliament.

**Subsection 2.** An Act does not enter into force until it has been signed by the Queen. However, she may only sign an Act before three working days have passed in very special cases. The minority must have a real opportunity to request a referendum. Nor may the Queen sign an Act if a referendum has already been requested.

**Subsection 3.** If the minority has requested a referendum, the majority can cancel the Bill. It can withdraw the Bill even if the Act has actually been passed. The majority must simply do so within five working days of the Act being passed. It may appear odd that politicians should be willing to withdraw an Act that they have just passed. However, this is a very good lifeline. This is because losing a referendum is a problem in political terms. And the majority may be so concerned they will lose the referendum that they prefer to withdraw the Bill. This gives them an opportunity to postpone the Bill or implement it in amended form, for instance.

**Subsection 4.** The Prime Minister must call a referendum if Parliament does not withdraw the Bill. He or she decides when it will be held. However, it must be held within 12-18 working days after he or she has called the referendum, published the Bill and given notice that it will be subject to a referendum.



**Subsection 5.** The rules for voting are described below. Voters must vote for or against the Bill. And the Bill will only be rejected if a majority votes against it. This majority must consist of at least 30 per cent of all voters. Invalid votes do not count.

**Subsection 6.** This is the provision on the exceptions in Section 42 that describes all of the Acts that cannot be submitted to a referendum. In general, Acts dealing with taxes, finances and foreign policy matters cannot be submitted to a referendum. The public cannot vote against a Finance Bill, for instance. Nor can the public vote on the State expropriations mentioned in Section 73, which entitle the State to acquire people's property if it is in the "public" interest.

However, some foreign policy matters can be submitted to a referendum. If a majority of Parliament so decides, an Act passed under Section 19 can be submitted to a referendum. But Parliament must first pass an Act to the effect that the resolution must be submitted to a referendum. This option was used for the first time when the Maastricht Treaty was submitted to a referendum for the second time in 1993.

**Subsection 7.** In very special cases, the Queen can sign an Act immediately after it has been passed in Parliament. In this connection, a special guarantee has been introduced for the minority. Sixty Members can request a referendum on the Act even if it has actually been affirmed. This is done in accordance with the same rules described in Subsections 1 and 5. The Act must be withdrawn if it is rejected by the public. The Prime Minister does this by publishing

the result of the referendum no later than 14 days after it has been held.

**Subsection 8.** Politicians are responsible for establishing the rules for referendums by an Act. They must also establish the rules for referendums in the Faeroe Islands and in Greenland. In principle, referendums can be held in the Faeroe Islands and Greenland on dates other than those they are held in Denmark. However, Parliament has passed an Act stipulating that referendums must be held at the same time if the subject affects all three countries.

### Section 43

No tax may be imposed, changed or abolished except by an Act; nor may troops be conscripted or Government loans raised except in pursuance of an Act.

### Section 43

Parliament has the sole right to determine Danish taxes, duties and Government loans. This is one of Parliament's major powers and the Government cannot be entrusted with it. Section 43 stipulates that matters relating to taxes, duties and Government loans can only be passed by an Act. And, of course, it is Parliament that passes Acts. This provision ensures the democratic control and supervision of taxation.

Section 43 also stipulates that Parliament decides how many soldiers can be called up.

### Section 44

**Subsection 1.** No foreigner may receive citizenship except by an Act.



**Subsection 2.** Rules concerning foreigners' rights to become owners of real property are established by an Act.

#### Section 44

**Subsection 1.** A foreigner may only become a Danish citizen if an Act is passed to that effect. The Government or another authority cannot simply grant Danish citizenship to a foreigner on its own initiative. Nor can they determine the rules for when a person may become a Danish citizen. Nevertheless, the current Act states that, in certain situations, a person automatically becomes a Danish citizen.

The Act relating to citizenship also contains rules to the effect that a person can acquire Danish citizenship by making a declaration. However, there are a number of conditions that must be met first. Otherwise a person can only become a Danish citizen by an Act. The practical procedure is that the Minister for Refugee, Immigration and Integration Affairs submits a Bill proposing that a number of people will receive Danish citizenship. Before this, it will have been established whether the people in question also fulfil the conditions for becoming Danish citizens. The Bill is subsequently passed by a vote in Parliament.

**Subsection 2.** Foreigners cannot simply buy land and property in Denmark. This is laid down in an Act from 1959 which still applies – with certain amendments. The Act requires the person to have permanent residence in Denmark or have lived in Denmark for at least five years before he or she may buy land. If this is not the case, the person must

have obtained permission from the Ministry of Justice in order to buy property.

However, there are certain exceptions for EU citizens and citizens of the old EFTA states that are still not members of the EU. They are Norway, Iceland, Switzerland and Liechtenstein.

If a foreigner wishes to buy a holiday house in Denmark, he or she must obtain permission from the Ministry of Justice. This will only be granted if the person in question has particularly strong ties to Denmark.

#### Section 45

**Subsection 1.** A Finance Bill (budget) for the coming financial year must be presented to Parliament no later than four months before the beginning of the financial year.

**Subsection 2.** If the budget reading for the coming financial year cannot be completed before the beginning of the financial year, a Bill for a provisional appropriation Act must be submitted to Parliament.

#### Section 45

**Subsection 1.** A Finance Act is a budget for State revenue and expenditure. The Finance Act determines how much money the State may spend.

The Finance Act applies for a year at a time, what is known as a financial year. Since 1979, the financial year has followed the calendar year. The budget must be presented no later than four months before the beginning of the next financial year. This means that the budget must be presented by 1 September. It must subsequently be presented again in October. This is stipulated in Section 41 (4).



**Subsection 2.** If Parliament has not completed its reading of the budget by the New Year, it can pass a provisional appropriation Act to cover essential expenditure. This applies until the Finance Act is passed. This provision was used, for example, in December 2007 because a general election delayed the reading of the budget for 2008.

#### **Section 46**

**Subsection 1.** Taxes may not be levied before the Finance Act or a provisional appropriation Act has been passed by Parliament.

**Subsection 2.** There must be no expenditure that is not authorised by the Finance Act passed by Parliament or by an Act that embodies Supplementary Estimates or a provisional appropriation Act passed by Parliament.

#### **Section 46**

**Subsection 1.** The State may not levy taxes or duties unless Parliament has passed a Finance Act or a provisional appropriation Act.

**Subsection 2.** Nor may any money be spent before Parliament has appropriated it. This can be done via the Finance Act, a provisional appropriation Act or an Act that embodies Supplementary Estimates. The latter is an Act concerning expenditure that is not included in the Finance Act itself.

In practice, however, the provision has been amended to a certain extent. A Minister can authorise expenditure that has not been appropriated in the Finance Act. But he or she must first obtain permission from a special parliamentary

committee; the Finance Committee. Subsequently, the expenditure must be included in an Act that embodies Supplementary Estimates that must be passed by Parliament. The Minister may therefore authorise the expenditure lawfully if the Finance Committee has given him or her permission to do so. This can also be done if it subsequently proves to be the case that a majority in Parliament is not in favour of the appropriation.

#### **Section 47**

**Subsection 1.** Public accounts must be submitted to Parliament no later than six months after the end of the financial year.

**Subsection 2.** Parliament elects a number of auditors. These auditors examine the annual public accounts to ensure that all State revenues have been entered and that there has been no expenditure that has not been authorised by the Finance Act or another appropriation Act. The auditors can demand all of the necessary information and documents. The detailed rules for the number of auditors and their activities are established by an Act.

**Subsection 3.** The public accounts with the auditors' comments are submitted to Parliament for a resolution.

#### **Section 47**

**Subsection 1.** Public accounts of all expenditure and revenue must be presented to Parliament no later than six months after the end of the financial year.



**Subsection 2.** Parliament elects a number of auditors of public accounts. There must be at least four and at most six auditors of public accounts. At present, Parliament has elected six. The auditors can be Members of Parliament, and often are. They need not necessarily be trained accountants. The auditors must examine the public accounts. They must check whether the accounts have been kept correctly and whether there is an appropriation authorising all of the money spent by the State. The auditors of public accounts are assisted in their examination of the accounts by an Auditor-General. He is independent and employed by Parliament. He is not a Member of Parliament.

**Subsection 3.** When the auditors have examined the accounts, they write down their comments and give them to the Members of Parliament. The accounts must then be subjected to a vote in Parliament. In practice, the final annual accounts are approved without reservation. However, during the year, the auditors of public accounts issue a number of critical reports on specific cases. These could include IT projects, the administration of appropriations for the State, special subsidy schemes or major public building projects.

#### **Section 48**

Parliament establishes its own Standing Orders that contain provisions dealing with procedure and the maintenance of order.

#### **Section 48**

Parliament must work in accordance with specific

rules if it is to function properly. These rules are contained in what are known as the Standing Orders that Parliament has passed. They contain rules on the conduct of Parliament, how sittings are to proceed and how votes are to be held, among other matters. They also include provisions on the administration of Parliament. There are also rules governing the behaviour of visitors in the Chamber of Parliament. It is a tradition that Parliament adopts new Standing Orders each time the Constitutional Act is amended. Many of the rules have been amended over the years, but some remain the same as they have always been. Some date all the way back to Parliament's first Standing Orders. They were adopted on 11 February 1850.

#### **Section 49**

Sittings of Parliament are public. However, the President or the number of Members specified in the Standing Orders or a Minister may demand that all unauthorised persons be removed from the Chamber, after which a decision is made without a debate as to whether the matter is to be debated in a public or closed sitting.

#### **Section 49**

People can freely attend sittings in the Chamber of Parliament. However, the President of Parliament, a Minister, or 17 Members can propose that a matter be debated behind closed doors. A decision is then made by an ordinary vote in Parliament. It is very rare for Parliament to hold sittings behind closed doors. The last time this happened was in 1924. It involved



a dispute between Norway and Denmark about East Greenland. Parliament chose to open the second reading behind closed doors.

Debates in Parliament and a number of open sittings are shown live on TV and the Internet. All the minutes of debates, proposals, committee reports, etc., must be published on one of Parliament's web sites. The official versions of the documents can be found at [www.folketingstidende.dk](http://www.folketingstidende.dk). The documents can also be found at [www.folketinget.dk](http://www.folketinget.dk).

### **Section 50**

Parliament can only pass a resolution when more than half of the Members are present and participate in the vote.

### **Section 50**

At least 90 Members of Parliament must be present before Parliament can vote on Acts and other resolutions. They have three options. They can vote for, against, or abstain from voting.

### **Section 51**

Parliament can set up commissions from among its Members to investigate matters of public importance. The commissions are entitled to demand written or oral information from private citizens and from public authorities.

### **Section 51**

Parliament can set up what is known as a Parlia-

mentary Commission to investigate an important matter. A Parliamentary Commission comprises Members of Parliament. This opportunity is not employed very frequently. Parliamentary commissions have been set up only five times since 1849. The first three commissions were set up to clarify various issues concerning legislation. The last two were set up to investigate whether there was a basis for instituting proceedings against various Ministers.

The most recent Parliamentary Commission was set up in June 1945 at the end of the German occupation of Denmark. This commission was set up to investigate various states of affairs during the occupation. On the basis of its findings, Parliament had to consider whether any Ministers should be held responsible for what had happened. There have been no Parliamentary Commissions since the Constitutional Act was amended in 1953. Instead, the Government and Parliament have often appointed judges to investigate "cause célèbres".

### **Section 52**

Parliament elects members for commissions and assignments on a proportional basis.

### **Section 52**

Parliament elects members for commissions and committees on a proportional basis. This means that the seats on the various committees are distributed according to the number of seats held by the parties. Most of Parliament's committees have 17 members. If a party has ten seats in



Parliament, for instance, it will normally have one Member on each committee. A party with 20 seats will normally have two Members on each committee, and so on.

However, a party with few seats can obtain a little more influence by entering into an electoral pact with another party. The two parties are then treated as a single party when the number of committee seats is calculated. A party with 15 seats, for instance, will only have one Member on each committee if it stands alone. However, if it enters into an electoral pact with another party with 15 seats, the two parties collectively obtain three places on each committee.

### Section 53

With Parliament's consent, all Members of Parliament are entitled to submit any public matter to a debate and demand that a Minister provide an account of it.

### Section 53

In pursuance of Section 40, Ministers have access to Parliament even if they are not Members of Parliament. Section 53 entitles Members of Parliament to demand information and explanations from Ministers. This debate is called an interpellation debate, and the Minister has a duty to give an answer. It is true that Parliament must agree to an interpellation debate being held. But it has only refused to agree to such a debate in very few cases.

It is also possible to ask a Minister questions during

parliamentary debates or during question time on Wednesdays. Questions to a Minister are not the same as an interpellation debate. They need not be approved by Parliament and the Minister has no duty to reply. A request can be made for questions to be answered orally or in writing. Oral replies are given during Parliament's question time on Wednesdays. There cannot be debates on questions, nor can resolutions be passed on questions.

A special question hour was also introduced during the 1997-98 sessional year. This makes it possible for Members to put questions to those Ministers who are present. And replies are given immediately. In advance of the meeting, the Prime Minister states which Ministers will attend question hour to answer questions. The number of interpellation debates and questions to Ministers has increased considerably over the past twenty years. These debates and questions make it possible for Members of Parliament to keep a check on the Government and the individual Ministers.

### Section 54

Petitions may only be forwarded to Parliament by one of its Members.

### Section 54

If a member of the public wishes Parliament to debate a specific subject or a specific matter, he or she must contact a Member of Parliament to have it placed on the agenda. The President of Parliament can then refer the matter to a specific committee.



This provision is not used very frequently. If individuals or organisations want to exert influence on legislation, they usually go direct to a party group or to one of Parliament's committees. They can also try to persuade a Member of Parliament to put a question to a Minister, for example.

### Section 55

An Act establishes that Parliament elects one or two people who are not Members of Parliament to supervise the State's civil and military administration.

### Section 55

Parliament can elect one or two people to look into complaints about public administration. However, Parliament has decided to elect only one person to do this. This person is called an Ombudsman, and he or she may not be a Member of Parliament. Members of the public can lodge a complaint with the Ombudsman if they think that a Ministry or a municipality has made an incorrect decision, for instance.

The Ombudsman cannot look into complaints of all types. It is not possible to complain about an Act passed by Parliament, for instance. Nor is it possible to complain about a decision made by a Court. The first Ombudsman was elected in 1955.

### Section 56

Members of Parliament are bound solely by their convictions and not by any directions from their electors.

### Section 56

The Constitutional Act establishes that Members of Parliament are independent. They may vote freely according to their convictions. They have no duty to take what their party or electors say into consideration. Nor do they need to fulfil the promises they have made to electors in an election campaign, for example.

A Member of Parliament is also entitled to change his or her opinion and party. A Member can resign from his or her party and become an independent Member.

Once elected to Parliament, a Member cannot lose his or her seat before the next general election unless he or she has done something illegal and is considered unworthy to sit in Parliament. Read more about this in Sections 30 and 33.

On the other hand, Section 56 does not prevent a Member of Parliament from submitting to party discipline. This is the path chosen by the great majority. It is unpleasant to go against the majority in one's own party group – and it will often amount to political suicide. A Member's re-election depends on whether the party wants him or her to stand as a candidate again. Therefore, most Members of Parliament vote in the same way as the rest of the party group.

### Section 57

Without the consent of Parliament, no Member can be charged or subjected to imprisonment of any kind unless he or she is caught red-handed. Without





the consent of Parliament, no Member can be held responsible for his or her statements in Parliament outside Parliament.

### Section 57

A Member of Parliament cannot simply be brought before a court in a criminal case or be imprisoned. Parliament must first consent to criminal proceedings being brought against the Member in question. This is done by means of a special vote. The provision was introduced to protect Members of Parliament against arbitrary persecution by the Government. However, this protection applies only for as long as a person is a Member of Parliament. Once a person is no longer a Member, he or she may be prosecuted for matters that took place while he or she was a Member of Parliament.

There is a single exception. If a Member of Parliament is caught “with his or her fingers in the till” – i.e. red-handed, he or she may be brought before a court or imprisoned without further ado. Members of Parliament can be sentenced to pay small fines – for speeding, for instance – without the consent of Parliament. But only if the Member pays the fine voluntarily. In practice, however, Parliament always allows a Member to be charged or imprisoned.

The Constitutional Act also gives Members of Folketing an extended form of freedom of expression when they speak in Parliament. Actions for slander, for example, cannot be brought against Members for things they have said in Parliament without the permission of Parliament. Parliament's

practice in such cases is the opposite of that mentioned above. Parliament never gives permission for proceedings of this type.

### Section 58

Members of Parliament receive remuneration, the amount of which is fixed by the Election Act.

### Section 58

Parliament itself fixes the salary Members of Parliament receive. This is established in the Election Act. Up to 1920, Members received remuneration based on a specific amount per sitting day. This is no longer the case. Today, Members of Parliament receive a fixed monthly salary. This consists of a basic remuneration and an expense allowance. The basic remuneration is equivalent to the salary earned by a civil servant in grade 51, which is DKK 592,911 per annum (as at October 2010). The expense allowance of DKK 56,718 per annum (as at October 2010) is to cover the expenses incurred by Members of Parliament in connection with their work. It is tax-free.

Members who live outside Copenhagen also receive an allowance for supplementary housing in the Copenhagen area; a maximum of DKK 96,377 a year (as at October 2010). Members elected in Greenland and the Faeroe Islands receive an extraordinary expense allowance of DKK 75,623 a year (as at October 2010).

Members of Parliament also receive supplementary remuneration if they leave Parliament at a general



election or in the event of illness. The fee is equivalent to the basic remuneration and is paid for 12-24 months after they leave Parliament.

Finally, they are entitled to a pension, spouse's pension and children's pension that are roughly equivalent to what a civil servant receives. The maximum pension is received by people who have been Members of Parliament for 20 years, and the pension is paid from the age of 60.

## 06 The Courts



**Part six deals with the Courts.**

### Section 59

**Subsection 1.** The Court of Impeachment (Rigsretten) consists of up to 15 of the most senior ordinary members of Denmark's highest Court, according to length of service, and an equivalent number of members elected by Parliament on a proportional basis for six years. One or more deputies are elected for each of the members elected. Members of Parliament may not be elected to or act as members of the Court of Impeachment. If, in an individual case, any of the members of the highest Court cannot participate in the hearing and judgement of a case, an equivalent number of the members of the Court of Impeachment most recently elected by Parliament withdraw.

**Subsection 2.** The Court elects its Chairman from among its members.

**Subsection 3.** If a case is brought before the Court of Impeachment, the members elected by Parliament retain their seats in the Court for this case even if the period for which they were elected expires.

**Subsection 4.** More detailed rules on the Court of Impeachment are established by an Act.

### Section 59

The Court of Impeachment is the special Court that hears cases against Ministers. This is mentioned in Section 16 of the Constitutional Act. Section 59 deals with the way in which the Court of Impeachment is to be composed.

**Subsection 1.** The Court of Impeachment consists

of a maximum of 15 judges from the Supreme Court (Højesteret) and the same number of members elected by Parliament.

The intention is that the members elected by Parliament can ensure that expert political knowledge is also available in cases brought against Ministers. The members of the Court of Impeachment elected by Parliament must not be Members of the Folke-

ting and they are elected for six years at a time.

The professional judges of the Court of Impeachment are the 15 judges from the Supreme Court who have served longest as Supreme Court judges.

Parliament can decide that there will be fewer judges and political members of the Court of Impeachment in an Act. However, there may be a maximum of 15 of each, so that the Court of Impeachment has a total of 30 members. It is very important that there are equal numbers of each. If one of the Supreme Court judges is prevented from being present during a case, for example, one of the members elected by Parliament must also withdraw. In the impeachment of the former Minister for Justice, Erik Ninn-Hansen, in 1993-95, the Court of Impeachment initially consisted of 24 members. However, some withdrew so on the conclusion of the case there were only 20 members.

**Subsection 2.** The Court of Impeachment elects its own Chairman. During the impeachment of the former Minister for Justice, Erik Ninn-Hansen, the President of the Supreme Court was the Chairman of the Court of Impeachment.

**Subsection 3.** The members elected by Parliament cannot be replaced in the middle of a case, even if



their electoral period expires.

**Subsection 4.** Parliament has passed an Act establishing the rules for the Court of Impeachment. It is called the Court of Impeachment Act.

#### **Section 60**

**Subsection 1.** The Court of Impeachment decides cases brought against Ministers by the King or Parliament.

**Subsection 2.** With Parliament's consent, the King can also have proceedings brought before the Court of Impeachment against other people for offences that he finds particularly endangering for the State.

#### **Section 60**

**Subsection 1.** Both the Government and Parliament may decide whether proceedings should be taken against a Minister in the Court of Impeachment.

**Subsection 2.** A case can also be brought before the Court of Impeachment against other people if the Government and Parliament consider that the offence endangers the State. However, this provision has never been made use of.

#### **Section 61**

The exercise of judicial power can only be regulated by an Act. Special Courts with judicial authority cannot be established.

#### **Section 61**

An Act is required to regulate the affairs of Courts. The rules for this are laid down in the Administration of Justice Act, which contains more than 1,000

Sections. Under no circumstances may a special Court be established with the power to pass judgement. A special Court is a Court established to hear a single, specific case. The Court must therefore hear a case that is known before the judge is appointed. This is a problem because the Government may have an interest in choosing a judge who has a particular attitude to the case. Therefore, the Constitutional Act says that a special Court may not pass judgement. It may only examine a case.

#### **Section 62**

The administration of justice must always be kept separate from the public administration. Rules on this are established by an Act.

#### **Section 62**

This Section states that the Courts must be independent of the Government and the public administration. This is closely connected to Section 3 of the Constitutional Act, which concerns the tripartite division of power.

The Courts come under the Ministry of Justice, but an Act was introduced on a special Courts Agency in 1998. The Act is called the Courts Agency Act. The Agency has its own budget and is administered independently of the Ministry of Justice.

Section 62 could easily be interpreted to mean that the same people may not work for the public administration and the Courts. However, the Section is not interpreted in this way.



Many judges also work as chairmen of various public complaints boards that handle citizens' complaints about State decisions, for instance.

### Section 63

**Subsection 1.** The Courts are entitled to pass judgement on any matter relating to limitations on the powers of public authorities. However, anyone wishing to raise such matters cannot avoid temporarily complying with orders issued by the public authorities by bringing them before the Courts.

**Subsection 2.** An Act states that the judgment of matters relating to limitations on the powers of public authorities can be referred to one or more administrative Courts, the decisions of which must, however, be examined by the highest Court in Denmark. More detailed rules on this are established by an Act.

### Section 63

**Subsection 1.** "Powers of public authorities" refers to the executive power. These are ministries, municipalities, special boards, etc. If a member of the public considers that the State or a municipality, for example, has done something wrong, he or she can bring the matter before a Court. While the case is being heard, however, he or she must comply with what the State or municipality has decided. The Court case has no 'delaying effect', however. This provision goes right back to the first Constitutional Act of 1849. At the time, it was important to establish that it was possible to bring proceedings against the administration without the King's

consent. Under autocracy it was not possible to bring proceedings against the administration (in reality the King) without first obtaining the King's consent.

**Subsection 2.** Parliament can establish special administrative Courts to hear cases against the public administration. This could be relevant if politicians wanted to ensure that the judges had specialised expert knowledge of administrative matters, for instance. However, decisions made by an administrative Court must always be brought before the Supreme Court. This provision was inserted when the Constitution was most recently amended in 1953. However, no administrative Court has yet been established.

### Section 64

In their vocation, judges must abide solely by the law. They cannot be dismissed except by a judgement, nor may they be transferred against their wishes except in the event of a reorganisation of the Courts. However, a judge who has reached 65 years of age can be dismissed, but without loss of income until the time at which he would have been dismissed due to his or her age.

### Section 64

Judges must solely be guided by the contents of Acts. The Government or Parliament may not decide how a judge is to pass judgement. And judges may not let themselves be influenced by others, whether they be private individuals, colleagues, associations, etc. Nor can the Government dismiss a judge. Only another judge can do so.



If the Government could simply dismiss a judge, the Courts would not be independent. In such a case, pressure could be brought to bear on a judge in a specific case by threatening him with dismissal. For the same reason, judges cannot be transferred to other work unless they wish to be transferred. By means of an Act, however, it is possible to create new Courts or merge several Courts. If this happens, a judge cannot refuse to be transferred or dismissed. Judges can be dismissed when they reach 65 years of age. But they must still receive full pay until they reach 70 years of age. Only then must a judge retire due to age. Subsequently, he or she is eligible for a civil servant's pension.

### Section 65

**Subsection 1.** Proceedings are public and oral to the greatest possible extent in connection with the administration of justice.

**Subsection 2.** Laymen must participate in the administration of criminal justice. An Act establishes which cases will be involved and which forms this participation will take, and includes cases in which jurors must participate.

### Section 65

**Subsection 1.** As far as possible, legal proceedings must be open to the public. People must be able to attend trials and the press must be able to write about them. Nevertheless, there are a number of exceptions to this basic rule. They are contained in the Administration of Justice Act. For example, a judge can decide that a case will be heard in camera. This is usually

done out of consideration for the victim or the accused. And it happens fairly frequently.

A judge can also decide to impose a ban on reporting a case or on revealing names. This means that the press cannot report from the courtroom or publish the names of the victim or the accused. This also happens fairly frequently. A case can also be heard in camera out of consideration for its further investigation.

**Subsection 2.** It is not only judges with legal training who pass judgement in criminal cases. In pursuance of the Constitutional Act, members of the public must also be present as judges. They are called laymen. This principle was introduced in 1849 because the legal system had functioned poorly during the last years of autocracy. There was a tendency for the Courts to come down very hard on the accused in connection with cases of a political nature. People who were critical of the Government often received very severe sentences. Although the principle of laymen was introduced in 1849, it was first implemented in 1919 in the Administration of Justice Act.

It is up to Parliament to decide how laymen are to function. This is done by means of legislation. Laymen appear in Court in two different capacities: as lay assessors and as jurors.

In a case involving lay assessors, there are two "civil" lay assessors and one professional judge if the case is heard in a District Court. In the High Court, there are three civil lay assessors and three professional judges. They hear cases of a less serious nature. These could deal with theft, for instance, where the



accused has pleaded not guilty and the prosecution wishes the accused to be sentenced to less than four years in prison. The lay assessors and the professional judges decide jointly whether the accused is guilty or not. They also mete out the punishment jointly.

All cases tried before a jury begin in the District Court. Jurors appear in cases in which the Prosecution believes that the accused should be sentenced to four years' imprisonment or more. Cases of this kind include murder and robbery. In such cases, there are six jurors (lay assessors) and three professional judges. At least four jurors and two professional judges must believe it has been proved that the accused is guilty. If the accused is found guilty, the jurors and professional judges jointly mete out the sentence. The accused is then entitled to appeal. If the accused decides to appeal, the case will be tried in the High Court as a jury trial with nine jurors and three professional judges. The votes of at least six jurors and two professional judges are necessary to find the accused guilty.



## 07 The Evangelical-Lutheran Church of Denmark

### Part seven with the Evangelical-Lutheran Church of Denmark (Folkekirken).

#### Section 66

The Constitution of the Evangelical-Lutheran Church of Denmark is regulated by an Act.

#### Section 66

This provision goes right back to the first Constitutional Act of 1849, but has never been implemented. The idea then was that the Church should have a more independent role in relation to the State. However, an agreement on a Church Constitution proper has never been arrived at. Instead, Acts have been passed that give members of the Evangelical-Lutheran Church of Denmark influence on the government of the Church via parochial church councils. There are also laws governing the way in which priests are appointed, how bishops are elected, the way in which churches are used, and the finances of the Evangelical-Lutheran Church. However, many matters relating to the Church are decided by the Minister for Ecclesiastical Affairs.

#### Section 67

Members of the public are entitled to associate in communities to worship God according to their convictions, but nothing may be taught or done that contravenes decency or public order.

#### Section 67

People are under no obligation to be members of the Evangelical-Lutheran Church of Denmark. They may worship their God as they will. We have religious

freedom. People are also entitled to hold divine services or to pray as they will. However, they must observe the rules that apply elsewhere in society, and cannot simply build a church or a mosque, for instance. This must first be approved by the municipality, just like all other building projects. And if people want to hold a procession through town, for instance, they must inform the police in advance. They must also respect the rules that apply in various places.

An instance of this was a man who was expelled from a vocational training centre because he knelt to pray on the floor of the canteen and in the bathroom at the centre. The school forbade him to say his prayers in communal areas. Instead he had to use classrooms, workshops, etc. When he continued to pray in the communal areas of the school, he was expelled. The case was heard in both the High Court and the Supreme Court. And both Courts upheld the decision made by the school. The expulsion was not an expression of discrimination due to the man's religion.

Religious freedom is not only applicable to Danes. It applies to everyone within the borders of Denmark, including people who are only in the country for a short time.

#### Section 68

Nobody is under an obligation to make personal contributions to any form of worship other than his or her own.





### Section 68

As mentioned in Section 67, people are under no obligation to be members of the Evangelical-Lutheran Church of Denmark. The finances of the Evangelical-Lutheran Church of Denmark are structured in such a way that all members pay what is known as Church tax. This covers the expenses incurred by the Church in connection with holding services and other religious ceremonies. People who are not members of the Evangelical-Lutheran Church of Denmark are exempted from paying Church tax. However, according to Section 4, the State has a duty to “support” the Evangelical-Lutheran Church of Denmark. Among other things, this means that the State pays some of the expenses of the Evangelical-Lutheran Church of Denmark. This is done via the other taxes and duties received by the State. Therefore, everyone pays a contribution to the Evangelical-Lutheran Church of Denmark, regardless of their faith. This does not conflict with Section 68 of the Constitutional Act. That only means people can avoid making “personal” contributions. And the normal taxes and duties paid by people are not considered personal in this connection.

### Section 69

The affairs of religious communities other than the Evangelical-Lutheran Church of Denmark are regulated by an Act.

### Section 69

Parliament can pass an Act for other religious communities. This means religious communities

outside the Evangelical-Lutheran Church of Denmark. However, this has not happened as yet. Instead a number of rules have been introduced. Priests from certain other religious communities may perform religious ceremonies such as weddings, for instance. These weddings have the same validity as those performed by a priest from the Church of Denmark. But this is on the condition that the State has given permission for priests from the religious community in question to perform wedding ceremonies.

### Section 70

Nobody may be deprived of access to the full enjoyment of civil and political rights or evade the fulfilment of any general civic duty on the grounds of his or her profession of faith or descent.

### Section 70

This Section is the main provision relating to religious freedom. It establishes that nobody may be discriminated against on account of his or her religion or race. Regardless of race or faith, everyone has the same political and civil rights. The State cannot prohibit Jews or Muslims from becoming teachers or civil servants, for instance. Nor, for instance, can the State prohibit them from voting or becoming a candidate for a political party. On the other hand, citizens also have the same duties in relation to society. Nobody can avoid paying tax or doing military service because he has a different faith.



## 08 Citizens' Rights

**Part eight deals with citizens' rights and freedoms. This is referred to as the Constitutional Act's Part on constitutional rights or human rights. In 1992, Parliament passed an Act adopting the provisions of the European Convention on Human Rights in Denmark. Many of the rules in the European Convention on Human Rights go further in their protection of human rights than is the case with the Danish Constitutional Act.**

### Section 71

**Subsection 1.** Personal liberty is inviolable. No Danish citizen may be subjected to any form of imprisonment on the grounds of his or her political or religious convictions or his or her descent.

**Subsection 2.** Imprisonment may only take place when authorised by an Act.

**Subsection 3.** Anyone who is taken into custody must appear before a judge within 24 hours. If the person taken into custody cannot immediately be released, the judge must decide, by means of a reasoned decision that must be made as soon as possible and at the latest within three days, if he or she must be imprisoned and, if he or she can be released on bail, the judge must determine the nature and amount of the bail. Where Greenland is concerned, this provision may be derogated from by an Act insofar as it may be regarded as necessary according to local conditions.

**Subsection 4.** The person in question can immediately bring the decision made by the judge before a higher court.

**Subsection 5.** Nobody can be remanded in custody

for an offence that can only entail punishment by a fine or simple detention.

**Subsection 6.** Outside the rules of criminal procedure, the legality of an imprisonment that has not been ordered by a judicial authority and which is not authorised in the legislation on foreigners must be submitted to the ordinary Courts or another judicial authority for review at the request of the person imprisoned or a person acting on his or her behalf. Detailed rules on this are established by an Act.

**Subsection 7.** The treatment of the people mentioned in Subsection 6 is subject to review by a supervisory committee elected by Parliament to which the people in question must be able to address an inquiry to.

### Section 71

**Subsection 1.** An Act passed by Parliament determines what constitutes a criminal offence. However, the Constitutional Act has established a number of guidelines for acts that do not constitute criminal offences. It establishes that people may not be taken into custody, imprisoned or confined in any other way because of their political opinions, their faith or their descent. This provision applies only to Danish citizens. The remainder of Section 71 applies to everyone staying in Denmark. Subsections 1, 2, 6 and 7 were inserted into Section 71 when the Constitutional Act was amended in 1953. This was after the Second World War. And the provision was strongly influenced by what happened during the German occupation of Denmark from 1940 to 1945. During this time, the Danish police imprisoned



members of the Danish Communist Party, including those with seats in Parliament. And the Germans also persecuted Jews in Denmark so that many of them had to flee to Sweden.

**Subsection 2.** The police cannot simply arrest people. There must be a suspicion that they have done something illegal. The conditions are laid down in the Administration of Justice Act. An Act also regulates confinement in the form of compulsory commitment to a psychiatric hospital, for instance.

**Subsection 3.** People who are arrested by the police must be brought before a judge within 24 hours. This is called a preliminary statutory hearing. The judge is entitled to defer making a decision on imprisonment for three days. This is called remanding a suspect in custody. This is usually done to give the police time to gather more evidence to support their case. However, the judge may not remand the suspect if it is quite clear that there is no case. The police can request that the suspect remain in custody at the preliminary statutory hearing. The police must give a reason for this. This could be out of consideration for their investigation, for instance. The police could find it difficult to make their case if a suspect were at liberty and could hide evidence or talk to witnesses.

If the judge agrees with the police, he or she can decide that the suspect must be imprisoned for a period of time. This is called being remanded in custody. The judge has a duty to show cause for remanding the suspect in custody.

The Constitutional Act allows special rules to be introduced in Greenland. This must be done by means of an Act.

**Subsection 4.** The judge's decision is known as a ruling. If a suspect is dissatisfied with a ruling in the District Court, he or she can appeal to the High Court. The decision of the High Court must be complied with. However, it may take some time before the High Court hears the case. And the suspect must remain in custody during this period.

**Subsection 5.** A person can only be remanded in custody if the judge believes that the offence involved would be punishable by imprisonment. If the case concerns an offence that would "only" be punishable by a fine, the suspect cannot be remanded.

**Subsection 6.** When people are imprisoned they are deprived of their liberty. However, this is not the only way it is possible to be deprived of one's liberty. In the case of people who are so ill for a period of time that they constitute a danger to themselves or their surroundings, they can be compulsorily committed to a psychiatric hospital. This compulsory commitment to a hospital has no connection with being sentenced or with the Danish Penal Code. Confinement of this kind can be brought before the Courts. It need not necessarily be the patient who appeals to the Courts.

A member of the patient's family or a friend acting on behalf of the patient can appeal to the Courts. Subsection 6 does not include imprisonment covered by the legislation on foreigners. Under the Danish Aliens Act, a foreigner can be imprisoned if there is a decision pending on his or her deportation, for instance. Imprisonment of this kind can always be brought before the Courts. This is guaranteed by the Danish Aliens Act, not the Constitutional Act.



**Subsection 7.** Parliament must elect a supervisory committee to keep an eye on the treatment of the people mentioned in Subsection 6. The supervisory committee consists of nine members and is elected at the beginning of each sessional year. Complaints about treatment can be made to this supervisory committee or to the Ombudsman.

### Section 72

The home is inviolable. House searches, the seizure and examination of letters and other documents and breach of the confidentiality of the post, telegraph and telephone can only take place when authorised by a Court order where there is no authority in an Act for a specific exemption.

### Section 72

This Section deals with the protection of privacy. It imposes limits on the degree to which the public authorities can interfere with people's private affairs. First and foremost, private homes are safeguarded. As are "private" premises and buildings that are not accessible to all and sundry. This means that the police cannot simply enter private homes and search them. A judge must first grant them permission to do so. The police must have a Court order. This also applies if they want to open people's letters or intercept their telephone calls, for instance. However, there are certain exceptions. There is not always sufficient time to obtain a Court order. If the police are pursuing a criminal who is hiding in a house, for instance, they are permitted to gain access to the house by force if there is a risk that the criminal would otherwise get away. A judge

must subsequently approve this action.

In certain cases, authorities other than the police, such as the tax authorities, can examine people's private accounts without first obtaining permission from a judge.

### Section 73

**Subsection 1.** Ownership is inviolable. Nobody can be ordered to relinquish his or her property except where the common good so demands. This may only take place in pursuance of an Act and in return for full compensation.

**Subsection 2.** When a Bill concerning the expropriation of property is passed, within three weekdays of the Bill finally being passed, one-third of the Members of Parliament can demand that the Bill not be submitted for royal affirmation until there has been a general election and the Bill has been passed again by the newly-convened Folketing.

**Subsection 3.** Any question relating to the legality of an act of expropriation and the amount of compensation can be brought before the Courts. An Act enables the amount of compensation to be reviewed by referring the matter to Courts established for this purpose.

### Section 73

**Subsection 1.** This Section deals with safeguarding people's property. This applies to all owners, both Danes and foreigners, companies and private individuals. The word property is understood in a very broad sense. The Constitutional Act protects the rights that are the basis of people's financial existence. Section 73, for instance, safeguards the



right to receive wages and to a pension saved up personally. People have a right to the things they have bought and own. This also applies to buying a house or a piece of land, for instance. However, it may be the case that the State or the municipality needs people's property. If there is a plan to build a public road, for instance, the project cannot be stopped because a property owner will not sell his or her land. In such a situation, the State and the municipality can take over people's property and pay them compensation. This is called expropriating people's property. But property cannot be expropriated without further ado. The project in question must be of benefit to the community. An Act must be passed permitting the expropriation. And full compensation must be paid for the property that the State or municipality takes over.

**Subsection 2.** Passing an Act on expropriation can be difficult. If one-third, that is 60, Members of Parliament are against an Act on expropriation, they can demand that it must be postponed until after the next general election. And then the new Folketing must vote on the Act. This demand by the minority must be made within three working days. The deadline is calculated from the day on which the Act was passed.

**Subsection 3.** The provision to the effect that expropriation may only take place in return for full compensation is the most important element of the protection of ownership provided by the Constitutional Act. However, it is not always easy to decide what constitutes "full compensation". Therefore, Subsection 3 makes it possible for a person to go to

the Courts to have his or her case reviewed. The Courts can decide whether the expropriation is legal and whether the compensation is adequate. If Parliament so wishes, it is possible to establish a special Court to hear such cases. This has not been done so far.

#### Section 74

All restrictions on free and equal access to trades must be abolished by an Act if such restrictions are not based on the common good.

#### Section 74

This provision is from 1849, when the first Constitutional Act was drawn up. At the time, the various trades decided for themselves how many competitors there would be. The carpenters' guild (Tømrerlavet) decided how many carpenters there would be, the bakers' guild decided how many bakers there would be, and so on. Among other things, this made it possible for tradesmen to maintain a given price level for their work. Many people were dissatisfied with the power exercised in this way. Therefore, what is known as freedom of trade was introduced with the Constitutional Act. However, there are still some restrictions on the freedom to carry on a trade. But the individual trades no longer set these limits. Parliament and the municipalities do so. Some trades, however, are still strictly regulated. This is the case with driving taxis and buses, for instance. People cannot just get into cars and call themselves taxi drivers. They need a special licence from the municipality. And only a limited number of taxi licences are issued.



### Section 75

**Subsection 1.** It should be an aim that every able-bodied citizen has the opportunity to work under conditions that safeguard his or her existence in order to promote the common good.

**Subsection 2.** A person who is unable to support himself or his dependants, and whom no one else is under an obligation to support, is entitled to assistance from the State, while accepting the obligations that the Act relating to such assistance imposes.

### Section 75

**Subsection 1.** The Constitutional Act states that every citizen who is able to work must have the opportunity to do so under reasonable conditions. If this is at all possible. The latter sentence is important. It means that an unemployed person cannot demand a job with reference to the Constitutional Act. Subsection 1 is not a provision that actually grants individual rights. It has no direct effect. It could be compared to a provision on a political objective that states what Parliament should attempt to do.

**Subsection 2.** This part of Section 75 has more practical significance than Subsection 1. It states that people who are unable to support themselves must receive assistance from the State. But before the State steps in, the person must have exhausted his or her own possibilities.

This could be by working or realising his or her assets. However, it may also be the case that others have an obligation to support the person in question. Spouses or registered partners have a

duty to support each other. And parents have a duty to support their children until they reach the age of 18. However, not everyone lives up to their duties. If a divorced father, for example, does not pay maintenance to the mother and their child, the State pays. This is laid down in social legislation. A couple who live together but are not married have no duty to support each other. Children have no duty to support their parents. And parents have no duty to support children aged 18 or over. State assistance is established in social legislation. Subsection 2 says nothing specifically about who is entitled to State assistance. However, successive Acts have determined that “anyone residing lawfully in Denmark” is entitled to assistance. This is also stated in the latest social Acts: the Act relating to social services and the Act relating to active social policy. Citizens who are 18 years old or over are entitled to assistance. Foreigners also have such a right as the Constitutional Act does not require people to be Danish citizens to receive assistance. Students are enrolled in a course of education and are therefore not at the disposal of the labour market. Therefore, students usually have no right to assistance.

### Section 76

All children who have reached the age of compulsory education are entitled to free education at a Danish municipal primary and lower secondary school (Folkeskolen). Parents or guardians who ensure that children receive an education on a par with that normally required at a Folkeskole are not under an obligation to enrol them at a Folkeskole.



### Section 76

All children are entitled to free education at the Folkeskole. In fact, all children also have a duty to receive an education. Parliament has introduced nine years of compulsory education. This is stated in the Primary Education Act. The Constitutional Act states that education at the Folkeskole must be free of charge. However, parents are not obliged to send their children to the Folkeskole.

Their education can take place at home or at a private school. But the course of education must be on a par with that at the Folkeskole. Many people decide not to send their children to the Folkeskole for educational or religious reasons. However, those who choose a different type of school must pay for their children's education. The Constitutional Act only guarantees that the Folkeskole is free of charge. General legislation contains rules to the effect that the State must subsidise private schools, etc.

### Section 77

Anyone is entitled to publish his or her ideas in print, in writing and orally, subject to the authority of the Courts. Censorship and other preventive measures can never be reintroduced.

### Section 77

All citizens may give expression to whatever they wish. People are permitted to say, write or otherwise express their ideas publicly. But at the same time they must also take responsibility for what they say or write. Legislation imposes some limits on what people are permitted to say or write publicly.

If people are very impolite and offend another person publicly they risk legal proceedings being taken against them for slander. And if people write something that threatens the security of Denmark, for instance, they can be charged, tried and sentenced by the Courts.

Occasionally, articles and contributions in newspapers or magazines appear without a by-line. In these cases, the editor responsible under the Danish Press Act is liable for what has been printed. Therefore, the name of the editor responsible must always be printed in the publication. The place where the publication was printed must also be printed.

Although the Constitutional Act guarantees freedom of expression for all, limitations can be imposed in some situations. This applies to people in prison, for instance. The authorities are entitled to restrict inmates' freedom of expression if this is necessary to maintain security and order.

The armed forces are also entitled to restrict soldiers' freedom of expression if this is necessary to maintain order and discipline.

In principle, freedom of expression naturally also applies to State employees. However, at the same time, a caseworker in a social security office, for example, is subject to a duty of confidentiality. Among other things, the duty of confidentiality means that the caseworker must not reveal any personal information he or she has become acquainted with via his or her work.

The Constitutional Act provides safeguards against "censorship and other preventive measures". The prohibition against censorship was introduced in 1849. Before that time, books and newspapers



were examined by one of the King's civil servants before they were printed. He removed what he did not like and only then could the books and newspapers be published. The prohibition against censorship means that the police cannot take action against a newspaper or a book once it has been published.

The authorities are not entitled to demand to read a manuscript in advance of its publication. Nevertheless, it is possible to take action against a publication before it has been printed, also without contravening the Constitutional Act. An injunction can be granted against a publication if a judge can be convinced that it will be very damaging and therefore illegal. It is up to the judge to decide whether a restraining injunction should be issued against the publication.

This occurred in the 1980s, when the Masonic Order obtained an injunction to prevent the Danish Broadcasting Corporation airing a documentary about the Order. The broadcast would have revealed some of the Masonic Order's secret initiation rituals. The case was finally decided in the Supreme Court. The Masonic Order won. The Supreme Court considered that the initiation rituals were private matters. Therefore, they could not be made public. The TV documentary about the Masonic Order has never been broadcast.

In another case, events took a different turn. This case was also from the 1980s. This was a period when farmers' use of medicine on their livestock was a much-debated topic. Artist Mikael Witte

entered the debate by painting a poster containing the text: 'Danish pigs are healthy, they are full of penicillin'. The poster showed a drawing of a happy pig, which was a satirical imitation of advertising material from the Cooperative Slaughterhouses. This angered the slaughterhouse organisations. They tried to have the poster banned. But the Supreme Court decided that the poster was not illegal. The Court emphasised that the poster was part of a social debate. It was therefore of relevance to the public.

## Section 78

**Subsection 1.** Members of the public are entitled to form associations for any legal purpose without prior permission.

**Subsection 2.** Associations that operate or attempt to achieve their aims by means of violence, incitement to violence or similar criminal action against those who think differently can be dissolved by means of a judgement.

**Subsection 3.** No association may be dissolved by a Government measure. However, an association can be provisionally banned, in which case proceedings for its dissolution must be brought against it immediately.

**Subsection 4.** Cases concerning the dissolution of political associations can be brought before the highest Court in Denmark without special permission.

**Subsection 5.** The legal effects of such a dissolution are established in more detail by an Act.





### Section 78

Section 78 of the Constitution guarantees freedom of association. This is a fundamental right in Danish society, where associations play an important role. The provision is first and foremost included to protect associations against State interference. However, it does not provide protection against interference on the part of private individuals. Nor does it protect individual citizens' right not to join an association.

**Subsection 1.** Members of the public are entitled to form associations. They need not ask permission of anyone first. However, the association must be legal. This means that it must not have the objective of committing illegal acts.

**Subsection 2.** If an association uses violence or other illegal methods to achieve its aims, it must be dissolved. In such a case, this must be done by means of a judgement. And the Minister for Justice must initiate proceedings. The special provision on associations that use violence was introduced in 1953, eight years after the German occupation of Denmark. During the occupation, corps and associations were established with the aim of exercising violence and acts of terrorism against the public. The Hipo Corps is an example of such an association.

**Subsection 3.** The State or the Government cannot simply dissolve an association at will. But in special cases, the Government can intervene and ban an association provisionally. In such a case, however, the Government must immediately bring the case before the Courts. And if the Courts arrive at a result that differs from that of the Government, the

dissolution will be ruled invalid. The Courts have the last word in this connection.

**Subsection 4.** If a case concerns the dissolution of a political association, the case may be brought before the Supreme Court after having been heard in a District Court and the High Court. It is not necessary to obtain permission from the special board called the Danish Appeals Permission Board (Procesbevillingsnævnet) in advance.

**Subsection 5.** The detailed rules for the effects of the dissolution of an association must be established by an Act. However, Parliament has not passed such an Act. The general rules governing associations and the Danish Penal Code are used instead.

### Section 79

Members of the public are entitled to assemble unarmed without prior permission. The police have the right to attend public meetings. Outdoor meetings can be banned if there is concern that they could represent a danger to public order.

### Section 79

This Section is closely associated with Sections 77 and 78. These three Sections describe the traditional constitutional rights: the right to speak freely, the right to form associations and the right to assemble. Section 79 ensures that all people resident in Denmark have the right to hold meetings or to demonstrate. But they must not bear arms.

The police have the right to attend public meetings. If the meeting takes place out of doors, the police



can ban it, but only if there is a “danger to public order”. This may be the case, for example, if there is a threat of extensive disturbances between demonstrators and other groups of people. However, the police can demand that a meeting be moved elsewhere if it disturbs traffic significantly or is a great inconvenience for others. It is not necessary to ask the police for permission to hold a meeting.

But anyone planning to hold an outdoor demonstration must inform the police in advance. The demonstration must be “notified” by stating the meeting time, the route it will take and the meeting place. And this must be done no later than 24 hours before the demonstration begins. If such notification is not given, there is a risk of receiving a fine. But the demonstration will not be illegal for this reason. These provisions are in the police regulations.

#### **Section 80**

In the event of a disturbance, the armed forces can only intervene, unless attacked, after the crowd has been requested to disperse three times in the name of the King and the law.

#### **Section 80**

A disturbance is not the same as an assembly. However, an assembly could develop into a disturbance if there is a lack of management and self-control and thus result in chaos and riot. The police can intervene if a disturbance occurs. But they must warn the crowd three times first. The

Constitutional Act actually also defines what the police must say in this situation. They must request the crowd to disperse “in the name of the King and the law”. Only if the crowd refuses to follow the request may the police take action against them. This “dissolution formula” is important. After the disturbances in connection with the EU vote in 1993, the High Court acquitted some participants in the disturbances. They were charged with not following police orders. But they were acquitted because the police had not used the “dissolution formula”.

#### **Section 81**

Every man fit for military service is under an obligation to contribute with his person to the defence of his country in accordance with the provisions prescribed by law.

#### **Section 81**

If a man is healthy and fit, he has a duty to serve as a soldier. This is called conscription. The Constitutional Act establishes only that there must be an obligation to do military service. It is up to Parliament to decide the rules for this duty. Among other things, it has been decided that people can be exempted from military service if bearing arms conflicts with their convictions. Conscientious objectors are obliged to do community service in a social institution, for instance, instead of military service.

Conscripts are selected according to objective, uniform criteria such as age, health and education. And although the Section states “man fit for military



service”, Parliament may decide by an Act that military service be introduced for women as well. This has not been done so far.

### Section 82

Municipalities’ right to manage their affairs autonomously under the supervision of the State is regulated by an Act.

### Section 82

Denmark is governed not only by the State and the Government. Many decisions are made at a more local level – close to where people live. Denmark is divided into 98 municipalities and five regions.

Municipalities provide citizens with access to the public sector and perform tasks connected with social affairs, employment, businesses, and public transport.

The Regions are responsible for hospitals, regional development, and specialised social institutions.

The Constitutional Act ensures that municipalities are autonomous. But the State supervises municipalities and Regions.

### Section 83

All privileges associated in legislation with nobility, title and rank have been abolished.

### Section 83

This Section deals with the advantages some people were born with in bygone days. At the time,

there was more class division in society than is the case today. People were born into a particular social class or with a specific title or rank. And this conferred many advantages, what were known as privileges.

It was a great advantage to be an aristocrat. That is, to have the title of count or baron. The aristocracy had privileges that no ordinary citizens had. They paid less tax, for instance. These privileges were abolished by the first Constitutional Act in 1849. But even then, the special rights of the aristocracy were already partly a thing of the past. Very few privileges remained.

The constitutional provision abolished special rights once and for all. But it did not abolish the right to ennoble certain people. However, this is of no great significance today.

### Section 84

No fief, entailed estate or other family trust may be created in the future.

### Section 84

In bygone days, certain families could retain large properties undivided. This could be done, for example, by the eldest son inheriting the property – perhaps an entire estate – without having to share it with his siblings. The Constitutional Act does away with this principle. The King used to be able to reward his people by giving them estates and land. They were called fiefs. Many fiefs were created because they conferred certain financial advan-



tages on the families who controlled them. They could earn large annual incomes from the management of the fiefs and did not have to pay much tax. The many fiefs also meant that extensive areas of Danish estates were bound to specific counties or baronies. They only benefited certain families. In the same way, entailed estates were also linked to particular families. The Danish word for entailed estate, “fideikommis”, comes from Latin and means entrusted estate or money. Estates and property were inherited within the family undivided and could not be sold. It has been illegal to create new estates of this type since 1849. And all of the remaining fiefs and entailed estates were abolished in 1919. The owners received a certain amount of compensation from the State in return for surrendering some of their assets.

### Section 85

The provisions stipulated in Sections 71, 78 and 79 are only applicable to the armed forces with the restrictions that follow from the regulations in the military Acts.

### Section 85

Soldiers' constitutional rights are restricted. They do not enjoy quite the same freedom of association and freedom of assembly as other citizens. They must obtain special permission if they want to hold meetings in their barracks, for instance. Soldiers are also subject to a special military Penal Code and Administration of Justice Act. Among other things, this means that a soldier can be detained for 72 hours without coming before a judge.

## 09 The Faeroe Islands, Greenland and Iceland



**Part nine consists of two Sections. They deal in particular with the Faeroe Islands, Greenland and Iceland.**

### **Section 86**

The electoral age to local councils and parochial church councils is the electoral age applicable to general elections from time to time. Where the Faeroe Islands and Greenland are concerned, the electoral age to local councils and parochial church councils is established by an Act or in pursuance of an Act.

### **Section 86**

The electoral age for voting in a general election, a parochial church council election or a local election is the same. That is, 18 years of age. But in the Faeroe Islands and Greenland it is possible to decide on a different electoral age in local elections. This has not been done. In 1953, there was a lower electoral age for local elections than for general elections in the Faeroe Islands. But this has been changed.

### **Section 87**

Citizens of Iceland who, in pursuance of the Act relating to the cancellation of the Act of Union between Denmark and Iceland, among other things, enjoy the same rights as Danish citizens, retain the rights associated with Danish citizenship that are provided in the Constitutional Act.

### **Section 87**

Iceland became independent in 1918. At the time, an Act of Union between Denmark and Iceland was passed which, among other things, gave Icelanders in Denmark the same rights as Danish citizens, including the right to vote. The Act of Union between Denmark and Iceland was cancelled in 1944 as Iceland wished to completely withdraw from the union with Denmark. However, the special rights for Icelanders living in Denmark were also cancelled at the same time. Instead, a special scheme was introduced for Icelanders. And the scheme was inserted into the Constitutional Act when it was amended in 1953.



## 10 Amendment of the Constitutional Act

**Part ten contains one Section that determines how the Constitutional Act can be amended.**

### Section 88

If Parliament passes a Bill for a new constitutional provision and the Government wishes to proceed with the matter, a general election is called. If the Bill is passed without amendment by the new Parliament after the election, it must be submitted to the parliamentary electors within six months of its finally being passed for approval or rejection by a direct vote. More detailed rules for this vote are established by an Act. If a majority of those voting, and at least 40 per cent of all those entitled to vote, have voted for Parliament's decision, and it is affirmed by the King, it becomes part of the Constitutional Act.

### Section 89

This Section contains the rules for amending the Constitutional Act. The Constitutional Act is the Act that is most difficult to amend. A comprehensive procedure must be followed. First, Parliament must pass a constitutional amendment. Then the Government can call an election if it wishes to "proceed with the matter".

After the election, Parliament must again pass the constitutional amendment. And the Bill must be worded in exactly the same way as before.

Finally, the constitutional amendment must be subjected to a referendum. The referendum is subject to some very special rules, which mean that it can be very difficult to pass an amendment in practice. It is not sufficient for there to be a majority in favour of the constitutional amendment. The majority must consist of at least 40 per cent of all of the citizens who are entitled to vote. In fact, this means that everybody who is entitled to vote counts, even if they do not vote or they abstain. If a lot of people stay at home instead of voting, it can be difficult to pass a constitutional amendment.

The referendum must take place no later than six months after the constitutional Bill was passed by Parliament. If a majority, and at least 40 per cent of those entitled to vote, vote in favour of the constitutional amendment, it takes effect when the Queen has signed it.

# 11 The coming into force of the Constitutional Act



**Part eleven contains one Section. It explains when the Constitutional Act comes into force.**

## **Section 89**

This Constitutional Act comes into force immediately. However, Parliament most recently elected in pursuance of the Constitutional Act of the Kingdom of Denmark of 5 June 1915, with the amendments of 10 September 1920, remains in place until a general election has been held in accordance with the rules in Part IV. Until a general election has been held, the provisions in the Constitutional Act of the Kingdom of Denmark of 5 June 1915, with the amendments of 10 September 1920 relating to Parliament, remain in force.

## **Section 89**

The Constitutional Act came into force on 5 June 1953, the date on which it was published in the Danish Law Gazette. However, the former "Rigsdag" with 76 Upper House members and 151 Lower House members, continued for a few more months. A general election was then held on 22 September 1953 in accordance with the new Constitutional Act. The former "Rigsdag" was replaced by the new Folketing with 179 members, and the Upper House was abolished.



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Personal liberty is inviolable.

It should be an aim that every able-bodied

Anybody who has the right to vote can be elected to Parliament, unless

under conditions that safeguards his or her

general opinion, has made him or her unworthy to be a Member of Parliament.

common good.

No danish citizen may be subjected to any form of imprisonment on the

Anyone is entitled to publish his or her

Members of the public are entitled to associate in communities to worsen

subject to the authority of the Courts.

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