

*Consolidation Act No. 826 of 24 August 2005 of the Danish Ministry of Refugee, Immigration and Integration Affairs*

## Aliens (Consolidation) Act

The following is a consolidation of the Aliens Act, cf. Consolidation Act No. 808 of 14 July 2004 with the amendments following from Act No. 429 of 9 June 2004, Act No. 324 of 18 May 2005, Act No. 402 of 1 June 2005 and Act No. 403 of 1 June 2005. The consolidated text does not include the amendments following from Act No. 323 of 18 May 2005<sup>1)</sup>, section 101 of Act No. 428 of 6 June 2005, section 26 of Act No. 430 of 6 June 2005, section 32 of Act No. 431 of 6 June 2005, section 14 of Act No. 523 of 24 June 2005, section 31 of Act No. 542 of 24 June 2005 and section 10 of Act No. 554 of 24 June 2005 as these acts have not yet entered into force.

### Part I

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

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

2. (1) Aliens who are nationals of a country which is a member of the European Union or comprised by the Agreement on the European Economic Area may enter and stay in Denmark for up to 3 months from their date of entry or, if the aliens are seeking work, for up to 6 months from their date of entry.

(2) Aliens falling within the rules set out in subsection (4) (the EU rules), but who are not nationals of any of the countries mentioned in subsection (1) (third-country nationals) may enter and stay in Denmark for the same period of time as the persons mentioned in subsection (1). Third-country nationals must have their passport or other travel document visaed before entry, unless they are exempt from any visa requirements, cf. section 39(2).

(3) The limitations provided for in this Act apply only to aliens falling within the EU rules and only to the extent that these limitations are compatible with those rules.

(4) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed pro-

visions on the implementation of the rules of the European Union on visa exemption and on abolition of entry and residence restrictions in connection with the free movement of workers, freedom of establishment and freedom to provide and receive services, etc. The Minister of Refugee, Immigration and Integration Affairs lays down more detailed provisions on residence permits under section 6. In this connection the Minister of Refugee, Immigration and Integration Affairs may deviate from the provisions of this Act to the extent provided for by the EU rules.

(5) The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules to the effect that subsections (1) to (3) and the provisions laid down pursuant to subsection (4) with the requisite changes are also to be applied in relation to a third country which has concluded a treaty or a scheme corresponding thereto on visa exemption and on abolition of entry and residence restrictions with the European Union or its Member States.

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

(2) In this Act, a Schengen country means a country that has acceded to the Schengen Con-

vention. Cyprus, Estonia, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, the Czech Republic and Hungary are not considered Schengen countries in relation to sections 2b(1) to (3), 3, 4, 4b, 10(2)(iv), 19(3) and (4), Part IVa, sections 28(1)(vi), 28(6), second sentence, 38(1) to (3), 39(3), second sentence, 58f to 58h and 59(1)(i).

**2b.** (1) Aliens holding a residence permit for another Schengen country may enter and stay in Denmark for up to 3 months per six-month period reckoned from the date of their first entry in Denmark or another Schengen country than the country which has issued the residence permit. Any such three-month period will be reduced by any period within the six-month period during which the alien has stayed in Denmark or in another Schengen country than the country which has issued the residence permit. If the alien has a residence permit for another Nordic country, the period of time during which the alien has resided in the other Nordic countries will not be deducted.

(2) Aliens holding a visa valid for all Schengen countries may enter and stay in Denmark within the period of validity of the visa. The duration of an unbroken stay or the total duration of several consecutive stays in Denmark may not, however, exceed 3 months per six-month period reckoned from the date of the first entry in the Schengen countries. Any such three-month period will be reduced by any period within the six-month period during which the alien has stayed in another Schengen country.

(3) Aliens holding a visa for residence exceeding 3 months and valid only for another Schengen country may, pursuant to Article 18 of the Schengen Convention, enter and stay in Denmark for up to 3 months from the original date of validity of the visa. The duration of an unbroken stay or the total duration of several consecutive stays in Denmark may not exceed 3 months per six-month period reckoned from the date of the first entry in the Schengen countries. Any such three-month period will be reduced by any period within the six-month period during which the alien has stayed in another Schengen country. In cases other than those mentioned in the first sentence hereof, aliens with a visa for residence exceeding 3 months and valid only for another Schengen country are only entitled to transit

through Denmark without any undue delay pursuant to Article 18 of the Schengen Convention.

(4) Aliens holding a residence permit or a return visa issued by another Schengen country may transit through Denmark without any undue delay pursuant to Article 5(3) of the Schengen Convention.

**3.** Aliens who are exempt from any visa requirements under rules laid down pursuant to section 39(2) may enter and stay in Denmark for up to 3 months during a six-month period reckoned from the date of their first entry in the Schengen countries. Any such three-month period is reduced by the time in which the alien has stayed in Denmark or another Schengen country within the six-month period.

**3a.** Notwithstanding the provisions of sections 1 to 3, aliens under an entry prohibition, cf. section 32, must have a visa issued pursuant to section 4 or 4a to enter and stay in Denmark. The same applies to aliens not falling within sections 1 to 3. The aliens mentioned in the first and second sentences may not stay in Denmark beyond the period specified in the visa issued.

**4.** (1) Visa is issued pursuant to Article 12, cf. Article 15, of the Schengen Convention to be valid for entry and stay in all Schengen countries. A visa may be issued for one or more entries within a specified period. The duration of an unbroken stay or the total duration of several consecutive stays in Denmark and the other Schengen countries may not, however, exceed 3 months per six-month period reckoned from the date of the first entry in the Schengen countries.

(2) It may be made a condition for the issue of a visa under subsection (1) that the reference person living in Denmark provides financial security for the payment of an amount of DKK 50,000.

(3) The amount mentioned in subsection (2) falls due for payment if, the alien after entry stays in Denmark or in another Schengen country without the requisite permit beyond the period stated in the visa issued, but cf. the second sentence hereof. Half of the amount mentioned in subsection (2) falls due for payment and the balance is released if the stay lasts for up to one month beyond the period stated. The first and second sentences hereof do not apply if the alien proves that the stay beyond the stated period was due to circumstances which cannot be held against the alien.

(4) The amount mentioned in subsection (2) falls due for payment if, the alien after entry: -  
(i) is expelled under the rules of Part IV;  
(ii) submits an application for a residence permit in Denmark, but cf. subsection (5); or  
(iii) submits an application for asylum in another Schengen country.

(5) Notwithstanding the provision of subsection (4)(ii), the amount mentioned in subsection (2) does not fall due for payment if the alien has concluded a contract of or has been offered employment within a professional field short of particularly qualified labour, cf. section 9a(1), and applies for a residence permit on that basis, or if considerations of a humanitarian nature make it conclusively inappropriate.

(6) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on how financial security under subsection (2) must be provided and on the payment of amounts due for payment under subsections (3) and (4). The amount stipulated in subsection (2) has been determined at the 2004 level and will be adjusted once a year on 1 January as of 2005 according to the rate adjustment percentage, cf. the Act on a Rate Adjustment Percentage.

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

**4b.** An alien having stayed in Denmark or another Schengen country pursuant to sections 2 to 3a may have his right of staying in Denmark extended in special cases.

**4c.** (1) An alien is not eligible for a visa under section 4(1) for a period of 5 years if circumstances as mentioned in section 4(3), first sentence, and section 4(4) exist. The period is 3 years if circumstances as mentioned in section 4(3), second sentence, exist. Section 4(3), third sentence, applies correspondingly. The first and second sentences hereof do not apply if exceptional reasons exist.

(2) The provision of subsection (1), first sentence, cf. section 4(4)(ii), does not apply if circumstances as mentioned in section 4(5) exist, or if the alien has submitted an application for a residence permit pursuant to section 9(1)(i) or (ii). The provision of subsection (1), first sentence, cf. section 4(4)(ii) and (iii), does not apply if the alien has submitted an application for a resi-

dence permit under section 7 and assists in procuring information for his case, cf. section 40(1), first and second sentences, and, upon refusal or waiver of the application, leaves on his own initiative or assists in his departure without undue delay.

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

(2) The Minister of Refugee, Immigration and Integration Affairs may lay down rules to the effect that a child under the age of 18 staying permanently with the person having custody of it, does not require a residence permit.

**6.** Upon application, a residence permit will be issued to an alien falling within the EU rules, cf. section 2(4) and (5), but cf. section 9a(1), second sentence, cf. first sentence, and section 9a(5), as concerns workers who are nationals of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic or Hungary.

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

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

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

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

(2) In addition to the cases mentioned in subsection (1), a residence permit will be issued, upon application, to an alien who arrives in Den-

mark under an agreement as mentioned in subsection (1), and who risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his country of origin, cf. section 7(2).

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

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

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

(6) The Minister of Refugee, Immigration and Integration Affairs decides the overall distribution of the aliens to be issued with a residence permit under subsections (1) to (3).

9. (1) Upon application, a residence permit may be issued to: -

- (i) an alien over the age of 24 who cohabits at a shared residence, either in marriage or in regular cohabitation of prolonged duration, with a person permanently resident in Denmark over the age of 24 who: -
  - (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) is issued with a residence permit under section 7 or 8; or
  - (d) has held a permanent residence permit for Denmark for more than the last 3 years.
- (ii) an unmarried child under the age of 15 of a

person permanently resident in Denmark or of that person's spouse, provided the child lives with the person having custody of it and has not started its own family through regular cohabitation, and provided the person permanently resident in Denmark: -

- (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) is issued with a residence permit under section 7 or 8; or
  - (d) is issued with a permanent residence permit or a residence permit with a possibility of permanent residence.
- (iii) an under-age alien for the purpose of residence with a person permanently resident in Denmark other than the person having custody of it, provided the residence permit is issued for the purpose of adoption, residence as a result of a foster relationship or, if particular reasons make it appropriate, residence with the child's closest family, and provided the person permanently resident in Denmark: -
- (a) is a Danish national;
  - (b) is a national of one of the other Nordic countries;
  - (c) is issued with a residence permit under section 7 or 8; or
  - (d) is issued with a permanent residence permit or a residence permit with a possibility of permanent residence.

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

(3) It must be made a condition for a residence permit to a cohabitant under subsection (1)(i) that the person living in Denmark undertakes to maintain the applicant. Unless exceptional reasons make it inappropriate, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant, or who has undertaken to maintain the applicant, proves his ability to do so, cf. subsection (22).

(4) Unless exceptional reasons conclusively make it inappropriate, including regard for fam-

ily unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant provides a financial security of DKK 50,000 to cover any future public expenses for assistance granted to the applicant under the Act on an Active Social Policy or the Integration Act, cf. subsection (20). The financial security under the first sentence hereof may, upon application, be reduced by half of the amount provided as security under the first sentence hereof when aliens who have been issued with a residence permit under subsection (1)(i) have passed a final examination in the Danish language, cf. section 9 of the Act on Danish Courses for Adult Aliens and Others, or they have been issued with a certificate proving their active participation after completion of the course, cf. section 5(5) of the Act on Danish Courses for Adult Aliens and Others. The Minister of Refugee, Immigration and Integration Affairs lays down detailed rules on how financial security under the first sentence hereof must be provided. The amount stipulated in the first sentence hereof has been determined at the 2002 level and will be adjusted once a year on 1 January as of 2003 according to the rate adjustment percentage, cf. the Act on a Rate Adjustment Percentage.

(5) Unless exceptional reasons conclusively make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark who shall maintain the applicant has not received assistance under the Act on an Active Social Policy or the Integration Act for a period of 1 year prior to the date when the application is submitted and until the residence permit is issued, cf. subsection (23).

(6) Unless particular reasons make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under subsection (1)(i) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, cf. subsection (24).

(7) Unless exceptional reasons make it inappropriate, including regard for family unity, a residence permit under subsection (1)(i)(a), when the person living in Denmark has not been a Danish national for 28 years, and under subsection (1)(i)(b) to (d) can only be issued if the spouses' or the cohabitants' aggregate ties with Denmark are stronger than the spouses' or the

cohabitants' aggregate ties with another country. Danish nationals living in Denmark who were adopted from abroad before their sixth birthday and who acquired Danish nationality not later than at their adoption are considered to have been Danish nationals from birth.

(8) Unless exceptional reasons conclusively make it appropriate, including regard for family unity, a residence permit under subsection (1)(i) cannot be issued if it must be considered doubtful that the marriage was contracted or the cohabitation was established at both parties' own desire. If the marriage has been contracted or the cohabitation established between close relatives or otherwise closely related parties, it must be considered doubtful, unless particular reasons make it inappropriate, including regard for family unity, that the marriage was contracted or the cohabitation was established at both parties' own desire.

(9) A residence permit under subsection (1)(i) cannot be issued if there are definite reasons for assuming that the decisive purpose of contracting the marriage or establishing the cohabitation is to obtain a residence permit.

(10) Unless exceptional reasons make it appropriate, including regard for family unity, a residence permit under subsection (1)(i) cannot be issued if, within a period of 10 years prior to the date of the decision, a sentence of imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of such nature, for violation of section 213, 216 or 217, section 224 or 225, cf. section 216 or 217, or section 228, 229(1) or 237, sections 244 to 246, or section 250, 260, 261, 262a or 266 of the Criminal Code has been imposed by final judgment on the person living in Denmark for one or more offences committed against a spouse or a cohabitant.

(11) A residence permit under subsection (1)(i) cannot be issued if the application for such permit is submitted simultaneously with an application from the applicant's child for a residence permit under subsection (1)(ii) which is refused under subsection (16). This does not apply if the applicant's child can be required to take up residence with close family in its country of origin and regard for the interests of the child does not make it inappropriate, or if exceptional

reasons otherwise make it inappropriate, including regard for family unity.

(12) If essential considerations make it appropriate, it may be made a condition for a residence permit under subsection (1)(ii) that the person living in Denmark who shall maintain the applicant proves his ability to do so, cf. subsection (22). If essential considerations make it appropriate, it may be made a further condition for a residence permit under subsection (1)(ii) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, cf. subsection (24).

(13) In cases where the applicant and one of the applicant's parents live in their country of origin or another country, a residence permit under subsection (1)(ii) can only be issued if the applicant has or is able to obtain such ties with Denmark that there is a basis for successful integration in Denmark. This does not apply if the application is submitted at the latest 2 years after the person living in Denmark satisfies the conditions of subsection (1)(ii), or if exceptional reasons make it inappropriate, including regard for family unity.

(14) In cases where the applicant has previously been issued with a residence permit under subsection (1)(ii) which has lapsed under section 17, a residence permit under subsection (1)(ii) can only be issued if regard for the applicant's best interests makes it appropriate.

(15) A residence permit under subsection (1)(ii) cannot be issued if that would be manifestly contrary to the applicant's best interests, cf. subsection (25).

(16) Unless exceptional reasons make it appropriate, including regard for family unity, a residence permit under subsection (1)(ii) cannot be issued if, within a period of 10 years prior to the date of the decision, a sentence of imprisonment or suspended imprisonment, or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of such nature, for violation of section 210(1) or (3), cf. subsection (1), section 213, sections 216 to 219, section 222 or 223, section 224 or 225, cf. sections 216 to 219, 222 or 223, or section 228, 229(1), 230, 235, 237, 244 to 246, 250, 260, 261, 262a(2) or 266 of the Criminal Code has been imposed by final judgment on the person permanently resident in Denmark or his spouse or cohabitant for

one or more offences committed against one or more under-age children.

(17) It must be made a condition for a residence permit under subsection (1)(iii) that the person living in Denmark undertakes to maintain the applicant and proves his ability to do so, cf. subsection (22). When a residence permit is issued for the purpose of residence with the child's closest family, it must be made a further condition for the residence permit under subsection (1)(iii) that the person living in Denmark proves that he disposes of his own dwelling of a reasonable size, cf. subsection (24).

(18) A residence permit under subsection (1) must be obtained before the entry into Denmark. After entry, no such application can be submitted or examined or be allowed to suspend enforcement in Denmark unless exceptional reasons make it appropriate, including regard for family unity. If, at the time of the application, the alien is lawfully residing in Denmark pursuant to sections 1 to 3a, 4b or 5(2) or pursuant to a residence permit under sections 6 to 9f, an application for a residence permit pursuant to subsection (1)(i) or (ii) can be submitted and examined and be allowed to suspend enforcement, unless particular reasons make it inappropriate.

(19) Where it was made a condition for a residence permit that the person living in Denmark (the guarantor) undertook to maintain the applicant and had to prove his ability to do so, cf. subsection (3) and subsection (17), first sentence<sup>2)</sup>, and where the applicant is subsequently granted assistance under the Act on an Active Social Policy or the Integration Act, the local council shall order the guarantor to pay for the assistance. The local council shall collect such payment from the guarantor according to the rules on collection of income taxes. The first and second sentences do not apply to public expenses for assistance granted to the applicant under the Act on an Active Social Policy and the Integration Act after the applicant has been issued with a permanent residence permit or a new residence permit on another basis.

(20) Where it was made a condition for a residence permit that the person living in Denmark had to provide financial security, cf. subsection (4), and where the applicant is subsequently granted assistance under the Act on an Active Social Policy or the Integration Act, the local council shall recover the amount provided as se-

curity as payment for the assistance. Subsection (19), third sentence, applies correspondingly. The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on how recovery under the first sentence hereof is to be effected.

(21) Without the consent of the person living in Denmark and the applicant, the local council may, for the purpose of the examination of a case under subsection (1), issue an opinion to the Danish Immigration Service about circumstances known to the local council concerning the person living in Denmark and the applicant which the local council deems to be of importance to the decision in the case.

(22) At the request of the Danish Immigration Service, the local council issues an opinion as to whether the person living in Denmark who shall maintain the applicant is able to do so, cf. subsection (3), subsection (12), first sentence, and subsection (17), first sentence. The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on when it can be considered proved that the person living in Denmark who shall maintain the applicant is able to do so, cf. subsection (3), subsection (12), first sentence, and subsection (17), first sentence, and on the local council's opinion pursuant to the first sentence hereof.

(23) At the request of the Danish Immigration Service, the local council issues an opinion as to whether the person living in Denmark has received assistance under the Act on an Active Social Policy or the Integration Act since one year prior to the date when the application was submitted, cf. subsection (5).

(24) At the request of the Danish Immigration Service, the local council issues an opinion as to the housing situation of the person living in Denmark, including the number of habitable rooms and occupants of his dwelling. Without the consent of the person living in Denmark, the local council may, for the purpose of its opinion under the first sentence hereof, link the Joint Municipal Personal Data System (Det Fælleskommunale Persondatasystem) with the Building and Housing Register (Bygnings- og Boligregistret, BBR) for the purpose of providing information on the number of habitable rooms in the dwelling and the number of occupants registered at the address in question. The Minister of Refugee, Immigration and Integration Affairs lays down

more detailed rules on when it can be considered proved that the person living in Denmark disposes of his own dwelling of a reasonable size, cf. subsection (6), subsection (12), second sentence, and subsection (17), second sentence, and on the local council's opinion pursuant to the first sentence hereof.

(25) At the request of the Danish Immigration Service, the local council issues an opinion as to whether it would be manifestly contrary to the applicant's best interests, cf. subsection (15), to issue a residence permit under subsection (1)(ii). The opinion of the local council is issued without the consent of the person or persons referred to in the opinion.

**9a.** (1) Upon application, a residence permit may be issued to an alien if essential employment or business considerations make it appropriate to grant the application, including if the alien can obtain employment within a professional field short of particularly qualified labour. The first sentence hereof only applies to workers who are nationals of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary if they cannot be issued with a residence permit pursuant to subsection (5).

(2) Upon application, a residence permit may be issued to an alien if extension of his residence permit under sections 7 to 9 or sections 9b to 9e is refused under section 11(2), cf. section 19(1), or his residence permit is revoked under section 19(1), provided the alien has regular employment of prolonged duration or has been self-employed for a prolonged period, and employment or business considerations make it appropriate.

(3) A residence permit under subsection (1) must be obtained before the entry into Denmark. After entry, such application cannot be submitted or examined or be allowed to suspend enforcement in Denmark, unless particular reasons make it appropriate.

(4) An application for a residence permit under subsection (2) can only be submitted by an alien staying in Denmark. Applications submitted later than 7 days after a final decision has been made refusing extension or revoking the alien's residence permit under sections 7 to 9 or sections 9b to 9e cannot be examined or be allowed to suspend enforcement in Denmark, unless exceptional reasons make it appropriate.

(5) Upon application, a residence permit may be issued to an alien who is a national of Estonia,

Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic or Hungary if: -

- (i) the alien has concluded a contract of or has been offered ordinary full-time employment with an employer in Denmark pursuant to a Danish collective agreement applicable to the employer and covering the work in question, and where the party to the collective agreement representing the employees is at least a local trade union which is a member of a national employee association;
- (ii) the alien, in a field of work where conditions of pay and employment are usually only governed by an individual employment contract, has concluded a contract of or has been offered ordinary full-time employment with an employer in Denmark as a researcher, teacher, salaried executive or as a specialist, etc.; or
- (iii) the alien, in cases other than those mentioned in paragraphs (i) and (ii), has concluded a contract of or has been offered ordinary full-time employment with an employer in Denmark on usual conditions of pay and employment.

(6) It must be made a condition for a residence permit under subsection (5) that the employer in Denmark is registered with the national customs and tax authorities as having a duty to withhold taxes under the Taxation at Source Act. The Danish Immigration Service may procure such information from the tax authorities. The information may be procured electronically.

(7) A residence permit cannot be issued under subsection (5) if the employer in Denmark is a party to a strike, lockout or boycott. This does not apply if the conflict has been found contrary to a collective agreement or otherwise unlawful.

(8) It must be made a condition for a residence permit under subsection (5)(iii) that the employment contract concluded or the employment offer made includes the information referred to in section 2(2) of the Act on the Employer's Duty to Notify the Employee of the Employment Conditions.

(9) In cases concerning a residence permit under subsection (5)(iii), the employer in Denmark shall make a declaration to the Danish Immigration Service as to whether the conditions of pay and employment are usual and whether the infor-

mation referred to in subsection (8) is contained in the employment contract or offer.

(10) At the request of the Danish Immigration Service, the Regional Labour Market Council issues an opinion as to whether the council finds that the conditions stated in subsection (1), (2), (5) or (8) are satisfied. The opinion may be procured electronically.

(11) Without the alien's consent, the Danish Immigration Service passes on information on issue of a residence permit under subsection (5) to the Regional Labour Market Council. In that connection the Danish Immigration Service may pass on the following information, also electronically: -

- (i) The employee's name.
- (ii) The employer's name and address and location of the workplace.
- (iii) The employee's work functions, title, rank, position and job category.
- (iv) First date of employment and its expected duration if it is not permanent employment.
- (v) The normal daily or weekly hours of work.

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

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

**9c.** (1) Upon application, a residence permit may be issued to an alien if exceptional reasons make it appropriate, including regard for family unity. Unless particular reasons make it inappropriate, including regard for family unity, it must be made a condition for a residence permit under



the first sentence hereof as a result of family ties with a person living in Denmark that the conditions referred to in section 9(2) to (17) are satisfied. The provisions of section 9(19) to (25) apply correspondingly.

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

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

(3) A residence permit may be issued to: -

- (i) an unaccompanied alien who has submitted an application for a residence permit pursuant to section 7 prior to his 18<sup>th</sup> birthday if, from information available on the alien's personal circumstances, there are particular reasons to assume that the alien should not undergo asylum proceedings;
- (ii) an unaccompanied alien who has submitted an application for a residence permit pursuant to section 7 prior to his 18<sup>th</sup> birthday, if there is reason to assume that in cases other than those mentioned in section 7(1) and (2) the alien will in fact be placed in an emergency situation upon a return to his country of origin.

(4) A residence permit under subsection (1) must be obtained before the entry into Denmark. After entry, such application cannot be submitted or examined or be allowed to suspend enforcement in Denmark, unless particular reasons make it appropriate.

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

**9e.** A residence permit may be issued to an alien from the Kosovo Province of the Federal Republic of Yugoslavia holding or formerly holding a residence permit pursuant to the Act on Temporary Residence Permits for Distressed Persons from the Kosovo Province of the Federal Republic of Yugoslavia (the Kosovo Emer-

gency Act) or being or having been registered as an asylum-seeker under the rules of section 48e(1) on the basis of an application for a residence permit under section 7 submitted before 30 April 1999, if the alien must be assumed to need temporary protection in Denmark.

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

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

(2) It must be made a condition for a residence permit under subsection (1) that the alien proves that he has ties with the Danish national church or a recognised or approved religious community in Denmark. It is a condition for issue of a residence permit under subsection (1) that the number of aliens holding a residence permit under subsection (1) within the religious community is reasonably proportionate to the size of the religious community.

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

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

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

(6) A residence permit under subsection (1) must be obtained before the entry into Denmark. After entry, such application cannot be submitted or examined or be allowed to suspend enforcement of any decision in Denmark, unless particular reasons make it appropriate.

**10.** (1) An alien cannot be issued with a residence permit under sections 6 to 9f, if: -

- (i) the alien must be deemed a danger to national security;

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

(2) In cases other than those mentioned in subsection (1) an alien cannot, unless particular reasons make it appropriate, including regard for family unity, be issued with a residence permit under sections 6 to 9f, if: -

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

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

(4) An alien prohibited from entering Denmark, cf. section 32(1), cannot be issued with a residence permit under sections 6, 8(3) and 9 to 9f, unless exceptional reasons make it appropri-

ate, including regard for family unity, but at the earliest 2 years after departure.

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

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

(3) A permanent residence permit is issued upon application to an alien who has lived lawfully in Denmark for more than the last 7 years and who, throughout this period, has been issued with a residence permit on the same basis under sections 7 to 9e, but cf. subsections (7) to (9), unless there is a basis for revoking the residence permit under section 19. An alien issued with a residence permit under section 9(1)(ii) cannot be issued with a permanent residence permit until his 18<sup>th</sup> birthday.

(4) Notwithstanding that the conditions of subsection (3), first sentence, are not satisfied, a permanent residence permit, but cf. subsections (7) to (9), may be issued upon application to an alien who: -

- (i) has lived lawfully in Denmark for more than the last 5 years and has been issued with a residence permit on the same basis under sections 7 to 9e throughout this period;
- (ii) has had permanent ties with the labour market as an employee or self-employed in Denmark for the last 3 years prior to submitting the application and until the permanent residence permit is issued and must be assumed to continue to have such ties;
- (iii) has not received any assistance under the Act on an Active Social Policy or the Integration Act for the last 3 years prior to submitting the application and until the permanent residence permit is issued; and
- (iv) has obtained essential ties with the Danish society.

(5) Notwithstanding that the condition of subsection (4)(i) is not satisfied, a permanent residence permit may be issued under subsection (4), but cf. subsections (7) to (9), to an alien who has lived lawfully in Denmark for more than the last 3 years and has been issued with a residence

permit throughout this period on the same basis under sections 7 to 9e, if exceptional reasons make it appropriate.

(6) Notwithstanding that the conditions of subsection (3), first sentence, and subsections (4) and (5) are not satisfied, a permanent residence permit may be issued upon application if essential considerations conclusively make it appropriate to grant the application, but cf. subsections (7) to (9).

(7) An alien cannot be issued with a permanent residence permit if the alien has been sentenced to a custodial sentence of at least 2 years' imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration for violation of: -

- (i) the Act on Euphoriant Drugs, section 191 or 290 of the Criminal Code when the proceeds were obtained by violation of the Act on Euphoriant Drugs or section 191 of the Criminal Code;
- (ii) section 59(7) of the Aliens Act or section 125a of the Criminal Code; or
- (iii) provisions in Parts XII and XIII of the Criminal Code or sections 119(1) and (2), 180, 181, 183(1) and (2), 183a, 186(1), 187(1), 192a, section 210(1) and (3), cf. subsection (1), sections 216 and 222, sections 224 and 225, cf. sections 216 and 222, section 237, 245, 245a, 246, 252(2), 261(2) or 288 of the Criminal Code.

(8) Unless particular reasons make it appropriate, an alien who, in cases other than those mentioned in subsection (7), has been sentenced in Denmark to imprisonment or suspended imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature cannot be issued with a permanent residence permit until after expiry of the periods mentioned in section 11a.

(9) Unless particular reasons make it inappropriate, it is a condition for the issuing of a permanent residence permit that the alien: -

- (i) has completed an introduction programme offered to him pursuant to the Integration Act or, if this is not the case, has completed another comparable course, cf. subsection (11);
- (ii) has passed a test in the Danish language approved by the Minister of Refugee, Immi-

gration and Integration Affairs, cf. subsection (11); and

- (iii) has no overdue debt to public authorities, cf. subsection (11).

(10) Without the alien's consent, the local council may issue an opinion to the Danish Immigration Service about circumstances known to the local council concerning the alien which the local council deems to be of importance to the decision in a case of extension of a time-limited residence permit or of issue of a permanent residence permit. In cases where the alien has been issued with a residence permit as a result of family ties with a person living in Denmark, the local council may, without the consent of the alien and the person living in Denmark, issue an opinion to the Danish Immigration Service about circumstances known to the local council concerning the persons involved which the local council deems to be of importance to the decision of a case as referred to in the first sentence hereof.

(11) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on the application of subsections (3) to (6) and (9) and on the opinion of the local council according to section 52 of the Integration Act.

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

(2) In cases other than those mentioned in section 11(7), a sentence of imprisonment is an obstacle to the issue of a permanent residence permit for the following periods: -

- (i) A sentence of imprisonment for less than 60 days is an obstacle to the issue of a permanent residence permit for 5 years from the date of release.
- (ii) A sentence of imprisonment for 60 days or more, but less than 6 months, is an obstacle to the issue of a permanent residence permit for 8 years from the date of release.
- (iii) A sentence of imprisonment for 6 months or more, but less than 1 year, is an obstacle to the issue of a permanent residence permit for 10 years from the date of release.
- (iv) A sentence of imprisonment for 1 year or more, but less than 2 years, is an obstacle to the issue of a permanent residence permit for 12 years from the date of release.

(v) A sentence of imprisonment for 2 years or more is an obstacle to the issue of a permanent residence permit for 15 years from the date of release.

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

(4) In cases other than those mentioned in section 11(7), any other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a sentence of imprisonment or suspended imprisonment is an obstacle to the issue of a permanent residence permit for the following periods: -

(i) A sentence of out-patient treatment with the possibility of hospitalisation, cf. sections 68 and 69 of the Criminal Code, is an obstacle to the issue of a permanent residence permit for 2 years from the date of the final court decision terminating the sanction, but at least 3 years from the date of the final court decision imposing the sanction, cf. subsection (5).

(ii) A sentence of treatment in hospital, cf. sections 68 and 69 of the Criminal Code, is an obstacle to the issue of a permanent residence permit for 4 years from the date of the final court decision terminating the sanction, but at least 6 years from the date of the final court decision imposing the sanction, cf. subsection (5).

(iii) A sentence of committal to hospital, cf. sections 68 and 69 of the Criminal Code, is an obstacle to the issue of a permanent residence permit for 6 years from the date of the final court decision terminating the sanction, but at least 8 years from the date of the final court decision imposing the sanction, cf. subsection (5).

(iv) A sentence of safe custody, cf. section 68, cf. section 70, and section 70 of the Criminal Code, is an obstacle to the issue of a permanent residence permit for 15 years from the date of the final court decision terminating the sanction, cf. subsection (5).

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

(6) A sentence implying the youth sanction, cf. section 74a of the Criminal Code, is an obstacle to the issue of a permanent residence permit for

2 years from the date of termination of the sanction.

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

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

**12.** The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on residence permits, including criteria for the issue of residence permits, their terms of validity, and the conditions that may be laid down for the stay.

## Part II

### Work

**13.** (1) An alien must have been issued with a work permit to be allowed to take paid or unpaid employment, to be self-employed or to provide services with or without remuneration in Denmark. A work permit is required also for employment aboard a Danish ship or aircraft which, as part of scheduled traffic or otherwise regularly calls at Danish ports or airports.

(2) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed provisions on the extent to which a work permit is required for work within Danish territorial waters or the Danish continental shelf.

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

(i) nationals of another Nordic country, cf. section 1;

- (ii) aliens falling within the EU rules, cf. sections 2 and 6, except for nationals of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary;
- (iii) aliens issued with a permanent residence permit;
- (iv) aliens issued with a residence permit under section 7, 8, 9, 9b, 9d or 9e;
- (v) aliens issued with a residence permit under section 9c(1) when the permit has been issued in immediate continuation of a residence permit under section 9b;
- (vi) aliens issued with a residence permit under section 9c when the permit has been issued to an alien who has submitted an application for a residence permit under section 7;
- (vii) aliens issued with a residence permit under section 9c(1) when the permit has been issued as a result of family ties with a person living in Denmark.

(2) The Minister of Refugee, Immigration and Integration Affairs may order that other aliens are exempt from the requirement of a work permit.

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

(2) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on work permits, including the substance and term of permits and the conditions that may be stipulated in permits.

**16.** (1) The Minister of Labour may lay down rules to the effect that an alien issued with a work permit or exempt from the requirement thereof shall be a contributor to an unemployment insurance fund, and to the effect that anyone having an alien in his employ shall notify the public employment service thereof.

(2) Anyone having an alien in his employ shall on request provide the competent authority with the data required for establishing whether the alien is lawfully working in Denmark.

### Part III

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

**17.** (1) A residence permit lapses when the alien gives up his residence in Denmark. The permit also lapses when the alien has stayed outside Denmark for more than 6 consecutive months.

Where the alien has been issued with a residence permit with a possibility of permanent residence and has lived lawfully for more than 2 years in Denmark, the residence permit lapses only when the alien has stayed outside Denmark for more than 12 consecutive months. The periods here referred to do not include absence owing to compulsory military service or any service substituted therefor.

(2) Upon application, it may be decided that a residence permit must be deemed not to have lapsed for the reasons given in subsection (1).

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

**17a.** (1) Notwithstanding the provision of section 17, a residence permit does not lapse until an alien having for the purpose of permanent residence returned to his country of origin or the country of his former habitual residence has stayed outside Denmark for more than 12 consecutive months and holds a residence permit under: -

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

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

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

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

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

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

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

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

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

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

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

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

- (i) the basis of the application or the residence permit was not correct or is no longer present, including if the alien holds a residence permit under section 7 or 8, and the conditions constituting the basis of the residence permit have changed in such a manner that the alien no longer risks persecution, cf. sections 7 and 8;
- (ii) the alien is not in possession of a requisite passport or other travel document, cf. sec-

tion 39, allowing him to return to the country of issue;

- (iii) the alien fails to comply with conditions laid down for his residence permit or work permit. Such conditions must have been clearly stated, and it must have been impressed upon the alien in writing that non-compliance will lead to revocation;
- (iv) it has been made a condition for the residence permit that a person living in Denmark proves his ability to maintain the alien, cf. sections 9(3), 9(12), first sentence, and 9(17), first sentence, and the person living in Denmark can no longer so prove. The provisions of section 9(22) apply correspondingly.
- (v) it has not been made a condition for the residence permit that a person living in Denmark proves his ability to maintain the alien because exceptional reasons make it inappropriate, cf. section 9(3), and such exceptional reasons no longer exist, and the person living in Denmark cannot prove his ability to maintain the alien. The provisions of section 9(22) apply correspondingly.
- (vi) it has been made a condition for the residence permit that a person living in Denmark proves that he disposes of his own dwelling of a reasonable size, cf. section 9(6), 9(12), second sentence, and 9(17), second sentence, and the person living in Denmark can no longer so prove. The provisions of section 9(24) apply correspondingly.
- (vii) it has been not made a condition for the residence permit that a person living in Denmark proves that he disposes of his own dwelling of a reasonable size, because particular reasons make it inappropriate, cf. section 9(6), 9(12), second sentence, and 9(17), second sentence, and such particular reasons no longer exist, and the person living in Denmark cannot prove that he disposes of his own dwelling of a reasonable size. The provisions of section 9(24) apply correspondingly.
- (viii) it has been made a condition for the residence permit that the alien and persons issued with a residence permit as a result of family ties with the alien do not receive any public assistance for maintenance during their stay in Denmark, cf. section 9f(4), and

the alien or persons issued with a residence permit as a result of family ties with the alien receive public assistance for maintenance. At the request of the Danish Immigration Service, the local council issues an opinion as to whether the alien or persons issued with a residence permit as a result of family ties with the alien has or have received public assistance for maintenance during their stay in Denmark.

(2) A time-limited or a permanent residence permit may always be revoked if: -

- (i) the alien has obtained his residence permit by fraud;
- (ii) information has been provided on circumstances that, under the rules of section 10(1), would exclude the alien from a residence permit;
- (iii) information has been provided on circumstances that, under the rules of section 10(2)(i) and (ii), would exclude the alien from a residence permit.

(3) A time-limited or permanent residence permit can always be revoked if an alert has been entered in the Schengen Information System for the purpose of refusal of entry pursuant to the Schengen Convention in respect of an alien who is not a national of a Schengen country or a Member State of the European Union, because of circumstances which, in Denmark, could lead to expulsion under Part IV. Revocation under the first sentence hereof is effected in connection with consultations pursuant to Article 25 of the Schengen Convention with the authorities of another Schengen country.

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

tence hereof if the alien is a family member to a national of a Member State of the European Union who has made use of his right to freedom of movement, cf. section 2(4).

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

(6) The provisions of subsection (1)(ii) to (viii) do not apply to aliens issued with a residence permit under section 6.

(7) Section 26(1) applies correspondingly to decisions on revocation of residence permits. In decisions on revocation of a residence permit pursuant to subsection (2)(ii), the provision of section 26(2) applies correspondingly.

(8) In deciding on revocation of a residence permit issued pursuant to section 9(1)(i), special regard must be had to the question whether the basis of residence is no longer present because of cessation of cohabitation due to the fact that the alien issued with a residence permit under section 9(1)(i) has been exposed to outrages, abuse or other ill-treatment, etc., in Denmark.

(9) The local council may, without the alien's consent, issue an opinion to the Danish Immigration Service about circumstances known to the local council concerning the alien which the local council deems to be of importance to the decision of a case under subsection (1) or (2). In cases where the alien has been issued with a residence permit as a result of family ties with a person living in Denmark, the local council may, without the consent of the alien and the person living in Denmark, issue an opinion to the Danish Immigration Service about circumstances known to the local council concerning the persons involved which the local council deems to be of importance to the decision of a case as referred to in the first sentence hereof.

**20.** A residence permit issued under section 7 or 8 to an alien having arrived in Denmark in an

extensive inflow of refugees may be revoked if a third country is prepared to receive him and afford him protection, or if the grounds for issue of the residence permit have clearly ceased to exist.

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

#### **Part IV**

##### *Expulsion*

**22.** An alien who has lawfully stayed in Denmark for more than the last 7 years and an alien issued with a residence permit under section 7 or 8 may be expelled if: -

- (i) the alien is sentenced to at least 4 years' imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (ii) the alien, for several criminal counts, is sentenced to at least 2 years' imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (iii) the alien is sentenced to at least 2 years' imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration and has previously been sentenced in Denmark to imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature;
- (iv) the alien is sentenced, pursuant to the Act on Euphoriant Drugs or section 191 or 290 of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature, provided that the proceeds were obtained by violation of the Act on Euphoriant Drugs or section 191 of the Criminal Code;
- (v) the alien is sentenced, pursuant to section 59(7) of this Act or section 125a of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature;

- (vi) the alien is sentenced, pursuant to provisions in Parts XII and XIII of the Criminal Code or pursuant to section 119(1) and (2), 180, 181, 183(1) and (2), 183a, 186(1), 187(1), 192a, 210(1) or 210(3), cf. subsection (1) thereof, section 215, 216 or 222, sections 224 and 225, cf. sections 216 and 222, section 237, 245, 245a, 246, 252(2), 261(2), 262a, 276, cf. section 286, sections 278 to 283, cf. section 286, section 288 or 290(2) of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature; or

- (vii) the alien is sentenced, pursuant to section 260 or 266 of the Criminal Code, to imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature, for having coerced another person to contract a marriage against that person's own desire;

**23.** An alien who has lawfully lived in Denmark for more than the last 3 years may be expelled if: -

- (i) any ground given in section 22 is applicable;
- (ii) the alien is sentenced to at least 2 years' imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (iii) the alien, for several criminal counts, is sentenced to at least 1 year's imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (iv) the alien is sentenced to at least 1 year's imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration and has previously been sentenced in Denmark to imprisonment or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature.

**24.** Other aliens may be expelled if: -



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

**25.** An alien may be expelled if: -

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

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

- (i) the alien, in cases other than those mentioned in sections 22 to 24, has been sentenced for violation of section 42a(7), second sentence, cf. section 60(1), of this Act, sections 119, 244, 266, 276 to 283 or 290 of the Criminal Code, section 73(2), cf. subsection (1)(i), of the Customs Act, or the Act on Arms and Explosives, or the alien has admitted the violation to the police or was apprehended during or in direct connection with commission of the offence;
- (ii) the alien has been sentenced for unlawful possession of euphoriant drugs, or the alien has admitted unlawful possession or use of euphoriant drugs to the police, or there are strong reasons for suspicion in general.

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

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

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

**26.** (1) In deciding on expulsion, regard must be had to the question whether expulsion must be assumed to be particularly burdensome, in particular because of: -

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

(2) An alien may be expelled pursuant to section 22(iv) to (vii) and section 25 unless the circumstances mentioned in subsection (1) constitute a decisive argument against doing so.

**27.** (1) The periods referred to in section 11(3), first sentence, and subsections (4) and (5), section 17(1), third sentence, and sections 22, 23 and 25a are reckoned from the date of the alien's registration with the National Register Office or, if his application for a residence permit was submitted in Denmark, from the date of submission of that application.

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

(3) The reckoning of the periods mentioned in subsection (1) is interrupted when a granted residence permit expires, lapses or is revoked by the Danish Immigration Service. Where the residence permit is extended, the residence permit is not considered lapsed, or the decision on revocation is reversed, the periods mentioned in subsection (1) are reckoned from the dates men-

tioned in subsections (1) and (2) in relation to the previously granted residence permit.

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

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

**27a.** For the use of the Danish Immigration Service and the Ministry of Refugee, Immigration and Integration Affairs in their decisions on expulsion under Part IV, cf. section 49, and without the alien's consent, the police may pass on information on the alien's criminal offences, including charges of criminal offences, to the Ministry of Refugee, Immigration and Integration Affairs or the Danish Immigration Service.

#### **Part IVa**

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

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

(2) Subsection (1) does not apply to aliens who: -

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

(3) If an alien as mentioned in subsection (1) is

issued with a residence permit for another Schengen country or for a Member State of the European Union, a decision on return under subsection (1) is made in connection with consultations pursuant to Article 25(2) of the Schengen Convention with the authorities of the country in which a final decision on return of the alien has been made, and with the authorities of the country for which the alien is issued with a residence permit. If the alien's residence permit is not revoked, no decision on return under subsection (1) is made.

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

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

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

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

#### **Part V**

##### *Refusal of entry*

**28.** (1) An alien not issued with a residence permit for Denmark and a national of a Nordic country not permanently resident in Denmark may be refused entry on arrival from a country which has not acceded to the Schengen Convention in the following cases: -

- (i) If the alien has been prohibited from enter-

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- ing and has no visa issued under section 4 or 4a, cf. section 3a, first sentence.
- (ii) If the alien does not comply with the provisions on travel documents, visa and entry laid down pursuant to Part VII.
- (iii) If reason is found from information available on the alien to assume that he intends to stay or work in Denmark without the requisite permit. Aliens falling within section 2(1) or (2) cannot be refused entry on this ground.
- (iv) If the alien cannot present documentation for the purpose and specific circumstances of his stay. Aliens falling within section 2(1) or (2) cannot be refused entry on this ground.
- (v) If the alien's means are insufficient to support him both as concerns the entire intended stay in the Schengen countries and to pay for either his return journey or the passage to a country which has not acceded to the Schengen Convention and where he is certain of entry, and he is not able to acquire such means in a lawful manner. Aliens falling within section 2(1) or (2) cannot be refused entry on this ground.
- (vi) If the alien is not a national of a Schengen country or a Member State of the European Union, and an alert has been entered in the Schengen Information System for the purpose of refusal of entry pursuant to the Schengen Convention in respect of the alien.
- (vii) If other reasons of public order, relations with foreign powers or reasons of security or health of the Schengen countries indicate that the alien should not be allowed to stay in Denmark.
- (2) Nationals of countries which have not acceded to the Schengen Convention or are not Member States of the European Union must be refused entry on arrival from a country which has not acceded to the Schengen Convention under the provisions in subsection (1)(i) to (vii), but cf. subsection (6).
- (3) An alien not issued with a residence permit for Denmark or a national of a Nordic country not permanently resident in Denmark may be refused entry on arrival from a Schengen country under the provisions of subsection (1)(i) to (vii), but cf. subsection (6). A national of a Nordic country can only be refused entry under subsection (1)(ii) if he enters from a non-Nordic country, cf. section 39(4).
- (4) An alien who is not a national of a Nordic country and does not fall within section 2(1) or (2) may be refused entry on his arrival in Denmark if the alien in question may be refused entry under the rules applying in the other Nordic country to which the alien in question must be assumed to intend to travel.
- (5) Refusal of entry under subsections (1) to (4) may further be effected until 3 months after entry. After having entered Denmark, aliens falling within section 2(1) or (2) may, however, be refused entry only under subsection (1)(i) and (vii) and, if the authorities must defray the expenses of the alien's leaving Denmark, also under subsection (1)(v). If Denmark has made a request to another Member State to take charge of, take back or receive the alien under the rules of Part Va, the time-limit in the first sentence hereof is reckoned from the date when the other Member State gives an answer to the request.
- (6) Refusal of entry under subsections (1) to (5) may not be effected, if pursuant to Article 5(2) of the Schengen Convention, the alien has obtained special permission to enter Denmark. Where the alien is entitled to transit through Denmark under section 2b(3), fourth sentence, the alien can be refused entry only under subsection (1)(i), (ii), (vi) or (vii), cf. subsections (2) to (5). Where the alien is entitled to transit through Denmark under section 2b(4), the alien may be refused entry only under subsection (1)(i), cf. subsections (2) to (5).
- (7) An alien whose application for a residence permit under section 7 is refused or who waives such application, or whose application for asylum lapses under section 40(9) may be refused entry for up to 3 months after entry, notwithstanding the provisions of subsections (1) to (4).
- (8) An alien not permanently resident in Denmark may, notwithstanding the provisions of Part I, be refused entry if it is found necessary for reasons of national security.
- (9) The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules on refusal of entry and return of stowaways.
- 29. (Repealed)**

### Part Va

#### *Transfer, etc., under the Dublin Convention*

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

(2) In this Act, the Dublin Convention means the Convention determining the State responsible for examining applications for asylum submitted in one of the Member States of the European Union.

### Part VI

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

**30.** (1) An alien who is not, under the rules of Parts I and III to Va, entitled to stay in Denmark, must leave Denmark.

(2) If the alien does not leave Denmark voluntarily, the police must make arrangements for his departure. The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules in this respect.

(3) For processing of a case of the return of an alien, the Danish Immigration Service or the Refugee Board passes on to the police, without the consent of the alien, all documents included in the case about a residence permit under section 7, when a final refusal of a residence permit under section 7 has been given, or when the alien waives the application for a residence permit.

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

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

ly dangerous crime, the alien must be deemed a danger to society, but cf. subsection (1).

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

(2) An entry prohibition in connection with expulsion under sections 22 to 24 is given for: -

- (i) 3 years if the alien is sentenced to suspended imprisonment or is sentenced to imprisonment not exceeding 3 months or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature or duration;
- (ii) 5 years if the alien is sentenced to imprisonment exceeding 3 months, but not exceeding 1 year, or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (iii) 10 years if the alien is sentenced to imprisonment exceeding 1 year, but not exceeding 2 years, or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (iv) ever if the alien is sentenced to imprisonment exceeding 2 years or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration.

(3) An entry prohibition in connection with expulsion under section 22(1)(iv) to (vii) is given for at least 5 years.

(4) An entry prohibition in connection with expulsion under section 25 is given for ever. An entry prohibition in connection with expulsion under sections 25a and 25b is given for 1 year.

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

(6) An entry prohibition lapses if, under the conditions mentioned in section 10(3) and (4), the person in question is issued with a residence permit under sections 6 to 9f.

(7) An entry prohibition given to a national of another Nordic country may be lifted at a later date where exceptional reasons make it appropriate.

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

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

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

(2) If the Danish Immigration Service, pursuant to section 53b(1), or the Refugee Board refuses an application for a residence permit under section 7, the alien is ordered to leave Denmark immediately. The same applies to determination of a new time-limit for departure, if enforcement of the time-limit for departure has been suspended after the Danish Immigration Service, pursuant to section 53b(1), or the Refugee Board has refused an application for a residence permit under section 7, or if enforcement of the time-limit for departure has been suspended pursuant to section 33(4), first or third sentence, and the time-limit for departure is only determined after the Refugee Board has refused an application for a residence permit under section 7. In decisions on return under section 27b, the alien may be ordered to leave Denmark immediately. Otherwise, except where urgently required, the time-limit must be not less than 15 days or, if the alien is a national of another Nordic country and has been resident in Denmark or

if the alien has hitherto been issued with a residence permit, not less than 1 month.

(3) Where a decision made under subsection (1) is appealed against within 7 days of its being served on the alien concerned, the alien is entitled to remain in Denmark until his appeal has been decided on, provided he is either comprised by the EU rules, cf. section 2, or is a national of another Nordic country and has been resident in Denmark or has hitherto been issued with a residence permit for Denmark. Where the decision is upheld, a new time-limit for departure from Denmark must be determined under the rules of subsection (2). An alien who has not hitherto had a residence permit for Denmark and who falls within the EU rules, cf. section 2(1) and (2), is not entitled to stay in Denmark until an appeal of a decision of expulsion under section 25a or 25b has been decided. An alien who has hitherto been issued with a residence permit for the purpose of a temporary stay which cannot be further extended under established practice is not entitled under the first sentence hereof to remain in Denmark until an appeal of a decision refusing extension of the residence permit has been decided.

(4) An application for a residence permit under section 9b suspends enforcement of the time-limit for departure if the application is submitted within 15 days of refusal by the Danish Immigration Service of a residence permit under section 7. If, pursuant to section 53b(1), the Danish Immigration Service has refused an application for a residence permit under section 7, the application for a residence permit under section 9b only suspends enforcement of the time-limit for departure if the application is submitted in connection with the service on the alien of the time-limit for departure determined in connection with the refusal of an application for a residence permit under section 7. An application for a residence permit under section 9b submitted later than at the times mentioned in the first and second sentences hereof does not suspend enforcement, unless exceptional reasons make it appropriate.

(5) A complaint of a decision made by the Danish Immigration Service under section 53b(1) to the Ombudsman of the Danish Parliament does not suspend enforcement of the decision.

(6) A complaint of a decision made by the Minister of Refugee, Immigration and Integration Affairs under section 9b to the Ombudsman of the Danish Parliament does not suspend enforcement of the decision on the time-limit for departure if the complaint must be considered to be manifestly unfounded or the complaint is not submitted in connection with notification of the refusal of a residence permit under section 9b.

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

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

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

(10) An application for a residence permit under sections 9 to 9f, cf. section 10(4), submitted by an alien under an entry prohibition does not suspend enforcement unless the authority examining the application so decides.

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

(12) Where an alien from the Kosovo Province of the Federal Republic of Yugoslavia holding or formerly holding a residence permit pursuant to the Act on Temporary Residence Permits for Distressed Persons from the Kosovo Province of the Federal Republic of Yugoslavia (the Kosovo Emergency Act), or being or having been registered as an asylum-seeker under the rules of section 48e(1) on the basis of an application for a residence permit under section 7 submitted before 30 April 1999, appeals a decision refusing an application for a residence permit under section 9e or a decision revoking such residence permit within 7 days after the decision on refusal or revocation has been notified to the alien, the alien is entitled to stay in Denmark until the appeal has been decided.

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

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

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

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

- (i) the alien submits an application for a residence permit under section 7 and does not assist in providing information for the case, cf. section 40(1), first and second sentences;
- (ii) without reasonable cause, the alien fails to appear for an interrogation at the Danish Immigration Service or the police to which the alien has been summoned;
- (iii) the alien has exhibited violent or threaten-

- ing behaviour to persons performing duties in relation to the running of an accommodation centre for aliens or to persons otherwise staying at the accommodation centre;
- (iv) the alien does not comply with the decision of the Danish Immigration Service to the effect that the alien must stay at a place determined by the Danish Immigration Service, cf. section 42a(7), first sentence, and section 42d(2), second sentence; or
  - (v) the police is making arrangements for the alien's departure and the alien does not assist therein, cf. section 40(4), first sentence.

(3) The police may order an alien whose application for a residence permit under section 7 or 8(1) or (2) has been refused, but who cannot be returned from Denmark, cf. section 31, to report to the police at specified times to ensure that the police is continuously aware of the alien's place of residence.

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

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

- (i) the alien is not permanently resident in Denmark and there are reasons to suspect that the alien has committed an offence that may lead to expulsion under sections 22 to 24;
- (ii) the alien has entered Denmark in violation of an entry prohibition.

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

(3) The provisions of the Administration of Justice Act on remand in custody and measures in replacement thereof apply otherwise. A time-limit must, however, always be determined for the length of the custody or measure in cases where the remand in custody or the imposition of the measure in replacement thereof is solely laid

down with a view to enforcement of a decision by a final judgment of expulsion. The time-limit under the second sentence hereof is determined by the court at the place where the alien is detained.

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

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

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

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

- (i) without reasonable cause, repeatedly failing to appear for interrogations at the police

- or the Danish Immigration Service, to which the alien has been summoned;
- (ii) not giving or by obscuring information on his identity, nationality or travel route or by making undoubted misrepresentations thereon, cf. section 40(1), first and second sentences; or
  - (iii) otherwise not assisting in procuring information for the case.

(5) Where the police is making arrangements for an alien's departure and the alien does not assist therein, cf. section 40(3), first sentence, the alien may be deprived of liberty to ensure that the alien gives the requisite information for the departure and assists in procuring the necessary travel documents and visa and in the departure in general.

(6) An alien whose application for a residence permit pursuant to section 7 has been refused by the Danish Immigration Service pursuant to section 53b(1) or by the Refugee Board, and where the police is making arrangements for the alien's departure and the alien does not assist therein, cf. section 40(4), first sentence, may be deprived of liberty if the measures mentioned in sections 34 and 42a(7), first sentence, and 42a(10) are insufficient to ensure the alien's assistance in the departure.

(7) An alien who fails once or several times to comply with the order of the police under section 34(3) may be deprived of liberty if necessary to determine whether a possibility of his return has arisen, cf. section 32b.

**37.** (1) An alien deprived of liberty under section 36 must, if he has not already been released, within 3 full days after the enforcement of deprivation of liberty be brought before a court of justice, and the court shall rule on the lawfulness of the deprivation of liberty and its continuance. If the deprivation of liberty under section 36 was enforced immediately after an arrest under Part LXIX of the Administration of Justice Act, the time-limit is reckoned from the time of the arrest. The alien must be brought before the competent court at the place where the alien was detained.

(2) The court shall assign an attorney to act on behalf of the alien. The date and hour when deprivation of liberty was enforced and when the alien was brought before the court must be registered in the court records.

(3) The decision of the court must be made by

court order subject to interlocutory appeal under the rules of Part XXXVII of the Administration of Justice Act. If the alien is deprived of liberty at the time the decision is made and if his deprivation of liberty is found lawful, the court order must determine a time-limit for continued detention. The court may extend this time-limit at a later date, but by not more than 4 weeks at a time. If the deprivation of liberty has been effected pursuant to section 36(1), third sentence, the deprivation of liberty may be upheld under this provision for not more than 7 days after the enforcement of the deprivation of liberty pursuant to section 36(1), third sentence.

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

(5) Interlocutory appeal does not suspend the enforcement of a decision on refusal of entry, expulsion, transfer or retransfer or return on the grounds that the alien is not entitled to stay in Denmark under the rules of Parts I and III to Va.

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

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

(2) Sections 773 to 776 and 778 of the Administration of Justice Act apply correspondingly if a decision for detention in custody is upheld by the court pursuant to section 37, cf. section 36.

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

(2) Section 770(2) of the Administration of Justice Act applies correspondingly to an alien who has been deprived of liberty pursuant to sec-



tion 36 of the Aliens Act, or if a decision for deprivation of liberty is upheld by the court pursuant to section 37, cf. section 36.

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

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

(3) The police shall submit the request for solitary confinement to the competent court at the place where the alien is deprived of liberty. The court shall assign an attorney for the alien. The court makes its decision by court order, which is subject to interlocutory appeal under the rules of Part XXXVII of the Administration of Justice Act. Interlocutory appeal does not suspend enforcement of a decision on solitary confinement. Further, Part XLIIIa of the Administration of Justice Act applies correspondingly.

(4) If the court finds that solitary confinement can be enforced or continued, the decision of the court must include a time-limit for continued solitary confinement. When solitary confinement is enforced, the first time-limit for the enforcement must not exceed 2 weeks. This limit may later be extended by the court, but not by more than 4 weeks at a time. Complete solitary confinement must not take place for continued periods exceeding 4 weeks.

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

A request made under the second sentence hereof does not suspend enforcement. Subsection (3) applies correspondingly.

**37d.** (1) An alien who is deprived of liberty pursuant to section 36, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, may receive visitors to an extent consistent with maintenance of order and security at the place where the alien is detained. With a view to procurement of information necessary for deciding whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or necessary for the police to make arrangements for the alien's departure, the police may oppose visits to the person deprived of liberty, or the police may demand that such visits take place under surveillance. The person deprived of liberty always has the right to receive visits from his assigned attorney without surveillance. A person deprived of liberty who has applied for a residence permit under section 7 may always receive visits from a representative of the Danish Refugee Council without surveillance.

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

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

(4) An alien whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, can demand that the refusal by the police to receive visitors or the demand by the police of surveillance under subsection (1) be

put before the court for decision. A demand under the first sentence hereof does not suspend enforcement. Section 37c(3) applies correspondingly.

(5) An alien who is deprived of liberty pursuant to section 36, but who has not been brought before the court pursuant to section 37, cf. section 36, can demand that the refusal by the police to receive visitors or the demand by the police of surveillance under subsection (1) be put before the court for decision when the alien is brought before the court pursuant to section 37, cf. section 36. A demand under the first sentence hereof does not suspend enforcement. Section 37c(3) applies correspondingly.

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

(2) An alien who is deprived of liberty pursuant to section 36, or whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, has a right to non-supervised exchange of letters with the assigned attorney, the Minister of Refugee, Immigration and Integration Affairs, the Danish Immigration Service, and the Refugee Board. If the alien has applied for a residence permit pursuant to section 7, he has a right to non-supervised exchange of letters with the Danish Refugee Council. Section 772(2) of the Administration of Justice Act applies correspondingly.

(3) When a letter to or from an alien, whose deprivation of liberty has been upheld by the court pursuant to section 37, cf. section 36, is withheld from him, the question of whether or not such withholding is to be continued must be put before the court for decision. If the withholding is upheld, the sender and the addressee must be informed immediately, unless with a view to

procurement of information necessary for deciding whether or not a permit pursuant to this Act can be issued or whether or not the alien is lawfully staying in Denmark, or necessary for the police to make arrangements for the alien's departure, the court should decide otherwise. Section 37c(3) applies correspondingly.

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

## Part VII

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

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

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

(3) Entry and departure across the border to a country which has not acceded to the Schengen Convention may only, unless otherwise laid down pursuant to Article 3(1), second sentence, of the Schengen Convention, be effected at the border crossing points (ports and airports) approved by the Minister of Refugee, Immigration and Integration Affairs and only during their opening hours. The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed conditions for the approval of a port or airport as a border crossing point.

(4) The Minister of Refugee, Immigration and

Integration Affairs may lay down more detailed rules on the checking of entry and departure, including on the stay in Denmark of foreign crew members; on signing on and discharge in Denmark of foreign crew members; and on the duties of ship masters and aircraft captains.

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

(6) The police may stop a vehicle inside Denmark with a view to checking whether the vehicle is transporting one or more aliens who have unlawfully entered Denmark.

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

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

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

(3) On entry and departure, the passport or travel document must be shown to the passport control officer and during stay in Denmark the passport or travel document must be shown to public authorities on request. On entry from or departure to a Schengen country, the passport or travel document need not be presented at the passport check-point unless checks are carried out exceptionally at such border pursuant to Article 2(2) of the Schengen Convention, cf. section 38(2). The Minister of Refugee, Immigration and Integration Affairs may order that aliens shall carry their passports or other documents of

identification with them at all times during their stay in Denmark.

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

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

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

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

(3) An alien shall provide such information on his financial circumstances as is required for de-

ciding whether or not the Danish Immigration Service may order the alien to repay the expenses of his stay and necessary healthcare services, cf. section 42a(4).

(4) Where the police is making arrangements for an alien's departure, the alien shall give the requisite information therefor and assist in procuring the necessary travel documents and visa and in the departure in general. At the request of the police the court may decide, if deemed necessary in order to return the alien, that an alien who does not desire to assist therein is to appear before the representatives of his country of origin or those of another country. The court shall assign an attorney to the alien. The court shall make its decision by court order which is subject to interlocutory appeal under the rules in Part XXXVII of the Administration of Justice Act. An appeal does not suspend enforcement of the order. Part XLIIIa of the Administration of Justice Act applies correspondingly to the court proceedings.

(5) If a person makes a declaration to provide information in cases falling within this Act, the immigration authorities may demand that the declaration be given on his word of honour or in a similar solemn way.

(6) Any person who, by making a false declaration or otherwise, assists or attempts to assist an alien in obtaining a residence permit by fraud must refund the expenses incurred by the State through that alien's entry, stay and departure and through the examination of the immigration case. The claim may be enforced by statutory debt collection.

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

(8) Documents or objects assumed important for the establishment of an alien's identity or his ties with other countries may be taken in safe custody if deemed necessary. Parts LXXII and LXXIII of the Administration of Justice Act and the rules on seizure in Part LXXIV of the Administration of Justice Act apply to the same extent as in matters dealing with crimes punishable by imprisonment.

(9) If an alien who has applied for a residence permit under section 7 fails to appear without giving notice of due cause after being personally summoned to appear before the Danish Immi-

gration Service or before the police, the alien's application for a residence permit under section 7 lapses. The summons must contain information about the effects of non-appearance. In special cases the Danish Immigration Service may decide that an application must be deemed not to have lapsed.

(10) When examining an application for a visa under section 4 or 4a, the Danish Immigration Service may summon the reference person living in Denmark to appear personally before the Danish Immigration Service or the police and to produce identification proving his identity. If the reference person fails to appear without giving notice of due cause after being summoned to appear before the Danish Immigration Service or the police, the visa application will be refused. The summons must contain information about the effects of non-appearance. In special cases, the Danish Immigration Service may decide that an application will not be refused.

**40a.** (1) Fingerprints may be taken of an alien: -

- (i) who applies for a residence permit under section 7(1) and (2);
- (ii) who applies for a residence permit under section 7(1) or (2) of the Aliens Act, and who can be refused entry, expelled, transferred or retransferred under section 48a(1); or
- (iii) who does not apply for a residence permit under section 7(1) and (2) and who will be refused entry or expelled or must depart from the country, cf. section 30(1), if, on the basis of the alien's documents, property, financial means and other personal circumstances, there are definite reasons for assuming that the alien will re-enter and apply for a residence permit under section 7(1) and (2).

(2) Further, fingerprints may be taken of an alien: -

- (i) if deemed expedient with a view to his identification; or
- (ii) if deemed expedient with a view to issuing or procuring a travel document for him.

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

tional Commissioner of Police is the authority responsible for the register and its data.

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

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

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

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

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

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

**40b.** (1) A photograph may be taken of an alien who applies for a residence permit under section 7.

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

- (i) if deemed expedient with a view to identification of the alien;
- (ii) if deemed expedient with a view to issuing an identity card or other document of identification to the alien; or
- (iii) if deemed expedient with a view to issuing or procuring a travel document for the alien.

(3) A photograph taken pursuant to subsection (1) or (2) may be registered in a special register kept by the National Commissioner of Police. The police and the Danish Immigration Service may use the register in connection with the examination of immigration cases. The National Commissioner of Police is the authority responsible for the register and its data.

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

(5) A photograph registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) is deleted 10 years after registration of the photograph in the register.

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

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

(8) A photograph received as part of an international inquiry for a person may be compared manually or electronically with photographs registered in the register mentioned in subsection (3). Information from the register may, for the purpose of replying to an international inquiry for a person, be passed on to the international police cooperation organisation or the foreign authority that issued the inquiry.

(9) Without the alien's consent, the police and the Danish Immigration Service may, electronically or manually, pass on photographs registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) to domestic and foreign immigration authorities in connection with the examination of immigration cases.

With a view to identification of the alien or with a view to issuing or procuring a travel document, the police may further pass on a photograph registered pursuant to subsections (3) and (4) in the register mentioned in subsection (3) to representatives of the country of origin or those of another country or to international police cooperation organisations.

**40c.** For the examination of an application for a residence permit under section 9 or section 9c(1), the immigration authorities may require the applicant and the person with whom the applicant states that he has the family tie on which the residence permit is to be based, to assist in a DNA examination with a view to determining the family tie, if such tie cannot otherwise be deemed sufficiently evidenced.

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

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

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

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

**42a.** (1) An alien who is staying in Denmark and submits an application for a residence permit pursuant to section 7 will have the expenses of his stay and necessary healthcare services defrayed by the Danish Immigration Service until the alien is issued with a residence permit or the alien departs or is returned, but cf. subsections

(3) and (4) and section 43(1). An alien as mentioned in the first sentence hereof to whom a residence permit has been issued pursuant to section 7(1) or (2), section 9b, section 9c or section 9e will have the expenses of his stay and necessary healthcare services defrayed by the Danish Immigration Service up to and including the end of the first full month following the date of the issue of the residence permit to the alien, but cf. subsections (3) and (4).

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

(3) Subsections (1) and (2) do not apply if: -

- (i) the alien resides lawfully in Denmark pursuant to section 1 or 5(2) or pursuant to a residence permit under section 6 or sections 9 to 9f;
- (ii) the alien has contracted marriage with a person living in Denmark, unless particular reasons exist;
- (iii) the alien's place of residence is unknown;
- (iv) the alien is entitled to maintenance under other legislation. Subsection (1) applies, however, notwithstanding that the alien is entitled to maintenance assistance under the Act on an Active Social Policy.

(4) The Danish Immigration Service may decide that an alien falling within subsection (1) or (2), cf. subsection (3), who has sufficient means of his own, will not have his or his family's expenses of the stay and necessary healthcare services defrayed. If the alien has sufficient means of his own to pay for the expenses of his or his family's stay and necessary healthcare services, the Danish Immigration Service may order him to do so. The Danish Immigration Service may lay down more detailed rules on the cases in which an alien as mentioned in the first sentence hereof will not have the expenses of his or his family's stay and necessary healthcare services defrayed, and on the cases in which an alien as mentioned in the second sentence hereof may be ordered to pay for such expenses. The Danish Immigration Service may lay down more detailed guidelines for the calculation of the expenses of a person's stay and necessary health-

care services, including determine average fees for a given service over a given period of time. An order issued by the Danish Immigration Service to an alien for payment of the expenses of his stay and necessary healthcare services may be enforced by statutory debt collection.

(5) The Danish Immigration Service provides and runs accommodation centres for aliens falling within subsection (1) or (2), cf. subsection (3). This may take place in cooperation with private organisations or societies or government bodies approved for this purpose by the Minister of Refugee, Immigration and Integration Affairs, or municipalities (accommodation operators). The Minister of Refugee, Immigration and Integration Affairs may lay down rules on the appointment of cooperative bodies at the individual accommodation centres (residents' councils, etc.) and on the competence of such bodies.

(6) The Minister of Refugee, Immigration and Integration Affairs lays down rules for the participation of municipalities in the financing of the provision and running of accommodation centres for aliens who are mentioned in subsection (1) or (2), cf. subsection (3), including the State's covering the expenses.

(7) The Danish Immigration Service may decide that an alien mentioned under subsection (1) or (2), cf. subsection (3), notwithstanding his possession of sufficient means to pay for his own stay and necessary healthcare services, must stay at a place determined by the Danish Immigration Service. Such an alien must not, by violent or threatening behaviour towards persons performing duties in relation to the running of an accommodation centre for aliens or towards persons otherwise staying at the accommodation centre, obstruct the carrying out of duties in relation to the running of the accommodation centre or obstruct the maintenance of law and order at the accommodation centre.

(8) Unless particular reasons make it inappropriate, the Danish Immigration Service decides that an alien whose application for a residence permit under section 7 or 8(1) or (2) has been refused, but who cannot be returned from Denmark, cf. section 31, and an alien who has been expelled by final judgment under sections 22 to 24 and has not been remanded in custody under section 35 must stay at a specific accommodation centre for the aliens referred to in subsections (1) and (2). Subsection (7), second sentence, applies correspondingly.

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

- (i) without reasonable cause, the alien fails to appear for an interrogation at the Danish Immigration Service or the police, to which the alien has been summoned;
- (ii) the alien has exhibited violent or threatening behaviour to persons performing duties in relation to the running of an accommodation centre for aliens or to persons otherwise staying at the accommodation centre;
- (iii) the alien does not comply with the decision of the Danish Immigration Service to the effect that the alien must stay at a place determined by the Danish Immigration Service, cf. subsection (7), first sentence, or subsection (8), first sentence;
- (iv) the alien does not comply with the order of the police concerning a measure mentioned in section 34;
- (v) the alien disregards an order to perform necessary duties in relation to the running of the accommodation centre, cf. section 42d(2), first sentence; or
- (vi) the alien is wanted by the police with a view to service, departure control or return.

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

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

(11) For the purpose of a decision under subsection (9) or (10), the Danish Immigration Service may, without the alien's consent, procure information on the alien's health from the accommodation operator, cf. subsection (5).

(12) For aliens falling within subsections (9) and (10) who are lodged at an accommodation centre, cf. subsection (5), without free meals, the maintenance supplement amounts to DKK 42.73 per day. The amount stipulated has been determined at the 2005 level and will be adjusted once a year on 1 January as of 2006 according to the rate adjustment percentage, cf. the Act on a Rate Adjustment Percentage.

**42b.** (1) An alien whose expenses for his stay and necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) receives a basic allowance, unless he is lodged at an accommodation centre, cf. section 42a(5), with free meals. The basic allowance is paid in advance every two weeks. The Danish Immigration Service decides on the basis of the point reached in the alien's case at a specific cut-off date immediately preceding the date of payment whether and at which rate the alien will receive the basic allowance, cf. the first sentence hereof and subsection (2). The basic allowance will not be adjusted subsequently as a result of changes in the point reached in the alien's case occurring after the cut-off date. If particular reasons make it appropriate, the basic allowance may be paid out for shorter periods at a time.

(2) The basic allowance per day is: -

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

families, cf. subsection (3), seventh and eighth sentences.

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

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

(5) If the alien is not registered as an asylum-seeker under section 48e(1), the maintenance supplement per day amounts to DKK 47.50 for aliens who receive the basic allowance, and DKK 6.79 for aliens who do not receive the basic allowance because they are lodged at an accommodation centre with free meals. The first sentence hereof applies correspondingly to an alien whose application for a residence permit under section 7 has been finally refused or who has waived such application, unless the alien has submitted an application for a residence permit under section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(4), or the alien has submitted an application for reopening of a decision under section 7 or section 9b and such application sus-



depends enforcement of the time-limit for departure, cf. section 33(7).

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

(7) It is a condition for payment of maintenance supplement and reduced maintenance supplement that the child towards whom the alien is subject to a duty of maintenance is considered as belonging to the alien's family, cf. subsection (3), seventh and eighth sentences. If the child lives together with both parents, the maintenance supplement and reduced maintenance supplement are payable to the child's mother. Maintenance supplements and reduced maintenance supplements are payable every two weeks in advance. The Danish Immigration Service decides on the basis of the point reached in the alien's case at a specific cut-off date immediately preceding the date of payment whether and at which rate the alien will receive the maintenance supplement or reduced maintenance supplement, cf. the first and second sentences hereof and subsections (3) to (6). The maintenance supplement and the reduced maintenance supplement will not be adjusted subsequently as a result of changes in the point reached in the alien's case occurring after the cut-off date. If particular reasons make it appropriate, the supplement may be paid out for shorter periods at a time.

(8) An alien over the age of 18 whose expenses for his stay and necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) and who has complied with his contract, cf. section 42c, receives a supplementary allowance, cf. subsection (11), but cf. subsection (12). The supplementary allowance is payable every two weeks in arrears. The Danish Immigration Service decides on the basis of the point reached in the alien's case at a specific cut-off date immediately preceding the date of payment at which rate the alien will receive the supplementary allowance, cf. subsections (10) and (11). The supplementary allowance will not be adjusted subsequently as a result of changes in the point reached in the alien's case occurring after the cut-off date. Nor will the supplementary allowance be adjusted as a result of changes in the point reached in the alien's case

occurring during the period used as the basis for calculation of the supplementary allowance or in the period up to the cut-off date. If particular reasons make it appropriate, the supplementary allowance may be paid out in arrears for shorter periods at a time.

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

(10) The supplementary allowance per day amounts to DKK 23,75. If the alien is not registered as an asylum-seeker under section 48e(1), the supplementary allowance per day amounts to DKK 6.79. The second sentence hereof applies correspondingly to an alien whose application for a residence permit under section 7 has been finally refused or who has waived such application, unless the alien has submitted an application for a residence permit under section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(4), or the alien has submitted an application for reopening of a decision under section 7 or section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(7).

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

tion (8), second and sixth sentences, no supplementary allowance is payable, unless particular reasons make it inappropriate.

(12) An alien whose expenses for his stay and necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) and who is lodged at an accommodation centre, cf. section 42a(5), with free meals receives no cash allowances, cf. subsections (1), (3), (8) and (9), if the alien's application for a residence permit under section 7 is being examined according to the procedure mentioned in section 53b(1) as a consequence of the alien's nationality and because there are no general obstacles to returning the alien to his country of origin. If an alien as mentioned in the first sentence hereof is lodged at an accommodation centre, cf. section 42a(5), without free meals, the alien will receive a basic allowance, cf. subsections (1) and (2), a maintenance supplement, cf. subsections (3) and (7), and a reduced maintenance supplement, cf. subsections (3), (6) and (7). For aliens falling within the second sentence hereof, the maintenance supplement is DKK 40.71 per day.

(13) An alien whose expenses for his stay and necessary healthcare services are defrayed by the Danish Immigration Service under section 42a(1) or (2) may receive benefits in kind, including in the form of clothing and personal hygiene packages, if he has a special need therefor. The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on the right to and the contents and extent of benefits in kind.

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

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

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

reached, the accommodation operator determines the contents. The contract may be revised on a continuous basis.

(3) The contract determines the scope and contents of: -

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

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

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

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

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

(3) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on the carrying out of the tasks mentioned in subsection (1).

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

(2) An alien over the age of 17 who falls within section 42a(1) or (2), cf. subsection (3), and who is registered as an asylum-seeker under section 48e(1) may further participate in activation in

the form of internal production activities arranged by the accommodation operator, cf. section 42a(5), second sentence, specially arranged short-term training and unpaid humanitarian work or other unpaid voluntary work. This does not apply if the alien's application for a residence permit under section 7 has been finally refused or the alien has waived such application, unless the alien has submitted an application for a residence permit under section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(4), or the alien has submitted an application for reopening of a decision under section 7 or section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(7).

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

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

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

**42f.** (1) An alien over the age of 18 who is lodged in a reception centre for newly arrived aliens having submitted an application for a residence permit pursuant to section 7, cf. section 42a(5), and who has submitted an application for a residence permit pursuant to section 7 shall, unless particular reasons make it inappropriate, attend tuition intended to give the alien a very introductory knowledge of the Danish language and the Danish culture and society (introduction course).

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

English language and the Danish culture and society, but cf. subsection (6).

(3) An alien over the age of 18 who falls within section 42a(1) or (2), cf. subsection (3), and who is registered as an asylum-seeker under section 48e(1) may participate in tuition in other subjects to the extent that an accommodation operator, cf. section 42a(5), second sentence, offers such tuition, but cf. subsection (6).

(4) An alien over the age of 18 who falls within section 42a(1) or (2), cf. subsection (3), may, if exceptional reasons make it appropriate, attend separately arranged tuition not falling within subsections (1) to (3) and (7).

(5) A 17-year-old alien who falls within section 42a(1) or (2), cf. subsection (3), may attend an introduction course, cf. subsection (1), tuition in the Danish language and the Danish culture and society, cf. subsection (2), and tuition in other subjects, cf. subsection (3), but cf. subsection (6). 17-year-old aliens may attend the introduction course and the tuition mentioned in subsections (2) and (3) on the same conditions as aliens over the age of 18, cf. subsections (1) to (3). Subsection (4) applies correspondingly.

(6) Notwithstanding the provisions of subsections (1) to (5), an alien is not entitled to receive tuition if the Danish Immigration Service has made a decision under section 48a(1), first sentence, of refusal of entry, transfer, retransfer or expulsion and, if occasion should arise, return. The first sentence hereof applies correspondingly to an alien whose application for a residence permit under section 7 has been finally refused or who has waived such application, unless the alien has submitted an application for a residence permit under section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(4), or the alien has submitted an application for reopening of a decision under section 7 or section 9b and such application suspends enforcement of the time-limit for departure, cf. section 33(7).

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

(8) The accommodation operator, cf. section 42a(5), second sentence, determines whether an alien shall attend tuition as mentioned in subsections (1) to (5) and (7).

(9) The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules on the contents and scope of the introduction course mentioned in subsection (1) and subsection (5), cf. subsection (1), and on the tuition mentioned in subsections (2) to (4), subsection (5), cf. subsections (2) to (4), and subsection (7). The Minister of Refugee, Immigration and Integration Affairs may further decide that the tuition mentioned in subsections (2) to (4), subsection (5), cf. subsections (2) to (4), and subsection (7) may be given in collaboration with schools, educational institutions and providers under the Ministry of Employment, the Ministry of Cultural Affairs, the Ministry of Education and the Ministry of Refugee, Immigration and Integration Affairs or be replaced by tuition offered by them. The Minister of Refugee, Immigration and Integration Affairs may moreover decide to what extent implementation of the tuition mentioned in subsections (3) and (4) and subsection (5), cf. subsections (3) and (4), will depend on the assistance in this of the aliens mentioned in section 42a(1) and (2), cf. subsection (3), as teachers and the like.

(10) The Minister of Refugee, Immigration and Integration Affairs may decide that rules laid down pursuant to subsection (9) will only apply to certain accommodation centres. The Minister of Refugee, Immigration and Integration Affairs may deviate from section 46 when laying down rules pursuant to subsection (9).

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

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

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

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

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

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

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

(2) Upon negotiation with the Minister of Employment, the Minister of Refugee, Immigration

and Integration Affairs may lay down rules on the extent to which aliens who are staying in Denmark and fall within section 42a(1) or (2), cf. subsection (3), fall within the rules in the Act on Insurance against the Consequences of Industrial Injuries. The expenses involved will be defrayed by the State.

**42j.** (1) After negotiation with the relevant municipality, the Minister of Refugee, Immigration and Integration Affairs may decide that the provisions in the Act on the Planning of Regional, Municipal and Local Plans and on permission under section 35(1) of such Act do not apply to properties at the disposal of the Danish Immigration Service and used as: -

- (i) a reception centre for newly arrived aliens who have submitted an application for a residence permit pursuant to section 7;
- (ii) an accommodation centre for the aliens mentioned in section 42a(1) and (2);
- (iii) facilities for the purpose of deprivation of liberty pursuant to section 36; and
- (iv) facilities for the purpose of administration connected with the functions mentioned in paragraphs (i) to (iii).

(2) In connection with decisions under subsection (1), the Minister of Refugee, Immigration and Integration Affairs may decide that any regional, municipal or local plans are fully or partially suspended as concerns the properties mentioned in subsection (1).

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

**43.** (1) If there is an immediate need therefore, the police may make arrangements for the accommodation and stay of and necessary health-care services to aliens staying in this country who submit an application for a residence permit pursuant to section 7 and who are not registered as asylum-seekers under section 48e(1). The police defrays the expenses therefor.

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

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

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

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

(5) Claims under subsections (2) to (4) may be enforced by statutory debt collection.

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

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

(2) An alien staying in Denmark who is registered as an asylum-seeker under section 48e(1)

and has been refused a residence permit under section 7 by the Danish Immigration Service or the Refugee Board may be granted assistance to return to his country of origin or former country of residence if the alien assists in departure without undue delay, but cf. subsections (3) and (4).

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

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

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

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

(5) The assistance under subsection (1) includes

- (i) expenses for flight, train, etc.;
- (ii) expenses necessary for transportation of personal belongings;
- (iii) not more than DKK 5,000 per family for transportation of equipment needed for the trade of the person or family in the third country in question; and
- (iv) other expenses incidental to the journey.

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

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

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

**43b.** Where particular repatriation considerations make it appropriate, the Minister of Refugee, Immigration and Integration Affairs may

decide that financial support for voluntary return to the country of origin may be granted to groups of aliens who are staying in Denmark and who have submitted an application for a residence permit under section 7 and have no residence permit for Denmark.

**44.** (1) The Minister of Refugee, Immigration and Integration Affairs may lay down rules on the fee payable for a visa and for any application made in Denmark for a residence and work permit.

(2) For the issue of a Danish travel document to an alien, an amount must be paid equivalent to the amount payable for the issue of Danish passports, cf. section 4a of the Passport Act.

**44a.** (1) Without the alien's consent, the Danish Immigration Service passes on to the local council of the municipality in which the alien lives or resides or to which the alien is allocated, cf. section 10(1) of the Integration Act, or to which he moves from abroad, information stating: -

- (i) that the alien has been issued with a residence permit under sections 6 to 9f or is exempt from a residence permit under section 5(2);
- (ii) that the alien has been issued with a permanent residence permit or has been refused such permit; or <sup>3)</sup>
- (iii) that extension of the alien's residence permit has been refused or that the residence permit has lapsed or been revoked.

(2) In the cases referred to in subsection (1)(i), the Danish Immigration Service passes on, without the alien's consent, to the local council such information regarding the alien's basis of residence as is necessary for the municipal administration of the Integration Act and of other legislation according to which the basis of residence is of importance to the administration of the law. The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on what information is to be passed on under the first sentence hereof.

(3) If an alien is issued with a residence permit under section 9 or under section 9c(1) as a result of family ties with a person living in Denmark, the Danish Immigration Service may, at the request of the local council and without the alien's consent, pass on information to the local council of the municipality in which the alien lives or re-

sides, or to which the alien moves from abroad, as to whether an exception has been made from the conditions for the issue of a residence permit referred to in section 9(1), (3) to (8), (11) to (13), (16) or (17) when the case was decided.

(4) In case of refusal of an application for a residence permit submitted by an alien who lives or resides in Denmark without having lawful residence pursuant to sections 1 to 3a, 4b or 5(2) or pursuant to a residence permit under sections 6 to 9f, and who is not accommodated in an accommodation centre for the aliens referred to in section 42a(1) and (2), the Danish Immigration Service passes on information to that effect, without the alien's consent, to the local council of the municipality in which the alien lives or resides. The same applies if the application for a residence permit submitted by an alien as referred to in the first sentence hereof lapses or is waived.

(5) The Minister of Refugee, Immigration and Integration Affairs lays down more detailed rules on the passing on of information under subsections (1) to (4) by the Danish Immigration Service, including that the information referred to in subsections (1), (2) and (4) may be passed on electronically.

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

(7) Furthermore, by agreement with the Minister of the Interior and Health, the Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules according to which the Danish Immigration Service records the information referred to in subsection (1) in the Civil Registration System (CPR).

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

(2) The Minister of Refugee, Immigration and

Integration Affairs may lay down more detailed rules on the passing on of information under subsection (1).

**45.** By agreement made with foreign governments or international organisations or through an order issued by the Minister of Refugee, Immigration and Integration Affairs, the rules on residence permits and work permits may be eased in relation to certain countries and certain groups of aliens.

## Part VIIa

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

**45a.** (1) Without the alien's consent, the Danish Immigration Service, the Ministry of Refugee, Immigration and Integration Affairs, the Refugee Board and the county government offices, cf. section 46c, may pass on information from a case under this Act to the intelligence services to the extent such passing on may be of importance to the handling of security tasks by the intelligence services.

(2) Without the alien's consent, the intelligence services may pass on information on an alien to the Danish Immigration Service, the Ministry of Refugee, Immigration and Integration Affairs, the Refugee Board and the county government offices, cf. section 46c, to the extent such passing on may be of importance to the examination of a case under this Act by these authorities.

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

**45b.** (1) For the purpose of the examination of a case under this Act, the Minister of Refugee, Immigration and Integration Affairs assesses on the basis of a recommendation from the Minister of Justice whether the alien must be deemed a danger to national security. This assessment forms the basis of the determination of the case.

(2) The Minister of Refugee, Immigration and Integration Affairs may decide, on the basis of a recommendation from the Minister of Justice, that the information resulting in the assessment under subsection (1) may not, for security reasons, be passed on to the alien assessed. Furthermore, on the basis of a recommendation from the

Minister of Justice, the Minister of Refugee, Immigration and Integration Affairs may decide that for security reasons information as mentioned in the first sentence hereof may not be passed on to the immigration authority having to make a decision in the case.

**45 c.** Without the alien's consent, the Danish Immigration Service, the Ministry of Refugee, Immigration and Integration Affairs, the Refugee Board and the county government offices, cf. section 46c, may pass on information from a case under this Act to the public prosecutor for the purpose of the prosecutor's decision whether to charge the alien with crimes committed in Denmark or abroad.

### Part VIII

#### *Competence, appeals, etc.*

**46.** (1) Decisions pursuant to this Act are made by the Danish Immigration Service, except as provided by sections 9(19) and (20), 46a to 49, 50, 50a, 51(2), second sentence, and 56a(1) to (4).

(2) Apart from the decisions mentioned in sections 32a, 33, 42a(7), first sentence, 42a(8), first sentence, 42b(1), (3) and (7) to (9), 42d(2), 46e, 53a and 53b, the decisions of the Danish Immigration Service can be appealed to the Minister of Refugee, Immigration and Integration Affairs.

(3) Decisions of the Danish Immigration Service on payment of expenses incidental to the provision of information for the examination of a case under this Act, cf. section 40(2), cannot be appealed.

(4) The Minister of Refugee, Immigration and Integration Affairs may make decisions on and lay down more detailed provisions for the processing by the Danish Immigration Service of the cases comprised by subsections (1) and (2).

**46a.** Decisions under sections 9b and 33(4), third sentence, are made by the Minister of Refugee, Immigration and Integration Affairs.

**46b.** The Ministry of Foreign Affairs assists the police, the county government offices, the Danish Immigration Service, the Refugee Board and the Minister of Refugee, Immigration and Integration Affairs to procure more detailed information for the purpose of examination of cases or groups of cases under this Act.

**46c.** The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules on the extent to which decisions on the issuing, extension, lapse, and revocation of residence permits pursuant to section 6 or 9(1)(iii) can be made by other authorities than the Danish Immigration Service. In this connection the authority to which a decision can be appealed may be specified, and it may be provided that a decision made by the authority to which the decision can be appealed cannot be appealed to any other administrative authority. The Minister of Refugee, Immigration and Integration Affairs may further lay down provisions that the authority to which the decision can be appealed may specify provisions for and make decisions concerning the examination of the cases.

**46d.** The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules to the effect that for the purpose of a decision or an opinion under this Act or provisions laid down in pursuance thereof, a county government office may, without the alien's consent, pass on all documents entered in the cases falling within section 46c to the Danish Immigration Service. The Minister of Refugee, Immigration and Integration Affairs may also lay down more detailed rules to the effect that for the purpose of a decision in the cases falling within section 46c, the Danish Immigration Service may, without the alien's consent, pass on all documents entered in the file of the Danish Immigration Service concerning a decision or an opinion under this Act or provisions laid down in pursuance thereof to a county government office. Finally, the Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules to the effect that for the purpose of a decision in the cases falling within section 46c, the county government office may, without the alien's consent, pass on all documents entered in the cases falling within section 46c to another county government office.

**46e.** Decisions under sections 42b(11), second sentence, 42c(2), third sentence, 42e(4) and 42f(8) are made by the accommodation operator, cf. section 42a(5), second sentence. Decisions under section 42d(2), first sentence, may be made by the accommodation operator. The Public Administration Act also applies in connection with the accommodation operator's decisions



under the first and second sentences hereof when the accommodation operator is a private organisation or a private society, cf. section 42a(5), second sentence. The accommodation operator's decisions under the first and second sentences hereof can be appealed to the Danish Immigration Service. Decisions of the Danish Immigration Service in cases appealed under the fourth sentence cannot be appealed to any other administrative authority.

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

(2) By agreement made between the Minister of Refugee, Immigration and Integration Affairs and the Minister of Foreign Affairs, Danish diplomatic or consular representatives abroad may be empowered to issue visas and residence permits. By agreement with another country the Minister of Foreign Affairs may by agreement with the Minister of Refugee, Immigration and Integration Affairs authorise foreign diplomatic and consular representatives abroad to issue visas and residence permits.

**47a.** The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules to the effect that in special cases the Danish Immigration Service and the police may issue a visa on entry into Denmark and issue a return visa to an alien lawfully staying in this country.

**47b.** The decisions of the Danish Immigration Service made under section 4(3) to (5) can be appealed to the Minister of Refugee, Immigration and Integration Affairs. The appeal does not suspend enforcement of such decisions unless particular reasons make it appropriate.

**47c.** (1) An application for a visa under section 4 or 4a will only be examined, if: -

- (i) the applicant lawfully lives or resides in the country where the application is submitted;
- (ii) the application contains the information necessary for determining it; and
- (iii) the documents submitted in connection with the application are complete and genuine.

(2) The relevant Danish diplomatic or consular representatives shall ensure that the application

satisfies the conditions of subsection (1) and may refuse the application if this is not the case.

(3) The relevant Danish diplomatic or consular representatives may refuse an application for a visa under section 4 if the applicant does not consent to the passing on of information in the case by the Danish Immigration Service and the Ministry of Refugee, Immigration and Integration Affairs to the reference person living in Denmark in connection with the examination of a case on an amount falling due for payment under section 4(3) to (5), and to the Danish Immigration Service forwarding the documents of the file to the Ministry if a decision in such case is appealed. This does not apply in cases where Danish diplomatic or consular representatives issue a visa on behalf of another Schengen country represented by Denmark.

(4) The relevant Danish diplomatic or consular representatives may refuse an application for a transit visa under section 4 if the applicant has no visa or entry permit for the relevant third country or if the travel route through the Schengen area is not considered well-founded.

(5) Decisions of refusal under subsections (2) to (4) cannot be appealed to any other administrative authority.

**48.** A decision on refusal of entry on arrival, cf. section 28(1) to (4), may be made by the Chief Constable concerned or by the Commissioner of the Copenhagen Police. Decisions under sections 30, 33(9), 34, 36, 37c(5), 37d(1) and (3), 37e(1) and (4), 40(7) and (8), 40a(1) and (2), 40a(3), first sentence, 40a(4) to (9), 40b(1) and (2), 40b(3), first sentence, 40b(4) to (9), and 43(2) and (3) may be made by the National Commissioner of Police, the Chief Constable concerned, or by the Commissioner of the Copenhagen Police. Decisions on assistance rendered under section 43a may be made by the National Commissioner of Police. The decisions mentioned under the first to third sentences hereof can be appealed to the Minister of Refugee, Immigration and Integration Affairs, but cf. the sixth and seventh sentences. The appeal does not suspend enforcement of such decision. However, decisions by the police on enforcement of measures under section 36 and sections 37c to 37e can only be appealed to the Minister of Refugee, Immigration and Integration Affairs if the decision cannot be brought before the courts under section 37 or sections 37c to 37e. Decisions

by the police under sections 33(9) and 43a(2) cannot be appealed to the Minister of Refugee, Immigration and Integration Affairs.

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

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

(3) If the Danish Immigration Service makes a decision on omission of refusal of entry, expulsion, transfer or retransfer and return, the police must inform the alien of his right to contact the Danish Refugee Council. The Minister of Refugee, Immigration and Integration Affairs may lay down rules according to which the police, prior to the decision of the Danish Immigration Service, must inform an alien staying in Denmark of his right to contact the Danish Refugee Council.

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

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

**48d.** The decisions of the Danish Immigration Service under sections 48a to 48c can be appealed to the Minister of Refugee, Immigration and Integration Affairs. The appeal does not suspend enforcement.

**48e.** (1) When the Danish Immigration Service has decided that an alien who claims to fall within section 7 may stay in Denmark while his application for asylum is being examined, the Danish Immigration Service registers the person as an applicant for asylum.

(2) For the purpose of the decision to be made by the Danish Immigration Service under section 48a(1), the police carries out an investigation with a view to determining the alien's identity, nationality and travel route and procure other necessary information.

(3) The Danish Immigration Service is otherwise in charge of bringing out all facts of the case. This includes the decision of the Danish Immigration Service concerning the filling-in of an application form and the interrogation of the alien.

**49.** (1) When an alien is convicted of a criminal offence, the judgment shall determine, upon the prosecutor's claim, whether the alien must be expelled pursuant to sections 22 to 24. If expulsion is decided, the sentence must determine the period of the entry prohibition, cf. section 32(1) to (3).

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

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

**49a.** Prior to the return of an alien who has been issued with a residence permit under sec-

tion 7 or 8(1) or (2) and who has been expelled by judgment, cf. section 49(1), the Danish Immigration Service decides whether the alien can be returned, cf. section 31, unless the alien consents to the return. A decision to the effect that the alien cannot be returned, cf. section 31, must also include a decision on issue or refusal of a residence permit under section 7.

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

**50.** (1) If expulsion under section 49(1) has not been enforced, an alien claiming that a material change in his circumstances has occurred, cf. section 26, can demand that the public prosecutor lays before the court the question of revocation of the order for expulsion. Petition to this end may be submitted not earlier than 6 months and must be submitted not later than 2 months before the date when enforcement of the expulsion can be expected. If the petition is submitted at a later date, the court may decide to examine the case if it deems it to be excusable that the time-limit has been exceeded.

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

(3) The decision of the court is made by court order subject to interlocutory appeal under the provisions of Part LXXXV of the Administration of Justice Act.

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

the alien's state of health constitutes a decisive argument against enforcement of the expulsion.

(2) If an expelled alien is subject to a criminal sanction involving deprivation of liberty under the rules of sections 68 to 70 of the Criminal Code in cases other than those mentioned in subsection (1), the public prosecutor, in connection with discharge from hospital, lays the question of revocation of the expulsion before the court. Where the alien's state of health constitutes a decisive argument against enforcement of expulsion, the court shall revoke the expulsion. The court assigns a counsel to the alien. The decision of the court is made by order subject to interlocutory appeal under the provisions of Part LXXXV of the Administration of Justice Act. The court may decide that the alien must be remanded in custody when on definite grounds this is found to be necessary to ensure the alien's presence.

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

(2) If an alien has been sentenced abroad for an offence that has had or must be assumed to have been intended to have effect in Denmark, expulsion from Denmark may be ordered subject to the conditions referred to in sections 22 to 25b. If the alien is resident in Denmark, the question of expulsion from Denmark must be submitted for decision to the town court of the judicial district in which the alien concerned is resident. The case may be proceeded with or without appearance in court of the alien concerned. The decision of the court is made by court order.

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

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

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

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

(4) If found necessary by the court, and provided the alien satisfies the condition laid down in section 330(1)(ii) of the Administration of Justice Act, an attorney must be assigned to act on his behalf, except where he himself has retained an attorney.

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

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

(7) The court decides by court order if the appeal will be dismissed or the decision upheld or quashed. The court order is subject to interlocutory appeal under the provisions of Part XXXVII of the Administration of Justice Act.

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

apply correspondingly to the members of the Refugee Board.

(2) The chairman of the Refugee Board must be a High Court judge or a Supreme Court judge, and the deputy chairmen must be judges. The other members must be attorneys or serve with the central administration of the Ministry of Refugee, Immigration and Integration Affairs, but not in the Secretariat of the Refugee Board, cf. subsection (11). The Minister of Refugee, Immigration and Integration Affairs lays down the number of deputy chairmen and other members.

(3) The members of the Refugee Board are appointed by the Executive Committee of the Refugee Board. The judges are appointed upon nomination by the Court Administration, the attorneys are appointed upon nomination by the Council of the Danish Bar and Law Society, and the other members are appointed upon nomination by the Minister of Refugee, Immigration and Integration Affairs.

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

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

(6) When the Refugee Board considers a case, the Refugee Board consists of the chairman or a deputy chairman, an attorney and a member serving with the Ministry of Refugee, Immigration and Integration Affairs, but cf. subsections (8) to (10).

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

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

(9) Cases in which the conditions for being

granted asylum must be deemed evidently to be satisfied may be considered by the chairman or a deputy chairman alone.

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

(11) The Ministry of Refugee, Immigration and Integration Affairs makes secretariat assistance available to the Refugee Board.

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

**53a.** (1) Appeals against a decision made by the Danish Immigration Service must be addressed to the Refugee Board, but cf. section 53b(1), if the subject matter of the decision is: -

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

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

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

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

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

- (i) the identity claimed by the applicant is manifestly incorrect;
- (ii) it is manifest that the circumstances invoked by the applicant cannot lead to the issue of a residence permit under section 7;
- (iii) it is manifest that the circumstances invoked by the applicant cannot lead to the issue of a residence permit under section 7 according to the practice of the Refugee Board;
- (iv) the circumstances invoked by the applicant are in manifest disagreement with general background information on the conditions in the applicant's country of origin or former country of residence;
- (v) the circumstances invoked by the applicant are in manifest disagreement with other specific information on the applicant's situation; or
- (vi) the circumstances invoked by the applicant must be deemed manifestly to lack credibility, including as a consequence of the applicant's changing, contradictory or improbable statements.

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

Refugee Council must take place on premises close to each other.

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

**54.** (1) Where a decision is appealed to the Refugee Board, the Danish Immigration Service shall pass on the documents included in the case to the Board, stating the decision appealed against and briefly the circumstances relied on, and the exhibits of the case. The Board shall itself see that all facts of the case are brought out and shall decide on examination of the alien and witnesses and procuring of other evidence.

(2) When the Refugee Board considers an appeal of a decision made by the Danish Immigration Service concerning an application for a residence permit under section 7, the chairman of the Refugee Board or one of his deputies may decide that no document or other evidence can be produced which could have been produced during the examination of the case by the Danish Immigration Service. When the Refugee Board considers a request for reopening of a decision made by the Board, the chairman of the Refugee Board or one of his deputies may decide that no document or other evidence can be produced which is comprised by the first sentence hereof or which could have been produced during the previous consideration of the case by the Board.

**55.** (1) The Refugee Board may if necessary assign an attorney to act for the alien, except where the alien has already retained an attorney.

(2) If it cannot be deemed reasonable in consideration of the furtherance of the case that the attorney chosen by the alien assists in the case, the Refugee Board may refuse to assign the person in question to act for the alien. If instead the alien wants another attorney assigned, the Refugee Board shall assign the person in question, unless assignment can be refused under the first sentence hereof.

(3) The alien and his attorney must be given an opportunity to inspect the material produced to the Refugee Board for its consideration and to state their opinion on the material.

(4) If reasons of national security or the State's

relations with foreign states or considerations for a third party exceptionally so demand, the provisions of subsection (3) may be deviated from to the extent required.

**56.** (1) The chairman of the Refugee Board or a person authorised by the chairman shall refer a case to be considered under section 53(6) or (8) to (10).

(2) At the request of the alien or the attorney acting for him, the alien must be allowed to plead his case orally before the Refugee Board, but cf. subsections (3) and (4). The Refugee Board shall decide if the proceedings are otherwise to be heard orally, but cf. subsections (3) and (4).

(3) Cases considered under section 53(8) to (10) are considered on the basis of written proceedings.

(4) The chairman of the Refugee Board or a person authorised by the chairman may refer a case to be considered under section 53(6) on the basis of written proceedings, if: -

- (i) the complaint must be considered to be unfounded;
- (ii) a residence permit has been issued under section 7(2), but the alien claims to fall under section 7(1), or a residence permit has been issued under section 8(2), but the alien claims to fall under section 8(1) (change-of-status case);
- (iii) the case concerns refusal of issue of a Danish travel document for refugees or revocation of such a document;
- (iv) the case concerns the issue of a residence permit under section 7 to arriving family members of an alien who has earlier been issued with a residence permit under section 7 (consequential status case); or
- (v) circumstances otherwise indicate the application of this form of proceeding.

(5) Cases that have been referred to consideration on the basis of written proceedings under subsection 4(i) can be referred to oral proceedings.

(6) The chairman of the Refugee Board or a person authorised by the chairman may decide that a case or a specific group of cases to be considered under section 53(6) must be subject to particularly expedited consideration.

(7) The Refugee Board makes its decisions by simple majority of votes. In the event of an equality of votes, the decision most favourable to

the appellant must prevail. The grounds for the decision must be set out in the decision.

(8) Decisions made by the Refugee Board are final.

(9) The Refugee Board shall lay down its own rules of procedure.

**56a.** (1) Unless exceptional reasons make it inappropriate, an unaccompanied alien under the age of 18 who is staying in Denmark and submits an application for a residence permit pursuant to section 7 will have a representative appointed for safeguarding his interests. At the request of the Danish Immigration Service, an organisation approved for the purpose by the Minister of Refugee, Immigration and Integration Affairs shall recommend a person to the office as a representative for safeguarding the interests of the child. The representative will be appointed by the county government office.

(2) If a child falling within subsection (1) has attained the age of 12, a conversation about appointment of a representative for safeguarding the interests of the child, cf. subsection (1), must be conducted with the child before a decision is made to appoint such representative. The conversation may be omitted if it must be assumed to be harmful to the child or of no importance to the case. If the child is under the age of 12, a conversation as mentioned in the first sentence hereof must be conducted if the child's maturity and the circumstances of the case so dictate.

(3) The county government office may vary a decision made under subsection (1) if the variation is in the best interests of the child.

(4) Decisions of the county government office made under subsections (1) and (3) can be appealed to the Minister of Family and Consumer Affairs.

(5) The Minister of Family and Consumer Affairs may lay down more detailed rules on the examination of cases carried out by the county government offices under subsections (1) to (4).

(6) The office as a representative for safeguarding the interests of the child, cf. subsection (1), ceases when: -

- (i) the child has been issued with a residence permit for Denmark and another person is temporarily appointed to have custody of it under section 25 of the Act on Parental Custody and Access;
- (ii) the child attains the age of 18;
- (iii) the child leaves Denmark;

(iv) the person having custody of it enters Denmark or otherwise becomes able to exercise custody;

(v) the child's spouse enters Denmark;

(vi) the child contracts marriage and the county government office does not make a decision under section 1, second sentence, of the Act on the Formation and Dissolution of Marriage; or

(vii) the county government office so decides under subsection (3).

(7) If the Danish Immigration Service submits a case concerning a residence permit under section 7 for a child falling within subsection (1) to the Danish Refugee Council, cf. section 53b, the Danish Immigration Service shall at the same time assign an attorney to the child, unless the child has itself retained one. Section 55(2) to (4) applies correspondingly. The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules on the assignment of attorneys by the Danish Immigration Service under the first sentence hereof.

(8) With the consent of a child falling within subsection (1), the Danish Immigration Service shall initiate a search for the child's parents. If the child's consent cannot be obtained, the Danish Immigration Service may initiate a search for the child's parents if the representative for safeguarding the interests of the child, cf. subsection (1), gives his consent to it. The search for the parents may be carried out in collaboration with the Danish Red Cross or another similar organisation approved for the purpose by the Minister of Refugee, Immigration and Integration Affairs. In connection with the search for the child's parents under the first and second sentences hereof, the Danish Immigration Service and the organisations mentioned in the third sentence hereof may exchange information on the child's personal circumstances without the consent of the child or the appointed representative for safeguarding the interests of the child.

**57.** (1) Before the public prosecutor submits a claim for expulsion of an alien, he may hear the opinion of the Danish Immigration Service. In connection with renewed trial under section 50 of a decision on expulsion, the public prosecutor hears the opinion of the Danish Immigration Service.

(2) In connection with the opinions mentioned in subsection (1), the public prosecutor may

without the alien's consent pass on information on the alien's criminal offences, including charges of criminal offences, to the Danish Immigration Service.

**58.** Fees and refunds of outlays payable to the attorney assigned under section 37(2); section 37c(3), second sentence; section 40(4), third sentence; section 49(3); section 50(2), third sentence; section 50a(2), third sentence; section 52(4), 55(1) or 56a(7) are subject to the rules applying where legal aid is granted, cf. Part XXXI of the Administration of Justice Act.

**58a.** The activities of the Ombudsman of the Danish Parliament do not comprise the Refugee Board, but cf. section 17 in the Act on the Ombudsman of the Danish Parliament.

### Part VIIIa

#### *Passing on of information pursuant to the Dublin Convention and the Schengen Convention, etc.*

**58b.** (1) Confidential information, including information on the purely personal details of individuals, received from the authorities of another EU Member State pursuant to Article 15 of the Dublin Convention, may be passed on only to the authorities mentioned in Article 15(5) of the Convention. The information may be used only for the purposes mentioned in Article 15(1) of the Convention.

(2) Confidential information, including information on the purely personal details of individuals, may be passed on to the authorities of another State which has acceded to the Dublin Convention, to the extent permitted by the Dublin Convention. To the extent that it follows from the Schengen Convention, information as mentioned in the first sentence hereof may be passed on to the authorities of another country which has acceded to the Schengen Convention.

**58c.** In Denmark the Danish Data Protection Agency supervises the handling and use of information received under the Dublin Convention.

**58d.** The Minister of Refugee, Immigration and Integration Affairs lays down more detailed provisions for implementation of the Schengen Convention and the Dublin Convention.

**58e.** The Minister of Refugee, Immigration and Integration Affairs may lay down that the

rules in this Act that have been implemented to enforce the Dublin Convention must be used with the appropriate amendments also in relation to one or several third countries that have made agreements with the EU Member States about acceding to the Dublin Convention or an equivalent arrangement, or that are obliged, on another basis, to apply the rules of the Dublin Convention.

**58f.** The Minister of Refugee, Immigration and Integration Affairs may lay down more detailed rules on the payment by the police of expenses defrayed by other Schengen countries or Member States of the European Union in connection with the return of aliens.

**58g.** The National Commissioner of Police enters an alert in the Schengen Information System for the purpose of refusal of entry in respect of an alien who is not a national of a Schengen country or a Member State of the European Union if: -

- (i) the alien has been expelled from the country pursuant to section 22, 23 or 24(i);
- (ii) the alien has been expelled from the country pursuant to section 24(ii), and the alien has been sentenced to imprisonment for at least 1 year or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration;
- (iii) the alien has been expelled from the country pursuant to section 25;
- (iv) the alien has been refused a residence permit under section 10(1) or (2)(i) or (ii);
- (v) the alien's residence permit has been revoked pursuant to section 19(2)(ii) or (iii); or
- (vi) the alien has been issued with a visa under section 4 or 4a and has been expelled from the country pursuant to section 25b after refusal of his application for a residence permit under section 7.

**58h.** (1) The Danish Immigration Service is in charge of consultations with the authorities of another Schengen country pursuant to Article 25 of the Schengen Convention.

(2) Where the Danish Immigration Service, following the consultations mentioned in subsection (1), finds that an alert entered in the Schengen Information System for the purpose of refusal of entry in respect of an alien should be deleted, the National Commissioner of Police



deletes the alert in the Schengen Information System.

### Part IX

#### *Penalty provisions*

**59.** (1) An alien is liable to a fine or imprisonment for up to 6 months if he: -

- (i) enters or departs at points other than those designated as passport check-points in Denmark or another Nordic country or outside the opening hours of the border crossing point. The provision of the first sentence hereof does not apply on entry from or departure to a Schengen country, unless checks are exceptionally carried out at such border pursuant to Article 2(2) of the Schengen Convention, cf. section 38(2);
- (ii) enters Denmark in violation of an entry prohibition or in disobedience of an order made under an earlier Danish Aliens Act;
- (iii) stays in Denmark or works without the requisite permit;
- (iv) by deliberate misrepresentation or fraudulent non-disclosure secures for himself admission into Denmark through a passport check-point or obtains for himself a visa, passport, or other travel documents or a Danish residence or work permit.

(2) An alien is liable to a fine or imprisonment for up to 1 year, if he works in Denmark without the requisite permit.

(3) In determination of the sentence under subsection (2), it is considered an aggravating circumstance if the alien is not entitled to stay in Denmark.

(4) Any person who employs an alien not issued with the requisite work permit or does so in violation of the conditions laid down for the issue of a work permit is liable to a fine or imprisonment for up to 2 years.

(5) In determination of the sentence under subsection (4), it is considered an aggravating circumstance if the violation was committed intentionally or by gross negligence, if, through the violation, a financial gain was obtained or intended for the benefit of the person involved or others, or if the alien is not entitled to stay in Denmark. <sup>3)</sup>

(6) If a financial gain has been obtained by a violation of subsection (4), such gain may be confiscated under the rules of Part IX of the

Criminal Code. If confiscation is not possible, special regard must be had to the amount of a financial gain obtained or intended when the fine, including supplementary fine, is determined. <sup>4)</sup>

(7) Any person is liable to a fine or imprisonment for up to 2 years, if he: -

- (i) intentionally assists an alien in unlawfully entering or transiting Denmark;
- (ii) intentionally assists an alien in unlawfully staying in Denmark;
- (iii) intentionally assists an alien in entering Denmark for the purpose of entering another country unlawfully from Denmark;
- (iv) intentionally assists an alien in unlawfully entering or unlawfully transiting another country;
- (v) for the purpose of financial gain assists an alien in staying unlawfully in another country; or
- (vi) by making shelter or means of transport available to an alien, intentionally assists the alien in working in Denmark without the requisite permit. <sup>5)</sup>

(8) In determination of the sentence under subsection (7)(ii), it is considered a particularly aggravating circumstance if the assistance was given for the purpose of financial gain or repeatedly or if the same sentence covers several offences of intentional assistance for an unlawful stay in Denmark. <sup>6)</sup>

(9) In determination of the sentence under subsection (7)(vi), it is considered a particularly aggravating circumstance if the assistance was given for the purpose of financial gain, or repeatedly, or if the same sentence covers several offences of intentional assistance for an alien's unlawful work in Denmark.

**59a.** (1) Any person that brings to Denmark an alien who upon his entry is not in possession of the requisite travel document and visa, cf. section 39, is liable to a fine.

(2) The provision of subsection (1) does not apply on entry from a Schengen country.

**60.** (1) Violation of section 16(2); of any order made under section 34, section 42a(7), first sentence, section 42a(8), first sentence, or section 42d(2), second sentence; of section 39(1) and (3), section 40(1), first and second sentences; of section 40(3) and (4), and section 42a(7), second sentence, and section 42a(8), second sentence, or non-compliance with conditions laid down for a

permit under this Act, is punishable with a fine or in aggravated circumstances with imprisonment for up to 4 months.

(2) Any regulation issued pursuant to the provisions of this Act may provide that violation of such regulation is punishable with a fine. Any regulation issued pursuant to section 2(4) and (5), 12, 15(2), 16(1) and 38(4) may provide that violation of such regulation is punishable with a fine; or with a fine or alternatively imprisonment for up to 4 months.

**61.** Criminal liability may be imposed on companies, etc., (legal persons) under the rules of Part V of the Criminal Code.

**62.** Cases concerning violation of section 59(1)(ii) of this Act are heard without the presence of lay assessors, even if the punishment involved may be more severe than a fine.

## **Part X**

### *Entry into force, and interim provisions*

**63.** (1) This Act enters into force on 1 October 1983, but cf. sections 64 and 65.

(2) As of the same date, the Act on Aliens' admission into Denmark etc., cf. Consolidation Act No. 344, 22 June 1973, is repealed.

(3) The provisions of this Act on expulsion because of a criminal offence apply to all cases in which judgment at first instance has not been given at the entering into force of this Act.

**64.** (Omitted - interim provision)

**65.** (Omitted - interim provision)

**66.** This Act does not extend to the Faroe Islands and Greenland but may by Royal Decree be extended, wholly or partly, to the Faroe Islands and Greenland, subject to such adaptation as may be required by circumstances particular to those parts of the Kingdom of Denmark.

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Act No. 574 of 19 December 1985 contains the following provision:

### **Section 2**

This Act enters into force on the day after its promulgation in the Danish Law Gazette and applies to all cases on which the Refugee Board has not yet taken a decision.<sup>7)</sup>

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Act No. 686 of 17 October 1986 contains the following provision:

### **Section 3**

(1) Section 1(i) to (x) and (xii) of this Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>8)</sup> However, section 1(i), (iii), (viii) and (x) does not apply to aliens who have already entered the country and have applied for a residence permit pursuant to the provisions hitherto in force.<sup>9)</sup> Section 1(vii) only applies to aliens who have entered the country after the entering into force of the Act.<sup>10)</sup>

(2) The time for the entering into force of section 1(xi) is laid down by the Minister of Justice.

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Act No. 387 of 6 June 1991 contains the following provisions:

### **Section 2**

The Minister of the Interior lays down the time for the entering into force of this Act.<sup>11)</sup>

### **Section 3**

The rules of this Act apply to all cases in which an application for a residence permit is submitted after the entering into force of this Act.

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Act No. 385 of 20 May 1992 contains the following provision:

### **Section 5**

(1) This Act enters into force on 1 October 1992.

(2) (Omitted)

(3) Section 1(i) and (iii) to (xxxvii), and sections 2 to 4 apply to cases where, at the entering into force of this Act, prosecuting has not been initiated at first instance.<sup>12)</sup>

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Act No. 482 of 24 June 1992 contains the following provision:

### **Section 4**

(1) This Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>13)</sup>

(2) However, section 1(ii) to (v) and section 2 do not apply to aliens who before the passing of

this Act have applied for a residence permit or lawfully taken residence in Denmark pursuant to the provisions hitherto in force.<sup>14)</sup>

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Act No. 421 of 1 June 1994 contains the following provision:

**Section 3**

- (1) This Act enters into force on 1 July 1994.
- (2) Section 1(xiv) of this Act does not apply to cases, when, before the entering into force of this Act, it has been decided to appoint the case for proceedings before the Refugee Board.<sup>15)</sup>

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Act No. 382 of 14 June 1995 contains the following provision:

**Section 3**

- (1) This Act enters into force on 1 September 1995.
- (2) Section 1(i), (ii), (iv) to (vi), (ix), (xi), (xvii), (xix) and (xx), and section 2(i), however, enter into force on the day after the promulgation in the Danish Law Gazette.<sup>16)</sup>
- (3) The Minister of the Interior lays down the time of the entering into force of section 1(xv), (xvi) and (xviii), and section 2(ii) and (iii). The Minister of the Interior may lay down provisions on the border crossing points at which section 1(xv) and section 2(ii) enter into force.<sup>17)</sup>
- (4) Section 1(xvii), (xix) and (xx) does not apply to cases, when, before the entering into force of these provisions, it has been decided to appoint the case for proceedings before the Refugee Board.<sup>18)</sup>
- (5) Section 1(i) and (ii) does not apply to aliens who before the entering into force of these provisions have applied for a residence permit.<sup>19)</sup>

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Act No. 290 of 24 April 1996 contains the following provision:

**Section 4**

- (1) This Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>20)</sup>
- (2) Section 1(iii) does not apply to aliens who have applied for a residence permit before the entering into force of this Act.<sup>21)</sup>

(3) Section 1(ix) applies only to persons who enter Denmark after the entering into force of this Act.<sup>22)</sup>

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Act No. 473 of 12 June 1996 on the Ombudsman of the Danish Parliament contains the following provisions:

**Section 17**

- (1) The Ombudsman may take up a case for investigation on his own initiative.
- (2) The Ombudsman may perform general investigations of the examination of cases by an authority.

**Section 31**

This Act enters into force on 1 January 1997.

**Section 32**

- (1) (Omitted)
- (2) Complaints of decisions made by the Refugee Board and submitted to the Ombudsman of the Danish Parliament before the entering into force of this Act will be tried according to the provisions hitherto in force.

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Act No. 410 of 10 June 1997 contains the following provisions:

**Section 3**

- (1) The Minister of the Interior lays down the time for the entering into force of this Act.<sup>23)</sup> The Minister may decide that the individual provisions of this Act enter into force at different times and only enter into force at certain border crossing points.
- (2) However, section 1(xii), (xx), (xxviii) and (xxix), and section 2(v), (vi), (viii) and (x) enter into force on the day after its promulgation in the Danish Law Gazette.<sup>24)</sup>

**Section 4**

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This Act applies to all cases in which an application for a residence permit is submitted after the entering into force of this Act.

Act No. 473 of 1 July 1998 contains the following provision:

#### Section 4

(1) This Act enters into force on the day after its promulgation in the Danish Law Gazette, but cf. subsection (2).<sup>25)</sup>

(2) Sections 9(11) and 19(1)(iv), second sentence, of the Aliens Act as worded by section 1(ix) and (xiii) of this Act, and section 1(xi), (xiv), (xxi) and (xxxv) and section 2(ii) of this Act enter into force on 1 January 1999.

(3) Section 11(2) to (8), section 27(1) and section 42a(1), second sentence, of the Aliens Act as worded or amended by section 1(xi), (xxi) and (xxxv) of this Act do not apply to aliens who have been issued with a residence permit before 1 January 1999. Section 1(xiv) has effect for residence permits issued as of and including 1 January 1999.<sup>26)</sup>

(4) Section 7(2), first sentence, section 9(1)(ii)(d), section 9(2)(iv), section 9(3), (4) and (7) to (10), section 19(1)(iv), first sentence, section 42a(7) and section 52(1)(i) of the Aliens Act as worded or amended by section 1(i), (ii), (iv) to (ix), (xiii), (xxxvii) and (xlvi) of this Act do not apply to aliens who have submitted an application for or have been issued with a residence permit before the entering into force of this Act. Section 1(iii) and (xxxvi) has effect for aliens who submit an application for a residence permit as of and including the entering into force of this Act.<sup>27)</sup>

(5) Section 10(1), section 19(6), sections 22 to 26, section 27(1), section 32(1) to (4), section 33(1) and (8), section 35(i), section 36(1), first and second sentences, section 48a(1), section 49(1), section 50a, section 51(2), section 52(1)(iii) and (iv), section 57(1), first sentence, and section 57(2) of the Aliens Act as worded or amended by section 1(x), (xv) to (xx), (xxii), (xxv) to (xxvii), (xxix) to (xxxii), (xli), (xlvi), (xlvii), (il), (l) and (lii) of this Act apply only if the offence on which the expulsion is based has been committed after the entering into force of this Act. The same applies to section 58g, first sentence, of the Aliens Act, as worded by section 1(xxxii) of Act No. 410 of 10 June 1997 on amendment of the Aliens Act (the Schengen Convention, etc.), as amended by section 2(vi) of this Act. If the offence on which the expulsion is based has been committed before

the entering into force of this Act, the rules in force hitherto will apply.

(6) Section 50(1) of the Aliens Act, as worded by section 1(xlv) of this Act, and section 57(1), second sentence, and section 57(2) of the Aliens Act as worded by section 1(lii) of this Act do not apply to aliens who for the first time have submitted a petition for revocation of the expulsion before the entering into force of this Act.

(7) To applications on administrative revocation of an entry prohibition submitted before the entering into force of this Act, the rules hitherto in force in section 32(4) of the Aliens Act as worded by Consolidation Act No. 650 of 13 August 1997 continue to apply.

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Act No. 424 of 31 May 2000 contains the following provision:

#### Section 6

(1) This Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>28)</sup>

(2) Section 9(1)(ii), (2)(vii), (4), first and fourth sentences, (7), first and third sentences, and (8) to (11), and section 19(1)(v), first sentence, and (vi), first sentence, of the Aliens Act, as worded or amended by section 1(i) to (x) and (xv) of this Act do not apply to aliens who have submitted an application for or have been issued with a residence permit before the entering into force of this Act.

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Act No. 458 of 7 June 2001 contains the following provision:

#### Section 2

(1) This Act enters into force on 1 August 2001. Section 1(viii) enters into force on the day after its promulgation in the Danish Law Gazette. Section 1(x) to (xiii) enters into force on 1 July 2001.

(2) Sections 25a(1)(i), 35(2) and 36(3) of the Aliens Act as worded by section 1(i), (iii) and (v) of this Act only apply if the offence which is the ground for the expulsion is committed after the entering into force of this Act.

(3) Section 36(4) of the Aliens Act as worded by section 1(v) of this Act does not apply to aliens who have submitted an application for a res-

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idence permit under section 7 of the Aliens Act before the entering into force of this Act.

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Act No. 362 of 6 June 2002 contains the following provision:

#### **Section 2**

(1) This Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>29)</sup>

(2) Sections 10(3) and (4), 22(iv) and (vi), 25, 25a(1)(i) and 26(2) of the Aliens Act as worded or amended by section 1(i) and (iv) to (viii) of this Act only apply if the offence on which the expulsion is based was committed after the entering into force of this Act. If the offence on which the expulsion is based was committed before the entering into force of this Act, the rules applicable hitherto apply.

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Act No. 365 of 6 June 2002 contains the following provision:

#### **Section 8**

(1) This Act enters into force on 1 July 2002, but cf. subsections (2) to (5).

(2) Sections 7, 9 to 9e, 19(1)(i), 19(1)(v) and 26(1) of the Aliens Act as worded, inserted or amended by section 1(ii), (iii), (xxi), (xxiv), (xxix) and (xxx) of this Act do not apply to aliens who have submitted an application for or have been issued with a residence permit before the entering into force of this Act. To such aliens, the rules applicable hitherto apply.

(3) Sections 11 and 11a of the Aliens Act as worded or inserted by section 1(v) and (vi) of this Act, respectively, do not apply to aliens who have submitted an application for or have been issued with a residence permit before 28 February 2002. To such aliens, the rules applicable hitherto apply.

(4) Section 26(1) of the Aliens Act as amended by section 1(xxix) and (xxx) of this Act apply only to decisions under sections 22 to 25b of the Aliens Act if the offence on which the expulsion is based was committed after the entering into force of this Act. If the offence on which the expulsion is based was committed before the entering into force of this Act, the rules applicable hitherto apply.

(5) (Omitted)

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Act No. 367 of 6 June 2002 contains the following provision:

#### **Section 2**

(1) Section 1(i) to (v) enter into force on the day after its promulgation in the Danish Law Gazette.<sup>30)</sup> The Minister of Refugee, Immigration and Integration Affairs lays down the time of entering into force of section 1(vi).<sup>31)</sup>

(2) Section 33(1), second sentence, and section 33(3), third sentence, of the Aliens Act as worded or inserted by section 1(iii) and (iv) of this Act only apply if the offence on which the expulsion is based was committed after the entering into force of this Act. If the offence on which the expulsion is based was committed before the entering into force of this Act, the rules applicable hitherto continue to apply.

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Act No. 1044 of 17 December 2002 contains the following provision:

#### **Section 6**

(1) This Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>32)</sup>

(2) This Act does not apply to persons who have submitted an application for a residence permit under section 7 of the Aliens Act before the entering into force of the Act.

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Act No. 60 of 29 January 2003 contains the following provision:

#### **Section 3**

(1) This Act enters into force on 1 April 2003.

(2) This Act does not apply to aliens who have been issued with a residence permit or are registered as asylum-seekers under section 48e(1) of the Aliens Act before 1 April 2003.

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Act No. 425 of 10 June 2003 contains the following provision:

#### **Section 4**

(1) (Omitted)

(2) Section 2 enters into force on the day after its promulgation in the Danish Law Gazette.<sup>33)</sup>

(3) and (4) (Omitted)

(5) Sections 11 and 11a(2) and (4) of the Aliens Act as amended by section 2(iii) to (xii) of this Act do not apply to aliens who have submitted an application for or have been issued with a residence permit before 28 February 2002. To such aliens, the rules applicable until 1 July 2002, cf. Consolidation Act No. 711 of 1 August 2001, apply.

Act No. 1204 of 27 December 2003 contains the following provision:

**Section 2**

(1) This Act enters into force on 1 January 2004.

(2) Section 9(8) of the Aliens Act as worded by section 1(ii) of this Act does not apply to aliens who have submitted an application for a residence permit before the entering into force of this Act. To such aliens, the provision of section 9(8) of the Aliens Act applicable hitherto applies.

Act No. 427 of 9 June 2004 contains the following provision:

**Section 3**

(1) This Act enters into force on 1 July 2004, but cf. subsections (2) and (3).

(2) Sections 9(1)(ii), (10), (11), (13), (14) and (16), 9f and 19(1)(viii) of the Aliens Act as inserted or amended by section 1(i), (vi), (ix), (xx) and (xxx) of this Act do not apply to aliens who have submitted an application for or have been issued with a residence permit before the entering into force of this Act. To such aliens, the rules applicable hitherto apply.

(3) Section 19(5) of the Aliens Act as inserted by section 1(xxxi) of this Act applies correspondingly to aliens who have been issued with a residence permit under section 9c(1) of the Aliens Act as religious preachers or missionaries before the entering into force of this Act.

(4) Sections 33(1), second sentence, and 33(3), fourth sentence, of the Aliens Act as amended and inserted, respectively, by section 1(xxxvi) and (xxxvii) of this Act do not apply to aliens who, before the entering into force of this Act, have been refused extension of a residence permit issued for the purpose of a temporary stay

which cannot be further extended under established practice. To such aliens, the rules applicable hitherto apply.

Act No. 428 of 9 June 2004 contains the following provision:

**Section 2**

This Act enters into force on the day after its promulgation in the Danish Law Gazette.<sup>34)</sup>

Act No. 429 of 9 June 2004 contains the following provision:

**Section 2**

(1) This Act enters into force on 1 October 2004.

(2) Section 4(2) to (5) of the Aliens Act and sections 4c, 47b and 47c of the Aliens Act as inserted by section 1(ii), (iii) and (xxx) of this Act do not apply to aliens who have submitted an application for a visa before the entering into force of this Act.

(3) Section 22(1)(vi) and (vii) and section 26(2) of the Aliens Act as amended and inserted by section 1(iv) to (vii) of this Act only apply if the offence on which the expulsion is based was committed after the entering into force of this Act. If the offence on which the expulsion is based was committed before the entering into force of this Act, the rules applicable hitherto apply.

(4) Section 42b(3), second and fifth sentences, section 42b(8), first sentence, section 42b(9), first sentence, and section 42b(12) of the Aliens Act as amended or inserted by section 1(xiii), (xiv), (xvi), (xviii) and (xxii) of this Act do not apply to aliens who have lodged an application for a residence permit under section 7 before the entering into force of this Act. To such aliens, the rules applicable hitherto apply.

(5) Section 46(2) of the Aliens Act as amended by section 1(xxix) of this Act does not apply to aliens who, before the entering into force of this Act, have appealed a decision concerning the calculation of cash allowances to the Minister of Refugee, Immigration and Integration Affairs. To such aliens, the rules applicable hitherto apply.

(6) Section 58g(vi) of the Aliens Act as insert-

ed by section 1(xxxv) of this Act only applies to aliens who, after the entering into force of this Act, are expelled pursuant to section 25b after refusal of an application for a residence permit under section 7.

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Act No. 324 of 18 May 2005 contains the following provision:

**Section 4**

(1) This Act enters into force on 1 July 2005.

(2) Section 11a(6), section 11b and section 59(2) (3), (7)(vi) and (9) of the Aliens Act as inserted by section 1(viii), (ix), (xxxii), (xxxiii) and (xxxiv) of this Act apply to offences committed after the entering into force of the Act. For offences committed up to that time, the rules applicable hitherto apply.

(3) Members of the Refugee Board appointed before the entering into force of this Act remain members until the expiry of the term of their appointment. Section 53(4), fourth sentence, of the Aliens Act as worded by section 1(xxiii) of this Act does not apply during such period. Section 53(4), second sentence, of the Aliens Act as

worded by section 1(xxiii) of this Act also applies to such members.

(4) Section 53(5) of the Aliens Act as worded by section 1(xxiii) of this Act applies to the election of chairmen after the entering into force of this Act.

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Act No. 402 of 1 June 2005 contains the following provision:

**Section 4**

(1) This Act enters into force on 1 July 2005.

(2) Section 9(2) and (3) of the Aliens Act as worded by section 3(i) of this Act does not apply to aliens who have submitted an application for or been issued with a residence permit before the entering into force of this Act. To such aliens, the rules applicable hitherto apply.

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Act No. 403 of 1 June 2005 contains the following provision:

**Section 2**

The Act enters into force on 1 July 2005.

*Ministry of Refugee, Immigration and Integration Affairs, 24 August 2005*

RIKKE HVILSHØJ

/ Oluf Engberg

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- <sup>1)</sup> Act No. 323 of 18 May 2005 amending the Aliens Act (Participation under the Eurodac Regulation and the Dublin Regulation on an inter-state basis, etc.) has not yet entered into force. The promulgated statutory text therefore does not include the amendments following from this Act. The date of Denmark's participation under the Eurodac and Dublin Regulations on an inter-state basis has not yet been finally determined, and the Act will therefore enter into force as decided by the Minister of Integration. The Act implies an amended wording of the heading of Part Va, an amended wording of section 29a(1) and (2), section 40a(1), (2) and (5), section 40b(5), section 46(1), section 56a(1) to (4), an amended wording of the heading of Part VIIIa, an amended wording of sections 58b to 58e, and the insertion of sections 58i and 58j.
- <sup>2)</sup> Act No. 402 of 1 June 2005 amending the Act on Danish Courses for Adult Aliens and Others, the Integration Act and the Aliens Act (strengthening of the Danish learning of people reunited with their families, and advanced and intensified Danish courses for refugees, etc.) inserted two new subsections (2) and (3) into section 9. By mistake, no consequential amendments were made. They will be made at a future amendment of the Aliens Act. To facilitate the understanding of the text, this Consolidation Act includes the consequential amendments.
- <sup>3)</sup> Act No. 324 of 18 May 2005 inserted subsections (2) and (3) as new subsections in section 59. In addition, a new paragraph (vi) was inserted into section 59(7). By mistake, no consequential amendments were made. They will be made at a future amendment of the Aliens Act. To facilitate the understanding of the text, this Consolidation Act includes the consequential amendments.
- <sup>4)</sup> See note 3.
- <sup>5)</sup> See note 3.
- <sup>6)</sup> See note 3.
- <sup>7)</sup> Act No. 574 of 19 December 1985 was promulgated in the Danish Law Gazette on 21 December 1985 and concerned an amended wording of section 46(2) and section 53, the insertion of section 53a and section 53b and an amended wording of section 56.
- <sup>8)</sup> Act No. 686 of 17 October 1986 was promulgated in the Danish Law Gazette on 18 October 1986.
- <sup>9)</sup> Section 1(i), (iii), (viii) and (x) of Act No. 686 of 17 October 1986 concerned an amended wording of section 7, section 31(2), section 48(2), and section 53a(1).
- <sup>10)</sup> Section 1(vii) of Act No. 686 of 17 October 1986 concerned an amended wording of section 43(2), first sentence.
- <sup>11)</sup> Act No. 387 of 6 June 1991 (the Dublin Convention), as amended by section 2 of Act No. 382 of 14 June 1995, section 1(i) of Act No. 290 of 24 April 1996 and section 2 of Act No. 410 of 10 June 1997, entered into force on 1 September 1997 by Order No. 610 of 1 July 1997.
- <sup>12)</sup> Section 4 of Act No. 385 of 20 May 1992 concerned an amended wording of section 62.
- <sup>13)</sup> Act No. 482 of 24 June 1992 was promulgated in the Danish Law Gazette on 26 June 1992.
- <sup>14)</sup> Section 1(ii) to (v) of Act No. 482 of 24 June 1992 concerned an amended wording of section 9(1)(ii) and (v), and section 9(3), insertion of section 9(4) and (5), and an amended wording of sections 18(2) and 19(2). According to the comments of the amending act, the provisions of section 4(2) of the amending act do not apply to aliens who, before the entering into force of the Act, had applied for a residence permit or had lawfully taken up residence in Denmark under the rules hitherto in force.
- <sup>15)</sup> Section 1(xiv) of Act No. 421 of 1 June 1994 concerned an amended wording of section 53.
- <sup>16)</sup> Act No. 382 of 14 June 1995 was promulgated in the Danish Law Gazette on 15 June 1995.
- <sup>17)</sup> Section 1(xv) of Act No. 382 of 14 June 1995 concerned an amended wording of section 48(2), seventh sentence. The amendment entered into force on 1 October 1995 and applies to aliens who submit an application for asylum at the Copenhagen Airport in Kastrup as of and including this date, cf. section 1 of Order No. 682 of 17 August 1995. Section 1(xvi) of Act No. 382 of 14 June 1995 concerned insertion of section 48(3) and (4). The amendment entered into force on 1 January 1996, cf. section 2 of Order No. 682 of 17 August 1995. Section 1(xviii) of Act No. 382 of 14 June 1995 concerned insertion of section 54(2). The amendment entered into force on 1 October 1995 and applies to aliens who submit an application for asylum as of and including this date, cf. section 3 of Order No. 682 of 17 August 1995. Section 2(ii) and (iii) of Act No. 382 of 14 June 1995 concerned an amended wording of Act No. 387 of 6 June 1991, cf. note 11.
- <sup>18)</sup> Section 1(xvii), (xix) and (xx) of Act No. 382 of 14 June 1995 concerned an amended wording of section 53(2) to (5) and section 56.
- <sup>19)</sup> Section 1(i) and (ii) of Act No. 382 of 14 June 1995 concerned an amended wording of section 19(1)(i) and insertion of section 27(2).
- <sup>20)</sup> Act No. 290 of 24 April 1996 was promulgated in the Danish Law Gazette on 25 April 1996.
- <sup>21)</sup> Section 1(iii) of Act No. 290 of 24 April 1996 concerned an amended wording of section 27(2).
- <sup>22)</sup> Section 1(ix) of Act No. 290 of 24 April 1996 concerned an amended wording of section 42a(1), second sentence, and insertion of section 42a(1), third sentence.
- <sup>23)</sup> The amendments following from Act No. 410 of 10 June 1997 - apart from the amendments that, pursuant to section 3(2) of Act No. 410 of 10 June 1997, entered into force on 12 June 1997, cf. note 21 - entered into force on 25 March 2001 by Order No. 170 of 13 March 2001.
- <sup>24)</sup> Section 1(xii), (xx), (xxviii) and (xxix) of Act No. 410 of 10 June 1997 concerned an amended wording of sections 28(3), 37(5) and 48. Section 2(v), (vi), (viii) and (x) of Act No. 410 of 10 June 1997 concerned an amended wording of Act No. 387 of 6 June 1991, cf. note 11. Act No. 410 of 10 June 1997 was promulgated in the Danish Law Gazette on 11 June 1997.
- <sup>25)</sup> Act No. 473 of 1 July 1998 was promulgated in the Danish Law Gazette on 2 July 1998.
- <sup>26)</sup> Section 1(xiv) of Act No. 473 of 1 July 1998 concerned repeal of section 19(2).
- <sup>27)</sup> Section 1(iii) and (xxxvi) of Act No. 473 of 1 July 1998 concerned repeal of section 9(1)(v) and section 42a(6)(i).
- <sup>28)</sup> Act No. 424 of 31 May 2000 was promulgated in the Danish Law Gazette on 2 June 2000.
- <sup>29)</sup> Act No. 362 of 6 June 2002 was promulgated in the Danish Law Gazette on 7 June 2002.
- <sup>30)</sup> Act No. 367 of 6 June 2002 was promulgated in the Danish Law Gazette on 7 June 2002.
- <sup>31)</sup> Section 1(vi) of Act No. 367 of 6 June 2002 entered into force on 1 March 2003 by Order No. 73 of 27 January 2003.
- <sup>32)</sup> Act No. 1044 of 17 December 2002 was promulgated in the Danish Law Gazette on 18 December 2002.
- <sup>33)</sup> Act No. 425 of 10 June 2003 was promulgated in the Danish Law Gazette on 11 June 2003.