

Consolidation Act No. 422 of 7 June 2004

## Consolidated Act on Danish Nationality

The following is a consolidation of the Danish Nationality Act, cf. Consolidated Act No. 113 of 20 February 2003, with the amendments following from Act No. 311 of 5 May 2004.

**1.** (1) A child is a natural-born Danish national if born to a Danish father or a Danish mother. Where the child's parents are not married and only the father is a Danish national, the child will only acquire Danish nationality if born within Denmark.

(2) A child found abandoned in Denmark will, in the absence of evidence to the contrary, be considered a Danish national.

**2.** Where a child of a Danish father and an alien mother has not acquired Danish nationality at birth, the child will acquire Danish nationality through the subsequent marriage of the parents. It is a condition that the child is unmarried and under 18 years of age at the time of the marriage.

**2A.** (1) An alien child, under 12 years of age, adopted through a Danish adoption order will become a Danish national by the adoption if the child is adopted by a married couple where at least one of the spouses is a Danish national, or by an unmarried Danish national.

(2) Danish nationality is acquired from the time when the legal effects of the adoption come into force.

(3) Subsections (1) and (2) hereof apply correspondingly in cases where the child was adopted by a decision taken abroad which is valid under section 28(2) of the Act on Adoption of Children.

**2B.** A marriage contracted by a person already married has no legal effects under this Act as long as both marriages subsist.

**3.** A national of Finland, Iceland, Norway or Sweden who satisfies the conditions of subsection (2) or (3) hereof, will acquire Danish nationality by making a declaration to that effect to a county governor, the Prefect of Copenhagen, the High Commissioner of the Faroe Islands or the High Commissioner of Greenland.

(2) A declaration can be made by persons who:

- (i) have attained the age of 18, but not yet 23;
- (ii) reside in Denmark at the date of the declaration;
- (iii) have resided in Denmark for an aggregate period of not less than ten years, of which an aggregate period of not less than five years must be within the last six years;
- (iv) are unpunished and have not been sentenced to measures pursuant to Part 9 of the Criminal Code; and
- (v) are not charged with a criminal offence.

(3) A declaration can also be made by persons who:

- (i) have acquired nationality in Finland, Iceland, Norway or Sweden in another manner than by naturalisation;
- (ii) have attained the age of 18;
- (iii) have resided in Denmark during the last seven years; and

(iv) have not, during that period, been sentenced to imprisonment or any measure which can be considered equivalent to imprisonment.

(4) For the purposes of subsection (2)(iii) hereof, residence in another Nordic country is equivalent to residence in Denmark, but only in so far as residence in the other Nordic country precedes, by not less than five years, the making of the declaration and the declarant's 16th birthday.

(5) Persons who cannot acquire Danish nationality by declaration because they are charged with an offence, cf. subsection (2)(v) hereof, may, if they are acquitted of the offence, make a new declaration within one year of the final decision in such case, even if they have attained the age of 23.

**4. (1)** A natural-born Danish national who lived in Denmark until attaining the age of 18 may recover his or her lost nationality by submitting a written declaration to that effect to a county governor, the Prefect of Copenhagen, the High Commissioner of the Faroe Islands or the High Commissioner of Greenland provided that he or she has resided in Denmark during the last two years preceding such declaration.

(2) A person who has lost his or her Danish nationality and has subsequently remained a national of a Nordic country will recover his or her Danish nationality by, after having taken up residence in Denmark, submitting a written declaration to that effect to a county governor, the Prefect of Copenhagen, the High Commissioner of the Faroe Islands or the High Commissioner of Greenland.

(3) For the purposes of subsection (1) hereof, residence in another Nordic country until the declarant's 12th birthday is equivalent to residence in Denmark.

**4A. (1)** It is a condition for acquiring Danish nationality pursuant to sections 3 and 4 of this Act that the declarant proves that this will cause him or her to lose his or her nationality of other countries.

(2) A declaration on acquisition of nationality pursuant to sections 3 and 4 of this Act can only be made by persons who reside lawfully in Denmark when making the declaration. A declaration cannot be duly made where the person is accused in a pending case in which the prosecutor has made a claim for expulsion, or where the prosecutor has stipulated expulsion of the person concerned as a condition for discharge.

(3) A declaration on acquisition of nationality pursuant to sections 3 and 4 of this Act may not be submitted by a guardian or the person having custody of the child.

(4) A declaration made pursuant to section 3 or 4 of this Act will be rejected by the authority to which it was made if the authority finds that the conditions for acquiring Danish nationality by declaration are not fulfilled. The rejection of a declaration may be appealed to the Ministry of Refugee, Immigration and Integration Affairs.

**5.** Where a person acquires Danish nationality by making a declaration pursuant to section 3 or 4 of this Act, the Danish nationality comprises the child, including adopted child, of the person concerned unless it is expressly specified that the acquisition of Danish nationality will not comprise a child. It is a condition for a child to acquire Danish nationality that the declarant shares custody of this child and that the child is unmarried, under the age of 18 and lives in Denmark. For an adopted child it is, furthermore, a condition that the adoption is valid under Danish law.

(2) In addition to the conditions referred to in subsection (1) hereof it is moreover a condition for a child to be comprised by the acquisition of Danish nationality that it is proved that such acquisition will cause the child to lose its nationality of other countries unless the other parent of the child retains his or her nationality thereof and shares custody of the child.

**6.** (1) Danish nationality may be acquired through naturalisation granted pursuant to the Danish Constitution.

(2) Where a person who is granted naturalisation has children, including adopted children, the rules laid down in section 5(1) of this Act apply correspondingly.

**7.** Danish nationality will be lost by:

- (i) any person who acquires a foreign nationality upon application or with his or her express consent;
- (ii) any person who acquires a foreign nationality by entering the public service of another country;
- (iii) an unmarried child under 18 years of age who becomes a foreign national by the fact that either parent holding or sharing custody of the child acquires a foreign nationality in the manner indicated in paragraphs (i) or (ii) hereof unless the other parent retains Danish nationality and shares custody of the child.

**8.** (1) Any person born abroad who has never lived in Denmark nor been staying in Denmark under circumstances indicating some association with Denmark will lose his or her Danish nationality on attaining the age of 22 unless this will make the person concerned stateless. The Minister for Refugee, Immigration and Integration Affairs or the person he so authorises may grant an application, submitted before the applicant's 22nd birthday, for retention of Danish nationality.

(2) If a person loses his or her Danish nationality pursuant to this section, his or her child having acquired its Danish nationality through him or her will likewise lose its Danish nationality unless this will make the child stateless.

(3) For the purposes of subsection (1) hereof, residence in a Nordic country for an aggregate period of not less than seven years is equivalent to residence in Denmark.

**8A.** Any person having acquired his or her Danish nationality by fraudulent conduct, including by intentionally giving incorrect or misleading information or suppressing relevant information, may be deprived of his or her nationality by court order if the conduct exhibited was decisive to such acquisition.

**8B.** (1) A person convicted of violation of one or more provisions of Parts 12 and 13 of the Criminal Code may be deprived of his or her Danish nationality by court order unless this will make the person concerned stateless.

(2) Where a person is punished abroad for an act which may, under subsection (1) hereof, lead to deprivation of Danish nationality, such person can be deprived of his or her nationality pursuant to section 11 of the Criminal Code.

**8C.** A person cannot base any right on having held Danish nationality where the person concerned has been deprived of his or her nationality pursuant to section 8A or 8B. This does not apply to the extent that the matter at issue relates to the time before the deprivation of nationality.

**8D.** (1) Proceedings for depriving a person of his or her Danish nationality under section 8A of this Act must be instituted by the prosecutor at the request of the Minister for Refugee, Immigration and Integration Affairs. A claim for depriving a person of his or her nationality may be made at the request of the Minister for Refugee, Immigration and Integration Affairs in connection with criminal proceedings.

(2) Where deprivation proceedings are instituted without any simultaneous claim for punishment, the proceedings must be instituted before the district court of the judicial district in which the person concerned lives or resides. If the person concerned has no known abode or place of

residence in Denmark, the proceedings must be instituted before the Copenhagen City Court. Proceedings are governed by the rules of administration of criminal justice.

**8E.** The Minister for Refugee, Immigration and Integration Affairs may procure the information, also in electronic form, from other authorities which is necessary for the purpose of considering cases on deprivation of Danish nationality pursuant to section 8A of this Act.

**9.** (1) A person who is or who desires to become a national of a foreign country may be released from his or her Danish nationality by the Minister for Refugee, Immigration and Integration Affairs or by any person whom he so authorises. In the case of a person desiring to become a national of a foreign country, release will be granted on the condition that the applicant acquires a foreign nationality within a certain time-limit.

(2) A foreign national permanently resident in a foreign country cannot be denied release from his or her Danish nationality.

**9A.** (Repealed) <sup>1)</sup>

**10.** (Repealed) <sup>2)</sup>

**10A.** (Repealed) <sup>2)</sup>

**10B.** (Repealed) <sup>2)</sup>

**10C.** (Repealed) <sup>2)</sup>

**11.** (Repealed) <sup>2)</sup>

**12.** (1) In connection with submission of an application for Danish nationality by naturalisation, a charge of DKK 1,000 is payable. The Minister for Refugee, Immigration and Integration Affairs shall lay down detailed rules on payment of the charge and any exemptions hereto.

(2) The Minister for Refugee, Immigration and Integration Affairs may lay down detailed rules governing the implementation of this Act.

(3) The Minister for Refugee, Immigration and Integration Affairs may, from tax authorities and other authorities, procure the information, also in electronic form, on persons applying for Danish nationality and their children which is necessary for the purpose of considering the applications.

(4) For the purpose of establishing whether a person can acquire Danish nationality by declaration pursuant to sections 3 and 4 of this Act, the authority receiving the declaration may procure information, also in electronic form, from the Central Criminal Register.

(5) It may be required that declarations on circumstances comprised by this Act or the rules and regulations laid down pursuant to this Act, including declarations made for the purpose of applications for nationality or as evidence of nationality, be made subject to solemn declaration.

**13.** (1) A child under the age of 18 who would have been a natural-born Danish national if the provision laid down in section 1(1)(ii)<sup>3)</sup> of this Act had applied before the effective date of the Act and who is not or was not a national of any country will acquire Danish nationality.

(2) For the purposes of section 4 of this Act, any person who has acquired Danish nationality pursuant to Act No. 474 of 5 September 1920 on the Acquisition of Danish Nationality in Consequence of the Incorporation of the South Jutland Provinces into Denmark, cf. Act No. 247 of

12 June 1922, is considered a natural-born Danish national. Residence in the South Jutland Provinces before 15 June 1920 is considered equivalent to residence in Denmark.

(3) A woman who under former legislation lost her Danish nationality by marrying an alien or by acquiring a foreign nationality either by the marriage or by her husband acquiring a foreign nationality, but who would still have retained her Danish nationality if this Act had been in force previously, will recover her Danish nationality by submitting a written declaration to that effect to the chief administrative officers (in Copenhagen: the Municipal Corporation of Copenhagen) or another authority designated by the Minister for the Interior. A declaration of this kind may not be duly made after 31 December 1955.

(4) A woman who attains the age of 22 before 1 January 1954 and who on attaining the said age is or was married will not lose her Danish nationality pursuant to section 8(1) of this Act until the end of the year 1953.

(5) The provisions laid down in sections 3 and 4 of this Act and in subsection (3) hereof do not apply to persons who are comprised by Act No. 379 of 12 July 1946 as amended by Act No. 528 of 22 December 1947, cf. Act No. 518 of 22 December 1948, and who have not by special legislation gained access to acquire or retain Danish nationality, irrespective of the provisions of the Act of 12 July 1946. The same applies to any person who would have been comprised by these Acts if he or she had been a natural-born Danish national and had retained residence within Denmark.

(6) If a person who has acquired a foreign nationality but who, pursuant to section 5, second sentence, of Act No. 123 of 18 April 1925, has retained his or her Danish nationality takes up residence abroad, such person will not lose his or her Danish nationality unless he or she is still a national of another country and would lose or have lost his or her Danish nationality pursuant to the rules laid down in section 7 of this Act if they had been in force previously.

(7) Otherwise, the provisions of this Act apply where the facts on which the acquisition or loss of nationality are based date from after the entry into force of the Act.

**14.** This Act, which supersedes Act No. 123 of 18 April 1925 on the Acquisition and Loss of Danish Nationality, extends to all parts of the Danish state.

**15.** This Act enters into force on 1 January 1951.

Act No. 1102 of 29 December 1999 contains the following commencement provision:

**Section 2.**

This Act enters into force on the day after its promulgation in the Danish Law Gazette. <sup>4)</sup>

Act No. 193 of 5 April 2002 contains the following commencement provision:

**Section 3.**

(1) This Act enters into force on the day after its promulgation in the Danish Law Gazette. <sup>5)</sup>

(2) This Act applies even though Danish nationality was acquired prior to the entry into force of the Act.

Act No. 366 of 6 June 2002 contains the following commencement provision:

**Section 2.**

This Act enters into force on 1 July 2002. <sup>6)</sup>

Act No. 311 of 5 May 2004 contains the following commencement provision:

**Section 2.**

(1) Section 1(i)-(v), (ix) and (x) of the Act enters into force on 1 July 2004.

(2) Section 1(vi)-(viii) of the Act enters into force on the day after its promulgation in the Danish Law Gazette and extends to all acts committed after the entry into force of the Act. <sup>7)</sup>

*Ministry of Refugee, Immigration and Integration Affairs, 7 June 2004*

Bertel Haarder

/Oluf Engberg

<sup>1)</sup> Repealed by section 1(viii) of Act No. 1018 of 23 December 1998.

<sup>2)</sup> Repealed by section 1(x) of Act No. 311 of 4 May 2004.

<sup>3)</sup> As worded by Act No. 252 of 27 May 1950.

<sup>4)</sup> Act No. 1102 of 29 December 1999 was promulgated in the Danish Law Gazette on 30 December 1999. The Act implemented amendments to the rules in sections 3, 4, 10B and 10C on the acquisition of Danish nationality by declaration.

<sup>5)</sup> Act No. 193 of 5 April 2002 was promulgated in the Danish Law Gazette on 6 April 2002. The Act introduced the rules in sections 8A, 8B and 8C on the deprivation of Danish nationality acquired by fraudulent conduct.

<sup>6)</sup> The Act implemented an amendment to the rules in sections 10B and 10C on the acquisition by Nordic nationals of Danish nationality by declaration and introduced, in section 2B, the rule limiting the legal effects under the Danish Nationality Act of a person's several marriages subsisting concurrently.

<sup>7)</sup> Act No. 311 of 4 May 2004 was promulgated in the Danish Law Gazette on 6 May 2004. Section 1(i) of the Act limits the declaration scheme of the Nationality Act to comprise only nationals of the other Nordic countries and former Danish nationals. Section 1(vii) of the Act introduces a new provision according to which persons convicted of violation of one or more provisions of Parts 12 and 13 of the Criminal Code will be deprived of their Danish nationality.