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The Danish national declaration
with information regarding
**national rules, standards, and
practices for ethical behaviour
for members of government**

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Overview of relevant rules

- The Constitutional Act Sections 13 and 16
- The Ministerial Responsibility Act Section 5
- The Act on Remuneration and Pensions for Ministers Sections 8 and 9
- The Criminal Code Sections 109, 122, 144, 150-152 b, 152 d, 278-280
- The Public Administration Act Sections 3-6 and 27

Overview of relevant standards and practices

- General administrative legal principles regarding incapacity outside of the scope of the Public Administration Act
- General administrative legal principles regarding ministers' acceptance of gifts
- The Prime Ministers' supervisory duty in relation to other ministers
- Handbook on the ministerial position
 - Ministers' posts and financial interests
 - Transparency scheme on ministers' expenses and activities, including ministers' acceptance of gifts etc.
 - Ministers' appearances in advertising
 - Ministers' disqualification from being involved in a particular case

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Relevant Section of the Constitution

Section 13

(1) The King shall not be answerable for his actions; his person shall be sacrosanct. (2) The Ministers shall be responsible for the conduct of government; their responsibility shall be defined by statute.

Section 16

Ministers may be impeached by the King or the Parliament (Folketinget) for maladministration of office. The High Court of the Realm shall try cases of impeachment brought against Ministers for maladministration of office

The Prime Minister's supervisory duty in relation to other ministers

The Danish Constitution is based on a so-called ministerial system, which, among other things, implies that each minister is responsible for his or her own area of responsibility. It follows from Danish constitutional law that the Prime Minister as the head of government has a duty to supervise the other ministers. The duty of supervision is considered a narrow exception to the arrangement of the ministerial system.

Relevant Section of the Ministerial Responsibility Act

Section 5

A minister is liable to punishment if he wilfully or by gross negligence disregards the duties which fall on him under the Constitution or under other laws, or due to the nature of his office.

(2) A minister is liable under criminal law if he or she provides the Parliament (Folketinget) with incorrect or misleading information or, during the consideration of a case by the Parliament (Folketinget), withholds information that is of essential importance to the Parliament's (Folketingets) assessment of the matter.

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Relevant Sections from the Danish Act on Remuneration and Pensions for Ministers

Section 8

If a minister holds posts in the service of public or private companies, enterprises or institutions when he takes office, he shall resign them. However, he may exceptionally, with the provisional approval of the Prime Minister, retain such posts, if they, in the Prime Minister's judgment, will not cause difficulties in the performance of his official duties as a minister or in his relations with the various branches of the state administration. In such a case, the Prime Minister shall immediately give written notification to a committee appointed by the Danish Parliament. The committee may, within a period of 14 days after receipt of the notification, refuse to authorise the minister concerned to retain such posts. After the expiry of this period, the Prime Minister shall notify the Speaker of the Danish Parliament of the posts which the minister concerned is authorised to hold.

(2) If the committee mentioned in subsection (1) has not yet been constituted when the Prime Minister's provisional approval is obtained, the provisional approval shall be valid until the constitution of the committee has taken place. The matter will then be dealt with as mentioned above.

(3) No minister may take on any new posts of the kind mentioned in subsection (1) during his ministerial term.

(4) If the Prime Minister holds posts of the kind referred to herein at the time of the formation of a government, notification must be made to the committee if he wishes to retain any of these, following which the procedure shall be in accordance with subsection (1).

(5) Parliamentary activities are exempt from the provisions of this section.

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Section 9

If a civil servant is appointed as a minister, the civil service position previously held may be filled temporarily during his term in ministerial office if it is deemed justifiable in the best interests of the position, and to the extent and for as long as it is permitted for the position to be filled. The Prime Minister shall notify the committee mentioned in section 8(1), whereupon with the provisions laid down in section 8(1) shall apply.

Relevant Sections from the Criminal Code

Section 109

A person who discloses or imparts information on secret negotiations, deliberations or resolutions of the state in matters on which the security or rights of the state in relation to foreign states depend or information concerned with substantial economic interests in relation to foreign states shall be liable to imprisonment for any term not exceeding 12 years.

(2) If any of the mentioned acts have been carried out negligently, the penalty shall be a fine or imprisonment for any term not exceeding three years.

Section 122

A person who unlawfully grants, promises or offers another person who works in Danish, foreign or international public functions or service a gift or other favour in order to induce that other person to carry out or not carry out an act required by his functions or service, shall be liable to a fine or imprisonment for any term not exceeding six years.

Section 144

A person who unlawfully receives, demands, or accepts the pledge of a gift or other favour while carrying out Danish, foreign or international public service or functions shall be liable to a fine or imprisonment for any term not exceeding six years.

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Section 150

A person who carries out public service or acts in a public office shall, where he abuses his position to force another to carry out, suffer or omit an act, be liable to imprisonment for any term not exceeding three years.

Section 151

A person who encourages or aids or abets a subordinate in public service or in a public office to commit a punishable offence in this service shall, regardless of whether the subordinate is subject to punishment or exempt from punishment owing to ignorance or other reasons, be punished according to the provision applicable to the offence in question.

Section 152

A person who carries out or has carried out public service or acted in a public office and, without any authority, discloses or exploits confidential information which he has obtained in connection with his service or office shall be liable to a fine or imprisonment for any term not exceeding six months.

(2) If a person commits the offence referred to in subsection (1) above with the intent to obtain an unlawful gain for himself or others or in other particularly aggravating circumstances, the penalty may be increased to imprisonment for any term not exceeding two years. The circumstances considered to be particularly aggravating are especially situations in which information is disclosed or exploited in a way that causes serious damage to others or involves a special risk of such damage.

(3) Information is confidential when by statute or any other current provision it has been so designated, or when it is otherwise necessary to keep it secret in order to protect important public or private interests.

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Section 152 a

The provisions in section 152 of this Act shall apply correspondingly to anyone who is or has been occupied with tasks carried out by agreement with a public authority, and to anyone who is or has been employed in telephone services authorised by the state.

Section 152 b

The provisions provided in section 152 of this Act shall apply correspondingly to a person who carries on or has carried on an activity or a trade under a public appointment or accreditation and without authority discloses or exploits information into which he has gained insight in that connection, where such information has been made confidential in order to protect private interests.

(2) The provisions of section 152 of this Act shall also apply to any person who is or has been employed by the Office of Statistics of the European Communities or works or has worked in the premises of the Office, and unlawfully discloses or exploits confidential statistical information, into which he has obtained insight in that connection.

Section 152 d

The provisions of sections 152-152 c of this Act shall apply correspondingly to a person who unlawfully obtains or exploits information without having participated in the act by which the information has been obtained.

(2) The same penalty shall apply to a person who has not contributed to the act but unlawfully discloses information concerning strictly private affairs of certain individuals (as described in section 28(1) of the Public Administration Act) obtained by an act that is punishable under sections 152-152 c of this Act.

(3) The same penalty shall apply to a person who has not contributed to the act but discloses in an unlawful way information that is confidential

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because of its importance for the security of the State or the defence of the nation.

Section 278

A person who seeks to obtain an unlawful gain for himself or others and for that purpose

- 1) appropriates a tangible object belonging to another which is in his custody, in circumstances other than those covered by section 277 of this Act; or
- 2) refuses to acknowledge receipt of a pecuniary or any other loan, or of a service for which remuneration is payable;
- 3) unlawfully spends money that has been entrusted to him, even if he was not under an obligation to keep it separate from his own funds; is guilty of the offence of embezzlement.

(2) The provision in paragraph 1) of subsection (1) above shall not include transactions related to purchased goods in respect of which the vendor has reserved title until the purchase price has been paid.

Section 279

A person who induces another to carry out or omit an act for the purpose of obtaining an unlawful gain for himself or another by wrongfully creating, corroborating or exploiting a deception shall, where such an act inflicts a loss of property on the deceived person or other persons significantly affected by the act or omission, be guilty of fraud.

Section 279 a

A person who wrongfully changes, adds or erases information or programs to be used in electronic data processing, for the purpose of obtaining an unlawful gain for himself or another or otherwise seeks to interfere unlawfully with the results of such data processing, shall be guilty of computer fraud.

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Section 280

A person who inflicts a loss on another person for the purpose of obtaining an unlawful gain for himself or others

- 1) by abusing powers vested in him to act with legal effect on behalf of the other; or
- 2) by acting against the interests of the other in respect of property that has been entrusted to him for management on behalf of the other; in cases other than those covered by sections 276-279 a of this Act, shall be guilty of criminal breach of trust.

Relevant Sections from the Public Administration Act

Section 3

Any person employed by or acting on behalf of a public administration body is disqualified from being involved in a particular case where

- 1) the person in question has a particular personal or financial interest in the outcome of the case or has previously represented someone with such interest in the same case,
- 2) the person in question's spouse, relative or a person related by marriage in the direct line of ascent or descent or related in the collateral line as close as nephews or nieces or other closely related persons has a particular or financial interest in the outcome of the case or has previously represented someone with such interest,
- 3) the person in question serves in the management of or is otherwise closely involved in an enterprise, an association or another private legal entity which has a particular interest in the outcome of the case,
- 4) the case concerns a complaint of or the exercise of control or supervision of another public authority, and the person in question has previously, within such authority, been involved in the decision or the enforcement of measures concerning the subject matter of the case, or
- 5) there are other circumstances which are suited to raise doubts about the impartiality of the person in question.

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(2) There is no disqualification if it is deemed, owing to the nature or level of the interest, the nature of the case or the person in question's functions in connection with the processing of the case, that there is no risk that the decision of the case may be affected by irrelevant considerations.

(3) Any person disqualified in respect of a case may not make decisions, participate in determining or otherwise be involved in processing the relevant case.

Section 4

The provisions of section 3 do not apply if it would be impossible or entail significant difficulties or concerns to let another person act in the place of the person in question during proceedings.

(2) The provisions of section 3 apply to members of a collegiate administrative authority, even where no alternate members can be designated. The provision does not apply if the authority would cease to have a quorum, or where it would give rise to significant concern about the composition of the authority if the relevant member could not be involved in the processing of the case, and proceedings cannot be suspended without causing significant harm to public or private interests.

(3) Notwithstanding the provisions of section 3, any member of a collegiate administrative authority may take part in the election of members for particular functions, even where the member has been proposed. The provisions of section 3 do not apply to decisions lying with regional or local councils on the remuneration, etc., of members.

Section 5

Following negotiation with the Minister of Justice, the relevant minister may lay down rules defining the scope of sections 3 and 4 for particular fields.

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Section 6

Any person who is aware of circumstances in relation to themselves as referred to in section 3(1) shall notify their superior at the relevant authority thereof as quickly as possible unless it is evident that such circumstances are of no significance. As regards members of a collegial administrative authority, such notification must be made to the authority.

(2) The issue of the potential disqualification of a person must be determined by the authority set out in subsection (1).

(3) The person in question may not be involved in the processing and decision of the disqualification issue, but see section 4(1) and (2). This does not apply to fields for which different rules have been stipulated by law.

Section 27

Any person employed by or acting on behalf of a public administration body is subject to a duty of confidentiality, cf. section 152 and sections 152 c-152 f of the Criminal Code, in respect of information on

- 1) personal, including financial, information on individuals, and
- 2) technical installations or processes or on operational, commercial or similar issues where non-disclosure of such information is of significant financial importance to the person or enterprise that is the subject of the information in question.

(2) Any person employed by or acting on behalf of a public administration body is also subject to a duty of confidentiality, cf. section 152 and sections 152 c-152 f of the Criminal Code, when secrecy is of considerable significance to national security or defence. The same applies when information has been designated by law or other valid regulation as confidential, including when confidentiality is prescribed by EU law or public international laws, etc.

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(3) Any person employed by or acting on behalf of a public administration body is moreover subject to a duty of confidentiality, cf. section 152 and sections 152 c-152 f of the Criminal Code, when secrecy of particular information is required to safeguard significant considerations for national foreign policy interests, including the relations to other countries or international organisations.

(4) Any person employed by or acting on behalf of a public administration body is furthermore subject to a duty of confidentiality, cf. section 152 and sections 152 c-152 f of the Criminal Code, when secrecy is otherwise required to safeguard significant considerations for

- 1) prevention, investigation and prosecution of crimes, enforcement of sentences and the protection of provisionally charged persons, witnesses or other persons in cases involving criminal or disciplinary prosecution,
- 2) implementation of public control, regulation or planning activities or contemplated measures under tax or customs legislation,
- 3) public economic interest, including the execution of public commercial activities,
- 4) original ideas or preliminary results of scientific research and manuscripts of scientists or artists, or
- 5) private and public interests where confidentiality is required due to the special nature of the matter.

(5) Within public administration, a duty of confidentiality can only be imposed in respect of information when necessary to maintain the secrecy of the information to safeguard significant considerations for public or private interests as referred to in subsections (1)-(4).

(6) An administrative authority may order that a person not employed by or acting on behalf of a public administration body shall be subject to a duty of confidentiality in respect of confidential information divulged by the authority to such person without being obliged to.

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(7) If rules on confidentiality are laid down under Section 1(3), or a duty of confidentiality is imposed under Subsection (6), Section 152 and Sections 152 c-152 f of the Criminal Code will apply correspondingly to any violation of such rules and orders.

General administrative legal principles regarding incapacity outside of the scope of the Public Administration Act

The rules in chapter 2 of the Public Administration Act (section 3-6) are supplemented by general legal principles of capacity that is applicable where the Act itself is not applicable.

The principle of special incapacity has significant similarities with the disqualification rules in the Act, and it applies in particular where an administrative authority's activity has the characteristic of a determination that resembles a decision within the meaning of the Act.

The rules on capacity are also applicable in regards to the incapacity of an authority in its entirety, either when an authority has a relation to a case that corresponds to that which, for persons employed by or acting on behalf of a public administration body, entails disqualification under the rules in section 3 of the Act, or when the management of an authority, e.g. a minister, possesses such disqualifying interests.

General administrative legal principles regarding ministers' acceptance of gifts

The issue of ministers' acceptance of gifts are to a certain extent regulated by general administrative legal principles. It follows from practice from the Parliamentary Ombudsman that persons employed by or acting on behalf of a public administration body, including ministers, have a duty to decline

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benefits that by their nature and/or the context in which they are given, may, after a general assessment, be suited to raise reasoned or unfounded doubts on whether the person in question will conduct the case administration in an impartial manner.

Handbook on the ministerial position, December 2022

The Prime Minister's Office issues a ministerial handbook to all new ministers containing information on rules, standards and practices regarding governmental work. One of the main purposes of the ministerial handbook is, *inter alia*, to help ministers be aware of integrity-related issues and provide guidance thereon. The handbook was most recently updated in connection with the formation of the current government in December 2022. A selection of the most important standards and practices on ethical behaviour contained in the handbook are set out below.

Ministers' posts and financial interests

The Danish Act on Remuneration and Pensions for Ministers does not prevent a minister from taking on positions etc. when they are held by the minister as part of the exercise of the official duties as a minister. Such positions do not constitute a post within the meaning of the Danish Act on Remuneration and Pensions for Ministers. Examples include hosting conferences, serving on the boards of international organizations, chairing committees and chairing activities within the framework of EU cooperation.

The opportunity to engage in other activities that do not constitute a post within the meaning of The Danish Act on Remuneration and Pensions for Ministers, but are of a similar nature, is very limited. The practice under successive governments has thus been that a minister can only undertake purely party-related or purely honorary activities etc.

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In principle, ministers should therefore refrain from any activity that involves an element of remuneration. However, it should be noted that a minister is generally not precluded from running a sole proprietorship. It should also be noted that, as a general rule, ministers should refrain from assuming protectorates and refrain from participating in petitions, declarations of support, etc.

In addition, ministers may, under certain circumstances, have a permanent affiliation with a media outlet as a regular columnist, etc. provided that they do so without receiving remuneration or other consideration.

Inquiries concerning matters relating to ministers' posts and other activities can be directed to the Prime Minister's Legal Department.

In order to ensure openness and transparency about ministers' interests, ministers fill out a disclosure form regarding their personal financial interests etc. when they assume office and annually thereafter. Although the scheme is not statutory, successive governments have complied with the scheme as if it were mandatory.

The present scheme includes disclosure of information regarding:

- posts held currently (posts that the minister has exceptionally – with the Prime Minister's permission and with the consent of the Danish Parliament – retained) and in the past 5 years,
- self-employment (sole proprietorship) with an annual turnover of more than 50.000 DKK (approximately 6.700 EUR)
- corporate interests of more than 50.000 DKK (approximately 6.700 EUR),
- financial agreements with former and/or future employers,
- membership of associations etc.,
- remunerated positions of a spouse or partner,
- self-employed income-generating activities of a spouse or partner,

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- corporate interests of a spouse or partner.

The completed disclosure forms are made publicly available on the government's website.

Transparency scheme on ministers' expenses and activities, including ministers' acceptance of gifts etc.

A person who unlawfully receives, demands, or accepts the pledge of a gift or other favour while carrying out Danish, foreign or international public service or functions shall be liable to a fine or imprisonment for any term not exceeding six years under section 144 of the Danish Criminal Code. This also applies to ministers. Beyond this, there are no specific legal rules regulating public employees and ministers' acceptance of gifts and other benefits in connection with their work.

However, the issue of ministers' acceptance of gifts is to a certain extent regulated by general administrative legal principles. It follows from practice from the Danish Parliamentary Ombudsman that persons employed by or acting on behalf of a public administration body, including ministers, have a duty to decline benefits that by their nature and/or the context in which they are given, may, according to a general assessment, be suited to raise reasoned or unfounded doubts on whether the person in question will conduct the case administration in an impartial manner.

Furthermore, a transparency scheme introduced in June 2009 as part of a political agreement reached on April 30, 2009, sets out detailed guidelines for the publication of information about ministers' expenses and activities.

The transparency scheme ensures that within each individual ministerial area, information about the minister's expenses and activities, including the minister's acceptance of gifts and participation in events of an official representative nature, is published on an ongoing basis.

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This includes information about which trips a minister has taken and the associated expenses, as well as what gifts the minister has given and received and what the minister has spent on hospitality.

It should be emphasized that the fact that an accepted gift is published as part of the transparency scheme does not in itself justify the acceptance of the gift. When assessing whether a minister may accept a gift in a specific case, particular consideration must be given to both the nature of the gift and the circumstances under which it is given. Furthermore, it should be considered whether the gift is of significant financial value. The transparency scheme is described in further detail in guidelines issued on June 3, 2009, by the Prime Minister's Office. The examples mentioned in these guidelines (e.g. wine and books) are illustrative in relation to the types of gifts that would normally be justified to accept. Similarly, ministers could, for example, receive running or cycling jerseys made for participants in connection with their participation in sporting events with a charitable purpose.

The transparency scheme also involves the retrospective publication of information about ministers' participation in events of an official representative nature, such as participation in dinners, concerts, football matches, cinema premieres etc. as well as information about the coming month's official ministerial activities, such as planned participation in conferences, participation in the Danish Parliament's Question Time, consultations in the Danish Parliament, press meetings, visits from abroad and business trips, etc. It should be noted that the information will not constitute an exhaustive list of upcoming official ministerial activities. Participation in government meetings is not included, and there may also be political considerations, security considerations or other considerations that may justify not including an activity on the list.

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There may be situations where a minister's attendance at an event of an official representative nature would involve such a financial advantage that the minister should refrain from attending the event.

As a guideline, emphasis should be placed on whether participation in the event, according to a general (objective) assessment, may create doubts about the impartiality of the ministerial office, regardless of whether these doubts are unfounded. This means, among other things, that ministers should generally be reluctant to receive a significant number of invitations from the same organizer, even if the individual invitation does not in itself entail such a financial advantage that the minister concerned should refrain from participating. Ministers should also be aware of whether the total number of representative events over a period of time is such that – in terms of public image – there is reason to exercise some restraint, even if the organizers are different.

Ministers' appearances in advertising

According to the Danish Act on Remuneration and Pensions for Ministers, no minister may take on any new posts in the service of public or private companies, enterprises or institutions during their time as minister. This prohibition also includes paid or unpaid positions that involve marketing of a specific company and/or its products.

Apart from this there are no statutory rules on ministers' access to appear in an advertising context, but successive prime ministers have previously expressed that ministers should exercise restraint with respect to such activities. The guiding principle in this area is that ministers should refrain from promoting companies and/or products for advertising purposes, even if it does not constitute a post within the meaning of the Danish Act on Remuneration and Pensions for Ministers.

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This is not to say that ministers are in all cases barred from appearing in contexts where there may be an interest (publicity-wise) in the minister's participation, for example from the organizer's point of view.

In domestic contexts, it is common practice for ministers to appear at conferences, trade fairs, inaugurations, etc. related to the ministers' areas of responsibility, where business organisations, industries or individual companies may naturally have an interest in the participation of a minister.

Furthermore, sometimes ministers help promote charitable initiatives, especially in connection with one-off events such as national fundraisers, thereby helping to mobilise support for the organisations involved. Similarly, ministers may attend charitable sporting events and appear wearing sponsored cycling or running jerseys made for the participants of the event, even if the jersey highlights the event's sponsors.

Ministers may also participate to a certain extent in events of an official representative nature. In this connection, please refer to the section on ministers' receipt of gifts and participation in events of an official representative nature.

In cases such as these, the Prime Minister's Office is of the view that the participation of ministers cannot be questioned, even if the specific events cannot be said to be without some element of advertising.

However, it should be emphasised that ministers should generally exercise restraint when participating in promotional contexts, and ministers should therefore be aware of whether they appear in contexts that could be perceived as an endorsement etc.

When assessing whether a minister may participate in a specific context, emphasis is generally placed on whether the minister's behaviour, according to a general (objective) assessment, may create doubt about the

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impartiality of the ministerial office, regardless of whether this doubt is unfounded. Furthermore, emphasis is placed on whether the activities are non-profit activities, whether they fall within the minister's area of responsibility, and whether the minister's involvement is of a temporary or one-off nature.

If there is any doubt as to whether a minister's acceptance to participate in an event, write a foreword to a book or similar can be interpreted as an endorsement of a particular company and/or its products, the Prime Minister's Legal Department should be contacted for clarification.

Disqualification from being involved in a particular case

In addition to the general rules and provisions on disqualification in the Danish Public Administration Act, special guidelines apply to ministers, stating that in cases where questions may be raised about a minister's impartiality, the Prime Minister's Office should be contacted in order to have the case in question transferred to another minister, unless it is obvious that the circumstances surrounding the matter cannot lead to the minister's disqualification.

In this connection, it is irrelevant whether a detailed legal assessment may lead to the conclusion that the minister is not actually disqualified according to general rules and principles on disqualification.

The detailed guidelines are described in the Prime Minister's circular letter to the other ministries of March 5, 2004.