



# Legal Gazette A

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## Statutory order concerning the Chartered Surveyors Act<sup>1</sup>

The Danish Chartered Surveyors Act, cf. Consolidation Act No 400 of 3 May, 2012, as amended by Section 3 of Act No 1392 of 23 December, 2012, is hereby promulgated.

SECTION 1. Chartered surveyors are licensed by the Danish Minister for the Environment.

*Subsection 2.* Anyone has the right to be licensed as a chartered surveyor, provided that they:

- 1) are of legal age and not under guardianship pursuant to Section 5 of the Danish Guardianship Act or under co-guardianship pursuant to Section 7 of the Danish Guardianship Act,
- 2) are not subject to an administration order and have not entered into bankruptcy proceedings,
- 3) have obtained the Danish chartered surveying qualification, and
- 4) have participated, for at least three years after obtaining the chartered surveying qualification, in the performance of general cadastral work by way of employment with a practising chartered surveyor, with the Southern Jutland department of the Danish Geodata Agency or with the cadastral authorities at the City of Copenhagen or the City of Frederiksberg.

*Subsection 3.* The Minister for the Environment may approve the inclusion of employment at places other than those mentioned in subsection 2, No 4, in the three years, but for no more than one year, or the inclusion for up to two years of employment at the Danish Geodata Agency either alone or combined with up to one year's employment at places other than those mentioned in subsection 2, No 4, in such a way that the total period is no more than two years.

*Subsection 4.* The requirement in subsection 2, No 3, regarding a Danish chartered surveying qualification does not apply to the extent that this is sanctioned in an international agreement. The Minister for the Environment may grant exemptions from subsection 2, No 4, in special cases.

*Subsection 5.* The Minister for the Environment establishes rules regarding the processing of applications for chartered surveyor licences, including for persons who have acquired their professional qualifications in other EU/EEA countries or in countries with which the EU has an agreement regarding permission to practise a regulated profession.

*Subsection 6.* The Minister for the Environment may establish rules regarding the exchange of information with authorities in other EU/EEA countries or in countries with which the EU has an

agreement regarding permission to practise a regulated profession, to the extent that this is required for the fulfilment of Denmark's obligations under EU law, about persons seeking to become licensed chartered surveyors in Denmark, and about persons who are licensed chartered surveyors in Denmark and who are seeking permission to perform this activity in other EU/EEA countries or in countries with which the EU has an agreement regarding permission to practise a regulated profession.

*Subsection 7.* The information that may be exchanged must be necessary in order for the Minister for the Environment and the authorities in the aforementioned countries to carry out their responsibilities in connection with compliance with Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.

*Subsection 8.* Licences may be denied under the circumstances specified in Section 78, subsection 2, of the Danish Penal Code. Licences may also be denied if the party in question, in the capacity of his/her position or profession, has demonstrated the kind of behaviour which provides reason to assume that he/she will not perform the activity of chartered surveyor in an appropriate manner.

SECTION 2. (Repealed)

SECTION 3. Licensing as a chartered surveyor lapses if the person in question ceases to meet the requirements in Section 1, subsection 2, No 1 or 2.

*Subsection 2.* Any licence that has lapsed pursuant to subsection 1 or that has been revoked pursuant to Section 10, subsection 2, or pursuant to Section 79 of the Danish Penal Code, must immediately be returned to the Minister for the Environment.

*Subsection 3.* If the reason for the lapsed licence ceases or the revocation of a licence expires or is repealed, the licence must be returned to the party in question.

SECTION 4. Cadastral work may only be performed by practising chartered surveyors and their assistants who are licensed chartered surveyors (cf. subsection 2, however).

<sup>1)</sup> This act contains provisions transposing parts of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, Official Journal 2005 No L 255, page 22, and parts of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, Official Journal 2006 No L 376, page 36.

*Subsection 2.* Cadastral work may also be performed on a temporary and occasional basis, however, by persons or companies established in other EU/EEA countries or in countries with which the EU has an agreement regarding the practising of regulated professions, who are entitled to perform similar work there. The setting of boundaries in accordance with Sections 35-37 of the Act on the parcelling of land and other land registry entries, however, requires a license in accordance with Section 1.

*Subsection 3.* Persons or companies intending to perform cadastral work pursuant to subsection 2 must submit a written declaration to the Minister for the Environment before the professional work commences for the first time. The Minister for the Environment establishes rules regarding the declaration.

*Subsection 4.* The provisions of this act apply to persons and companies covered by subsection 2 to the extent that this follows from the individual provisions.

*Subsection 5.* The Minister for the Environment may establish rules regarding the exchange of information with authorities in other EU/EEA countries or in countries with which the EU has an agreement regarding the practising of regulated professions, to the extent that this is required for the fulfilment of Denmark's obligations under EU law, about persons intending to perform cadastral work in Denmark pursuant to subsection 2 on a temporary and occasional basis, and persons who are qualified in Denmark and intend to perform cadastral work on a temporary and occasional basis in other EU/EEA countries or in countries with which the EU has an agreement regarding the practising of regulated professions.

*Subsection 6.* Information is exchanged in compliance with the requirements laid down in Section 1, subsection 7.

*Subsection 7.* Subject to the approval of the Minister for the Environment, however, municipalities may permit cadastral work to be performed by chartered surveyors employed by the municipality, when particular circumstances so dictate.

*Subsection 8.* The provision laid down in subsection 1 does not prevent the Minister for the Environment from permitting specific cadastral work to be performed by chartered surveyors employed by the Danish Geodata Agency.

*Subsection 9.* The Minister for the Environment may furthermore derogate from the provisions of subsection 1 when particular circumstances so dictate.

SECTION 4 a. Aside from sole proprietorships or partnerships between practising chartered surveyors, surveying may only be practised by a chartered surveying company operated in the form of a public or private limited company or limited partnership. A chartered surveying company must have the sole purpose of performing surveying. However, a chartered surveying company owned solely by practising chartered surveyors may have as its sole purpose the ownership of shares or holdings in another chartered surveying company.

*Subsection 2.* A chartered surveying company is obliged and exclusively entitled to use the terms "landinspektøraktieselskab" (chartered surveyor, public limited company), "landinspektøranspartsselskab" (chartered surveyor, private limited company), "landinspektørpartnerselskab" (chartered surveyor, limited partnership) or "landinspektørkommanditaktieselskab" (chartered surveyor, limited liability partnership) or abbreviations

thereof. A chartered surveying company formed as a European company (SE company), may furthermore use the terms "European chartered surveyor", "SE chartered surveyor, limited company" or "SE chartered surveyor" in its name.

*Subsection 3.* A licensed chartered surveyor practising in a surveying company is personally liable, together with the company, for any claims arising in consequence of assistance provided by the chartered surveyor to a client.

*Subsection 4.* In a chartered surveying company, at least 51 per cent of the share capital or company capital and voting rights must be owned by either licensed chartered surveyors who actively perform chartered surveying within the company or a parent company/subsidiary thereof, or by another chartered surveying company. With regard to the remaining capital and voting rights, entities other than the persons and companies named in point 1 may own no more than 15 per cent each. This limitation does not apply, however, to persons who are principally engaged in working within the chartered surveying company.

*Subsection 5.* In a chartered surveying company, the majority of the members of the board of directors must be licensed chartered surveyors who actively perform surveying within the company or a parent company/subsidiary thereof. The majority of the members of the management board of a chartered surveying company must be licensed chartered surveyors who actively perform surveying within the company.

*Subsection 6.* The requirements pursuant to subsections 4 and 5 regarding ownership and composition of the board of directors and management board of a chartered surveying company do not apply to chartered surveying companies covered by subsection 1, point 3.

*Subsection 7.* The Minister for the Environment establishes more specific rules concerning the practising of chartered surveying in company form, including rules regarding the disposal of a share or holding in the event of the death of a shareholder or the cessation of active surveying.

*Subsection 8.* The Minister for the Environment furthermore establishes more specific rules concerning names of chartered surveying companies and concerning names under which chartered surveying may be performed in sole proprietorships or in partnerships between practising chartered surveyors.

SECTION 4 b. A practising chartered surveyor or surveying company may only have more than one office location if each office is managed by a licensed chartered surveyor. No one may manage more than one office location.

*Subsection 2.* The Minister for the Environment must be notified before an office location is established.

*Subsection 3.* The Minister for the Environment may derogate from subsection 1.

SECTION 4 c. As a condition of performing cadastral work and other work that chartered surveyors are exclusively permitted to perform under the law, the practising chartered surveyor must be insured against compensation claims that may arise from the performance of cadastral work or other chartered surveying work. The same applies to chartered surveying companies.

*Subsection 2.* The Minister for the Environment establishes rules regarding liability insurance, including the scope, nature and duration of the insurance, as well as the insurance company's

obligation to inform the Minister for the Environment of the insurance status.

SECTION 4 d. Should a chartered surveyor perform cadastral work, or other work that chartered surveyors are exclusively permitted to perform under the law, without being insured in compliance with the rule laid down in Section 4 c, subsection 1, or with the rules established pursuant to Section 4 c, subsection 2, the Minister for the Environment may prohibit the chartered surveyor from continuing to perform said work.

SECTION 4 e. To the extent that this is required for the fulfilment of Denmark's obligations under EU law, the Minister for the Environment establishes rules concerning the information that practising chartered surveyors, chartered surveying companies and persons and companies covered by Section 4, subsection 2, must supply to their clients about their activity.

SECTION 5. A practising chartered surveyor or licensed chartered surveyor's assistant may not perform cadastral work concerning a property in cases where the chartered surveyor has a material interest in the property, or any other kind of interest in the case that might provoke doubt regarding the impartiality of the chartered surveyor. The same applies when any of the following have a material interest in the property:

- 1) the chartered surveyor's spouse, relatives or relatives by marriage one generation older or younger or in a collateral branch such as the children of siblings or other close relations of the surveyor, or
- 2) any person, company, association or other private legal person with whom the chartered surveyor is associated via a contract of service.

*Subsection 2.* No chartered surveyor may perform cadastral work that another chartered surveyor within the same business is ineligible to perform pursuant to subsection 1.

*Subsection 3.* In cases of doubt, the Minister for the Environment makes a decision as to whether subsections 1 and 2 prevent the chartered surveyor from performing the work.

*Subsection 4.* The Minister for the Environment may derogate from subsections 1 and 2 if the interest can be assumed to have no effect due to the nature or scope of the relevant cadastral work.

*Subsection 5.* Decisions made by the Minister for the Environment pursuant to subsections 3 and 4 may be brought before the court in the judicial district in which the property is situated, no more than four weeks after the decision is communicated.

*Subsection 6.* The provisions of subsections 1-5 apply *mutatis mutandis* to persons covered by Section 4, subsection 2.

SECTION 6. The Minister for the Environment may assign a practising chartered surveyor or chartered surveying company to perform cadastral work if all practising chartered surveyors or chartered surveying companies operating in the area in which the work falls have declined to perform it. Unless specific circumstances dictate otherwise, the performance of the work must be assigned to one of these chartered surveyors or companies.

*Subsection 2.* A practising chartered surveyor or chartered surveying company is entitled to demand a deposit before performing cadastral work as security for payment.

SECTION 7. Practising chartered surveyors and their licensed assistants must behave in a manner consistent with good chartered surveying practice. In this respect, they must discharge their business with diligence and precision, and with due attention to the interests of the clients. Cases must be pursued with the requisite speed.

*Subsection 2.* The provisions of subsection 1 apply *mutatis mutandis* to chartered surveying companies and to persons and companies covered by Section 4, subsection 2.

SECTION 8. Sections 150-152 and Sections 155-157 of the Danish Penal Code apply *mutatis mutandis* to licensed chartered surveyors and to persons covered by Section 4, subsection 2.

*Subsection 2.* Unless a higher penalty is prescribed pursuant to other legislation, anyone infringing the rules laid down in Section 3, subsection 2, Section 4, subsections 1 or 3, Section 4 a, subsections 1, 2, 4 or 5, Section 4 b, subsections 1 or 2, Section 4 c, subsection 1, or Section 5, subsections 1, 2 or 6, is penalised with a fine.

*Subsection 3.* In regulations issued pursuant to Section 4 a, subsections 7 and 8, Section 4 c, subsection 2 and Section 4 e, a fine may be imposed if the provisions in the regulations are infringed.

*Subsection 4.* Companies, etc. (legal persons) may be liable to penalties in accordance with the rules laid down in Chapter 5 of the Danish Penal Code.

SECTION 9. The Minister for the Environment appoints a Chartered Surveying Committee consisting of a high court judge as chairman and two other members, one of whom must be a chartered surveyor employed by the Danish Geodata Agency while the other must be a practising chartered surveyor.

SECTION 9 a. Claims that a practising chartered surveyor or licensed chartered surveyor's assistant has disregarded the obligations of his/her position in the performance of his/her work may be brought before the Chartered Surveying Committee. The same applies to claims concerning chartered surveying companies and to persons and companies covered by Section 4, subsection 2.

*Subsection 2.* Claims must be lodged no later than one year after the claimant became aware of the circumstance to which the claim pertains. The Chartered Surveying Committee may deal with a claim that is lodged later, however, where circumstances so dictate.

SECTION 10. A practising chartered surveyor or licensed chartered surveyor's assistant who disregards the obligations of his/her position in the performance of his/her work may be reprimanded by the Chartered Surveying Committee or be required to pay a fine of up to DKK 55,000.

*Subsection 2.* If the party in question is guilty of serious or frequently repeated negligence in the performance of his/her work and the circumstances provide reason to assume that the chartered surveyor will not perform his/her work in an appropriate manner in future, the Chartered Surveying Committee may revoke the licence of a chartered surveyor for a period of 1-5 years or until further notice.

*Subsection 3.* Subsection 1 applies *mutatis mutandis* to chartered surveying companies and to persons and companies performing cadastral work pursuant to Section 4, subsection 2.

*Subsection 4.* In cases such as those mentioned in subsection 2, the Chartered Surveying Committee may revoke the right of persons or companies performing cadastral work pursuant to Section 4, subsection 2, to perform such work in Denmark. This right may be revoked for a period of 1-5 years or until further notice.

*Subsection 5.* Decisions of the Committee pursuant to subsections 1-4 may not be brought before another administrative body. The decision may be brought before the courts no later than six months after the decision is communicated to the party in question.

SECTION 10 a. (Repealed)

SECTION 11. In respect of any decision made pursuant to Section 10, subsections 2 or 4, the subject of the decision may request that it be brought before the courts.

*Subsection 2.* Petitions pursuant to subsection 1 must be submitted to the Minister for the Environment within four weeks of the decision being communicated to the person in question. The decision must include information regarding the ability to request a trial by law and the deadline regarding this. The Minister for the Environment brings a case against the party in question via a civil judicial proceeding.

*Subsection 3.* A request for legal proceedings pursuant to Section 10, subsections 2 or 4, has a delaying effect, but the court may decree that the party in question may not practise as a chartered surveyor while the case is undecided. If the Committee's decision is found to be valid by the court, this court may decide that no delaying effect applies to the claimant during an appeal.

SECTION 12. The Chartered Surveying Committee may repeal a revocation pursuant to Section 10, subsections 2 or 4, at any time on request. If the revocation applies until further notice and the Committee declines the application to repeal the revocation, the party in question may request that the decision be brought before the courts. It is a condition of this that at least five years must have elapsed since the revocation and at least two years since the reinstatement of the licence was last refused in court. The same applies to the revocation of the right to perform cadastral work pursuant to Section 4, subsection 2. Section 11, subsection 2, similarly applies.

SECTION 13. The Minister for the Environment establishes the specific rules for the activity of the Chartered Surveying Committee.

*Subsection 2.* The Chartered Surveying Committee may allow parties and witnesses to be heard by the district court in the place where the party or witness resides.

SECTION 14. The provisions of the Act relating to practising chartered surveyors and their licensed assistants apply *mutatis mutandis* to chartered surveyors carrying out cadastral work after obtaining special permission in accordance with Section 4, subsections 7 and 9.

SECTION 14 a. Should the Minister refer the power to make decisions under the law or under provisions established under the law to an institution under the Ministry, the Minister may establish rules concerning access to appeals regarding decisions, including

rules to the effect that the decisions may not be brought before another administrative body.

SECTION 15. This Act shall not apply to the Faroe Islands and Greenland.

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Act No 278 of 29 April, 1992 contains the following provision concerning entry into force:

SECTION 2

*Subsection 1.* This act<sup>2</sup> shall enter into force on 1 January, 1993.

*Subsection 2.* Business names that were used before 13 November, 1991 may continue to be used, even if they do not comply with the regulations issued pursuant to Section 4 a, subsection 6.

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Act No 386 of 22 May, 1996 contains the following provision concerning entry into force:

SECTION 34

This act<sup>3</sup> shall enter into force on 1 January, 1997.

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Act No 139 of 17 March, 1999 contains the following provision concerning entry into force:

SECTION 4

*Subsection 1.* This act<sup>4</sup> shall enter into force on 1 October, 1999.

*Subsection 2.* (Omitted)

*Subsection 3.* (Omitted)

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Act No 1405 of 21 December, 2005 contains the following provision concerning entry into force:

SECTION 2

This act<sup>5</sup> shall enter into force on 1 April, 2006.

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Act No 1383 of 21 December, 2009 contains the following provision concerning entry into force:

SECTION 7

This act<sup>6</sup> shall enter into force on 28 December, 2009.

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Act No 12 of 11 January, 2010 contains the following provisions concerning entry into force:

SECTION 4

*Subsection 1.* This act<sup>7</sup> shall enter into force on 1 October, 2010 (cf. subsection 2, however).

*Subsection 2.* Section 2, No 2, shall enter into force on the day after the statutory order is published in the Legal Gazette.

*Subsection 3.* (Omitted)

#### SECTION 5

*Subsection 1.* Irrespective of Section 1, No 4, and Section 2, No 1, the Copenhagen City Council and the Frederiksberg City Council may allow chartered surveyors employed by these municipalities to perform cadastral work, and other work that must legally be performed by a chartered surveyor, if the previous municipal cadastral authorities were asked to perform this work before the Act entered into force. Such work may also be performed by the National Survey and Cadastre.

*Subsections 2-5.* (Omitted)

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Act No 718 of 25 June, 2010 contains the following provision concerning entry into force:

#### SECTION 55

*Subsection 1.* The Danish Minister of Justice determines when this act<sup>8</sup> enters into force.

*Subsections 2-10.* (Omitted)

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Act No 160 of 28 February, 2012 contains the following provision concerning entry into force:

#### SECTION 2

This act<sup>9</sup> shall enter into force on 1 April, 2012.

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Act No 1392 of 23 December, 2012 contains the following provision concerning entry into force:

#### SECTION 6

This act<sup>10</sup> shall enter into force on 1 January, 2013.

Danish Geodata Agency, 17 June, 2013

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/Pia Dahl Højgaard

- 2) Section 1 of Act No 278 of 29 April, 1992 concerns amendments to Section 4 a, Section 4 b, Section 6, subsections 1 and 2, Section 8 and Section 10, subsections 3 and 4.
- 3) Section 5 of Act No 386 of 22 May, 1996 concerns amendments to Section 1, subsection 2.
- 4) Section 2 of Act No 139 of 17 March, 1999 concerns amendments to Section 1, subsections 2, 3 and 4, Section 3, Section 4, subsection 2 and Section 8, subsection 4.
- 5) Section 1 of Act No 1405 of 21 December, 2005 concerns amendments to Section 1, subsection 4, Section 3, subsections 2 and 3, Section 4 a, subsections 3 and 4, Section 4 c, Section 4 d, Section 5, subsection 5, Section 8, subsections 1, 2 and 3, Section 9 a, Section 10, subsections 1 and 4 and Section 13, subsection 2.
- 6) Section 3 of Act No 1383 of 21 December, 2009 concerns amendments to Section 1, subsections 4, 5, 6, 7 and 8, Section 3, subsection 2, Section 4, subsections 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Section 4 e, Section 5, subsection 6, Section 7, subsection 2, Section 8, subsections 1, 2 and 3, Section 9 a, subsection 1, Section 10, subsections 3, 4 and 5, Section 10 a, Section 11, subsections 1, 3 and 4, Section 12 and Section 14.
- 7) Section 2 of Act No 12 of 11 January, 2010 concerns amendments to Section 4, subsections 7, 8 and 9 and Section 14.
- 8) Statutory Order No 208 of 15 March, 2011 establishes that Act No 718 of 25 June, 2010 enters into force on 1 April, 2011. Section 48 of Act No 718 of 25 June, 2010 concerns amendments to Section 1, subsection 2, No 2.
- 9) Section 1 of Act No 160 of 28 February 2012 concerns amendments to Section 4 a, Section 8, subsections 2 and 3, Section 9, Section 9 a, subsection 2 and Section 10, subsection 1.
- 10) As a consequence of Section 3 of Act No 1392 of 23 December, 2012 »the National Survey and Cadastre« is changed to »the Danish Geodata Agency« throughout the law.