

Translation

November 2007

(Changes of the Act approved after 1990 are incorporated in the text below, Nov 2007.)

The Act no. 137 of March 7, 1990

An Act Governing Parcelling out and other Registrations in the Cadastre.

We, Margrethe II, by the Grace of God the Queen of Denmark, make it known:
The Folketing have passed, and We, by Our Assent, confirmed the following Act:

Part 1

Definitions.

1. (1) The cadastral identification of an area consists of a cadastral number and the name of the cadastral district.
2. (1) In this Act a cadastral property means:
 - (i) one cadastral number, or
 - (ii) several cadastral numbers which, in accordance with the registration in the cadastre, shall be kept as one unit.
 - (2) When a cadastral property is registered in the cadastre as an agricultural property, it also comprises areas which, in pursuance of the Agricultural Property Act, shall be included in the agricultural property,
 - (3) When a share in a common plot belongs to the cadastral number, the share constitutes part of the cadastral property.
3. (1) In this Act a common plot means a cadastral number where at least one ideal share in the common plot is registered in the cadastre as belonging to a cadastral property.
4. (1) In this Act an area without a cadastral number means an area which
 - (i) is not registered in the cadastre, or
 - (ii) is registered in the cadastre without a cadastral number.
 - (2) In this Act a property without cadastral number means an area which constitutes a legal property unit.
5. (1) In this Act entrance in the cadastre means that an area without cadastral number is registered in the cadastre as cadastral property.

6. (1) In this Act subdivision means the registration in the cadastre of the separation of an area from one or more cadastral properties so that in the future will constitute a new cadastral real property.
7. (1) In this Act transfer of part of property means registration in the cadastre, save for cases involving rectification of boundaries, cf. section 9 of this Act, that there has been a transfer of
 - (i) an area from a cadastral property to another cadastral property or to a registered public road, or
 - (ii) an area without cadastral number to a cadastral property or to a registered public road.
8. (1) In this Act amalgamation means registration in the cadastre of several cadastral properties as one cadastral property.
- 9 (1) In this Act rectification of boundaries means registration in the cadastre of
 - (i) the change of a boundary of a cadastral property as a consequence of prescription or natural coastal withdrawal or growth etc., or
 - (ii) the registration in the cadastre that part of a cadastral property has been a public road for more than 20 years.

Part 2

The cadastral authorities.

10. (1) The National Survey and Cadastre (KMS) is the cadastral authority outside the Municipalities of Copenhagen and Frederiksberg.
 - (2) In the Municipality of Copenhagen the cadastral authority is exercised by the Municipal Authority in the person of a licensed surveyor. The licensed surveyor is appointed by the Municipal Council in title Stadskonduktør.
 - (3) In the Municipality of Frederiksberg the cadastral authority is exercised by the Municipal Council in the person of a licensed surveyor. The licensed surveyor is appointed by the Municipal Council in title Stadslandinspektør.
11. (1) The cadastral authority shall keep and maintain the cadastre as a register of all cadastral properties and of related cadastral maps accompanied with documentation of measurements. The cadastre contains the cadastral identifications, the size of the areas, entries referred to in section 2 of this Act as well as other entries in the cadastre provided by law.

12. (1) The decisions of the cadastral authority pursuant to this Act cannot be appealed to other administrative authority.
13. (1) Cadastral work may only be carried out by licensed surveyors. Cadastral work includes marking of the boundaries and preparation of the documents required for registration in the cadastre as well as procure the documents necessary to prove that sections 18-20 and 25-27 of this Act are observed.
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 - (2) The National Survey and Cadastre may demand from licensed surveyors detailed information about the carried out cadastral work.
 - (3) In the Municipalities of Copenhagen and Frederiksberg cadastral work and any other work, which in accordance with the legislation must be carried out by a licensed surveyor, may only be carried out by the municipal cadastral authority.

Part 3

Dispositions of real property.

14. (1) The transfer of ownership or mortgaging of an area may only take place when the area constitutes a cadastral property or a real property without cadastral number. However, the transfer of an area which is part of a cadastral property or a real property without cadastral number may take place in accordance with the rules governing transfer of part of property.
15. (1) A separate transfer of ownership or mortgaging of a share of a common plot may not take place if it is registered in the cadastre as belonging to a cadastral real property. After separation from the cadastral property, a share may not be registered once more as belonging to a cadastral property. It is not allowed to register new common plots in the cadastre.
16. (1) A right of use of an area may not be created for a period of time longer than.
 - (i) 30 years provided that the area constitutes part of a cadastral real property, or
 - (ii) 10 years provided that the area constitutes part of a real property without cadastral number.
 - (2) The Minister for the Environment may lay down rules that section 1 shall not apply if the right of use involves placing of a technical arrangement on an area of insignificant size.
17. (1) An area reclaimed from the sea territory shall be registered in the cadastre either by entrance in the cadastre as a cadastral property or by registration in the cadastre as transfer of part of property.

18.
 - (1) Subdivision, entrance in the cadastre or transfer of part of property may not take place if a cadastral property or a separately situated part of the property is thereby without access to public road. The right of access may not be for a limited period of time or provisory.
 - (2) If access to a public road must take place by a private common road, this road shall be registered in the cadastral map. In special cases the cadastral authority may exempt from this demand.
19.
 - (1) Subdivision, entrance in the cadastre or transfer of part of property may not take place in a manner where a cadastral property by a narrow strip of land is separated from the coast or a lake belonging to the owners of the bank, or from an open stream. The cadastral authority may in special cases exempt from this demand.
20.
 - (1), Subdivision, entrance in the cadastre, transfer of part of property or amalgamation shall not take place if the cadastral change or the intended use of the area according to the information received will result in circumstances conflicting with other legislation. This, however, does not apply to entrance in the cadastre of a legal property unit without cadastral number
 - (2) In cases where a construction of more than one single-family house for permanent residence has required exemptions enabling a specific subdivision, the subdivision may be carried out regardless of rules provided by other legislation governing the lapse of an unutilized exemption.
21.
 - (1) The parties in a legal matter which implies a cadastral change, cf. sections 14-16 of this Act, and the owner of an area reclaimed from the sea territory, cf. section 17 of this Act, shall request a licensed surveyor to apply for the registration in the cadastre of the necessary cadastral change within 3 months from the time limit referred to under subsection (2) below. In the Municipalities of Copenhagen and Frederiksberg the application shall be directed to the cadastral authority.
 - (2) Time limit according to subsection (1) is reckoned
 - (i) for legal matters comprised by section 14 and 15 of this Act from the date of establishing the right,
 - (ii) for legal matters comprised by section 16 of this Act from the time when the user, according to the contract, may enter upon use, or, if such a date is not agreed, upon from entering into contract,
 - (iii) for circumstances comprised by section 17 from the termination of the reclamation work.
 - (3) When rights are established as mentioned in sections 14, 15 or 16 of this Act, by expropriation or by the decision of reallocation of land, the proper authority shall request for the registration of the necessary cadastral change in the cadastre as

soon as possible.

22. (1) When a request, as mentioned in section 21, subsection (1) of this Act, is not submitted, or the necessary registration in the cadastre does not take place, cf. section 30 of this Act, or it cannot be upheld in pursuance of section 33 of this Act, the cadastral authority may order the cancellation of the contract.
23. (1) In the course of the registration of documents concerning title deed, mortgage or the right of use of real property in the Land Register, the Land Registry shall see that

the provisions under sections 14, 15, clause 1 and section 16 of the Act be observed. After negotiations with the Minister of Justice, the Minister of the Environment lays down detailed regulations concerning the basis of control.
24. (1) In the course of the registration in the cadastre, the cadastral authority shall see that the provisions pursuant to sections 18-20 of this Act are observed. However, in case of cadastral changes following from expropriation or the decision of reallocation of land, the relevant authority shall see that provisions are observed.

Part 4

Registration.

25. (1) The transfer of part of property may only be registered in the cadastre when the provisions of mortgages and easements in section 23 of the Land Registration Act are observed.
 - (2) When the area has been transferred, it shall also be proved that the document governing the transfer has been registered in the Land Register for both properties, and has not been stipulated by anything other than registration in the cadastre. Moreover, the document of transfer shall be submitted to the cadastral authority together with authority given to the cadastral authority to request that to be registered in the Land Register as a final title deed when the transfer of part of property has been registered in the cadastre.
 - (3) Where the value of the transferred part does not exceed the amount fixed by the Minister of The Environment, a written declaration hereon by the owners of the properties in question may replace the terms provided in subsection (2). The value of the transferred part means price, however, at least the amount according to assessed value of property during the latest public valuation of real property.
 - (4) In special cases of transfer of part of property, the Minister of The Environment may lay down regulations depart from subsections (1-3).
26. (1) Amalgamation may only be registered in the cadastre when it has been proved that

the properties in question belong to the same owner, and that the provisions of mortgages in section 21 of the Land Registration Act are observed.

27. (1) When the cadastral change is the consequence of an expropriation or a decision of reallocation of land, section 25 and 26 of this Act do not apply. Instead, a statement from the relevant authority shall be available to the effect that the transfer of part of property or the amalgamation are in compliance with the decision made in case of expropriation or in case of reallocation of land.
28. (1) Rectification of boundaries may take place provided that
 - (i) the owner of the properties in question has declared that the registered boundary has been changed by prescription, natural coastal withdrawal or growth, or
 - (ii) the authority of the public road has declared that an area belonging to a cadastral property has been a public road for at least 20 years.
29. (1) Furthermore, the Minister for the Environment lays down regulations on information and documentation to be submitted when a cadastral change is requested. Regulations may include provisions as to the form of the information and documentation to be given.
 - (2) The Minister of the Environment may lay down regulations requiring licensed surveyors to
 - (i) submit or certify information concerning documentation in pursuance of subsection (1),
 - (ii) draw up and certify maps to be used during registration and preparation of this as well as to be presented during registration in the Land Register, and
 - (iii) give detailed information for the purpose of change of cadastral identifications.
30. (1) The cadastral authority may only refuse to register rectification of boundaries, subdivision, entrance in the cadastre, transfer of part of property, amalgamation, and separation of a share from a common plot when
 - (i) sections 18-20 of this Act have not been observed,
 - (ii) information etc., pursuant to the provisions of this Act or to the regulations laid down by this Act, are not available, or
 - (iii) the cadastral authority has not received the amount demanded to be paid in advance in pursuance of section 47, subsection (1) or (2) of this Act, or in pursuance of The Act of Government Dues for Subdivision.
31. (1) The cadastral authority designates cadastral identifications.

- (2) The cadastral authority decides whether information registered in the cadastre shall be corrected consequently of technical changes of data on which registration is based. The Minister for the Environment may direct licensed surveyors to report to the National Survey and Cadastre on improved measurements and size of areas etc., available as a result of activities which for other reasons shall not be registered in the cadastre.
 - (3) When, in connection with drafting new cadastral maps, the cadastral authority becomes aware of considerable discrepancies in the information concerning the boundaries in an area, the owners of the properties in question, on request of the cadastral authority, shall give information about the boundaries.
 - (4) In South Jutland the cadastral authority may correct the cadastral data when cadastral information has been registered according to the regulations which were applied during the period of German cadastre and which do not correspond to Danish regulations, and when correction does not result in restriction on the existing rights. The cadastral authority shall inform the owners of the properties in question about the correction.
32. (1) The cadastral authority shall inform the Land Registry and the Municipal Council about cadastral changes with a view to updating the Land Register and the Common Data System for the municipalities (ESR) respectively.
- (2) In case the Land Registry or the Municipal Council have become aware of discrepancies in the cadastral data, the cadastral authority shall be informed.
33. (1) When a cadastral change cannot be registered in the Land Register, the Registry shall inform the cadastral authority. The cadastral authority shall annul the registration unless, in time limit fixed by the cadastral authority, documentation is procured to the effect that there is no longer impediment to registration in the Land Register.

Part 5

Fixing property boundaries, etc.

34. (1) A property boundary may only be marked out or fixed by cadastral survey if it is done in compliance with the data registered in the cadastre .
- (2) However, subsection (1) does not apply in the following cases:
- (i) When a boundary is fixed in a case of rectification of the boundary.
 - (ii) When an error in the cadastral data concerning the boundary is disclosed during fixing the boundary. The licensed surveyor shall report the error to the cadastral authority.

- (3) The Minister for the Environment may lay down regulations on the extent of the involvement of the adjoining owners prior to marking of boundary and on the extent and the manner of informing the adjoining owners.
 - (4) Sections 1-3 are not applicable in cases of fixing a property boundary as part of a legal determination of boundary in pursuance of section 35 and 36 of this Act.
35.
 - (1) Any person holding an interest in finding the right location of a property boundary may apply to a licensed surveyor in order to carry out a legal determination of boundary, however, cf., section 41 of this Act. The applicant is liable for payment of the expenses, however cf. section 39.
 - (2) The Minister for the Environment lays down detailed regulations for legal determination of boundary.
36.
 - (1) At the legal determination of boundary, the licensed surveyor shall fix the boundary in such a location of which, according to his assessment on the basis of the data and information available, is considered to be the right boundary.
 - (2) The marking of the legal boundary is binding for the owners of the properties in question when
 - (i) they approve the marking of the legal boundary in writing, or
 - (ii) none of them, within 8 weeks from receiving the licensed surveyor's written statement concerning the determination of the legal boundary, has brought the determination of the legal boundary before a court, claiming that the adjoining owners in question shall acknowledge a different location of the boundary.
 - (3) When the boundary fixed by a licensed surveyor has been changed by a final court decision or a judicial compromise, the licensed surveyor shall change the marking of the right boundary in compliance with the decision or the compromise as soon as possible.
 - (4) In special cases the court may allow to institute the legal proceedings after the time limit referred to in subsection (2) has expired. If such proceedings result in changing of the legal boundary by a licensed surveyor, it rests with the person who has instituted the legal proceedings to request the licensed surveyor to carry out the work referred to in subsection (3). The court shall send a transcript of the court decision or the judicial compromise to the National Survey and Cadastre.
37.
 - (1) When a boundary has finally been fixed in pursuance of the regulations of sections 35 and 36 of this Act, the licensed surveyor shall promptly inform the National Survey and Cadastre about the legal location of the boundary in order to be registered in the cadastre.

- (2) Unless the legal location of the boundary has been decided by the court, the National Survey and Cadastre may refuse to carry out registration pursuant to subsection (1) in case errors or flaws have occurred during the legal determination of the boundary. Where registration is refused, the legal determination of the boundary is invalid.
38. (1) Judicial proceedings concerning location of a boundary, including those following from the prescription, may not be instituted prior to legal determination of boundary in pursuance of sections 35 and 36 of this Act.
39. (1) Upon request of a claimant of the legal determination of boundary, the Municipal Fences Tribunal may order others than a claimant to pay fully or partly the expenses of the case. However, if the determination of the legal boundary has been brought before Court in pursuance of section 36, subsection 2, number 2, the court will make the decision. When making a decision, the interest of the parties in finding the right location of the boundary including the basis and result of the legal determination of boundary, must be taking into consideration.
- (2) The request in writing shall be submitted to the chairman of the Municipal Fences Tribunal. The Municipal Fences Tribunal shall process the case in compliance with the provisions of the Act Governing the Proceedings of Fencing. The decision of the Municipal Fences Tribunal can not be brought before any administrative authority.
- (3) The decision of the Municipal Fences Tribunal may be brought before Court within 4 weeks after the persons concerned have been informed about the decision. If the application is submitted not later then 6 months after the decision, the court can as an exception allow the case being brought before the court.
40. (1) In special circumstances the regional state representative can decide that the expenses of the legal determination of boundary shall be paid fully or partly by the state. The Minister of The Environment lays down detailed regulations about it.
- (2) The decision of the regional state representative may be appealed to the National Survey and Cadastre.
41. (1) Sections 35-40 do not apply in the Municipalities of Copenhagen and Frederiksberg.
42. (1) Agreements concerning the location of a boundary may not be registered in the Land Register without the approval of the cadastral authority.
43. (1) The Minister for the Environment lays down detailed regulations on the type and the placing of boundary marks, cadastral surveying of the boundaries etc. as well as connecting thr cadastral survey to the National Grid System.
44. (1) Licensed surveyors and their assistants holding a license together with surveyors

employed with the cadastral authority and their co-workers have access to any property or locality at any time without a court order in order to carry out the tasks pursuant to this Act and cadastral surveying for mapping for public authorities, institutions and concessionary companies. As far as possible the owner or the user of the property shall be informed in advance, and the identity card shall be presented on demand. The identity card is issued by the cadastral authority.

- (2) The land surveyor has a right to place the boundary marks. It also applies to permanent marks for cadastral surveying if they can be placed without considerable inconvenience to the owner or user of property.
- 45.
- (1) Boundary marks and permanent marks for cadastral surveying may not be removed, taken away, damaged or destroyed.
 - (2) A person breaking provisions of subsection (1) shall pay the expenses of replacing the marks.

Part 6

Miscellanies Provisions.

- 46.
- (1) An area which prior to the Ordinance of April 23, 1781 governing the Revocation of Communal Ownership of Land was used in common by all owners of land parcels in the cadastral district and which has always been registered in the cadastre as an area for this use shall be considered as belonging to the municipality in question unless other party has proved to have the ownership to the area.
 - (2) If the Municipality Council requests the title to such an area registered in the Land Register, the provisions of section 52a, subsections (2-4) of the Land Registration Act shall apply. A request concerning registration in the Land Register, including an outline with specification of boundaries for the area and the cadastral identifications of the adjoining properties prepared by a licensed surveyor shall be attached.
- 47.
- (1) The National Survey and Cadastre issues regulations on collection and payment for registration the cadastral cases. Payment may be required in advance.
 - (2) The Council of the Municipalities of Copenhagen and Frederiksberg lay down regulations concerning collection and payment for the operations of the cadastral authority in each their municipal area. Payment may be required in advance.
 - (3) When payment is overdue, interest amount shall be added beginning from the last day when payment is due until it is made. Interest rate is fixed in pursuance to section 5 of The Act of Interest for Overdue Payment.

- (4) The cadastral authority may lay down regulations concerning fee for a letter requesting payment if payment is overdue.
48. (1) Unless higher punishment is provided by other legislation, fined is any person who
- (i) violates section 21, subsection (1), section 36, subsection (4), or section 45, subsection (1) of this Act, or
 - (ii) fail to satisfy an order of section 22.
- (2) Companies etc. (judicial persons) can be imposed a criminal responsibility by the provisions in The Act of Criminal Code, chapter. 5.
49. (1) This Act comes into force on April 1, 1991.
- (2) A cadastral case shall be processed in compliance with regulations of the rules in force up til, when it, before April 1, 1991, has been submitted to the National Survey and Cadastre or in the Municipalities of Copenhagen or Frederiksberg; or in South Jutland when it is claimed with the cadastral authority. Furthermore, parties may request that a cadastral case be processed in compliance with the rules above where it is claimed with a licensed surveyor before April 1, 1991, and submitted to the National Survey and Cadastre before October 1, 1991.
50. (1) The following acts and provisions are repealed:
- (1) The Ordinance of April 23, 1781 governing the Revocation of Communal Ownership and other Measures for Improvements of Agriculture in Denmark.
 - (2) The Ordinance of September 27, 1805 governing Forest Consolidation Maintance and Protection in Denmark.
 - (3) The Proclamation of April 11, 1821 for Denmark, re. the Proceedings in the Change of the Names of Land Properties.
 - (4) The Act of December 30, 1858, re. the Exchange of Strip Peat Bog Holdings, etc.
 - (5) The Act no. 330 of June 28, 1920 concerning temporary Organization of Cadastral Authorities in the South Jutland Municipalities.
 - (6) An Act governing Subdivision and Amalgamation, etc., of Real Property, cf. the promulgation of the law no. 6 of January 7, 1977.
51. (1) This Act shall not apply to the Faroe Islands and Greenland.

Done at Amalienborg on the 7th of March, 1990

Under Our Royal Hand and Seal

In the Name of the Queen:

FREDERIK
Crown Prince

/Agnete Laustsen