



## Articles of Association for the Board of Appeal for Holiday Homes

**1.** The board was established by the Danish Holiday Home Association (Feriehusudlejernes Branche forening) and the Danish Consumer Council (Forbrugerrådet Tænk).

### Competence of the board

**2.** The board processes complaints about letting agencies that are established in Denmark from lessees regarding their stay in and renting of holiday homes.

(2) A complaint about a letting agency that is established abroad can, however, be processed if the case is more related to Denmark than to the country of establishment if the parties so agree.

(3) A case can concern all circumstances in the legal relationship between the parties.

**3.** Agreements that legal disputes must be submitted to arbitration or other special forum does not prevent the complaint from being submitted to the board of appeal.

(2) A lessee is understood to be a person who is primarily taking action outside of his or her profession.

(3) A letting agency is understood to be an intermediary of holiday homes, the letting of holiday homes owned by private individuals to the extent that the letting does not have the nature of occasional letting, as well as the letting of holiday homes by companies.

(4) The board can process a complaint from a business owner if the complaint does not differ greatly from a private situation.

(5) The board of appeal can process cases submitted in Danish, Norwegian, Swedish, German or English.

### Rejection of complaint cases

**4.** The board of appeal cannot process cases that have been decided by a final court ruling, valid binding arbitration, settlement in court or settlement between the parties. An arbitration award is only binding if information about the possibility for processing by the board of appeal has been given prior to the arbitration case.

(2) As long as a case is pending for the board of appeal, the complaint case's parties cannot take legal action in the courts or court of arbitration regarding the questions that comprise the complaint.

(3) If a case is brought before the courts and the lessee wants to have it submitted to the board of appeal, the court can refer the case to the board unless it is regarded as being obvious that the claim cannot be decided in favour of the lessee or that the case is not evaluated as being suitable for processing by the board.

(4) If a case is submitted for arbitration or another special forum and the lessee wants to have it brought before the board of appeal, the case must be postponed until it has been processed by the board.



**5.** The board of appeal must reject complaints that are a matter for, are being processed by or have been processed by another private board of appeal, a statutory alternative board of appeal or a foreign board of appeal, which is registered by the European Commission, the Danish Appeals Boards Authority or a court.

(2) The board of appeal can refuse to process a complaint against a business owner who is established in both Denmark and in another country or a number of other countries if the case is more related to another country.

(3) The board of appeal must also reject complaints if the processing pursuant to legislation is given to public authorities and cases concerning personal injury or damage to property.

(4) The board of appeal can refuse to process a complaint if

- 1) The lessee has not complained to the lessor in advance,
- 2) The complaint is not evaluated as being suitable for processing by the board of appeal or
- 3) The processing of the complaint will, to a serious degree, prevent the board of appeal from functioning efficiently.

(5) If it is obvious that the complaint cannot be processed by the board of appeal, the board of appeal must reject the complaint no later than three weeks after receipt. In other cases, the board of appeal must reject the case as quickly as possible.

(6) A rejection must be justified and the complainant must be informed about the possibility to bring the case before the courts, receive legal aid and apply for free legal aid. The complainant must also, when relevant, be informed that the claim can be subject to limitation of actions.

(7) No complaint case can be processed unless the complainant has contacted the defendant regarding the complaint beforehand, and this contact has not resulted in a solution that is satisfactory for the complainant.

(8) Complaints must be brought before the board of appeal using one of the forms prepared by the board.

(9) If a case that has been brought before a court or court of arbitration is transferred to the board of appeal at the request of a lessee, the case is regarded as having been brought before the board of appeal by the lessee.

**6.** If it is obvious that the case lies outside the competence of the board of appeal, the secretariat can reject the complaint. Such a decision must be able to be brought before the board of appeal at the request of the complainant.

(2) The founding organisations can authorise the chair of the board of appeal to reject cases on behalf of the board of appeal if they are assessed as not being suitable for processing by the board of appeal pursuant to section 5, cf. section 16(2) of the Danish Consolidated Consumer Complaints Act.

(3) When a decision has been made in a complaint case, each of the parties can bring the case before the courts.

(4) If decisions or settlements are made in connection with complaint processing are not complied with, at the request of the lessee, the Danish Appeals Boards Authority can bring the case before the courts on behalf of the lessee, cf., however, section 20.

### **The composition of the board**

**7.** The board of appeal consists of a chair, who is a judge, and an equal number of representatives of consumer and business interests and alternates. The chair and the members of the board are appointed by the founding organisations for a three-year period with the possibility of being reappointed. The organisations behind the board of appeal can appoint one or more deputy chairs for the board of appeal with the same qualifications as the chair. The Danish Consumer Council (Forbrugerrådet Tænk) appoints two members and an alternate. The Danish



Holiday Home Association (Feriehusudlejernes Branche forening) appoints two members and an alternate. The alternates are called in to the meetings of the board of appeal as observers. The Danish Consumer Council (Forbrugerrådet Tænk) and the Danish Holiday Home Association (Feriehusudlejernes Branche forening) jointly appoint the chair.

(2) If a business representative resigns from the position that has qualified the representative for the post as a representative in the board of appeal, the member also leaves his or her role as representative in the board of appeal.

(3) A secretariat is related to the board of appeal.

(4) If it is necessary for processing of the cases, the board of appeal, upon the request of the organisations behind the board of appeal, appoints a number of experts to assist the secretariat during the preparation of the case or when the case is being processed by the board.

### **The tasks of the secretariat**

**8.** It is the task of the secretariat to reply to written requests, requests by telephone or requests in person to the board of appeal. The secretariat takes care of information about the case and prepares complaint cases for processing by the board.

(2) The secretariat ensures that the following prerequisites for processing by the board of appeal are fulfilled:

- 1) The lessee has contacted the letting agency unsuccessfully.
- 2) The complaint fee has been paid.
- 3) The required complaint form has been used.
- 4) Deadlines have been complied with.

**9.** Complaints that are submitted to the board of appeal, but should be brought before another approved complaint board or board of appeal, or the Danish Consumer Council (Forbrugerrådet Tænk) are forwarded to the board or council in question. If the case does not come within the competence of an approved board of appeal or the sphere of activities of the Danish Consumer Council (Forbrugerrådet Tænk), the lessee can be advised to go to an ordinary court, in which case the secretariat informs the lessee about possibilities for legal aid and free legal aid, as well as coverage of the legal costs by any legal expenses insurance.

**10.** Before case processing starts, the complainant must be informed that the complaint can be withdrawn at any given time, after which the case is closed. The board of appeal refunds the complaint fee if the complainant withdraws the complaint.

**11.** The parties must be notified as quickly as possible that they are not obligated to use a lawyer or a legal counsellor, but that they can seek independent counsel or be represented or assisted by a third party during all phases of the procedure. The parties must also be advised that the processing by the board does not prevent the possibility to have subsequent judicial review.

**12.** The secretariat forwards each complaint received for a statement by the letting agency. When the secretariat has received a reply from the letting agency, this is presented to the lessee for the lessee's statement. The secretariat also takes care of the information about the case and, on its own initiative, obtains the required legal and factual basis for the decision, including obtaining a written expert declaration if this is necessary for making a decision about the case. The secretariat ensures that each of the parties is aware of the information from the opposing party and of any written expert declarations. The secretariat provides advice to the parties regarding their legal position to the extent that is necessary.



(2) The secretariat normally sets a deadline of 14 days for the parties to provide the statements mentioned under (1) and any other statements that the secretariat finds necessary. The deadline is calculated from the date when the secretariat requested the parties for their statements. If the letting agency does not provide a statement before the expiry of the deadline, the secretariat can give the case to the board of appeal for processing, and the board can decide to make a decision about the case on the basis of what is available.

(3) The secretariat can attempt to have a settlement be reached between the parties. When presenting a settlement proposal, it must state that the complaint has been processed at secretariat level and a demand may be made to bring it before the board of appeal.

(4) For each meeting of the board, the secretariat must present an overview of the cases which, since the last meeting of the board, have been settled with the involvement of the secretariat, as well as a short description of the content.

(5) The secretariat closes the case if the letting agency fulfils the lessee's demands during the preparations for the case. The same applies if the lessee withdraws his or her complaint.

(6) Cases that have not been finished during the preparatory secretariat processing must be processed by the board of appeal.

## **Legal capacity**

**13.** The following applies to the members of the board of appeal, the secretariat and experts:

- 1) Instructions must not be received from any of the parties or their representatives and
- 2) Fees must be paid in a way that is not related to the result of the procedure.

(2) In addition, for the secretariat, the appointment must be to a mandate of a duration that is sufficient to ensure that the secretariat operates independently and is not in danger of being removed without valid reason.

**14.** No one may participate in the processing of a case when

- 1) The person himself or herself has a special personal or financial interest in the result of the case or previously, in the same case, has represented someone who has such an interest.
- 2) The person in question's spouse, relatives or relatives by marriage in an ascending line, or descending line or in a collateral line as close as cousins or other close relations have a special personal or financial interest in the result of the case or is a representative for someone who has such an interest, or
- 3) There are other circumstances, which may give rise to doubts regarding the impartiality of the person in question.

(2) If one of the relationships mentioned in (1) exists, the chair must be notified immediately. The chair then makes a decision about the extent to which the person in question can participate in processing the case.

## **Decisions of the board of appeal**

**15.** The decisions of the board of appeal regarding individual cases are made during a meeting in which the chair and an equal number of representatives from consumer and business interests participate. The board of appeal is quorate when the chair and at least two other members, representing consumer and business interests respectively, are present. If a board member and his or her alternate, who represents business or consumer interests, is prevented from participating in a meeting, this member's vote is made by the member of the board who is present and represents business or consumer interests, respectively. Minutes of the meetings of the board of appeal are prepared.

(2) A representative from the Danish Appeals Boards Authority must have access to and participate in the meetings of the board of appeal without the right to vote.



(3) The board of appeal holds meetings an appropriate number of times a year so that the deadlines in accordance with section 16 and sections 17 and 18 of the Danish Consolidated Consumer Complaints Act can be complied with.

(4) The chair and the members must have submitted all information about the case no later than eight days prior to processing in the board of appeal.

(5) The head of the secretariat of the board of appeal also participates in the meetings without the right to vote.

**16.** The board of appeal must make a decision about a complaint within 90 days from the time the case is fully made out.

(2) In special cases, the board of appeal can extend the deadline in accordance with (1). In these cases, the board of appeal must inform the parties that the deadline has been extended and, at the same time, provide information about when the case can be expected to be decided or closed.

(3) In special cases, the board of appeal can postpone the processing of a case. In these cases, the board of appeal must inform the parties about the reasons why the case is postponed and, if possible, when a continuation of the processing of the case can be expected.

**17.** The board of appeal makes decisions on the basis of what is provided by the secretariat, including questions about payment of fees and expenses. The board of appeal can decide to postpone processing of the case in order to obtain further information.

(2) The decision is made according to a legal judgement of the facts of the case.

(3) Decisions by the board of appeal are made by majority vote.

**18.** Decisions must be in writing and accompanied by justification. Decisions must be signed by the chair of the board of appeal or a person delegated by the chair. A deadline is set to 30 days after service of the written decision and justification for fulfilment of the decision.

(2) If a decision is made as a majority decision, the minority must justify its position in the decision.

(3) If the complaint fee is to be refunded cf. section 30, this must be stated in the decision.

(4) If the letting agency is to pay an amount for processing of the case, cf. section 31, this must be stated in the decision.

(5) If the lessee's claim has been sustained in whole or in part, the decision must be served for the letting agency. In connection with this service, the letting agency must be informed that if the letting agency does not want to be bound by the decision, notice must be given to the board within 30 days from when the decision was served. The letting agency must also be informed that a request for reopening the case within 30 days from the service has delay of effect and that a decision can be enforced if the letting agency does not, within 30 days from the time the decision was served, give notice that the letting agency does not want to be bound or has requested to have the case reopened. The lessee must have a copy of the decision.

(6) If the letting agency does not want to be bound by the decision that the board has made, the letting agency must notify this to the board in writing within 30 days from the time the decision was served.

**19.** The founding organisations can authorise the chair to make decisions in certain cases on behalf of the board of appeal when there is a standard practice.

(2) The provision in sections 17(2) and 18(1,3,4,5 and 6) are similarly used for decisions by the chair in accordance with (1).



(3) Cases in which the chair has made a decision on behalf of the board must be presented in the next meeting of the board. During this meeting, each of the board's members can decide that the case must be subjected to ordinary processing by the board.

**20.** Both parties must be informed about the possibility to bring the case before the courts and, when relevant, be given guidance on the possibility for enforcement and the possibility to reopen the case.

In addition, when relevant, the complainant must be informed about

- 1) The right to have the Danish Appeals Boards Authority issue proceedings on behalf of the complainant and cover certain costs related to legal action
- 2) The possibilities for legal aid or covering of legal costs by any legal expenses insurance, and
- 3) The claim may be subject to limitation of actions if the case is not brought before the courts no later than one year after the decision of the board of appeal.

**21.** After each quarter, the board of appeal must send a copy of the decisions made by the board of appeal, including rejections, to the Danish Appeals Boards Authority.

### Reopening cases

**22.** The chair can decide that a case that has been decided by the board of appeal can be reopened if there are special reasons to do so, including, namely, in case of:

- 1) Lawful absence of a party who has not expressed himself or herself in the case.
- 2) New information, which – if it had been available during processing by the board – may be presumed to have resulted in a different result of the case.

(2) A request from the letting agency regarding reopening a complaint case that was submitted in writing to the board within 30 days from service of the decision has delaying effect. The 30-day deadline, cf. section 18(5), is then calculated from the time when the request for reopening the case was rejected or when the board made its decision.

(3) Requests to reopen a case that are submitted by the letting agency later than 30 days after service are rejected.

### Enforcement

**23.** The decision of the board can be enforced with regard to the letting agency after 30 days after service or rejection of reopening the case unless the letting agency has given written notification to the board that the party in question does not want to be bound by the decision.

(2) A request to the bailiff court regarding enforcement must enclose the decision of the board, which forms the basis for the request for enforcement and a statement from the board that the letting agency has not, within 30 days after service or the rejection of reopening the case, provided notification that the party in question does not want to be bound by the decision.

### Information and publication

**24.** The board of appeal must create a website and keep it up to date. The website must, in a clear and easily accessible manner, include the following information about

- 1) The procedure for considering complaints
- 2) The name of the board of appeal, postal address and email address
- 3) The fact that the board of appeal is on a list pursuant to section 4(3) of the Danish Consolidated Consumer Complaints Act and Article 20 of the Directive on Alternative Dispute Resolution (ADR)
- 4) The physical persons who are responsible for considering the complaint, how they are appointed and how long they are appointed for



- 5) Any membership of ADR bodies, which make cross-border processing of complaints easier
- 6) The types of complaints that the board of appeal can process, including any value limits
- 7) The rules of procedure that apply to resolution of a dispute and the criteria on the basis of which the board of appeal can reject processing of a complaint
- 8) The languages in which the complaint may be submitted and in which the processing can take place
- 9) Any costs for payment of processing of the case that the parties must cover
- 10) The average duration of processing of a case
- 11) The legal effect of the result of the processing of the complaint, including the extent to which it can be enforced
- 12) Annual reports regarding the activities of the board of appeal
- 13) Selected decisions. The name of the complainant is made anonymous when publication takes place. Publication must take place in accordance with the rules of the Danish Act on Processing of Personal Data.

**25.** It must be possible to find information on the board of appeal's website about the business owners who do not comply with the decisions of the board of appeal.

**26.** Anyone can contact the secretariat of the board of appeal to request to become familiar with the decisions of the board of appeal if these can be identified. The names of the complainants must be made anonymous. Divulgence of information must take place in accordance with the rules of the Danish Act on Processing of Personal Data. The secretariat can send copies of decisions either as photocopies or electronically. In order to cover costs, the secretariat can determine a fee for providing photocopies.

### **Information requirements related to complaints submitted using the online dispute resolution (ODR) platform, cf. Regulation (EU) No. 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes**

**27.** When the board of appeal has received a complaint via the ODR platform, it must inform the parties and the ODR platform as soon as possible about the extent to which the complaint is accepted for processing or is rejected in accordance with section 14, 15 or 16 of the Danish Consolidated Consumer Complaints Act.

(2) If the complaint is accepted for processing cf. (1), the parties must be informed about the rules of procedure of the board of appeal at the same time.

(3) When the board of appeal has accepted to process a complaint made via the ODR platform, it must immediately inform the parties and the ODR platform when the case is fully clarified cf. section 18(2) of Danish Consolidated Consumer Complaints Act.

(4) When the board of appeal receives a complaint via the ODR platform, immediately after the case is closed it must immediately notify the ODR platform about the date of receipt and closing of the case, respectively, as well as the result of the processing.

**28.** The board of appeal must provide links on its website to the European Commission's list of ADR bodies, cf. article 20(4) of the European Parliament's and the Council's Directive on Alternative Dispute Resolution with regard to disputes in the consumer area and must, if it is relevant to do so, publish the list on a permanent medium in the rooms of the board of appeal.

### **Fee and costs**

**29.** None of the parties pays for the costs of the board's processing to another party.



**30.** For processing of a complaint by the board of appeal, the lessee must pay a fee of DKK 300 and EUR 40 for complaints from abroad. The fee is refunded to the lessee if the lessee's claim is sustained in whole or in part, or if the case is rejected as not being suitable for processing.

**31.** A letting agency must pay an amount for processing of the case if

- 1) The lessee's claim is sustained or
- 2) The case is settled in such a way that the lessee's claim is sustained or
- 3) The letting agency's offer during processing of the complaint is sustained by the board of appeal.

(2) For letting agencies that contribute to the operation of the board of appeal on an ongoing basis through membership of the Danish Holiday Home Association (Feriehusudlejernes Branche forening), it comprises the amount mentioned in (1) no. 1, DKK 2,500, and the amount mentioned in (1) nos. 2 and 3, DKK 1,250.

(3) For letting agencies that do not contribute to the operation of the board of appeal on an ongoing basis through membership of the Danish Holiday Home Association (Feriehusudlejernes Branche forening), it comprises the amount mentioned in (1) no. 1, DKK 8,000, and the amount mentioned in (1) nos. 2 and 3, DKK 4,000.

(4) The amounts mentioned in (1)-(3) are determined as a standard amount, notification of which is given to the letting agency already at the start of the case.

(5) The costs of the activities of the board of appeal are covered by fees paid by the complainant and the agencies, cf. section 30 and (2) and (3), as well as by the annual contributions from the Danish Holiday Home Association (Feriehusudlejernes Branche forening). Any deficit is covered by the Danish Holiday Home Association (Feriehusudlejernes Branche forening).

### **Annual report and information requirements etc.**

**32.** The board of appeal must prepare an annual report on the activities of the past year, as well as administration.

The annual report must include information on

- 1) The number of the complaints received and what the complaints were about
- 2) The percentage of cases that have been closed without reaching a result
- 3) The average case processing time
- 4) Systematic or significant problems that occur frequently and lead to disputes between lessees and lessors. Such information can be accompanied by recommendations about how such problems can be avoided or solved
- 5) The number of rejected complaints, including the percentage of rejected cases in relation to each of the rejection possibilities that the board of appeal has had approved
- 6) The share of cases for which the complainant's case has been sustained
- 7) To what extent decisions are complied with, if this is known
- 8) Information regarding any participation in networks that cooperate on cross-border disputes and an evaluation of the efficiency of this

(2) The board of appeal reports annually to the Danish Appeals Boards Authority.

### **Accounts and operation**

**33.** The board prepares annual accounts, a calculation of costs related to processing of cases and an annual report on the activities in the past year, as well as administration. This information must also include the percentage of compliance with the decisions. Copies of these are sent to the Danish Ministry of Industry, Business and Financial Affairs and the Danish Appeals Boards Authority, as well as to the founding organisations.



(2) The financial year is the calendar year. The accounts are audited by the Danish Holiday Home Association' (Feriehusudlejernes Branche forening) auditor.

### **Changes to the articles of association**

**34.** Changes to these articles of association require agreement between the founding organisations. Changes to these articles of association must be approved by the Minister for Industry, Business and Financial Affairs.

### **Dissolution of the board of appeal**

**35.** The consumer organisations and trade associations behind the board of appeal can terminate the agreement with one year's notice, after which the board of appeal is dissolved. Adequate conditions for the finishing of pending cases etc. must be determined.

### **Entry into force**

**36.** The articles of association enter into force on 1 February 2019.