

Executive Order on protected walls of stone and earth and the like

Executive Order No. 1511 of 14 December 2006 (in force)

Legislation to which the regulation relates

[Consolidated Act No. 1505 of 14 December 2006](#)

Amendments to the regulation

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Pursuant to sections 29 b to 29 d, section 29 l (2), section 29 v (5) and section 38 of the Museum Act, cf. Consolidated Act No 1505 of 14 December 2006, the following is laid down:

Part 1

The protection scheme

1 – (1) The provision in section 29 a (1) of the Museum Act shall comprise:

- i) walls of stone,
- ii) other similar walls owned by public authorities,
- iii) other similar walls located on or delimiting natural habitats protected under section 3 of the Protection of Nature Act, and
- iv) other similar walls marked on the map sheet for the area concerned in the National Survey and Cadastre's atlas of Denmark (1:25,000) in the most recently revised edition prior to 1 July 1992.

(2) However, the provision in section 29 a (1) of the Act shall not apply to:

- i) walls of stone and earth or parts thereof in urban zones or summer cottage areas, unless they delimit an urban zone or a summer cottage area from a rural zone,
- ii) walls of stone and earth surrounding cemeteries that are comprised by the legislation on church buildings and cemeteries of the Danish National Evangelical Lutheran Church,
- iii) walls of stone and earth surrounding gardens,
- iv) walls of stone and earth along watercourses with the sole purpose of protecting low-lying areas against flooding,
- v) walls of stone and earth serving coast protection purposes only, and

vi) walls of stone and earth with the sole purpose of protecting against drifting sand or snow.

(3) Subsection (2) (iii) shall not comprise older walls of stone and earth along village streets which also delimit gardens from the street, and older walls of stone and earth delimiting manor parks and vicarage gardens.

(4) Section 1 (1) shall not apply to walls of stone and earth in the local authority area that are covered by a decision pursuant to section 2 on specific identification of walls of stone and earth comprised by section 29 a (1) of the Act.

2 – (1) If the local council wishes to specifically identify walls of stone and earth comprised by section 29 a (1) of the Museum Act, the council may decide on such identification based on an overall assessment of all walls of stone and earth in the local authority area, cf. section 4 (3), however.

(2) As part of the local council's decision-making process pursuant to subsection (1), the local council may decide:

- i) to let other walls of stone and earth or parts thereof than the ones mentioned in section 1 be subject to protection where they are of significant cultural heritage, biological or scenic value, and
- ii) to exclude walls of stone and earth or parts thereof mentioned in section 1 from protection where they are of insignificant cultural heritage, biological or scenic value.

(3) The local council's decision pursuant to subsection (1) may not comprise walls of stone and earth or parts thereof located in urban zones or summer cottage areas, unless they delimit an urban zone or a summer cottage area from a rural zone. Nor may the local council's decision comprise the walls of stone and earth mentioned in section 1 (2) (ii)-(vi).

(4) Decisions pursuant to subsection (1) shall apply to the entire local authority area.

(5) Decisions pursuant to subsection (1) shall be made pursuant to the rules in sections 3 to 5.

3 – (1) Before a decision pursuant to section 2 can be made, the local council shall announce that a proposal for a resolution is available and set a time limit of minimum eight weeks to raise objections.

(2) The announcement, which shall be made by publication in local newspapers, shall state the following:

- i) where in the local authority area the proposal is made available for inspection,
- ii) where the proposal can be obtained, possibly against payment, and
- iii) the deadline for objections.

(3) The proposal shall include:

- i) information to the effect that the entire local authority area is comprised by the proposal,
- ii) a map on a scale of 1:25,000 on which all the walls of stone and earth in the local authority area that are proposed to be subject to protection pursuant to section 29 a (1) of the Museum Act are marked,
- iii) an indication of the walls of stone and earth that are proposed to be subject to protection pursuant to section 2 (2) (i),
- iv) an indication of the walls of stone and earth that are proposed to be excluded from protection pursuant to section 2 (2) (ii),

- v) a brief statement of the reasons for the proposal, and
- vi) an account of the legal effect of adopting the proposal.

(4) The proposal, including information on the deadline for objections, shall be submitted to:

- i) the owners of land where the local authority proposes to exclude a wall of stone and earth or parts thereof from protection,
- ii) the local cultural environment council, if such a council has been established,
- iii) local cultural heritage museums,
- iv) the associations and organisations that have requested to be notified by the local council of any proposals pursuant to subsection (1) or who, pursuant to the rules in section 9 (3), are entitled to receive written notification of decisions concerning section 29 a (1) of the Act,
- v) the Heritage Agency of Denmark,
- vi) relevant neighbouring local authorities, and
- vii) the Danish Forest and Nature Agency and any other public authorities which are presumed to have an interest in the proposal.

(5) The map material of the proposal, cf. subsection (3), shall not necessarily be sent to the land owners mentioned in subsection 4 (i). However, if the map material is not sent to the land owners, they shall be informed of where the map material is publicly available.

4 – (1) The local council shall make its decision on expiry of the deadline for objections, cf. section 3. If such substantial amendments have been made to the proposal that in reality it is a case of a new proposal, this shall be announced pursuant to the rules in section 3. Substantial amendments shall mean inclusion of new walls of stone and earth or parts thereof or exclusion of walls of stone and earth or parts thereof that are covered by section 1, unless they constitute technical corrections or amendments that must be regarded as immaterial.

(2) The local council shall submit its decision on identified walls of stone and earth pursuant to section 2 to the Heritage Agency of Denmark accompanied by the comments that have been received while the proposal has been publicly available, and the local council's comments thereto.

(3) The local council's decision pursuant to section 2 shall be approved unless the Heritage Agency of Denmark submits an objection in writing to the local council within eight weeks after receipt. If the Heritage Agency of Denmark submits an objection in writing, the local council's decision shall have legal effect only when the two parties have reached agreement.

5 – (1) When the local council's decision pursuant to section 2 has been approved pursuant to section 4 (3), the decision shall be final and thus replace the rules in section 1 (1).

(2) The decision shall be announced in local newspapers and submitted to the persons and authorities, etc. listed in section 3 (4). Owners shall be informed of any walls of stone and earth or parts thereof on their property that are subsequently protected pursuant to section 29 a (1) of the Act. If such substantial amendments have been made in connection with the Heritage Agency of Denmark's approval of the identification that in reality it is a case of a new proposal, cf. section 4 (1), this shall be announced pursuant to the rules in section 3, however.

(3) Once the owners of the walls of stone and earth have received the notification in writing pursuant to section 2, it shall no longer be permitted to alter the condition of the walls of stone and earth or parts thereof that are covered by the decision on protection. Until then, the rules in section 1 (1) shall apply.

6 – (1) Complaints of the local council's final decision, cf. section 5 (1), can be made pursuant to the ordinary rules concerning access to complain in Chapter 8 a of the Museum Act.

(2) Complaints of the Heritage Agency of Denmark's objection pursuant to section 4 (3) cannot be made to another administrative authority.

7 – (1) The administration of the exemption provision in section 29 j (2) of the Museum Act shall respect articles 6, 12, 13 and 16 of Council Directive 92/43/EEC of 21 May 1992 as amended (the Habitats Directive) as described in the Executive Order of the Ministry of the Environment on selection and administration of international nature protection areas and protection of certain species.

Information about the protection scheme

8 – (1) At the request of public authorities, owners affected, users, etc., the local council shall supply information about whether a specific measure or a specific wall of stone and earth is covered by the protection scheme.

Chapter 2

Notification and publication

9 – (1) The local council shall inform the following in writing of decisions concerning section 29 a (1) of the Museum Act:

- i) the addressee of the decision,
- ii) the owner of the property to which the decision refers,
- iii) the Heritage Agency of Denmark, and
- iv) public authorities that are presumed to have an interest in the matter.

(2) All decisions concerning section 29 a (1) that imply a departure from the protection pursuant to article 12 (1) (d) and article 13 of the Habitats Directive shall be communicated to the Danish Forest and Nature Agency.

(3) Furthermore, the decisions mentioned in subsection (1) shall be communicated in writing to the following associations and organisations if they have made a request in this respect to the local council:

- i) local associations and organisations that have a substantial interest in the decision,
- ii) national associations and organisations whose main objectives are to protect nature and the environment, and
- iii) national associations and organisations whose objectives are to protect substantial recreational interests when the decision relates to such interests.

(4) The local council's notification of exemptions from the provisions in section 29 a (1) of the Act shall include information stating that exemptions may not be utilised until the time limit for complaints has expired, and that complaints in due time shall delay the

decision, unless the complaints authority decides otherwise, cf. section 29 v (3) of the Act.

(5) The local council shall inform the party that has been granted an exemption of any complaints lodged, stating that the complaints have a delaying effect.

10 – (1) The local council shall announce any exemptions from the provisions in section 29 a (1) of the Museum Act if the decisions are considered to be of major importance or of general public interest. Furthermore, the local council shall announce other such decisions when they are not immaterial and when they must be considered to be of interest to other persons entitled to complain than the ones who have been notified pursuant to the rules in section 9 (1) and (3).

(2) The announcements shall be made by publication in local newspapers as decided by the local council.

(3) The announcement shall include information on:

- i) the main contents of the decision,
- ii) the properties or parts of properties covered by the decision,
- iii) the location(s) where the decision has been made available, and
- iv) access to complain.

(4) The local council shall announce the decision made by the complaints authority concerning a complaint in accordance with the complaints authority's instructions.

Chapter 3

Entry into force, etc.

11 – (1) This Executive Order shall enter into force on 1 January 2007.

(2) At the same time, Executive Order No. 1029 of 21 October 2004 on protected walls of stone and earth and the like is repealed.

Ministry of Culture, 14 December 2006

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Official notes

¹⁴ The Executive Order includes provisions implementing parts of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (the Birds Directive) (Official Journal of the European Communities 1979 L 103, p. 1), as most recently amended by Council Regulation (EC) No. 807/2003 of 14 April 2003 (Official Journal of the European Union 2003 L 122, p. 36), and parts of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) (Official Journal of the European Communities 1992 L 206, p. 7), as most recently amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003 (Official Journal of the European Union 2003 L 284, p. 1).