

The Administrative Procedure Act (2017:900)

Scope of the Act

The Act applies to administrative activities

Section 1

This Act applies to the processing of matters at administrative authorities and the processing of administrative matters at the courts.

The provisions in Sections 5–8 about the basis for good administration also apply to other administrative activities at administrative authorities and courts.

Exemption for local government matters where the legality of decisions can be examined

Section 2

Section 9, second paragraph and Sections 10–12, 16–20 and 23–49 are not applied in the processing of matters at authorities in municipalities and regions where the legality of decisions can be examined by being appealed under Chapter 13 of the Local Government Act (2017:725). *Act (2019:981)*

Exemption for law enforcement activities

Section 3

Sections 9, second paragraph and Sections 10–49 are not applied in law enforcement activities at the Swedish Coast Guard, the Swedish Police Authority, the Swedish Tax Agency, the Swedish Security Service, the Swedish Customs or a prosecution authority.

Differing provisions in other acts or in ordinances

Section 4

If another act or an ordinance contains a provision that differs from this Act, that provision is applied.

Basis for good administration

Legality, objectivity and proportionality

Section 5

An authority may only take measures that have support in the legal order.

In its activities the authority shall be objective and impartial.

The authority may only intervene in a private interest if the measure can be assumed to lead to the intended result. The measure must never be more far-reaching than needed and may only be taken if the intended result is in reasonable proportion to the inconvenience that can be assumed to arise for the private person the measure is aimed at.

Service

Section 6

An authority shall ensure that contacts with private persons are smooth and simple.

The authority shall give private persons the assistance they need to look after their interests. The assistance shall be given to the extent that is deemed appropriate with regard to the nature of the question, the private person's need of assistance and the activities of the authority. It shall be given without unnecessary delay.

Availability

Section 7

An authority shall be available for contacts with private persons and inform the public about how and when they can make these contacts.

The authority shall take the measures regarding availability that are needed to enable it to fulfil its obligations to the public under Chapter 2 of the Freedom of the Press Act about the right to access official documents.

Collaboration

Section 8

An authority shall collaborate in its area of activities with other authorities.

An authority shall assist private persons to a reasonable extent by itself obtaining information or opinions from other authorities.

General requirements concerning the processing of matters

Principles for processing

Section 9

A matter shall be handled as simply, rapidly and cost-effectively as possible without neglecting legal security.

It shall be processed in writing. However, the authority may decide that all or part of the processing of a matter shall be oral, if this is not inappropriate.

Access for parties

Section 10

A private person who is a party in a matter has the right to access all material included in the matter. This right to access information applies with the restrictions that follow from Chapter 10, Section 3 of the Public Access to Information and Secrecy Act (2009:400).

Measures if the processing is delayed

Section 11

If an authority judges that the determination of a matter initiated by a private party will be substantially delayed, the authority shall notify the party of this. In its notification the authority shall set out the reason for the delay.

Section 12

If a matter that has been initiated by a private party has not been determined in the first instance within six months, the party may make a written request that the authority determine the matter. The authority shall either determine the matter or refuse the request in a separate decision within four weeks after the date on which that request was received.

A decision under the first paragraph to refuse a request that the matter be decided may be appealed to the court or administrative authority that is competent to examine an appeal of the determination of the matter.

The authority's examination under the first paragraph may be requested by the party on one occasion during the processing of the matter.

Interpretation and translation

Section 13

An authority shall use an interpreter and arrange to translate documents if this is needed to enable a private person to look after their rights when the authority is in contact with someone who does not have a command of Swedish.

In the same circumstances, an authority shall use an interpreter and make the content of documents accessible when it is in contact with someone who has a disability that severely limits their ability to see, hear or speak.

Representative and counsel

Section 14

A private person who is a party in a matter may engage someone who is suitable for the assignment as their representative or counsel. However, a private person who engages a representative shall participate in person if the authority requests this.

If a representative or counsel is judged to be unsuitable for their assignment, the authority may decide that they shall no longer participate in the matter.

Section 15

An authority may request that a representative shall prove their authorisation through a written or oral power of attorney. That power of attorney shall contain information about the name of the representative and the scope of

their assignment. If the representative is allowed to appoint someone else in their place, this shall also be stated in the power of attorney.

If a representative does not follow a request to prove their authorisation through a power of attorney, the authority may issue an order about the same issue. This order may be directed at the representative or the party.

If a document initiating a matter has been signed by a representative, the order shall state that the consequence of not following it may be that the request will not be admitted.

Disqualification

Section 16

A person who takes part on behalf of an authority in the processing of a matter in a way that can influence the authority's decision in the matter is disqualified if:

1. either they or a person close to them is a party in the matter or can otherwise be assumed to be affected by the decision to a not insignificant extent;
2. either they or a person close to them is or has been a representative or counsel for a party in the matter or someone else who can be assumed to be affected by the decision to a not insignificant extent;
3. they participated in the final processing of the matter at another authority and have, as a result of this, already taken a position on the questions to be examined by the authority as a superior instance; or
4. there is some other special circumstance that means that their impartiality in the matter can be questioned.

If it is obvious that the question of impartiality is of no importance, the authority shall disregard the disqualification.

Section 17

A person who is disqualified must not take part in the processing of the matter and must not be present when the matter is determined either. However, they may perform tasks that no one else can perform without a considerable delay in the processing of the matter.

Section 18

A person who is aware of a circumstance that can be assumed to disqualify them must immediately notify the authority of this.

An authority shall examine a question of disqualification as soon as possible.

The person that the disqualification applies to may only take part in the examination of the question of disqualification if this is required for the authority to be quorate and a replacement cannot be summoned without material delay to the examination.

How matters are initiated and measures when documents are submitted

Requests from private persons

Section 19

A private person can initiate a matter at an authority through an application, registration or some other request. The request shall contain information about the identity of the private person and the information that is needed to enable the authority to contact him or her.

The request shall state what the matter is about and what the private person wants the authority to do. It shall also state what circumstances form the basis for the private person's request unless this is obviously unnecessary.

Measures to rectify deficiencies in a request

Section 20

If a request is incomplete or unclear, the authority shall, in the first place, help the private person to correct it as part of its general service obligation under Section 6, second paragraph.

An authority may decide to order the private person to remedy a remaining deficiency if the deficiency means that the request cannot form the basis for an examination of the substance. The order shall state that the consequence of not following it may be that the request will not be admitted.

Confirmation of documents

Section 21

A document shall be confirmed by the sender if the authority considers that this is needed.

How the arrival date of a document is decided

Section 22

A document has been received by an authority on the date when the document reaches the authority or a competent officer.

However, if a document has reached an authority or a competent officer on a particular day through an item of mail or notice of arrival of a pre-paid item of mail containing the document, the document shall be considered to have been received on the immediately preceding working day unless it appears to be unlikely that the document or the notice of arrival had already been set aside for the authority at a post office on the preceding working day.

A document that is in an authority's post box when the authority empties it for the first time on a particular day shall be considered to have been received on the immediately preceding working day.

Preparation of cases

Responsibility for investigation

Section 23

An authority shall ensure that a matter is investigated to the extent required by its nature.

A private party who initiates a matter shall participate by submitting, as far as possible, the investigation that the party wishes to cite in support of their request.

If required, the authority shall work by means of questions and observations to ensure that the party clarifies or supplements their request.

When may information be given orally?

Section 24

If a private party wants to give information orally in a matter, the authority shall give the party the opportunity to do so unless it appears to be unnecessary. The authority decides how this shall be done.

Communication

Section 25

Before an authority takes a decision in a matter it shall, unless this is obviously unnecessary, notify the private person who is the party of all the material of importance for its decision and give the party the opportunity to state an opinion on the material within a set period. However, the authority may refrain from this communication if:

1. the matter concerns the employment of a person and is not a question of an examination in a higher instance or an appeal;
2. it can be feared that it would otherwise be considerably more difficult to implement the decision; or
3. a significant public or private interest requires that the decision be issued immediately.

The authority decides how notification is to take place. Notification may take place by service of process.

The notification obligation applies with the restrictions that follow from Chapter 10, Section 3 of the Public Access to Information and Secrecy Act (2009:400).

Referral

Section 26

As part of its investigation responsibility under Section 23, an authority can request an opinion from another authority or from a private person (referral).

If an authority needs to obtain opinions from several sources, this shall be done at the same time unless another method appears more suitable.

The referral shall state what the opinion shall refer to and the date by which it shall be received by the authority.

Documentation of information

Section 27

An authority that receives information in some other way than through a document, shall document it as soon as possible if it can be of importance for a decision in the matter. The documentation shall state when it was made and by whom.

The authority's decisions

How decisions are made

Section 28

A decision can be made by an officer on their own or by several jointly or be made automatically. In the final processing of a matter, the reporting clerk and other officers can participate without taking part in the determination.

When several persons shall make a decision jointly and are unable to agree, the chair shall present the various proposals for a decision put forward. Each proposal shall be presented so that it can be answered to by either a yes or a no.

When those taking part in the determination have had the opportunity to take positions on the proposals, the chair makes known what has, in their opinion, been decided. This is the decision unless a vote is requested.

Vote

Section 29

A vote shall be held openly. If there are more than two proposals in a vote, a determination shall first be made of which proposal shall be set against the proposal that the chair considers has been decided.

The vote is settled through a simple majority. In the event of an equal vote, the chair has the casting vote.

Every member who takes part in the final processing shall also take part in the determination. The chair shall always vote if this is needed to be able to determine the matter. However, other members do not need to vote for more than one proposal.

Reservations and dissenting opinions

Section 30

When a decision is taken jointly by several persons, a person who is participating in the determination has the right to enter a reservation against the decision by having their dissenting opinion noted. A person who does not do so shall be considered to have backed the decision.

A person who participated in the final processing of a matter without taking part in its determination always has the right to have a dissenting opinion noted.

A dissenting opinion shall be reported before the authority dispatches the decision or makes it available to outsiders in some other way. If the decision shall not be made available to outsiders, the report shall be made no later than when the decision is given its final form.

Documentation of decisions

Section 31

For every written decision there shall be a document showing:

1. the date of the decision;
2. what the decision contains;
3. which person or persons took the decision;
4. which person or persons were reporting officers; and
5. which person or persons participated in the final processing without taking part in the determination.

Statement of reasons for decisions

Section 32

A decision that can be expected to affect someone's situation in a not insignificant way shall contain a clarifying statement of reasons if this not obviously unnecessary. The statement of reasons shall contain information about what provisions have been applied and what circumstances have been decisive for the position taken by the authority.

A statement of reasons may be wholly or partly omitted if

1. the decision concerns the employment of a person;
2. a significant public or private interest requires that the decision be issued immediately;
3. it is necessary in view of national security, the protection of private persons' personal or financial circumstances or some other comparable circumstance; or

4. the decision is about the issue of provisions referred to in Chapter 8 of the Instrument of Government.

If the statement of reasons has been omitted under the second paragraph, point 1, 2 or 3, the authority shall, if possible, give a statement of reasons afterwards if a private person so requests and it is needed to enable them to look after their rights.

Notification of the content of decisions and how an appeal is conducted

Section 33

An authority that issues a decision in a matter shall notify the private person who is a party of the full content of the decision as soon as possible unless this is obviously unnecessary.

If the party may appeal the decision, they shall also be notified of how to do so. The authority shall, at the same time, inform the party of dissenting opinions noted under Section 30 or under special provisions in another statute. A notification of how to appeal shall contain information about what the required form and content of the appeal are and what applies concerning filing an appeal and the period for appeal.

The authority decides how notification shall be given. However, a notification shall always be given in writing if a party so requests. Notification may be given by service of process.

Section 34

The provisions of Section 33 about notification of the content of decisions and how an appeal is conducted are also applied when someone who is not a party requests access to a decision that they may appeal.

When decisions may be executed

Section 35

A decision that may be appealed within a certain period, may be executed when that period has expired, if the decision has not been appealed.

A decision may always be executed immediately if:

1. the decision concerns employment of someone;
2. the decision only applies temporarily; or
3. the group that has the right to appeal is so broad or indeterminate that it is not possible to determine when the appeal period expires.

An authority may also execute a decision immediately if this is required by a significant public or private interest. However, the authority shall first give careful consideration to whether there is reason to wait to execute the decision because:

1. the decision results in very intrusive consequences for an individual;
2. execution cannot revert if an appeal leads to the decision being set aside; or
3. of some other circumstance.

Correction or variation of decisions

Correction of clerical errors and the like

Section 36

A decision that contains an obvious inaccuracy on account of a clerical error, arithmetical error or a similar oversight by the authority or someone else may be corrected by the authority that issued the decision.

When an authority may change a decision

Section 37

An authority may change a decision it has issued as the first instance if the authority considers that the decision is incorrect because of new circumstances or for some other reason.

However, a decision that is by its nature favourable to a private party may only be varied to the detriment of the private person if:

1. the decision or the provisions on which has been based state that the decision may be revoked under certain conditions;
2. compelling security reasons require the immediate variation of the decision; or
3. the incorrect was due to the party giving incorrect or misleading information.

When an authority shall vary a decision

Section 38

An authority shall vary a decision it has issued as the first instance

1. if it considers that the decision is obviously wrong in some significant respect because of new circumstances or for some other reason; and
2. the decision can be varied quickly and easily without this being to the detriment of any private party.

When an authority may vary a decision that has been appealed

Section 39

A decision that has been appealed may be varied by the authority that has issued it as the first instance solely in cases referred to in Section 38 and only if the appeal and the other documents in the matter have not yet been forwarded to the higher instance that shall examine the appeal.

Appeal

To which authority are decisions appealed?

Section 40

Decisions are appealed to a general administrative court.

Leave to appeal is required for an appeal to the Administrative Court of Appeal.

What decisions may be appealed?

Section 41

A decision may be appealed if the decision can be assumed to affect some person's situation in a not insignificant way.

Who may appeal a decision?

Section 42

A decision may be appealed by the person who is affected by the decision if it has gone against them.

How is a decision appealed?

Section 43

An appeal of a decision shall be made in writing to the higher instance that shall examine the appeal (the higher instance). However, the appeal shall be submitted to the authority that issued the decision (decision-making authority).

In the appeal the person who is appealing shall state which decision is being appealed and how they want the decision to be varied.

Sections 3 and 4 of the Administrative Court Procedure Act (1971:291) contains further provisions about what an appeal to be examined by an administrative court shall contain.

Appeal period

Section 44

An appeal of a decision shall be received by the decision-making authority within three weeks from the date on which the person who is appealing was informed of the decision through the authority. However, if the person who is appealing is a party representing the public institutions, the appeal must be received within three weeks of the date on which the decision was issued.

Decision-making authority's measures

Section 45

The decision-making authority examines whether the appeal has been received in due time. If it has been received too late, the authority shall decide that the appeal shall not be admitted (dismissal).

However, an appeal shall not be dismissed if:

1. the delay is because the authority did not give correct notification of how to appeal; or
2. the appeal was received by the higher instance within the appeal period.

Section 46

If the appeal is not dismissed, the decision-making authority shall promptly forward the appeal and the other documents in the matter to the higher instance.

If an authority varies a decision that has been appealed, it shall also forward the new decision to the higher instance. The appeal shall be considered to cover the new decision.

Higher instance's measures

Section 47

The higher instance examines questions of dismissing an appeal on grounds other than that it had been received too late.

If an appeal has mistakenly been filed with the higher instance, that authority shall forward the appeal to the decision-making authority, stating at the same time, the date when the appeal was received by the higher instance.

Section 48

The higher instance may decide that the decision appealed shall not apply until further notice.

Order when processing has been delayed

Section 49

If a court or an administrative authority grants an appeal of a refusal decision referred to in Section 12, second paragraph, it shall order the authority that issued the refusal decision to determine the matter that the appeal refers to as soon as possible or within the period decided by the higher instance.

The decision of the higher instance may not be appealed.

Transitional provisions

2017:900

1. This Act enters into force on 1 July 2018.
2. This Act repeals the Administrative Procedure Act (1986:223).
3. However, the repealed Act still applies to the extent that another act or an ordinance has provisions that contain references to that Act.

2019:981

This Act enters into force on 1 January 2020.