



REGERINGSKANSLIET

**Ministry of Health
and Social Affairs, Sweden**

Act (1993:387) concerning Support and Service
for Persons with Certain Functional Impairments

SFS 1993:387

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Introductory provisions

Section 1

This Act contains provisions relating to measures for special support and special service for those

1. who are mentally retarded, are autistic or have a condition resembling autism,
2. who have a considerable and permanent, intellectual functional impairment after brain damage when an adult, the impairment being caused by external force or a physical illness, or
3. who have some other lasting physical or mental functional impairments which are manifestly not due to normal ageing, if these impairments are major and cause considerable difficulties in daily life and, consequently, an extensive need for support or service.

Section 2

Unless agreed otherwise pursuant to Section 17, each county council shall be responsible for measures pursuant to Section 9, subsection 1.

Unless agreed otherwise pursuant to Section 17, each municipality shall be responsible for measures pursuant to Section 9, subsections 2-10. Act (2005:125)

Section 3

What is prescribed for county councils in this Act also applies to municipalities that are not included in any county council.

Section 4

This Act does not constitute any infringement of the rights which a private individual may have by virtue of any other Act.

The objectives and general orientation of the activities

Section 5

The activities pursuant to this Act shall promote equality in living conditions and full participation in the life of the community for those persons referred to in Section 1. The objective shall be for it to be possible for the private individual concerned to live as others do.

Section 6

The activities pursuant to this Act shall be of good quality and be conducted in cooperation with other relevant official bodies and authorities. The activities concerned shall be based on respect for a private individual's right to self-determination and privacy. As far

as possible, it shall be ensured that the private individual concerned shall be allowed to influence and jointly determine the measures to be provided. The quality of the activities shall be systematically and continuously improved and assured.

For the activities pursuant to this Act, there shall be the personnel needed to enable good support and good service and care to be given. Act (2005:125).

Entitlements to measures

Section 7

Persons who are referred to in Section 1 are entitled to measures in the form of special support and special service pursuant to Section 9, subsections 1-9, if they need such assistance in their daily lives and if their needs are not satisfied in some other way. Persons who are referred to in Section 1, subsections 1 and 2, are also entitled, if the prerequisites are the same, to measures pursuant to Section 9, subsection 10.

The measures shall ensure that a private individual shall have good living conditions. The measures shall be lasting and co-ordinated. They shall be adapted to the individual needs of the recipient and be framed in such a way that they are easily accessible for those who need them and enhance the ability of the latter to live an independent life. Act (2005:125).

Section 8

Only if he or she so requests, a private individual shall be provided with the measures pursuant to this Act. If the individual concerned is under the age of 15 or manifestly lacks the ability to form an opinion on the matter, a person having custody, a personal representative, legal guardian or trustee may request the measures on her or his behalf.

Measures for special support and special service

Section 9

The measures for special support and special service are

1. advice and other personal support that requires special knowledge about problems and conditions governing the life of a person with major and lasting functional impairments,
2. help from a personal assistant or financial support for reasonable costs for such help to the extent that the need for financial support is not covered by assistance hours pursuant to the Assistance Benefit Act (1993:389),
3. escort service,
4. help from a personal contact,
5. relief service in the home,

6. short stay away from the home,
7. short period of supervision for schoolchildren over the age of 12 outside their own home in conjunction with the school day and during the holidays,
8. arrangements for living in a family home or in residential arrangements with special service for children and young people who need to live away from their parental home,
9. residential arrangements with special service for adults or some other specially adapted residential arrangements for adults,
10. daily activities for people of a working age who have no gainful employment nor are undergoing training. Act (1997:723)

Section 9 a

Personal assistance pursuant to Section 9, subsection 2 refers to personally designed support that is provided by a limited number of persons for anyone who owing to major and lasting functional impairments needs assistance with her or his personal hygiene, meals, dressing and undressing, communicating with others or other help that requires extensive knowledge about the person with a functional impairment (basic needs).

Anyone who needs personal assistance for her or his basic needs is also entitled to measures pursuant to Section 9, subsection 2 for other personal needs if these needs are not satisfied in another way.

Payments that the private individual personally makes shall not in any case be regarded as a cost for personal assistance pursuant to Section 9, subsection 2,

1. to anyone with whom he or she lives in a common household, or
2. to a personal assistant for work that is performed during working hours that exceed the time referred to in Sections 2-4 of the Working Hours, etc. in Domestic Work Act (1970:943). Act (2000:1030).

Section 9 b

Measures pursuant to Section 9, subsection 2 refer to time after when the person entitled to the measures attained the age of 65 only if

1. the measure has been granted before he or she attained the age of 65, or
2. an application for such a measure is received by the municipality no later than on the date preceding the 65th birthday and has thereafter been granted.

However, measures pursuant to Section 9, subsection 2 may not be extended after the person entitled to the measure has attained the age of 65. Act (2000:1030).

Section 9 c

Care is also included in the measures pursuant to Section 9, subsections 5–8 and 10 and also the measure residential arrangements with special service for adults. Recreational and cultural activities are also included in the measures residential arrangements with special service for children and young people and also residential arrangements with special service for adults. Act (2000:1441).

Section 10

In conjunction with the granting of a measure pursuant to this Act, the person concerned may request that an individual plan, with approved and planned measures, is drawn up in consultation with her or him. Measures taken by others than the municipality or county council shall also be entered in the plan. The plan shall continually, and at least once a year, be reviewed.

The county council and municipality shall keep one another informed of plans that have been drawn up.

Section 11

If anyone, as a consequence of infirmity due to old age, morbidity, the prolonged abuse of addictive substances or for some other similar reasons, is not capable of dealing with the financial support provided by a municipality, such as referred to in Section 9, subsection 2, the municipality may decide that the benefit provided shall be paid to someone else to be used to defray the cost of personal assistance to the person entitled to support. Act (2005:125).

Section 12

The municipality may decide that the financial support granted by the municipality pursuant to Section 9, subsection 2, is to be paid back if the person who received the support or her or his deputy, by supplying erroneous particulars or in some other way, has caused the financial support to be provided incorrectly or in excess. The same shall apply if the financial support has otherwise been provided incorrectly or in excess and the person who has received the support or her or his deputy should reasonably have realised this. Act (2005:125).

Section 13

The Government, or the authority the Government decides, in regard to activities pursuant to Section 9, subsections 6-10, may issue regulations for the protection of the life of a private individual, her or his personal safety or health. Act (2005:125).

Special duties for a municipality

Section 14

A municipality shall do what it can to ensure that measures which shall be included in plans such as are referred to in Section 10 are coordinated.

Section 15

The duties of a municipality include

1. continually following up to ascertain who is covered by the Act and their need for support and service,
2. doing what it can to ensure that persons, such as are referred to in Section 1, have their needs satisfied,
3. furnishing information regarding objectives and means relevant to the activities pursuant to this Act,
4. helping to see that persons such as are referred to in Section 1 have access to work or study facilities,
5. doing what it can to ensure that public recreational and cultural amenities become accessible to persons such as are referred to in Section 1,
6. notifying the chief guardian, on the one hand, when a person covered by Section 1 can be presumed to need a legal guardian, trustee or personal representative and, on the other, when the appointment of a guardian, trustee or personal representative ought to be terminated, and
7. collaborating with organisations that represent people with extensive functional impairments.

Section 15 a

A municipality shall disclose certain personal data regarding private individuals that have been granted measures pursuant to Section 9, to the National Board of Health and Welfare for the production of official statistics. The Government shall make regulations regarding which data shall be disclosed. Act (2003:885).

Common provisions concerning the responsibility of country councils and municipalities

Section 16

A municipality is responsible pursuant to this Act vis-à-vis those who reside in that municipality.

If a person such as is referred to in Section 1 intends to go to live in a certain municipality, the latter, if requested, shall give advance notice regarding entitlement to measures on the part of the municipality pursuant to Section 9. When an application for advance notice is being considered, the provisions of this Act shall apply. The municipality shall, without delay, plan and prepare measures to which the advance notice entitles a private individual if he or she

goes to live in the municipality. The advance notice remains valid for six months, counted from the date when the measures become available for the private individual concerned.

If a need for measures pursuant to this Act emerges during a person's temporary stay in a municipality, the latter shall give the support and the help that are needed immediately.

As regards a county council's obligations, what is stated in this section concerning a municipality applies instead to a county council.

Section 17

A county council or a municipality may, though still retaining responsibility, conclude an agreement with some other person or body regarding the provision of measures pursuant to this Act.

A county council and a municipality which is part of a county council may enter into an agreement to the effect that responsibility for one or several functions pursuant to this Act may be transferred from the county council to the municipality or from the municipality to the county council. If such a transfer takes place, the regulations contained in this Act regarding a county council or municipality apply to the person or body to whom the duty has been transferred.

If a county council and a municipality have concluded an agreement pursuant to the second paragraph, the transferor may make such a financial contribution to the recipient of an amount that is warranted by the agreement. If a transfer has been made from a county council to all the municipalities included in the county council, the municipalities may make a financial contribution to each other if this is needed in order to equalise the cost between the municipalities.

Section 17 a

Notwithstanding Section 16, first paragraph, a municipality may, provided there are special reasons, conclude an agreement on liability for costs for measures pursuant to Section 9 for a private individual who through measures pursuant to Section 9, subsection 8 or 9, no longer is or will no continue to reside in the municipality. Such an agreement may be concluded with another municipality or with a private care provider in another municipality. Act (2000:1032).

Charges and related matters

Section 18

Those who pursuant to a decision by the Swedish Social Insurance Agency are entitled to obtain assistance benefit pursuant to the Assistance Benefit Act (1993:389) may be charged for personal assistance within the framework of such benefit. Act (2004:826).

Section 19

From those who have a whole old age pension pursuant to the Income-based Old Age Pension Act (1998:674) or a whole guaranteed pension pursuant to the Guaranteed Pension Act (1998:702) or a whole disability pension or a whole activity compensation pursuant to the National Insurance Act (1962:381) or have some other income of an equivalent amount, reasonable charges for residential arrangements, recreational and cultural activities may be imposed pursuant to the principles decided by the municipality concerned. The charges may, however, not exceed the actual costs incurred by the municipality. The latter shall ensure that a private individual may retain sufficient funds for her or his personal needs. Act (2002:199).

Section 20

If anyone under the age of 18 is cared for in a home other than her or his own by virtue of this Act, her or his parents are liable to contribute to a reasonable degree to the municipality's costs for this care. The municipality may in such a case receive a maintenance allowance in respect of the child concerned.

Section 21

In cases other than those indicated in Sections 18-20, charges or reimbursement for costs may not be requested for measures pursuant to this Act.

Documentation and deletion**Section 21 a**

The processing of matters relating to private individuals and the implementation of decisions on measures pursuant to this Act shall be documented. This documentation shall show decisions and measures that have been taken in the matter and the actual circumstances and events of significance.

Documents that relate to a private individual's personal circumstances shall be stored so that unauthorised persons do not gain access to them. Act (2005:125).

Section 21 b

The documentation shall be designed with respect of the private individual's privacy. The private individual should be kept informed about the journal entries and other notes that are kept about her or him. If the private individual considers that any information contained in the documentation is erroneous this shall be noted. Act (2005:125).

Section 21 c

If notes and other information contained in a personal file kept by the or those committees referred to in Section 22 belong to such a compilation of data as referred to in the Processing of Personal Data within the Social Services Act (2001:454), the data shall be deleted five years after the last entry was made in the file. However, these data shall not be deleted for as long as the data about the same person has not been deleted by the committee pursuant to the second paragraph.

Information contained in a compilation referred to in the Processing of Personal Data within the Social Services Act shall be deleted five years after the circumstances to which the information refers has ceased.

The deletion shall be concluded no later than during the calendar year after when the obligation to delete arose. Act (2005:125).

Section 21 d

Documents that have been received or drawn up in conjunction with a measure being provided pursuant to Section 9, subsection 8 may not be deleted pursuant to the provisions contained in Section 21 c.

Documents shall also be exempted from deletion pursuant to the provisions contained in Section 21 c considering the need of research for a representative sample of municipalities and county councils and in other municipalities and county councils regarding a representative sample of persons. Act (2005:125).

Committees**Section 22**

The management of the activities of the county council or the municipality pursuant to this Act shall be exercised by one or several committees appointed by the municipal council. The Joint Committees within the Care and Nursing Area Act (2003:192) contain special provisions on joint committees. Act (2003:197).

Private activities**Section 23**

Without a licence from the county administrative board, no private individual may conduct on a commercial basis activities such as are envisaged in Section 9, subsections 6-10. An application for a licence shall be submitted to the county administrative board in the county where the activities are to be carried out. The county administrative board has the right to inspect the activities undertaken.

Private activities shall be supervised by the or those committees which are referred to in Section 22 in the municipality where the activities are carried out. If the responsibility for the duties is transferred to the county council pursuant to Section 17, second paragraph, the activities shall instead be supervised by the corresponding county council committee. The committee has the right to inspect the activities undertaken. Act (2005:125).

Section 23 a

The provisions contained in Section 21 a and 21 b apply in appropriate respects to private activities. The documentation shall be stored for as long as it may be assumed it will be of importance for measures in the activity. Act (2005:125).

Section 23 b

A document in a personal file in a private activity shall, if it is requested by the person to whom the file relates, as soon as possible be made available to her or him to be read or transcribed at the place or as a transcript or copy unless otherwise provided by Section 29.

Issues concerning disclosure pursuant to the first paragraph shall be considered by the party responsible for the personal file. If such party considers that the personal file or any part of it should not be disclosed, he or she shall immediately, with a personal statement, refer the matter to the county administrative board for consideration. Act (2005:125).

Section 23 c

The county administrative board may decide that a personal file in a private activity shall be taken care of

1. if the activity ceases,
2. if there is probable reason to assume that the personal file will not be dealt with in accordance with the regulations contained in this Act or in accordance with the regulations made under this Act, or
3. if the person who is responsible for the personal file so requests and there is a manifest need for the file to be taken care of.

A personal file taken into care must be returned provided this is possible and there is no reason for it to be taken into care pursuant to the first paragraph. A decision in a matter regarding return shall be made by the county administrative board upon application of the person who, at the time of the decision on taking into care, was responsible for the personal file.

Personal files that have been taken into care shall be stored separately with the archive authority in the municipality where the files were taken into care. Personal files shall be stored for at least two years from when they were received by the archive authority. An authority caring for a personal file that has been taken into care

has, if information from the file is requested for a special case, the same obligation to disclose the information as the party had who was responsible for the file prior to it being taken into care. Act (2005:125).

Section 24

If there is any serious deficiency in a private activity such as is referred to in Section 23, the county administrative board shall issue an order to the effect that the person or body conducting the activity shall rectify the deficiency.

If the county administrative board's order is not complied with, the board may revoke the licence.

Notices of deficiencies

Section 24 a

Every individual who performs functions under this Act shall ensure that the persons who receive measures pursuant to the Act are provided with good support and good service and live under secure circumstances. Anyone who observes or learns of a serious deficiency relating to a private individual who receives measures under this Act shall immediately notify this to the or those committees referred to in Section 22. If the deficiency is not remedied without delay, the committee shall report the circumstance to the supervisory authority. This notification obligation also applies to a person who deals with matters under this Act or the Assistance Benefit Act (1993:389).

The first paragraph also applies within a corresponding professionally operated private activity. The notification shall be made to the person who is responsible for the activity. The person responsible is liable to without delay remedy the deficiency or notify this to the supervisory authority.

Chapter 14, Section 1 of the Social Services Act (2001:453) contains provisions on the obligation to notify to the social welfare committee that a child may need the protection of the committee. Act (2005:125).

Supervision and related matters

Section 25

The National Board of Health and Welfare shall supervise centrally the activities pursuant to this Act. The Board shall follow, support and evaluate the activities and also furnish information about them and stimulate further development.

Section 26

A county administrative board shall supervise in its county the activities pursuant to this Act and may in the process inspect the activities. A county administrative board shall also in the county

1. provide information and advice to the general public on matters relating to the activities concerned,
2. advise the municipalities in their activities,
3. promote collaboration in planning between the municipalities and county councils in order to be able to satisfy future support and service needs, and
4. promote collaboration in planning between the municipalities, county councils and other official bodies. Act (2000:526).

Section 26 a

Repealed by Act (2002:439).

Appeals and related matters**Section 27**

There is a right of appeal to a general administrative court against a decision by a committee such as is referred to in Section 22 or by a county administrative board if the decision concerns

1. measures for a private individual pursuant to Section 9,
2. payment to someone else pursuant to Section 11,
3. repayment pursuant to Section 12,
4. advance notice on entitlement to measures pursuant to Section 16, second paragraph,
5. a licence for private activities pursuant to Section 23, or
6. taking into care of a personal file pursuant to Section 23 c, or
7. an order or the revocation of a licence pursuant to Section 24.

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

As regards appeals against decisions of the county administrative board pursuant to Section 23 b, the relevant parts of the provisions contained in Chapter 15, Section 7 of the Secrecy Act (1980:100) shall apply.

A decision on issues concerning the first paragraph shall apply immediately. A county administrative court or an administrative court of appeal may however order that its decision shall not apply until it has entered into final legal force. Act (2005:125).

Section 27 a

The police authority shall provide the help necessary to enforce a decision on taking a personal file into care. A request for such help may only be presented if

1. owing to special circumstances it may be feared that the measure cannot be effected without using the special powers of the police pursuant to Section 10 of the Police Act (1984:387), or
2. there are other extraordinary reasons to do so. Act (2005:125)

Penalties

Section 28

A fine is to be imposed on anyone who wilfully or through negligence infringes Section 23, first paragraph, first sentence.

Special charge

Section 28 a

A municipality or a county council that fails to provide without unreasonable delay a measure pursuant to Section 9 to which someone is entitled pursuant to a determination by a court, shall be ordered to pay a special charge.

This charge belongs to the State. Act (2002:439).

Section 28 b

The special charge shall be determined to be at least ten thousand kronor and at most one million kronor.

When the amount of the charge has been determined special account shall be taken to how long the delay endured and how serious it may otherwise be deemed to be.

The charge shall be waived if there are extraordinary reasons to do so. No charge shall be imposed in petty cases. Act (2002:439).

Section 28 c

Issues concerning a special charge shall be considered upon the application of the county administrative board by the county administrative court within whose judicial district the municipality is located. An application relating to a county council shall be considered by the county administrative board within whose judicial district the county council's administration is conducted.

Leave to appeal is required for appeals to the administrative court of appeal. Act (2002:439).

Section 28 d

If a municipality or a county council after having been ordered to pay a special charge still fails to provide the measure, a new special charge shall be imposed.

A special charge may only be imposed if an application pursuant to Section 28 c has been served on the municipality or the county

council within two years from when the judgment for the measure entered into final legal force. Act (2002:439).

Confidentiality

Section 29

Anyone who carries out, or has carried out, on a commercial basis private activities that relate to measures pursuant to this Act may not disclose without authorisation what he or she has learnt in the process regarding the personal circumstances of a private individual.

Transitional provisions

1993:387

Regulations regarding the entry into force of this Act have been made by the Act (1993:388) Act (1993:387) concerning Support and Service for Persons with Certain Functional Impairments.

1995:100

This Act enters into force on 1 April 1995. Decisions made prior to the entry into force may be appealed against pursuant to older provisions.

2000:1030

1. This Act enters into force on 1 January 2001.

2. A person who prior to 1 January 2001 has been granted a measure pursuant to Section 9, subsection 2 of this Act but for whom the measure has ceased owing to he or she having attained the age of 65 is entitled, following a new application, to have the measure reinstated at the earliest of 1 January 2001. The scope of the measure shall be based on the decision that applied immediately before the 65th birthday. Such an application shall have been received by the municipality no later than 31 December 2002.

2002:439

1. This Act enters into force on 1 July 2002.

2. Older provisions apply when the issue relates to delay with the enforcement of a determination made before the Act entered into force.

2004:826

This Act enters into force on 1 January 2005. A charge may also be imposed after entry into force as a result of a decision made by a social insurance agency.

2005:125

This Act enters into force on 1 July 2005. The notification obligation pursuant to Section 24 a does not apply for circumstances that only relate to the period preceding the entry into force.