

## **Act relating to the management of biological, geological and landscape diversity (Nature Diversity Act)**

### **Chapter I Purpose and scope, etc.**

#### *Section 1 (purpose of the Act)*

The purpose of this Act is to protect biological, geological and landscape diversity and ecological processes through conservation and sustainable use, and in such a way that the environment provides a basis for human activity, culture, health and well-being, now and in the future, including a basis for Sami culture.

#### *Section 2 (geographical scope of the Act)*

The Act applies to Norwegian land territory, including river systems, and to Norwegian territorial waters.

Chapter VII of the Act applies to Svalbard and Jan Mayen. The King may decide that other provisions also apply to Svalbard and Jan Mayen. The Act of 15 June 2001 No. 79 relating to the protection of the environment in Svalbard and the Act of 21 February 1930 No. 2 relating to Jan Mayen otherwise apply instead of this Act.

On the continental shelf and in the areas of jurisdiction established under the Act of 17 December 1976 No. 91 relating to the economic zone of Norway, sections 1, 3 to 5, 7 to 10, 14 to 16, 57 and 58 apply to the extent they are appropriate.

#### *Section 3 (definitions)*

For the purposes of this Act, the following definitions apply:

- (a) species: a group of living organisms distinguished according to biological criteria;
- (b) population: a group of individuals of the same species living within a delimited area at the same time;
- (c) biological diversity: ecosystem and species variability and intra-species genetic variability, and the ecological relationships between ecosystem components;
- (d) animal: mammal, bird, reptile, amphibian, fish or invertebrate;
- (e) alien organism: an organism that does not belong to a species or population that occurs naturally in an area ;
- (f) genetic material: genes and other hereditary material in any biological material that can be transferred to other organisms with or without the help of technology, except for human genetic material;
- (g) harvesting: hunting, trapping, fishing and collection of plants or parts of plants (including berries and fruit) and fungi, for recreational and commercial purposes;
- (h) import: movement across a land border with a neighbouring state or to land from areas that lie outside the geographical scope of the Act;
- (i) biological, geological and landscape diversity: includes all diversity that is not largely a result of human influence;
- (j) habitat type: a homogeneous environment, including all plant and animal life and environmental factors that operate there, or special types of natural features such as ponds, habitat islands in fields or the like, and special types of geological features;
- (k) organism: an individual plant, animal, fungus or microorganism, including all parts thereof that are capable of reproduction or of transferring genetic material;
- (l) plants: vascular plants, mosses and algae;
- (m) fungi: fungi and lichens;

- (n) release: release, intentional discharge of organisms or the disposal of such organisms as waste into the environment, or into a closed system from which escape is not impossible;
- (o) removal: any form of killing or extraction of entire or parts of organisms from the natural environment, regardless of its purpose;
- (p) wildlife: terrestrial mammals, birds, reptiles and amphibians that occur naturally in the wild;
- (q) invertebrate: animal without a backbone;
- (r) area with specific ecological functions: an area, the delimitation of which may change over time, that fulfils an ecological function for a species, such as a spawning, nursery or larval drift area, migration route, feeding, moulting or overwintering area, display ground or mating area, breeding area, overwintering area or habitat.
- (s) ecological status: status of and trends for functions, structure and productivity in areas of a habitat type, viewed in the light of relevant environmental pressures;
- (t) ecosystem: a relatively well-delimited, homogeneous natural system where plant, animal, fungus and microorganism communities interact with one another and with the non-living environment.

## **Chapter II General provisions on sustainable use**

### *Section 4 (management objectives for habitat types and ecosystems)*

The objective is to maintain the diversity of habitat types within their natural range and the species diversity and ecological processes that are characteristic of each habitat type. The objective is also to maintain ecosystem structure, functioning and productivity to the extent this is considered to be reasonable.

### *Section 5 (management objectives for species)*

The objective is to maintain species and their genetic diversity for the long term and to ensure that species occur in viable populations in their natural ranges. To the extent necessary to achieve this objective, areas with specific ecological functions for different species and other ecological conditions on which they are dependent are also to be maintained.

The management objective under the first paragraph does not apply to alien organisms.

The genetic diversity of domesticated species shall be managed in such a way that it helps to secure the future resource base.

### *Section 6 (general duty of care)*

Any person shall act with care and take all reasonable steps to avoid causing damage to biological, geological and landscape diversity contrary to the objectives set out in sections 4 and 5. If an activity is carried out in accordance with a permit issued by an official authority, the duty of care is considered to have been fulfilled if the conditions for the permit are still satisfied.

### *Section 7 (the principles for official decision-making set out in sections 8 to 12)*

The principles set out in sections 8 to 12 shall serve as guidelines for the exercise of public authority, including when an administrative agency allocates grants, and for the management of real property. Decisions shall state how these principles have been applied in an assessment under the first sentence.

Section 8 (*knowledge base*)

Official decisions that affect biological, geological and landscape diversity shall, as far as is reasonable, be based on scientific knowledge of the population status of species, the range and ecological status of habitat types, and the impacts of environmental pressures. The knowledge required shall be in reasonable proportion to the nature of the case and the risk of damage to biological, geological and landscape diversity.

Furthermore, the authorities shall attach importance to knowledge that is based on many generations of experience acquired through the use of and interaction with the natural environment, including traditional Sami use, and that can promote the conservation and sustainable use of biological, geological and landscape diversity.

Section 9 (*precautionary principle*)

When a decision is made in the absence of adequate information on the impacts it may have on the natural environment, the aim shall be to avoid possible significant damage to biological, geological or landscape diversity. If there is a risk of serious or irreversible damage to biological, geological or landscape diversity, lack of knowledge shall not be used as a reason for postponing or not introducing management measures.

Section 10 (*ecosystem approach and cumulative environmental effects*)

Any pressure on an ecosystem shall be assessed on the basis of the cumulative environmental effects on the ecosystem now or in the future.

Section 11 (*user-pays principle*)

The costs associated with preventing or limiting any damage caused by a project to biological, geological and landscape diversity shall be borne by the project owner, unless this is unreasonable in the light of the nature of the project and of the damage.

Section 12 (*environmentally sound techniques and methods of operation*)

In order to prevent or limit damage to biological, geological or landscape diversity, use shall be made of such methods and such techniques and siting of industrial and other activities as, based on an overall assessment of past, present and future use of such diversity and economic factors, produce the best results for society at large.

Section 13 (*quality norms for biological, geological and landscape diversity*)

The King may establish recommended quality norms for biological, geological and landscape diversity, for example concerning the distribution or abundance of a species or the range or ecological status of a habitat type.

Limit values for pollutants or environmental quality objectives for river systems are fixed in accordance with the provisions of the Act of 13 March 1981 No. 6 relating to protection against pollution and to waste (the Pollution Control Act) or the Act of 24 November 2000 No. 82 relating to river systems and groundwater (the Water Resources Act).

If a quality objective laid down in a norm under this Act is not achieved, or if there is a risk of this, the competent authority under this Act should in consultation with other authorities concerned draw up a plan for ways of nonetheless achieving the quality objective. Such plans may entail a need to establish further regulations under this Act or other statutes.

Section 14 (*other important public interests and Sami interests*)

Measures under this Act shall be weighed against other important public interests.

When decisions are made under the Act that directly affect Sami interests, due importance shall be attached, within the framework that applies for the individual provision, to the natural resource base for Sami culture.

### **Chapter III Species management**

Section 15 (*principle for species management*)

Harvesting and other removal of animals that occur naturally in the wild shall be authorised by statute or a decision pursuant to statute. Unnecessary harm and suffering caused to animals occurring in the wild and their nests, lairs and burrows shall be avoided.

Harvesting and other removal of plants and fungi occurring in the wild are permitted to the extent that they do not jeopardise the survival of the population concerned or are not limited by statute or by a decision pursuant to statute.

The provisions of the first and second paragraphs do not preclude lawful access and passage, agricultural activities or other activities that take place in accordance with the duty of care laid down in section 6.

Harvesting and other utilisation of marine organisms are regulated by the Act of 6 June 2008 No. 37 relating to the management of wild living marine resources (the Marine Resources Act).

Section 16 (*harvesting of wildlife and salmonids and freshwater fish*)

Decisions to permit the harvesting of wildlife are made under the Act of 29 May 1981 No. 38 relating to wildlife and wildlife habitats (the Wildlife Act).

Decisions to permit the harvesting of salmonids and freshwater fish are made under the Act of 15 May 1992 No. 47 relating to salmonids and freshwater fish.

Harvesting may only be permitted when the best available documentation indicates that the species produces a harvestable surplus.

In making decisions regarding permission to harvest and regarding harvesting methods, importance shall also be attached to the function of the species in the ecosystem and the effect the harvesting may otherwise have on biological diversity. Importance shall also be attached to the significance of the species as food or for recreation, harvesting traditions in the area in question and any damage that the species causes.

The third and fourth paragraphs do not apply in the case of decisions regarding the harvesting of alien organisms.

Section 17 (*general provisions regarding other removal of wildlife and salmonids and freshwater fish*)

Small rodents, reptiles and salmonids and freshwater fish may be killed if this is necessary to prevent injury to persons or damage to property.

Wildlife may be killed in circumstances where this is considered necessary to eliminate an immediate and significant risk of injury to persons. The owner, or a person acting on behalf of the owner, may kill a wild animal making a direct attack on

livestock or domesticated reindeer. Any kill or attempt to kill under this paragraph shall immediately be reported to the police.

Killing to spare an animal unnecessary suffering is permitted in accordance with the Act of 20 December 1974 No. 73 relating to animal welfare (the Animal Welfare Act). The same applies to killing in order to prevent an infectious disease that may have significant social consequences in accordance with the Act of 19 December 2003 No. 124 relating to food production and food safety (the Food Act).

*Section 18 (other removal of wildlife and salmonids and freshwater fish after assessment by the authorities)*

The King may make regulations or individual decisions permitting the removal of wildlife and salmonids and freshwater fish

- (a) to protect naturally occurring plants, animals and ecosystems,
- (b) to prevent damage to crops, livestock, domesticated reindeer, forest, fish, water or other property,
- (c) to safeguard general health and safety interests or other public interests of substantial importance,
- (d) for capture for the purpose of restoring stocks,
- (e) for capture for the purpose of lawful breeding and farming,
- (f) for research, teaching or taxonomic purposes, or
- (g) which are alien organisms.

Decisions under the first paragraph (a) to (f) may only be made if the removal does not jeopardise the survival of the stock and the purpose cannot be achieved in any other satisfactory manner.

The competent authority under the Act may on its own initiative implement removal for such purposes as are mentioned in the first paragraph (a) to (d) and (g), cf. second paragraph. Such removal is not considered to be an individual decision and may if necessary take place on another person's property. The King may make further regulations regarding such removal.

The municipal authorities may grant permits for the removal of cervids and beavers to prevent damage under section 18, first paragraph (b), and for the removal of a beaver lodge or dam to prevent substantial damage due to flooding. The issue of permits by the municipal authorities may be appealed to the county governor.

*Section 19 (compensation for loss and consequential costs when livestock and domesticated reindeer are killed or injured by predators)*

When livestock and domesticated reindeer are killed or injured by predators, the state shall provide full compensation for the loss and consequential costs in accordance with regulations made by the King. The King may also make regulations regarding the recovery of an amount that has been incorrectly paid out.

*Section 20 (removal of invertebrates)*

Unless otherwise provided, it is permitted to

- (a) kill invertebrates that are a nuisance or cause damage,
- (b) kill alien invertebrates,

(c) remove invertebrates provided that this does not jeopardise the population in the area.

When the competent authority under the Act takes measures under the first paragraph (a) or (b), this may if necessary take place on the real property of other persons.

The King may make regulations or individual decisions regarding harvesting and other removal of terrestrial invertebrates.

Harvesting and other utilisation of marine wild living invertebrates are regulated by the Marine Resources Act.

*Section 21 (removal of plants and fungi)*

Section 15, second paragraph, does not preclude the removal of plants and fungi to prevent injury to the health of persons or animals, damage to crops, forest or other property, to remove alien organisms, or to safeguard important public interests.

The competent authority under the Act may implement measures on the property of other persons in order to prevent injury or damage as mentioned in the first paragraph, and removal in order to protect indigenous species and ecosystems.

The King may make regulations or individual decisions regarding harvesting and other removal of plants and fungi that are not regulated by provisions laid down in or under another statute.

Harvesting and other utilisation of wild living marine plant and fungus species are regulated by the Marine Resources Act.

*Section 22 (regulation of access to and passage through uncultivated land)*

To prevent damage or disturbance to plants or animals, the King may make regulations regarding the organisation of major events on uncultivated land and regarding nature studies, photography, etc. and forms of access and passage that may cause particular damage.

*Section 23 (priority species)*

The King in Council may make regulations designating priority species. In making such decisions, substantial importance is to be attached to whether

- (a) the population status or trends for the species are contrary to the objective set out in section 5, first paragraph,
- (b) a significant proportion of the species' natural range is in Norway or it has distinctive genetic characteristics in Norway, or
- (c) there are international obligations related to the species.

In the sea, the provision in the first paragraph (b) is only applicable in particular cases.

When there is documentation to show, based on scientific criteria, that the population status or trends for a species are substantially contrary to the objective set out in section 5, first paragraph, the competent authorities under the Act – on their own initiative or at the request of an organisation or other persons with legal interests in the matter – shall consider whether decisions should be made under the first paragraph.

The Ministry may make regulations prescribing that priorities under the first paragraph (a) shall lapse when the species management objective set out in section 5, first paragraph, has been achieved.

*Section 24 (nature of the protection)*

Regulations governing priority species made under section 23, first paragraph, may

- (a) prohibit any form of removal of, damage to or destruction of a priority species or specific populations of the species, and prescribe that the provisions of sections 15 to 22 shall only apply to the extent that this follows from the regulations,
- (b) make provisions regarding the protection of certain types of areas of limited extent with specific ecological functions for the species. The considerations required to be taken into account must not render current use of the areas significantly more difficult. If, following such a decision, the sum of such considerations constitutes restrictions that render use substantially more difficult and entail a substantial loss, the landowner may require the area to be protected under chapter V or exemptions to be made from the priority status of the areas concerned under the fifth paragraph. The provision does not apply in the sea,
- c) require clarification of the impacts of any works planned in areas with specific ecological functions for the species concerned, including the identification of alternative areas that may be used to ensure the conservation of the species in accordance with section 5, first paragraph.

The regulations may include provisions regarding management measures in accordance with section 47 when this is necessary in order to ensure the conservation of the species. As far as possible, public grant schemes shall be used in a way that promotes the conservation of priority species.

If provisions are made regarding the protection of certain types of areas with specific ecological functions for priority species under the first paragraph (b) in cases where active management or other types of measures are essential to safeguarding the area, the state shall present an action plan to protect such areas. The public authorities may enter into further agreement with the landowner or the rightsholder regarding management of an area with specific ecological functions for priority species.

In parallel with the making of regulations under section 23, first paragraph, the competent authority shall assess whether it is necessary to make further decisions regarding areas with specific ecological functions under the present or other statutes in order to protect the species and its genetic diversity.

The competent authority under the Act may grant exemptions from regulations made under section 23 if this does not result in the deterioration of the species' population status or trend, or if significant public interests make it necessary.

*Section 25 (protection of individual populations)*

The King may prescribe special management and protection measures, including total protection, for a population of a species if it is believed to have distinctive genetic characteristics.

*Section 26 (trade, etc.)*

In order to implement the Convention of 3 March 1973 on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or other international obligations, or otherwise to conserve species naturally occurring in the wild, the King may make regulations regarding the import and export, transport, sale and keeping or possession of living or dead specimens or parts of such.

*Section 27 (ex-situ conservation measures and measures for domesticated species)*

If a species is in immediate danger of extinction, the competent authority under this Act shall assess whether, in addition to decisions under section 23, ex-situ conservation measures shall be implemented, if this will promote the species' survival in the natural environment.

The King may make regulations regarding special conservation measures for domesticated species in order to achieve the objective set out in section 5, third paragraph.

## **Chapter IV Alien organisms**

*Section 28 (due care requirement)*

Any person that is responsible for releasing living or viable organisms into the environment shall exercise due care, and as far as possible seek to prevent such release having adverse impacts on biological diversity. If an organism is released in accordance with a permit issued by a public authority, the duty of care is considered to be fulfilled if the conditions of and for the permit are still satisfied.

Any person that initiates an activity or project that may result in the spread or release of living or viable organisms beyond their natural range shall take reasonable measures to prevent this.

If damage is caused to biological diversity or there is a risk of serious damage to biological diversity as a result of the release or unintentional discharge of alien organisms, the person responsible shall immediately notify the competent authority under this Act, and take measures in accordance with sections 69 and 70, unless such duty to notify the authorities and take measures is prescribed in another statute.

The King may make regulations regarding activities or projects that may entail a risk of the spread or unintentional discharge of organisms that do not occur naturally in an area, and regarding the duty of notification under the third paragraph.

*Section 29 (import)*

Living or viable organisms may only be imported to Norway subject to a permit granted by the competent authority under this Act.

If an organism is imported with a view to releasing it into the environment, the application for a permit shall clarify the possible effects of such release on biological diversity.

No permit may be granted if there is reason to believe that the import will have substantial adverse impacts on biological diversity.

The King may make regulations regarding import under the first paragraph, including requirements for permits and conditions for permits. The King may also make regulations to the effect that specific organisms may be imported without a permit under this section, or may prohibit the import of specific organisms if this is

considered necessary in order to avoid substantial adverse impacts on biological diversity.

Unless otherwise provided by regulations made by the King, no permit is required under this Act for the import of terrestrial plants and specified livestock. Nor is a permit required for the import of biological control agents for which an import permit has been granted in or under other legislation.

*Section 30 (general rules regarding the release of organisms or species into the environment)*

Without legal authority under section 31 or a permit granted by the competent authority under this Act, no person must release

- (a) organisms belonging to species or subspecies that do not occur naturally in Norway, including foreign tree species, into the environment,
- (b) wildlife belonging to species, subspecies or populations that do not already occur naturally in the district, into the environment,
- (c) organisms, except for those belonging to a native population, to the sea or a river system unless a permit has been granted under the Act of 17 June 2005 No. 79 relating to aquaculture (the Aquaculture Act),
- (d) organisms that do not already occur naturally in an area into the environment if the King has made regulations requiring a permit for this purpose.

Applications for a permit to release organisms or species under the first paragraph shall give an account of the impacts such release may have on biological diversity. The King may make regulations setting out requirements for applications.

A permit may not be granted if there is reason to believe that the release will have substantial adverse impacts on biological diversity.

*Section 31 (release without a special permit)*

Provided the duty of care under section 28 is observed,

- (a) organisms imported subject to a permit under section 29, first paragraph, cf. second paragraph, with a view to release,
- (b) plants in gardens, parks and other cultivated areas, if the plants are not likely to spread outside the area, and Norwegian tree species,
- (c) biological control agents for which a release permit has been granted in or under other legislation,
- (d) specified organisms if the King has made regulations to that effect, may be released.

Release under the first paragraph may not take place contrary to regulations under section 30, first paragraph (d). This does not apply to Norwegian tree species.

*Section 32 (relationship to other Acts)*

The requirement of a permit under this Act does not exempt the applicant from the requirement of an import or release permit under other legislation. If an import or release permit is required under two or more statutes, the competent authorities under the present and other statutes shall ensure that the processing of applications is coordinated. The King may make regulations regarding such coordination.

The provisions of sections 28 to 31 do not apply to genetically modified organisms falling within the scope of the Act of 2 April 1993 No. 38 relating to the production and use of genetically modified organisms (the Gene Technology Act).

Assessments under this chapter shall not include considerations relating to plant, animal and human life and health that are safeguarded by the Act of 5 August 1994 No. 55 relating to the control of communicable diseases (Communicable Diseases Control Act) and the Food Act.

## **Chapter V Protected areas**

### *Section 33 (objectives relating to protected areas)*

Protected areas on land, in river systems and in the sea under this chapter shall promote the conservation of

- (a) the full range of variation of habitats and landscape types,
- (b) species and genetic diversity,
- (c) endangered natural environments and areas with specific ecological functions for priority species,
- (d) major intact ecosystems, also making them accessible for low-impact outdoor recreation
- (e) areas of special conservation value,
- (f) natural environments that reflect human use through the ages (cultural landscapes) or that are also of historical value, and facilitation of forms of use that help to maintain biological, geological and landscape diversity,
- (g) ecological and landscape coherence at national and international level, or
- h) reference areas where environmental trends can be monitored.

When a decision is made under another statute to protect the natural environment in an area, importance should be attached to the objectives in the first paragraph. If such decisions made under another statute are part of a plan that covers areas protected by a decision under this Act, the King may prescribe provisions to ensure that the protection provided by the various statutes is coordinated in order to promote the objective of the plan.

### *Section 34 (regulations regarding protected areas)*

Individual protected areas, cf. sections 35 to 39, will be established by the King in Council by means of regulations. The landowners and rightsholders affected by the regulations are also subject to the provisions of the Public Administration Act regarding individual decisions.

The regulations describe the purpose of protecting the area, including the natural and cultural qualities such protection is intended to safeguard and the state that protection is intended to achieve, the limits of the protected area, affected properties and provisions regarding use of the area. Regulations relating to marine protected areas shall state whether the purpose of protection applies to the seabed, water column, water surface or a combination of these.

The geographical extent of the protected area shall be consistent with the purpose of protection. In determining the limits of the protected area, importance shall be attached to safeguarding ecological functions of significance for achieving the purpose of protection and the resilience of the ecosystem to external pressures.

Within the framework of the provisions that apply to the individual category of protected area, the King may in the regulations prohibit or regulate activities or access or passage which alone or when combined with other use may undermine the purpose of protection. Special rules may be prescribed for different parts of the area when this is compatible with the function of the part in achieving the purpose of protection.

The regulations establishing a protected area shall not preclude the continuation of sustainable use that reinforces the purpose of such protection.

#### Section 35 (*national parks*)

Large areas of natural habitat that contain distinctive or representative ecosystems or landscapes and where there is no major infrastructure development may be protected as national parks.

No activity that has a lasting impact on the natural environment or cultural heritage is permitted in a national park, unless such impact is essential to achieving the purpose of protection. The regulations shall protect the landscape and its plants, animals, geological features and cultural monuments from development, installations, pollution and other activity that may defeat the purpose of protection, and ensure that people can enjoy an undisturbed natural environment. Pedestrian access or passage in accordance with the provisions of the Outdoor Recreation Act is permitted. Such access or passage may only be limited or prohibited in delimited areas of a national park, and only if necessary in order to protect plants or animals, cultural monuments or geological features.

A draft strategic management plan shall be presented when a decision is made to protect an area. When an operational management plan is also relevant, it shall be part of the strategic management plan.

#### Section 36 (*protected landscapes*)

Natural or cultural landscapes that are important in ecological or cultural terms, as a source of enjoyment or as a basis for forming an identity may be protected as protected landscapes. Cultural monuments that contribute to the distinctive character of a landscape are considered to be part of the landscape.

In a protected landscape, no projects may be initiated which may substantially alter the nature or character of the landscape. Current activities may be continued and developed within the limits of the first sentence. New projects shall be adapted to the landscape. Importance shall be attached to the overall impact of the projects implemented in the area. The regulations may include provisions regarding what may substantially alter the nature or character of the landscape, requirements relating to adaptation to the landscape, and non-pedestrian access or passage.

With regard to the parts of the protected landscape where use is essential to achieving the purpose of protection, a draft management plan to ensure that the purpose of protection is achieved shall be presented at the latest when a decision is made under the first paragraph to establish the protected landscape. The plan may include agreements regarding land use, the use of landscape elements or methods of operation. The plan or agreement may contain provisions regarding financial compensation to private individuals who contribute to management of the protected landscape.

A draft strategic management plan shall be presented when a decision is made to protect a landscape. In cases where an operational management plan is also relevant, it shall be part of the management plan.

Section 37 (*nature reserves*)

Areas which

- (a) contain endangered, rare or vulnerable species, communities, habitats or landscape types,
- (b) represent a specific type of habitat,
- (c) are otherwise of particular importance for biological diversity,
- (d) comprise a distinctive geological feature, or
- (e) are of special scientific interest

may be protected as nature reserves.

An area which, if allowed to develop without human intervention or actively managed through habitat restoration, is likely to develop such qualities as are mentioned in the first paragraph may also be protected as a nature reserve.

In a nature reserve no person must do anything that reduces the conservation value of the area as described in the purpose of protection. A nature reserve may be given absolute protection from all activity, projects and access or passage. The regulations may contain provisions regarding protection of the cultural heritage in the reserve.

If a decision is made to establish a nature reserve in an area where active restoration measures are required, or where active use is essential to achieving the purpose of protection, a draft management plan to ensure that the purpose of protection is achieved shall be presented at the time the decision is made. The plan may include agreements regarding land use, the use of landscape elements or methods of operation. The plan or agreement may contain provisions regarding financial compensation to private persons who contribute to management of the protected landscape.

Section 38 (*habitat management areas*)

An area that has or may have special importance because it fulfils specific ecological functions for one or more specified species may be protected as a habitat management area. A prohibition may be imposed on activity and access or passage that may affect or disturb the species or the ecological conditions necessary to its existence. Section 37, fourth paragraph, applies correspondingly.

Section 39 (*marine protected areas*)

Marine protected areas may be established on the grounds of their marine conservation value, but also to safeguard valuable marine areas that are ecologically necessary for terrestrial species.

Areas which

- a) contain distinctive or representative ecosystems and are without major infrastructure development,
- b) contain endangered, rare or vulnerable species, communities, habitats or landscape types,

- c) represent a specific type of habitat,
- d) are otherwise of particular importance for biological diversity,
- e) comprise a distinctive geological feature,
- f) are of special scientific interest, or
- g) are of special importance as an area with specific ecological functions for one or more specified species

may be protected as marine protected areas.

Marine protected areas may be established to fulfil one or more of the objectives set out in section 33, first paragraph.

The decision to establish a marine protected area must state whether the purpose of the protection and restrictions apply to the seabed, water column, surface or a combination of these elements. Sections 33, 34 and 40 to 51 otherwise apply correspondingly to the extent they are appropriate.

In a marine protected area no person must do anything that reduces the conservation value of the area as described in the purpose of protection. A marine protected area may be protected from all activity, pollution, projects and use, subject to the limitations that follow from international law. Any restrictions imposed on activity shall be proportional to the purpose of protection.

Harvesting and other utilisation of wild living marine resources are regulated under the Marine Resources Act within the limits of the protection regulations.

Marine areas where protection consists solely of specific provisions regulating fishing activities shall be established under the Marine Resources Act.

#### Section 40 (*international status for protected areas*)

The King may make regulations granting a protected area special status under an international convention on the protection of the natural or cultural environment. The effect that the convention in question attributes to such status also applies as Norwegian law.

#### Section 41 (*administrative procedure*)

When a protection process under this chapter commences, steps shall be taken within the limits of the second to third paragraphs and sections 42 and 43 to ensure that administrative procedures are carried out in the closest possible cooperation with landowners, rightsholders, interested commercial parties and representatives of the local community, including Sami cultural and business interests, the municipal and county authorities, the Sami Parliament and other relevant authorities. The same applies when a landowner or rightsholder himself offers areas for protection. The administrative process shall ensure that the purpose of protection and the conservation value, the delimitation of the area and the consequences of protection are defined as clearly as possible. As part of the administrative process, information shall also be obtained regarding other possible elements of value in the area.

The issue of the simultaneous commencement of municipal and regional planning work under the Act of 27 June 2008 No. 71 relating to planning and the processing of building applications (the planning part of the Planning and Building Act) shall be

clarified with the municipal and county authorities. The King may make regulations regarding the coordinated processing of plans under the Planning and Building Act and protection under this Act.

Section 42 (*announcement of planned proposals for protection of an area*)

The competent authority shall publish the proposal for protection of an area, with the main consequences it is expected to have, in at least one newspaper that is widely read locally. Proposals regarding marine protected areas shall be announced in a manner appropriate to make interested parties aware of the proposal. As far as possible, landowners and other rightsholders shall be informed by letter and given a reasonable time limit for submitting comments before a proposal is drawn up.

At an early stage of the preparations, and well before the proposal is announced, steps shall be taken to establish cooperation with any public authorities, organisations, etc. which have a special interest in the protection measure. Regulations shall be drawn up in cooperation with the central government authorities concerned.

Section 43 (*consultation regarding proposal for protection regulations*)

The proposed regulations shall be circulated for comment under the provisions of section 37 of the Act of 10 February 1967 relating to procedure in cases relating to the public administration (the Public Administration Act). The provisions of section 16 of the Public Administration Act apply to notification of landowners and rightsholders. The proposal shall be deposited for public inspection in at least one easily accessible place and published in the Norwegian Gazette and in at least one newspaper that is widely read locally.

The proposal circulated for comment shall describe the area to which the proposal applies, including the purpose of protection and the conservation value, the delimitation of the area concerned and any qualities other than biological, geological and landscape diversity, as well as the anticipated consequences of the proposal, and give a time limit of at least two months for submitting comments.

The proposal shall be submitted to the municipal authorities, the county authorities and central government agencies concerned for comment, and to the Sami Parliament if the protection proposal affects Sami interests.

Section 44 (*measures in connection with the initiation of the administrative process*)

When an announcement has been made under section 42, an administrative agency may automatically reject an application for a permit, etc. for a project in an area to which the protection proposal applies. A permit may only be granted if the project will have no significant impact on the purpose of the proposal. When important public interests make it necessary, the King may nonetheless grant a permit for the project.

Simultaneously with or after an announcement as mentioned in section 42, the Ministry may prescribe a duty to provide notification of projects that do not require a permit under other statutes for all or parts of the proposed protected area. The duty of notification shall be announced in the same way as the protection proposal. The consultation process under section 37, first paragraph, of the Public Administration Act shall be implemented after the duty of notification has been determined, in order to decide whether the duty of notification should be maintained and whether further provisions should be laid down regarding such duty.

When an announcement has been made under section 42, a public authority may not provide a grant for a project in an area to which the protection proposal applies. The competent authority may grant exemptions from this rule if the project will have no significant impact or will have a favourable impact on the purpose of the proposal.

The King may decide that all or part of the provisions of the first to third paragraphs shall also be applied before a protection proposal is announced, if key public authorities have begun work on an overall protection plan.

The effects of the first to fourth paragraphs are limited to four years after the proposal has been announced. The Ministry may extend the effects by up to two years.

#### Section 45 (*temporary protection*)

The Ministry may make regulations regarding the temporary protection of specified areas in order to prevent damage to their conservation value. The provisions of the Public Administration Act regarding individual decisions apply in respect of private landowners and rightsholders who are affected by the decision.

When a specific habitat type is in danger of being permanently lost, the King may make regulations prescribing limitations and prohibiting activities and access or passage that may further jeopardise the continued existence of the habitat type.

Sections 41 to 43 do not apply to decisions regarding temporary protection under the first and second paragraphs. When a temporary protection decision is made, the administrative process shall continue without undue delay. The effect of a temporary protection decision is limited to four years from the time the decision was announced. The Ministry may extend the effect of the temporary protection decision by up to two years.

#### Section 46 (*statement of grounds for and announcement of protection decisions*)

In decisions made under section 34, an account shall be given in the grounds of the biological, geological and landscape diversity and other qualities that are protected in and by the protection decision, and of how the latter helps to fulfil national objectives and international obligations.

Decisions made under sections 34 and 45 shall be announced under the provisions of section 38 of the Public Administration Act and be published in at least one newspaper that is widely read locally. Decisions regarding marine protected areas should be announced in a manner appropriate to make interested parties aware of the proposal. Landowners, rightsholders and municipal authorities in the protected area shall be notified of the decision under the provisions of section 27 of the Public Administration Act. The announcement and the notification shall call attention to the right to compensation under section 50 and the time limit under section 51, first paragraph.

The protection decision shall be registered judicially.

The protection decision shall be publicly accessible in electronic format with associated maps.

#### Section 47 (*management of protected areas*)

In areas that are protected under this chapter, the administrative authority may carry out management measures and mark the boundaries of the protected area. The administrative authority shall, if possible, enter into an agreement with the landowner

whereby the latter shall carry out specified maintenance measures. The administrative authority may also enter into agreements with organisations with an interest in the matter or other persons to the effect that they shall carry out such maintenance measures.

Management may include measures to maintain or achieve the state of the natural or cultural environment that is the purpose of the protection, including measures to channel access or passage, removal of vegetation or alien tree species and restorative measures after works affecting the natural environment. No management measures that entail the harvesting of natural resources or a significant change in the state of the natural environment as it was when the protection process began, cf. section 42 or section 45, first paragraph, may be carried out under this section.

If management measures affect private property or rights in the protected area, the owner or rightsholder shall as far as possible be notified in advance.

Any financial benefits arising from the implementation of management measures accrue to the landowner or the rightsholder.

If possible, a draft operational management plan for the protected area shall be presented at the time the protection regulations are laid down.

#### Section 48 (*exemption from a protection decision*)

The administrative authority may grant exemption from a protection decision if it is not contrary to the purpose of the protection decision and cannot make a significant impact on the conservation value, or if safety considerations or important public interests make it necessary.

When weighing other important public interests against the interests promoted by the protected area, particular emphasis shall be placed on the importance of the protected area for the overall network of protected areas and on whether a corresponding protected area can be established or developed elsewhere. The owner of a project may be required to bear reasonable costs arising from the safeguarding, establishment or development of such a corresponding area.

If a permit is required for a project under both the protection regulations and other legislation, the project owner may choose to submit parallel applications for permits. In such cases, a decision shall first be made under the protection regulations, unless otherwise provided by the protection regulations or the consent of the administrative authority.

An application for exemption under the first paragraph shall contain necessary documentation of the impact of the project on the conservation value. In an exemption under the first paragraph, the grounds for the decision shall show how the administrative authority has assessed the impacts on the conservation value that may result from exemption, and what importance has been attached to these impacts.

#### Section 49 (*activities located outside a protected area which may cause damage within the area*)

If an activity for which a permit is required under another statute may have an impact on the conservation value of a protected area, importance shall be attached to this value when deciding whether a permit should be granted, and when setting conditions. The duty of care under section 6 applies to other activities.

Section 50 (*compensation to landowners and rightsholders in protected areas*)

A landowner or a holder of rights in property that is wholly or partly protected as a national park, protected landscape, nature reserve, habitat management area or marine protected area is entitled to compensation from the state for financial losses incurred when protection makes current use of the property more difficult. In the case of use requiring a permit from an official authority, the right to compensation only applies if a permit was granted before an announcement was made under section 42.

When the conditions under the first paragraph are fulfilled, compensation for losses incurred in connection with current use is determined in accordance with the calculation rules set out in the Act of 6 April 1984 No. 17 on compensation for the expropriation of real property (the Expropriation Compensation Act). The date of the protection decision shall serve as the basis for application of section 10 of the said Act.

The King will make regulations prescribing what is considered to be current use for activity in accordance with

- (a) a production licence under the Act of 29 November 1996 No. 72 relating to petroleum activities (the Petroleum Act),
- (b) a mining lease under the Act of 30 June 1972 No. 70 relating to mining (the Mining Act),
- (c) the Mineral Resources Act.

Section 51 (*procedure for determining compensation*)

Not later than one year after the protection decision was made, the State shall make an offer of compensation under section 50 to an owner or a rightsholder who has submitted a written claim for compensation within four months of the protection decision. The Ministry may extend the time limit and may also grant reinstatement of the claim if the time limit is exceeded. The provisions of the Act of 17 June 2005 No. 90 relating to mediation and procedure in civil disputes (the Dispute Act) regarding reinstatement apply to the extent appropriate.

If the offer is not accepted, the owner or rightsholder may, not later than six months after the offer was made, submit a claim to the county governor requesting that the state apply to the district court for judicial assessment of compensation under section 50.

Assessment proceedings are conducted under the provisions of the Act of 1 June 1917 No. 1 relating to assessment and expropriation cases (the Assessment Procedure Act) and the provisions of this paragraph. Under the provisions of the Dispute Act, the district court may grant reinstatement if the time limit laid down in the second paragraph is exceeded. Section 42 of the Assessment Procedure Act applies to costs of assessment at first instance. If the state applies for a review of the assessment, the state shall cover the necessary costs incurred by the landowner. If the landowner applies for a review of the assessment, the provisions of chapter 20 of the Dispute Act shall apply.

## **Chapter VI Selected habitat types**

Section 52 (*selected habitat types*)

In order to promote the objective set out in section 4, the King in Council may make regulations designating specific habitat types as selected throughout or in parts of the country. The regulations may prescribe further criteria for the types of areas of a selected habitat type to which the provisions of this chapter apply.

In deciding whether to designate a habitat type as selected, particular importance shall be attached to whether

- a) trends for or the status of the habitat type are contrary to the objective set out in section 4,
- b) the habitat type is important for one or more priority species,
- c) a significant proportion of the natural range of the habitat type is found in Norway, or
- d) international obligations apply to the habitat type.

When there is documentation to show that the status of or trends for a habitat type based on scientific criteria are significantly contrary to the objective set out in section 4, the competent authorities under this Act shall – of their own initiative or at the request of an organisation or another person who has a legal interest in the matter – assess whether regulations should be made under the first paragraph.

When a habitat type is selected for which active management or other types of measures are essential to the maintenance of the habitat type, the state shall present an action plan to safeguard the habitat type.

*Section 53 (general importance of the selection)*

In exercising the duty of care under section 6, special account shall be taken of areas of selected habitat types so as to avoid reduction of the range of the habitat type or deterioration of the ecological status of the areas.

In the exercise of official authority, including the allocation of grants by an administrative agency, and in the management of real property, special account shall be taken of areas of selected habitat types so as to avoid reduction of the range of the habitat type or deterioration of the ecological status of the areas. Before a decision is made to carry out works in an area of a selected habitat type, the impacts on the selected habitat type must be ascertained. The King may make regulations regarding how such impact assessments are to be carried out and processed.

In considering whether the range of the selected habitat type will be reduced or whether its ecological status will deteriorate, importance shall be attached to the significance of the area in question for the overall range and quality of the habitat type and to whether a corresponding area can be established or developed elsewhere. The project owner may be required to bear reasonable costs relating to the maintenance, establishment or development of such an area.

A legally binding plan under the Planning and Building Act which defines the land use of an area of a selected habitat type and which is adopted after regulations under section 52 have been made will prevail over the provisions of the first to third paragraphs.

The municipal authorities may make regulations providing that the provisions of sections 53 to 56 shall also apply to municipal management of areas of other specified habitat types in the municipality.

The public authorities may enter into further agreement with a landowner or rightsholder regarding the management of an area of a selected habitat type.

*Section 54 (duty of notification of forestry projects)*

A forestry project that affects areas of selected habitat types and that does not require a permit shall be notified to the municipal authorities before work on the project is begun. A reply shall have been received from the municipal authorities before the project is carried out. The municipal authorities shall consider the project under the provisions of section 53, second and third paragraphs. If the municipal authorities find that the project may result in reduction of the range of the habitat type or deterioration of its ecological status, the authorities may refuse to permit the project or make further orders as to how the project shall be implemented in accordance with the provisions of section 6, fourth paragraph, or section 8, second paragraph, of the Act of 27 May 2005 No. 31 relating to forestry (the Forestry Act). The time limit for responding may be laid down in regulations made under section 52, first paragraph.

*Section 55 (duty of notification of agricultural projects)*

An agricultural project that affects areas of selected habitat types and that does not require a permit shall be notified to the municipal authorities before work on the project is begun. A reply shall have been received from the municipal authorities before the project is carried out. The municipal authorities shall consider the project under the provisions of section 53, second and third paragraphs. If the municipal authorities finds that the project may result in reduction of the range of the habitat type or deterioration of its ecological status, the authorities may refuse to permit the project or make further orders as to how the project shall be implemented in accordance with the regulations made under section 11, first paragraph, of the Act of 12 May 1995 No. 23 relating to land (the Land Act).

Owners or users of agricultural properties that contain areas of selected habitat types may apply to the municipal authorities for approval of an environmental plan. If such approval is granted, the duty of notification under the first paragraph does not apply to agricultural projects carried out in accordance with the plan.

*Section 56 (announcement and appeal)*

Notice that a permit has been granted to carry out a project in areas of a selected habitat type shall be published in at least one newspaper that is widely read locally or in the way prescribed by the individual statutes. In the case of selected marine habitat types, the announcement shall be made in a manner appropriate to make interested parties aware of the permit.

If a permit or the rejection of a permit for a project in an area of a selected habitat type is appealed against under other provisions currently in force, a superior environmental protection authority shall be given the opportunity to express an opinion on the appeal.

The municipal authorities report on areas of selected habitat types through the general reporting procedures that have been established between municipal and central government authorities.

## **Chapter VII Access to genetic material**

Section 57 (*management of genetic material*)

Genetic material obtained from the natural environment is a common resource belonging to Norwegian society as a whole and managed by the state. It shall be utilised to the greatest possible benefit of the environment and human beings in both a national and an international context, also attaching importance to appropriate measures for sharing the benefits arising out of the utilisation of genetic material and in such a way as to safeguard the interests of indigenous peoples and local communities.

Section 58 (*collection and utilisation of genetic material obtained from the natural environment*)

The King may determine that the collection of biological material from the natural environment for the purpose of utilising the genetic material, or the utilisation of such material, requires a permit from the Ministry. If a collection permit has been granted, no new permit is required for subsequent utilisation, but the conditions for the permit apply correspondingly to any person that acquires the material or results arising from the collection. Collection for use in public collections and for use and further breeding or cultivation in agriculture or forestry does not require a permit.

The first paragraph does not limit the right of any owner or other entitled person to deny access on other grounds

- a) to the biological material, or
  - b) to the land
- from which the genetic material is obtained.

When granting permission under the first paragraph, the competent authority may grant exemptions from the provisions of chapter III.

The King may make regulations regarding which information the application shall contain, including information regarding use of the knowledge of indigenous peoples or local communities. Further provisions may also be made in the regulations regarding which conditions may be set, such as conditions to the effect that any benefits arising out of the utilisation of genetic material collected from the natural environment within Norwegian jurisdiction shall accrue to the state. The regulations may also state how the interests of landowners and indigenous peoples and local communities can be reasonably safeguarded. Conditions may be set for the further utilisation of material that is necessary to ensure the promotion of the objective set out in section 57.

Section 59 (*genetic material in public collections*)

Public collections shall be managed in accordance with the principles set out in section 57. The person managing the collection has a duty to register any genetic material removed from the collection and provide public access to such information.

A public collection means a collection of genetic material that is managed by or on behalf of the state and to which any person has access on specified conditions.

Any person that receives genetic material derived from a public collection shall refrain, in Norway or abroad, from claiming intellectual property rights or other rights to the material that would limit use of the material, such as use for food or agriculture, unless the material has been modified in a way that results in a substantial change.

If intellectual property rights over genetic material are established contrary to the third paragraph, the competent authorities under the Act shall consider taking measures, including bringing legal action, to ensure promotion of the objective set out in section 57.

Any person may invoke conditions under the third paragraph, or other conditions that have been set for collection, against any person that, contrary to such conditions, seeks to enforce an intellectual property right.

The King may make further regulations regarding removals from collections, including setting such conditions as are mentioned in section 58, fourth paragraph, last sentence.

With regard to the removal of genetic material covered by the International Treaty on Plant Genetic Resources for Food and Agriculture of 3 November 2001 or by another international agreement, the standard conditions laid down under the agreement shall apply.

Section 60 (*genetic material from other countries*)

The import for utilisation in Norway of genetic material from a state that requires consent for collection or export of such material may only take place in accordance with such consent. The person that has control of the material is bound by the conditions that have been set for consent. The state may enforce the conditions by bringing legal action on behalf of the person that set them.

When genetic material from another country is utilised in Norway for research or commercial purposes, it shall be accompanied by information regarding the country from which the genetic material has been received (provider country). If national law in the provider country requires consent for the collection of biological material, it shall be accompanied by information to the effect that such consent has been obtained.

If the provider country is a country other than the country of origin of the genetic material, the country of origin shall also be stated. The country of origin means the country in which the material was collected from *in situ* sources. If national law in the country of origin requires consent for the collection of genetic material, information as to whether such consent has been obtained shall be provided. If the information under this paragraph is not known, this shall be stated.

The King may make regulations prescribing that if utilisation involves use of the traditional knowledge of local communities or indigenous peoples, the genetic material shall be accompanied by information to that effect.

When genetic material covered by the International Treaty on Plant Genetic Resources for Food and Agriculture of 3 November 2001 is utilised in Norway for research or commercial purposes, it shall be accompanied by information to the effect that the material has been acquired in accordance with the Standard Material Transfer Agreement established under the treaty.

Section 61 (*implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture*)

The King may make regulations regarding the implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture of 3 November 2001 in

Norwegian law. The regulations may make further clarifications and exemptions from the provisions of this chapter.

## **Chapter VIII Competent authority under the Act, supervision, etc.**

### *Section 62 (competent authority under the Act)*

The King is the highest authority under this Act.

The King may decide that the municipal authorities are the competent authority under further provisions prescribed in or under the Act. The King may give instructions to municipal authorities regarding the exercise of delegated authority under provisions laid down in or under chapter V. The King may decide that a specially appointed body is the administrative authority for an area that has been protected under chapter V.

The Directorate for Nature Management is the appeals body for decisions made by municipal authorities under this Act, unless otherwise provided. The county governor has the right to appeal against decisions made by municipal authorities to whom authority has been delegated.

The King may make regulations regarding municipal exercise of authority or performance of functions under the Act.

### *Section 63 (supervision)*

The Ministry supervises the state of the natural environment and monitors compliance with the provisions laid down in and under the Act. The supervisory authority decides the areas that shall be subject to supervision. The supervisory authority shall carry out sufficient control and inspection measures to be able to detect breaches of provisions.

When supervision is exercised, the person being inspected or the person responsible for the activity shall provide the supervisory authority with necessary assistance or information. The supervisory authority may stop persons, vessels or motor vehicles if this is necessary in order to exercise supervision. Importance shall be attached to exercising supervision as effectively as the circumstances permit with the least possible impact on the environment.

The authorities shall promote achievement of the objectives of this Act by providing advisory services, guidance and information.

### *Section 64 (investigation)*

If necessary in order to carry out tasks under the Act, the supervisory authority or the police shall be given unimpeded access to property where activities are being carried out that may have an impact on biological, geological or landscape diversity, or where it may be assumed that there has been an impact on such diversity,. The supervisory authority may also require documents or other material that may be of importance for carrying out tasks under this Act to be submitted for inspection.

### *Section 65 (duty to provide information)*

Any person that possesses or does anything that may have an impact on biological, geological and landscape diversity has a duty, on the orders of the supervisory authority and notwithstanding any duty of secrecy, to provide the supervisory authority with any information necessary to enable it to carry out its tasks under this Act.

If damage is caused to biological, geological and landscape diversity or if there is a risk of serious damage of this nature as a result of activities regulated under this Act, the person responsible shall notify the competent authority under the Act as quickly as possible, unless the risk has already been averted or the damage has been repaired.

*Section 66 (internal control)*

The Ministry may make regulations relating to internal control and internal control systems to ensure compliance with requirements laid down in or under this Act.

*Section 67 (amendment and revocation of permits)*

The competent authority under this Act may cancel or amend the conditions of a permit granted under the Act, or set new conditions, and if necessary revoke the permit if

- a) it is necessary in order to prevent substantial unforeseen adverse impacts on biological, geological or landscape diversity,
- b) the adverse impacts can be reduced without unreasonable cost to the project owner;
- c) new technology makes it possible to reduce substantially the adverse impacts on biological, geological or landscape diversity,
- d) revocation or amendment is necessary in order to achieve quality norms prescribed under section 13,
- e) the project owner contravenes provisions laid down in or under this Act and the contravention in question is significant, repeated or persistent, or
- f) this otherwise follows from other revocation rules currently in force.

A permit may in any case be revoked or amended if it is more than 10 years since it was granted. The competent authority may relax restrictions and conditions set out in a permit if experience shows that this can be done without resulting in any substantial adverse impact on biological, geological or landscape diversity. In making decisions under the first and second paragraphs, account shall be taken of the costs that amending or revoking the permit will entail for the project owner and any other advantages and disadvantages that amendment or revocation will entail.

*Section 68 (register of environmental decisions)*

The King may make regulations regarding the establishment of a register of environmental decisions and the duty to enter such decisions in the register. The register shall comprise decisions made under section 24, fifth paragraph, section 34, first paragraph, section 45, first and second paragraphs, section 48, first paragraph, and such decisions as are mentioned in section 56, first paragraph, first sentence.

## **Chapter IX Enforcement and sanctions**

*Section 69 (measures to remedy or mitigate the impact of unlawful activities)*

The competent authority under the Act may order the person responsible to remedy or stop situations that are contrary to the Act or decisions made under the Act.

Any person who by contravening the Act or a decision made under the Act causes a risk of reducing biological, geological or landscape diversity shall take measures to prevent such reduction. If such reduction has already occurred, the duty consists of preventing further reduction and – if possible - restoring the original state of diversity by taking appropriate action such as collection, clearing up, removal or levelling the

ground. Measures that in themselves may result in any significant reduction of diversity shall only be taken with the consent of the competent authority under the Act or by order under the first paragraph.

The duty to take preventive, remedial or restorative action does not apply to the extent that it would be particularly unreasonable in the light of the cost and effects of the measures, the environmental impacts of the contravention and the offender's fault and financial situation.

Measures implemented under this section may consist of the killing of alien organisms to which the contravention relates or the return of living organisms to their original location.

*Section 70 (unforeseen environmental impacts of lawful activities)*

If projects carried out in accordance with the Act or with decisions made under the Act prove to have substantial unforeseen impacts on biological, geological or landscape diversity, the person responsible shall take reasonable measures to prevent or limit damage or nuisance.

The competent authority under the Act may order the person responsible to carry out such measures as are mentioned in the first paragraph within a fixed time limit. When it can be done without particular inconvenience to the person responsible, the authority may order that the person to restore biological, geological or landscape diversity to its former state.

*Section 71 (direct implementation)*

If the person responsible fails to comply with an order containing such requirements as are mentioned in section 69, first paragraph, or section 70, second paragraph, the competent authority under the Act may take steps to ensure that the measures are carried out. The competent authority under the Act may also ensure that the measures are carried out if they are urgently needed in the interests of biological, geological or landscape diversity, or if the identity of the person responsible cannot be established.

Expenses relating to measures carried out under the first paragraph may be claimed from the person responsible. The claim is enforceable by execution proceedings.

*Section 72 (use of another person's property in connection with the implementation of measures)*

If necessary for the implementation of measures under sections 69, 70 or 71, use may be made of the property of the person responsible or, if necessary, the real property of another person.

If use is made of another person's real property under the first paragraph, the person concerned shall receive compensation from the person responsible for any loss caused by damage or inconvenience. The state will act as guarantor for the amount.

If it is necessary to implement management measures under section 47, the competent authorities under the Act may make use of motor vehicles on real property that is not part of the protected area.

*Section 73 (coercive fine)*

To ensure compliance with provisions laid down in or under this Act, the competent authority under the Act may make a decision to impose a coercive fine.

A coercive fine may be imposed when it is discovered that a provision has been contravened. The coercive fine shall become effective if the person responsible fails to meet the time limit fixed by the competent authority under the Act for remedying the situation. A coercive fine may be imposed in advance if this is warranted for particular reasons, in which case it shall become effective from the time a contravention commences. It may be determined that the coercive fine shall remain payable for as long as the unlawful situation persists, or that it shall be payable each time a contravention occurs. However, a coercive fine shall not remain payable if compliance is impossible owing to circumstances for which the person responsible is not to blame. A coercive fine may be imposed as a daily fine or as a lump-sum fine.

The coercive fine shall be imposed on the person responsible for the contravention. If the contravention has occurred on behalf of a company or other association, a foundation, or a public body, the coercive fine shall normally be imposed on the entity concerned. If a coercive fine has been imposed on a company that is part of a group of companies, accrued amounts thereof may also be recovered from the parent company.

The Ministry may waive accrued amounts of a coercive fine. Such a decision is not considered to be an individual decision under the Public Administration Act.

#### Section 74 (*environmental compensation*)

Any person that contravenes provisions laid down in or under this Act or provisions that serve to implement objectives and principles set out in the Act shall, if so ordered by the competent authority under the Act, pay environmental compensation to the state.

The decision as to whether an order shall be made and the determination of the amount of environmental compensation will take place after an overall assessment of the importance of the environmental assets concerned, the possible extent and duration of the environmental damage, sanctions imposed on the offender and any other circumstances. The King may make regulations regarding summary fines in lieu of prosecution in accordance with a fixed scale for specific contraventions.

An order to pay environmental compensation is regarded as an individual decision under the Public Administration Act.

An order to pay environmental compensation is enforceable by execution proceedings. Liability to pay compensation may also be the subject of criminal proceedings. If the compensation claim is brought before a court in a criminal case, civil action or complaint against execution proceedings, the court may conduct a full trial of the compensation claim. Notification of an order to pay compensation shall include information about the provisions laid down in this paragraph.

The Ministry may waive a claim for environmental compensation. Such a decision is not regarded as an individual decision under the Public Administration Act.

No order shall be made to pay environmental compensation under this Act if an order is made to pay compensation under the Gene Technology Act or the Pollution Control Act.

The fact that a person is ordered to pay environmental compensation does not preclude the imposition of sanctions such as a contravention charge.

#### Section 75 (*penal measures*)

Any person that wilfully or negligently contravenes the provisions laid down in or under sections 15 to 18, sections 20 to 22, section 24, first paragraph (a) and (b), section 25, section 26, section 28, second to fourth paragraphs, sections 29 to 31, sections 34 to 39, sections 45, 54, 55, sections 58 to 61, section 63, second paragraph, first sentence, sections 64 to 69 or an order under section 70 shall be liable to fines or imprisonment for a term not exceeding one year.

Gross contravention of the first paragraph shall be punishable by a fine or imprisonment for a term not exceeding three years. In deciding whether the contravention is gross, particular importance shall be attached to whether it has caused or resulted in a risk of significant damage to biological, geological or landscape diversity, whether such damage must be regarded as irreversible, the degree of fault, and whether the offender has taken any measures to prevent or mitigate the damage.

If a contravention of one or more of the provisions mentioned in the first paragraph at the same time constitutes a contravention of the provisions of another statute, the provisions of this Act relating to penal measures shall only apply to the extent that there is no provision for corresponding penal measures in the statute concerned.

## **Chapter X Final provisions**

### *Section 76 (entry into force)*

This Act applies from the date decided by the King. The King may determine that the Act shall enter into force at different times with respect to different provisions or different groups of organisms.

### *Section 77 (transitional provisions)*

Decisions regarding delegation of authority, regulations or individual decisions under provisions that are repealed or amended by this Act remain in force until otherwise decided by the King. Section 48 also applies to earlier protection decisions. In the case of the owner of or a rightsholder in an area that has been protected as a national park or a protected landscape and where the ordinary time limit for lodging claims for compensation had not expired on 1 January 2002, the question of compensation is regulated by sections 50 and 51 of this Act. The King may make regulations containing transitional provisions for adaptation from earlier legislation to this Act.

### *Section 78 (amendments to other Acts)*

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