

## **Act relating to food production and food safety, etc. (Food Act)**

Cf. earlier Acts of 28 May 1959 No. 12 (quality control of fish and fishery products), 6 April 1962 No. 3 (wild oats (*Avena fatua*)), 8 June 1962 No. 4 (animal health), 5 April 1963 No. 9 (pesticides), 6 May 1970 No. 25 (prohibition against picking unripe cloudberries), 4 December 1970 No. 82 (seeds, etc), 4 December 1970 No. 83 (trade in fertilisers and soil improvers, etc), 23 March 1973 No. 18 (inspection of feedingstuffs), 17 March 1978 No. 6 (coordinated food control), 10 January 1997 No. 9 (meat production), 13 June 1997 No. 54 (diseases in fish and other aquatic animals) and 23 June 2000 No. 53 (plant health).

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

#### **§ 1. Purpose**

The purpose of this Act is to ensure safe and wholesome food, to promote health, quality and consumer concerns along the whole production chain, and to provide for sustainable production.

The Act is also intended to promote sound plant and animal health.

Furthermore, the Act is intended to take into account the interests of operators throughout the production chain, including market access abroad.

#### **§ 2. Substantive scope**

This Act applies to all factors pertaining to the production, processing and distribution of intermediate inputs at the level of primary production and of food, including drinking water. The Act also applies to all factors pertaining to the production of materials and articles that are intended to come into contact with or that may have an effect on intermediate inputs and food. Furthermore, the Act applies to all use of intermediate inputs.

The Act applies to all factors pertaining to plant and animal health, including products, articles and organisms that may spread infection.

#### **§ 3. Geographical scope**

The Act applies to Norwegian land territory, the territorial sea, Norwegian aircraft and vessels and installations on the Norwegian continental shelf. The King may lay down further regulations on the application of the Act, including its application to ships registered abroad if they call at Norwegian ports as part of a regular service.

The King may lay down regulations on the application of the Act in Svalbard, Jan Mayen, the Norwegian dependencies, the Economic Zone of Norway, the fisheries zone around Jan Mayen and the fisheries protection zone around Svalbard. The King may lay down special provisions to take account of local circumstances.

#### **§ 4. Definitions**

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

1. “enterprise”: any private or public-sector business undertaking or private individual engaged in any of the activities mentioned in section 2, first paragraph, except for activities for private and non-commercial purposes.
2. “placing on the market”: possession of products with a view to sale, offering them for sale, distribution, and the actual sale of products and any other form of transfer, whether or not payment is involved.

## **Chapter II. General requirements and obligations**

### **§ 5. *Duty to ensure compliance, systematic control measures***

An enterprise shall ensure compliance with relevant provisions laid down in or pursuant to this Act. The King may lay down regulations prescribing which persons in an enterprise have responsibilities in this connection and on the duty to provide the supervisory authority with notification of this.

The King may lay down regulations relating to the duty to establish and carry out systematic control measures.

### **§ 6. *Risk prevention, notification and implementation of measures***

If there is reason to suspect that food may be injurious to health or that intermediate inputs at the level of primary production may be injurious to health or harmful to the environment, the enterprise shall immediately notify the supervisory authority.

An enterprise or any other person has a corresponding duty to provide notification if there is reason to suspect the presence of a transmissible animal disease that may have substantial social impacts. If there is reason to suspect the presence of plant pests that may have substantial social impacts, both enterprises and owners and users of real property have a duty to provide notification.

An enterprise shall immediately initiate any necessary measures to prevent, reduce or eliminate any harmful effects; these include stopping sales of products and initiating their withdrawal from the market.

The King may lay down further regulations on risk prevention, notification and the implementation of measures, including the provision of information to the general public.

Similarly, the King may lay down regulations on the prevention of dishonesty, notification and implementation of measures, including the provision of information to the general public.

### **§ 7. *Establishment, design and operations***

Enterprises shall ensure that the location, design and operation of activities meet appropriate hygienic standards.

The King may by regulations lay down further requirements relating to establishment,

location, design and to operations in enterprises, including requirements relating to notification, registration, approval and lapse of approval.

The King may by regulations lay down requirements relating to suppliers of services to enterprises such as are mentioned in the first paragraph, including requirements relating to approval.

The King may by regulations prohibit any conduct that may represent a risk of pollution in the water supply system or on-site distribution network.

#### **§ 8.** *Training and qualifications*

Enterprises shall ensure that any person who takes part in activities to which this Act applies has the necessary qualifications.

The King may lay down further regulations relating to training and qualifications, including the authorisation of personnel.

#### **§ 9.** *Product approval, constituents, composition and quality*

The King may by regulations lay down requirements relating to intermediate inputs at the level of primary production, plants, animals, food, animal by-products and materials and articles that are intended to come into contact with or that may have an effect on intermediate inputs or food, including requirements relating to approval, constituents and quality, etc.

The King may lay down regulations limiting the content of or prohibiting the presence of genetically modified organisms or genes from genetically modified organisms, or of products derived from certain genetically modified organisms.

#### **§ 10.** *Labelling, presentation and advertising*

Enterprises shall ensure that labelling, presentation, advertising and marketing are correct, give the recipient adequate information and are not misleading.

The Ministry may lay down further regulations on labelling, presentation and advertising, including regulations prohibiting marketing that is undesirable on health grounds and regulations relating to voluntary labelling schemes.

#### **§ 11.** *Traceability*

The King may lay down regulations relating to the traceability of intermediate inputs at the level of primary production, plants, animals or food, and on the traceability of materials and articles that are intended to come into contact with or that may have an effect on intermediate inputs or food.

#### **§ 12.** *Prohibition against hunting, harvesting, marketing, etc.*

The King may by regulations lay down:

- a) prohibitions against hunting and harvesting,
- b) prohibitions against or restrictions on the marketing and use of goods to which this Act applies,
- c) requirements relating to or prohibitions against import and export, etc.,

in order to fulfil the purpose of this Act or meet Norway's international obligations.

**§ 13.** *Access to premises, duty to provide assistance, sampling, etc.*

An enterprise shall give the supervisory authority unimpeded access to any place or premises where activities are carried out that come within the scope of this Act, so that the said authority can make any necessary investigations. Inspectors from other countries may take part in inspections, etc., when this is necessary in order to meet Norway's international obligations.

An enterprise shall make the necessary premises, fittings, labour and equipment available free of charge for inspection activities, and otherwise provide assistance and make the necessary arrangements for such activities.

An enterprise shall at the request of the supervisory authority provide the necessary samples or results of analyses free of charge.

Any person has duties corresponding to those of enterprises pursuant to the first to third paragraphs if there is just cause to suspect the presence of a transmissible animal disease or plant pest and that may have substantial social impacts, or if this is necessary to meet Norway's international obligations.

In special cases, the supervisory authority may order slaughterhouses and facilities that handle animal by-products to make their facilities, equipment and labour available to carry out certain tasks.

The King may lay down further regulations relating to access to premises, the duty to provide assistance, sampling, etc.

**§ 14.** *Duty to provide information and reports*

If the supervisory authority so requires, an enterprise shall make available or submit any necessary information and samples. The same applies to any person who is in possession of animals, plants or other articles or organisms that may spread infection. The supervisory authority may determine how the information is to be provided, including the form in which it is to be provided, the level of detail, etc.

Any person may be ordered to produce or submit information and samples if this is necessary in connection with the control of imports or for transmissible disease surveillance.

The King may lay down further regulations relating to the duty to provide information and reports and on the duty to make public the results of inspection activities.

**§ 15.** *Documentation, etc.*

The King may lay down regulations relating to documentation, including requirements to prepare documentation, the duty to obtain and keep documentation, and the duty to enclose certificates or other documentation with products that are transported or placed on the market.

### **Chapter III. Specific requirements and obligations**

#### **§ 16. *Food safety***

It is prohibited to place on the market any food that is unsafe. Food shall be deemed to be unsafe if it is considered to be injurious to health or unfit for human consumption.

The King may lay down further regulations relating to the circumstances under which food is deemed to be unsafe.

#### **§ 17. *Safety of intermediate inputs***

It is prohibited to place feed on the market or give feed to animals that may be used for human consumption if the feed is unsafe. Feed shall be deemed to be unsafe if it is considered to be injurious to human or animal health or makes food from animals unfit for human consumption.

The King may lay down further regulations relating to when feed is deemed to be unsafe, and laying down requirements relating to the safety of other intermediate inputs at the level of primary production.

#### **§ 18. *Plant health***

Any person shall exercise due care to avoid any risk of the development or spread of plant pests.

Plants shall not be placed on the market or moved if there is reason to suspect the presence of plant pests and that may have substantial social impacts.

The King may lay down further regulations relating to the prevention, monitoring and control of plant pests, including the following:

- a) classification and categorisation of plant pests,
- b) the establishment of zones,
- c) requirements relating to plants, articles, products and organisms that may represent a risk of the spread of plant pests, and
- d) the duty to provide information on restrictions introduced in relation to plant pests, including the duty to judicially register any restrictions in respect of the property in question.

#### **§ 19. *Animal health***

Any person shall exercise due care to avoid any risk of the development or spread of transmissible animal diseases.

Live animals shall not be placed on the market, brought into a holding, moved or released if there is reason to suspect the presence of a serious transmissible animal disease that may have substantial social impacts.

The King may lay down further regulations relating to the prevention, monitoring and control of animal diseases and pathogenic agents, including the following:

- a) classification and categorisation of animal diseases and pathogenic agents,
- b) the establishment of zones of different health or disease status and epidemiologically separate regions,
- c) approval and use of vaccines and other drug therapy for animals,
- d) the movement, transport, placing on the market and use of live and dead animals, animal by-products, objects, etc.,
- e) control of breeding animals, extraction of semen, ova and embryos, and reproduction of animals, and
- f) restrictions on access for persons who may carry infection to buildings used for animals, feedstuffs or equipment for animals, and the duty to permit disinfection of themselves and articles they have with them.

#### **§ 20.** *Food and animal welfare*

The King may lay down regulations preventing the production, processing, import and placing on the market of intermediate inputs at the level of primary production or food from animals or parts of animals that have been treated in a way that is unacceptable with respect to animal welfare.

### **Chapter IV. Taxes, fees, compensation, etc.**

#### **§ 21.** *Taxes and fees*

The King may by regulations require enterprises to pay fees to cover costs relating to inspection, control and special services, such as issuing certificates and approval of products, under this Act.

The King may by regulations require enterprises to pay a tax on foodstuffs to cover costs relating to inspection and control pursuant to this Act that are not covered by the fees mentioned in the first paragraph.

The King may by regulations require producers and importers to pay an environmental tax on plant protection products.

The King may by regulations require that persons that place on the market seeds, plants or parts of plants shall pay a tax to be used for the promotion of plant breeding and the administration and control required by this activity.

The King may lay down further provisions on the calculation, collection and payment of the said taxes and fees.

Should taxes or fees not be paid within the time stipulated, interest is to be paid according to the provisions of the Act of 17 December 1976 No. 100 relating to interest on overdue payments.

Taxes or fees outstanding are enforceable by execution proceedings.

**§ 22.** *Compensation for measures imposed by order to combat plant and animal diseases, pathogenic agents and plant pests*

An owner shall be paid compensation for livestock that are killed by order, cf. section 23, that die before such an order is given, or that die as a result of treatment imposed by order. For compensation to be payable, it is a condition that the disease, expenses or losses did not arise through the wilful or grossly negligent conduct of the owner or another person who is responsible for the animals, etc., and that the said person has complied with the duty to provide notification, cf section 6, and with decisions laid down in or made pursuant to this Act. No compensation is payable for dogs, cats and other pets.

If the owner is entitled to compensation pursuant to the first paragraph, compensation shall also be paid for necessary expenses in connection with killing, burying or destroying animals; treatment, cleaning and disinfection by order; and losses incurred as a result of the destruction of premises, fittings, feedstuffs, equipment and fertiliser by order.

The King may lay down regulations on compensation for other losses or expenses incurred in connection with measures that are imposed by order to combat animal diseases and pathogenic agents, for measures imposed by order to combat plant pests, and on the determination, scope and assessment of compensation pursuant to this section.

**Chapter V. Administrative provisions, sanctions and penal measures**

**§ 23.** *Activities and decisions of the supervisory authority*

The Norwegian Food Safety Authority at central, regional or district level will be responsible for ensuring compliance with and may make the necessary decisions to ensure implementation of the provisions laid down in or pursuant to this Act: this includes the prohibition of imports, exports and marketing, and orders on withdrawal from the market, isolation, killing, destruction, rejection, restrictions, labelling or special treatment. The King may delegate authority to other public or private bodies and lay down provisions on which body is the appeals instance in such cases.

In the event of non-compliance with such orders, if it is not known who is responsible or if it is necessary to ensure that measures are implemented quickly, the supervisory authority may itself implement such measures as are mentioned in the first paragraph. These measures may be carried out at the expense of the person responsible. Amounts outstanding are enforceable by execution proceedings.

The Norwegian Food Safety Authority may, in the interests of meeting Norway's international obligations, lay down, amend or repeal regulations that apply for a

limited period of time without a prior consultation process, and may publish such regulations according to special procedures.

The public authorities have a duty to provide necessary information to the supervisory authority on request, notwithstanding their duty of confidentiality. The police, the customs authorities, the coastguard and the municipal authorities shall on request assist the supervisory authority.

#### **§ 24.** *Special cleansing and disinfection procedures*

Orders may be issued to cleanse, disinfect or destroy, etc., property, buildings or fittings where it is suspected that there are pathogenic agents or plant pests. Restrictions may also be imposed on the use of such property, buildings or fittings.

In cases where this is necessary to avoid transmission of a disease, orders may also be issued to bury dead animals or infected material on the owner's property, or in special cases on another person's property, if this can be done without substantial inconvenience to the owner or user of the property. In the case of burial on another person's property, compensation is payable pursuant to section 22.

Section 23, second paragraph, applies correspondingly.

#### **§ 25.** *Closure of premises*

If circumstances have arisen or may arise that may represent a risk that food will be injurious to health, a risk to the health of animals or plants or a risk of environmental damage, an enterprise may be required to close down one or more activities. The same applies if an enterprise is operating without the necessary approval.

An enterprise that fails to comply with important orders or grossly contravenes provisions laid down in or pursuant to this Act may be ordered to close down one or more activities for a further specified period of up to six months.

In the event of non-compliance with an order to close down activities, if it is not known who is responsible or if it is necessary to ensure that measures are implemented quickly, the supervisory authority may itself take steps to close down activities. Closure may be implemented at the expense of the person responsible. Amounts outstanding are enforceable by execution proceedings.

#### **§ 26.** *Coercive fines*

If an enterprise fails to comply with an individual decision within a fixed time limit, a coercive fine may be imposed in the form of a lump-sum fine or a continuous daily fine. The amount of the coercive fine to be paid is set taking into account how important it is to ensure compliance with the order and the expected costs of this.

A coercive fine may be imposed when the order is issued if this is necessary to ensure that the deadline is met.

An order to pay a coercive fine is enforceable by execution proceedings. The supervisory authority may waive a coercive fine that has accrued.

The King may lay down further provisions on imposing and calculating coercive fines.

#### **§ 27.** *Information to the general public*

If there is reason to suspect that a risk to human or animal health may arise in connection with the intake of food or feedstuffs, the supervisory authority shall on its own initiative give the general public any relevant information it possesses.

The supervisory authority may also provide the general public with relevant information if consumer interests or other considerations of the public interest so indicate.

The King may lay down regulations relating to the provision of information to the general public.

#### **§ 28.** *Penal measures*

Any person who wilfully or through gross negligence contravenes provisions or decisions laid down in or pursuant to this Act, or decisions taken pursuant to the Act, is liable to fines or to a term of imprisonment not exceeding one year or both, unless more severe penal provisions apply. Complicity or an attempt is liable to the same penalties. If there are particularly aggravating circumstances, a term of imprisonment not exceeding two years may be imposed.

The King may by regulations decide that a fine, issued on the spot or subsequently, for specified contraventions of this Act may be in the form of a simplified writ giving the option of a fine according to a fixed scale. In such writs, the penal provision and offence may be designated by key words or in a similar manner.

If a simplified writ giving the option of a fine that is issued on the spot is not accepted immediately, this option ceases to apply. If the person charged is under the age of 18, a short time limit may be granted for acceptance of the option of a fine. For writs that are not issued on the spot, section 256, item 5, of the Criminal Procedure Act applies correspondingly. If such writs are not accepted within the time limit, the option of a fine ceases to apply. The King may lay down further regulations relating to procedure for writs that are not issued on the spot.

The prosecuting authority may cancel an accepted writ in favour of the person named therein.

A police officer who does not otherwise have the authority to issue writs giving the option of a fine may be given the authority to issue simplified writs.

The King will lay down further provisions relating to the use of simplified writs giving the option of a fine pursuant to this section, and will lay down a scale of fines

and alternative prison sentences for the offences to which these arrangements are to apply.

## **Chapter VI. Other provisions**

### **§ 29. *Establishment of registers of information***

The supervisory authority may establish registers of information or links to such registers if this is necessary for the purpose of the Act with respect to international agreements that Norway has entered into. Such registers may not contain personal data that is sensitive pursuant to item 8, section 2, of the Act of 14 April 2000 No. 31 relating to the processing of personal data without the consent of the data subject.

### **§ 30. *Protection of product designations***

The King may by regulations lay down provisions relating to the protection and use of product designations and trade names, provisions on compensation in the event of misuse of such designations, and special rules of procedure relating to such regulations.

The King may in this connection by regulations also restrict registration rights pursuant to the Trademarks Act of 3 March 1961 No. 4, the Act of 3 March 1961 No. 5 relating to collective marks, the Act of 21 June 1985 No. 79 relating to the Exclusive Right to Business Names and other Business Distinguishing Characteristics etc., the Act of 12 March 1993 No. 32 on plant breeders' rights, the Act of 7 June 2002 No. 19 relating to personal names and the Designs Act of 14 March 2003 No. 15, and delimit rights set out in or pursuant to these Acts, provided that no objections have been received to giving a designation protection in accordance with regulations laid down pursuant to this Act.

### **§ 31. *Reimbursement of expenses***

The King may lay down regulations relating to the reimbursement of expenses to simplify compliance with the requirements and obligations set out in the Food Act in primary production.

### **§ 32. *Exemptions***

The supervisory authority may in special cases grant exemptions from provisions laid down in or pursuant to Chapters 2 and 3 of this Act provided that this is not in conflict with Norway's obligations under international law, including the EEA Agreement.

### **§ 33. *Implementing and supplementing the Act***

The King may lay down any regulations that are necessary to supplement and ensure the implementation of this Act.

The King may lay down any regulations that are necessary to fulfil Norway's obligations under the EEA Agreement, including provisions laying down that in the event of a conflict, such regulations shall take precedence over this Act.

## **Chapter VII. Entry into force and transitional provisions**

### **§ 34. *Repeal of other acts***

The following acts shall be repealed:

1. Act of 28 May 1959 No. 12 relating to quality control of fish and fishery products, etc
2. Act of 6 April 1962 No. 3 relating to wild oats (*Avena fatua*)
3. Act of 8 June 1962 No. 4 relating to animal health
4. Act of 5 April 1963 No. 9 relating to pesticides
5. Act of 6 May 1970 No. 25 relating to a prohibition against picking unripe cloudberries
6. Act of 4 December 1970 No. 82 on seeds, etc
7. Act of 4 December 1970 No. 83 relating to trade in fertilisers and soil improvers, etc.
8. Act of 23 March 1973 No. 18 relating to the inspection of feedingstuffs
9. Act of 17 March 1978 No. 6 relating to coordinated food control
10. Act of 10 January 1997 No. 9 relating to meat production
11. Act of 13. June 1997 No. 54 Act relating to measures to counteract diseases in fish and other aquatic animals
12. Act of 23. June 2000 No. 53 relating to plant health

### **§ 35. *Other amendments***

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### **§ 36. *Entry into force and transitional provisions***

This Act enters into force on 1 January 2004.

Regulations or individual decisions laid down in or pursuant to provisions that are repealed or amended pursuant to sections 34 and 35 will continue to apply until they are repealed.