

# **Act relating to the management of wild living marine resources (Marine Resources Act)**

## **Chapter 1 Introductory provisions**

### *Section 1 Purpose*

The purpose of this Act is to ensure sustainable and economically profitable management of wild living marine resources and genetic material derived from them, and to promote employment and settlement in coastal communities.

### *Section 2 Rights to resources*

Wild living marine resources belong to Norwegian society as a whole.

### *Section 3 Substantive scope*

This Act applies to all harvesting and other utilisation of wild living marine resources and genetic material derived from them. Wild living marine resources means fish, marine mammals that spend part or all of their life cycle in the sea, plants and other marine organisms that live in the sea or on or under the seabed and that are not privately owned. Nevertheless, the Act does not apply to harvesting and other forms of utilisation of anadromous salmonids as defined in section 5 (a) of the Act of 15 May 1992 No. 47 relating to salmonids and freshwater fish, etc.

To ensure that harvesting and other forms of utilisation take place in accordance with provisions laid down in or under this Act, the Act also applies to other activities in connection with harvesting and other utilisation of catches, such as transshipment, delivery, landing, receipt, storage, production and placing on the market.

The provisions of Chapter 5, cf. Chapters 11 and 12, also apply to activities other than those mentioned above if they have an impact on harvesting and other forms of utilisation of wild living marine resources and genetic material derived from them.

### *Section 4 Territorial extent*

This Act applies on board Norwegian vessels, within Norwegian land territory with the exception of Jan Mayen and Svalbard, in the Norwegian territorial sea and internal waters, on the Norwegian continental shelf, and in the areas established under sections 1 and 5 of the Act of 17 December 1976 No. 91 relating to the Economic Zone of Norway.

The King may prescribe that all or part of the Act is to apply to Norwegian land territory on Jan Mayen, Svalbard, Bouvet Island, Peter I's Island and Dronning Maud Land.

Outside the areas mentioned in the first and second paragraphs, the Act applies to Norwegian legal persons in so far as this is not in conflict with the jurisdiction of another state, and for those persons to whom section 5, second paragraph, applies.

### *Section 5 Personal scope*

This Act applies to all persons within the area covered by its geographical scope. Nevertheless, in the areas established under sections 1 and 5 of the Act of 17 December 1976 No. 91 relating to the Economic Zone of Norway, regulations under the present Act apply to foreign natural and legal persons only if this is laid down in the said regulations.

The Act applies to foreign natural and legal persons in areas outside the jurisdiction of any state if this follows from an international agreement. In such areas, the Act also applies to stateless vessels and for vessels that are assimilated to vessels without nationality.

### Section 6 *Relationship to international law*

This Act applies subject to any restrictions deriving from international agreements and international law otherwise.

### Section 7 *Principle for management of wild living marine resources and fundamental considerations*

The Ministry shall evaluate which types of management measures are necessary to ensure sustainable management of wild living marine resources.

Importance shall be attached to the following in the management of wild living marine resources and genetic material derived from them:

- a) a precautionary approach, in accordance with international agreements and guidelines,
- b) an ecosystem approach that takes into account habitats and biodiversity,
- c) effective control of harvesting and other forms of utilisation of resources,
- d) appropriate allocation of resources, which among other things can help to ensure employment and maintain settlement in coastal communities,
- e) optimal utilisation of resources, adapted to marine value creation, markets and industries,
- f) ensuring that harvesting methods and the way gear is used take into account the need to reduce possible negative impacts on living marine resources,
- g) ensuring that management measures help to maintain the material basis for Sami culture.

### Section 8 *Council for Regulatory Advice*

The Ministry may appoint a Council for Regulatory Advice that can give its opinion before regulations are made under this Act. The Ministry may adopt regulations on the composition of the Council and its tasks. The Council shall include representatives of organisations for the parties that normally have an interest in such cases.

If the Council has given an opinion on regulations made under sections 11–13 or 16, consultation under the provisions of section 37 of the Act of 10 February 1967 concerning Procedure in Cases relating to the Public Administration (the Public Administration Act) is not necessary.

## **Chapter 2 Marine bioprospecting**

### Section 9 *The conduct of marine bioprospecting*

The King may prescribe that harvesting and investigations in the sea in connection with marine bioprospecting require a permit from the Ministry.

The provisions of this Act apply to marine bioprospecting in so far as they are appropriate.

The King may adopt regulations on marine bioprospecting; these may among other things grant exemptions from provisions made in or under the Act, prescribe the types of information applications shall include, and set out further rules on the types of conditions that may be laid down.

### Section 10 *Benefits arising out of the use of marine genetic material*

A permit issued under section 9 may lay down that a proportion of the benefits arising out of the use of Norwegian marine genetic material shall accrue to the state.

A permit issued under section 9 may lay down that genetic material and the results of bioprospecting activities may not be sold or communicated to others without the consent of and, if required, payment to the state.

The King may prescribe that if marine bioprospecting or the use of genetic material has taken place without a permit being issued under section 9, a proportion of the benefits such as are mentioned in the first paragraph shall accrue to the state.

### **Chapter 3 Catch quantities and quotas**

#### *Section 11 National quotas, group quotas and district quotas*

The Ministry may prescribe the maximum permitted quantities (national quotas) of wild living marine resources that may be harvested, expressed in terms of weight, volume, number of individuals, the number of days harvesting is permitted, or in other terms. A national quota shall be determined for a specific period of time. When a national quota has been determined, the total quantity of group quotas, research and training quotas and other quotas issued may not exceed the national quota.

The Ministry may prescribe the maximum permitted harvest for each vessel group, gear group or other defined group (group quota). A group quota shall be determined for a specific period of time.

The Ministry may prescribe that part of the national quota or part of the group quota for one or more vessel groups shall be delivered for processing at onshore facilities in particular districts (district quotas). The Ministry may adopt regulations on the allocation of district quotas and conditions for utilising them.

The Ministry may prescribe that part of the national quota or part of a group quota for one or more vessel groups shall be delivered for a specific use or in a particular condition.

Provided that a vessel group is granted reasonable overall fishing opportunities, the Ministry may prescribe restrictions on catches for the vessel group or prescribe that vessels belonging to the group may not participate in certain fisheries.

#### *Section 12 Vessel quotas*

The Ministry may by regulations prescribe quotas for individual vessels expressed in terms of weight, volume, number of individuals, the number of days harvesting is permitted, or in other terms. Such quotas may be prescribed for a specific period of time or per trip, or for a stock or jointly for several stocks.

If an activity is governed by the Act of 26 March 1999 No. 15 relating to the right to participate in fishing and hunting, a vessel quota may only be taken using a vessel for which a commercial permit has been issued, and that may be used for the activity in question under the provisions of the Act relating to the right to participate in fishing and hunting.

If an activity is not governed by the Act relating to the right to participate in fishing and hunting, a quota may be allocated to a natural or legal person. Such allocations may be made conditional on registration in a separate register. The Ministry may adopt further provisions on the register.

#### *Section 13 Quotas for research, monitoring, training and practical testing of gear*

Quotas may be allocated to

- a) research institutions,

- b) any person that is issued with a permit for practical testing in connection with the development of gear, catch methods, etc. under section 66,
- c) monitoring of fishing grounds,
- d) officially approved educational institutions.

Natural or legal persons harvesting from quotas such as are mentioned in the first paragraph may use their own vessels, or hired vessels for which commercial permits have been issued if the activities in question would otherwise be governed by the Act relating to the right to participate in fishing and hunting.

Restrictions on the use of gear for vessels that are not registered in the register of fishing vessels, cf section 22, do not apply to harvesting under this provision.

#### Section 14 *Special quota arrangements*

As a means of adjusting the catch capacity of the fishing fleet to the resource base, the Ministry may by regulations adopt rules providing for higher quotas for individual vessels when other vessels are permanently or temporarily withdrawn from harvesting operations. The Ministry may lay down further conditions for the allocation of higher quotas.

### **Chapter 4 The conduct of harvesting operations and other utilisation of wild living marine resources**

#### Section 15 *Duty to land catches*

All catches of fish shall be landed. The Ministry may by regulations grant exemptions from the duty to land catches and may also prohibit discarding of biological waste.

The Ministry may by regulations lay down a duty to land bycatches of other marine organisms, including plants, marine mammals and seabirds, or a duty to provide reports on such bycatches.

#### Section 16 *The conduct of harvesting operations*

All harvesting and other utilisation of wild living marine resources shall be carried out as in such a way as to minimise impact.

The Ministry may adopt regulations on the conduct of harvesting operations, including provisions on the following:

- a) the periods when harvesting is permitted and times for departure from port,
- b) the number of vessels from different vessel groups that may harvest at the same time in an area,
- c) prohibition of harvesting in certain areas, of certain species or using certain types of gear,
- d) the design, marking, use and tending of gear and other devices used in connection with harvesting,
- e) the maximum or minimum permitted sizes of individual organisms, and requirements for part or all of the harvest to consist only of males or females,
- f) permitted bycatches,
- g) the design and use of harvesting gear to reduce damage to species other than the target species.

#### Section 17 *Loss of gear*

Any person that loses gear or cuts it adrift has a duty to search for the gear. The Ministry may grant exemptions from the duty to search for gear.

The Ministry may adopt regulations relating to reports of gear that is lost or found, including information on what gear was lost and where.

#### Section 18 *Prohibition of the use of explosives, etc.*

It is prohibited to use explosives, firearms or poison in harvesting operations.

The prohibition of the use of explosives and firearms does not apply to the harvesting of marine mammals and large cartilaginous fish. The Ministry may adopt further rules to ensure that the methods used for killing marine mammals and large cartilaginous fish are acceptable.

#### Section 19 *Marine protected areas*

The King may establish marine protected areas where harvesting and other forms of use of wild living marine resources is prohibited. Exemptions may be granted for harvesting activities and other forms of use that will not be in conflict with the purpose of protecting the area.

#### Section 20 *Prohibition on harvesting with trawls and other types of gear in certain areas*

It is prohibited to harvest using trawls inside the territorial limit around the Norwegian mainland, except when trawling for kelp, shrimps or Norway lobster. The Ministry may by regulations grant exemptions from the prohibition set out in the first sentence for certain areas, certain periods of time, harvesting with specific types of trawling gear or harvesting of particular species, and may determine what is to be considered as a trawl under to this section.

The Ministry may by regulations prohibit harvesting using other vessel or gear groups inside the baselines, inside lines drawn at a certain distance from the baselines or within specified positions.

#### Section 21 *Prohibition on harvesting in areas that are affected by pollution*

The Ministry may prohibit or limit harvesting in areas and of species that may be affected by pollution.

#### Section 22 *Angling and recreational fishing*

When harvesting using vessels that are not registered in the register of fishing vessels or from land, no other gear than the following may be used:

- a) handline, fishing rod and similar hand gear,
- b) one mechanised pole-line,
- c) drift nets with a total length of up to 210 metres,
- d) longlines with up to 300 hooks,
- e) up to 20 traps.

These restrictions on the use of gear also apply when several vessels are being used by the same person or persons.

The Ministry may by regulations grant exemptions from the provisions of the first paragraph for the use of beach seines.

The Ministry may by regulations lay down restrictions on catch quantities, stricter restrictions on the gear that may be used, or prohibitions on harvesting in specified areas, if this is necessary for the purpose of resource management.

The stricter restrictions on allowable gear set out in section 3 of the Act of 17 June 1966 No. 19 relating to a prohibition against fishing, etc., by foreign nationals in Norway's territorial waters apply to any person who is not a Norwegian national or assimilated to a Norwegian national under section 2 of the said Act.

The Ministry may by regulations require selected persons who engage in angling or recreational fishing to provide the authorities with information on their activities for statistical purposes. Similar requirements may also be made applicable to persons that own or operate facilities from which such activities are conducted.

Other provisions made in or under this Act apply in so far as they are appropriate.

#### *Section 23 Limit for sales of catches from angling and recreational fishing*

A natural or legal person may not sell catches taken with vessels that are not registered in the register of fishing vessels, or from land, for an amount per year exceeding that prescribed in section 28, first paragraph, first sentence, of the Act of 19 June 1969 No. 66 relating to value-added tax. This limit applies even if several natural or legal persons sell catches that have been taken using the same vessel. The owner of a vessel that is registered in the register of fishing vessels may nevertheless not sell catches such as are mentioned above of fish species for which he has been allocated a quota under section 12.

The Ministry may by regulations grant exemptions from the provisions of the first paragraph for sales of catches taken with beach seines.

The prohibition on sales set out in section 3 of the Act of 17 June 1966 No. 19 relating to a prohibition against fishing, etc., by foreign nationals in Norway's territorial waters applies to any person who is not a Norwegian national or assimilated to a Norwegian national under section 2 of the said Act.

### **Chapter 5 Order on harvesting grounds, compensation, local regulation and committees**

#### *Section 24 Rules on due care*

Any person arriving at harvesting grounds where gear has been set shall acquaint himself with the location of such gear. All persons shall conduct themselves in such a way that fishing gear is not damaged or unnecessarily endangered.

It is prohibited to impede harvesting or spoil harvesting opportunities by means of shooting, noise or other improper conduct.

The Ministry may adopt further provisions on the manoeuvring of vessels and conduct on harvesting grounds.

#### *Section 25 The first cast rule*

The person who first begins to set gear and continues to do so without undue delay has the right to the stretch of water required by the gear or that will be encircled by it.

If two or more vessels begin to set their gear at the same time, they have equal rights.

A vessel that has no gear set shall when requested move if it is hindering others that have begun harvesting operations or are in the process of setting their gear.

#### *Section 26 Trawling and Danish seining*

It is prohibited to fish with trawls or Danish seines at a distance of less than one nautical mile from fishing or hunting gear that is already set, or markers for such gear, or vessels that are engaged in longlining or drift netting.

The Ministry may prescribe that the limit set out in the first paragraph shall be reduced or shall not apply to specific fisheries using trawls or Danish seines.

The provisions of the first paragraph do not apply where a committee system has been established and harvesting grounds have been shared out under section 32.

#### *Section 27 Mooring of net pens*

Any person harvesting with a seine is entitled to moor a net pen to the shore, provided this is done at a reasonable distance from any inhabited house or holiday home that is in use and does not unduly impede or inconvenience others.

It is prohibited to harvest closer than 100 metres or approach closer than 20 metres to a net pen that is moored to shore or otherwise fixed.

The Ministry may adopt regulations concerning towing and mooring of net pens in the sea, including provisions on storing catches and opening net pens to prevent catches from being damaged or their quality impaired, or to prevent them from polluting the surrounding environment or becoming contaminated.

#### *Section 28 Prohibition on leaving objects in the sea*

It is prohibited to dump gear, moorings and other objects in the sea or leave such objects unnecessarily in the sea or on the seabed if they may injure marine organisms, impede harvesting operations, damage harvesting gear or endanger vessels.

Any person that acts in contravention of the prohibition set out in the first paragraph has a duty to clear up or remove the objects in question. The Directorate of Fisheries may order such clearing up or removal.

In the event of failure to comply with orders issued under the second paragraph above, the Directorate of Fisheries may implement any necessary measures at the expense and risk of the party responsible. The costs of such measures are enforceable by execution proceedings.

#### *Section 29 Salvage of gear and catches*

Any person that salvages gear that has drifted away, been lost or been abandoned, including dories and other equipment, shall report this to the owner as soon as possible. The Ministry may adopt regulations on reporting of the salvage of gear that has drifted away, been lost or been abandoned, including on what has been salvaged and where it was found.

Any person that salvages gear is entitled to a reward. The reward shall be fixed in accordance with custom or what is considered to be reasonable. The amount of the reward may not exceed the value of what was salvaged.

A salvaged catch accrues to the salvager. If the value of the catch considerably exceeds the reward payable, the latter may be wholly or partly remitted.

The release of salvaged property may not be required before the reward and costs have been paid. When the reward and costs have been paid, the salvor has a duty to release the property that has been salvaged. The owner has a duty to accept the salvaged property if it is reasonable for the salvor to require this after the salvaged articles have been secured.

The Ministry may adopt regulations on the salvage of gear.

### Section 30 *Liability*

Any person that causes damage to gear set in the sea for the purpose of harvesting has a duty regardless of fault to pay compensation for the damage, including any catch lost and losses resulting from any interruption in harvesting.

Any compensation payable under the first paragraph may be reduced or remitted if the person causing the damage can establish that he was not at fault.

If damage has been done to drifting or fixed gear, fishermen who were using trawls or Danish seines on the fishing ground at the same time have a duty to provide proof that they did not cause the damage. in question.

### Section 31 *Security for claims*

Any person that has a claim to compensation under this Act or ensuing from a collision between harvesting vessels, auxiliary vessels or vessels engaged in transporting catches has a maritime lien on the vessels, gear and catches of the person or persons that caused the damage. The provisions governing maritime liens set out in Chapter 3 of the Norwegian Maritime Code of 24 June 1994 No. 39 apply correspondingly. The claim has equal priority with the claims mentioned in section 51, first paragraph, item 4, of the Maritime Code.

Liens on a catch cease to apply when the catch is sold. Any person that sells a catch without the consent of the claimant is personally liable for the claim. Nevertheless, this liability does not apply to the amount that the said person can demonstrate could not have been covered by the lien.

### Section 32 *Local regulation and committees*

The Ministry may establish districts where the Directorate of Fisheries or a committee appointed by the Directorate of Fisheries may adopt local regulations on

- a) sharing of sea areas and safe distances between different types of gear,
- b) placing and marking of gear,
- c) times for departure from port, etc.,
- d) duty to provide reports and catch reports to the Directorate of Fisheries as a condition for participating in harvesting in such areas.

The Directorate of Fisheries may also adopt local regulations outside such districts.

Local organisations have the right to submit proposals when local regulations are drawn up and when committees are appointed.

### Section 33 *Supervisors*

In a district, the Directorate of Fisheries may appoint supervisors who shall seek by means of advice and warnings to prevent the contravention of provisions set out in or issued under this Act and help to maintain peace and order on harvesting grounds.

## **Chapter 6 Arrangements for control and enforcement**

### Section 34 *Duty to facilitate inspections on board vessels*

To facilitate control and enforcement of provisions made in or under this Act or other legislation relating to marine resources, the Ministry may by regulations issue prohibitions or orders relating to:

- a) carrying on board or using gear,
- b) how gear that is not in use is to be stored,
- c) carrying on board or using equipment that can be used for sorting, grinding, dumping or discarding catches, etc.,
- d) carrying on board and using equipment to monitor and report on the vessel's activities, such as satellite-based monitoring equipment and voyage data recorders,
- e) carrying on board approved drawings of storage compartments and the rest of the vessel,
- f) how catches are to be labelled and stowed, and carrying on board a plan showing how the catch is stowed,
- g) carrying on board and using equipment and documentation to ensure control of the quantity harvested.

#### Section 35 *Duty to obtain information*

The Ministry may adopt regulations on a duty to listen to particular radio frequencies at specific times and on a duty to procure and use other communication equipment in order to receive messages from the authorities.

#### Section 36 *Duty to provide information (catch logbooks, etc.)*

The Ministry may by regulations require the owner or user of a vessel to keep a catch logbook and may adopt further rules on how catch logbooks shall be kept, which kinds of information they shall contain, and on retaining and submitting catch logbooks.

The Ministry may by regulations require the owner or user of a vessel to give other information on the harvesting and processing of catches.

#### Section 37 *Transshipment, changing harvesting area and discontinuing harvesting*

The Ministry may for control and enforcement purposes prohibit or adopt further rules on transshipment, including requirements that any person that transships catches shall report this within specified time limits, and that transshipment may only take place at or within specified positions or in a particular port.

The Ministry may by regulations require any person that starts harvesting operations, changes harvesting area or discontinues harvesting operations to send reports on this within specified time limits and report for control at or within specified positions or in a specific port.

#### Section 38 *Registration as a recipient or first-hand purchaser of catches*

The Ministry may by regulations prescribe that any recipient of catches unloaded or transhipped from a vessel shall be registered with the Directorate of Fisheries as a recipient of catches, and that any first-hand purchaser of catches shall be registered with the Directorate of Fisheries as a purchaser. Conditions may be laid down for such registration.

#### Section 39 *Landing notes and sales notes and prior notification of landing*

The owner or user of a harvesting or transport vessel and the person that receives the catch shall complete a landing note with information on the catch. This applies regardless of whether the catch is transferred to a land-based facility, to another vessel or to storage in the sea.

The owner or user of a harvesting or transport vessel and the first-hand purchaser of the catch shall complete a sales note with information on the catch.

The Ministry may by regulations adopt further rules on the scope of the duties set out in the first and second paragraphs, including how landing and sales notes are to be filled out, the

type of information they are to include, and on retaining and submitting landing and sales notes.

The Ministry may by regulations require those persons mentioned in the first and second paragraphs to send prior notification to the authorities of where, how and when catches are to landed or received, prescribe the type of information on the catch prior notification shall include, and require prior notification to be sent a certain period of time before the catch may be landed.

#### Section 40 *Duty to ensure that information on catches is available*

The Ministry may by regulations prescribe that any person that harvests, receives, transports, stores, processes or places on the market wild living marine resources shall have and use documentation and equipment that ensures control of the quantities received, transported, stored, processed, removed from the storage or production site or placed on the market. The Ministry may also prescribe how wild living marine resources shall be stored.

#### Section 41 *Traceability*

The Ministry may by regulations prescribe that any person that harvests, receives, transports, stores or processes wild living marine resources or places them on the market shall be able to document the information needed to make it possible at all times to trace fish and other resources back to a catch registered on a landing or sales note.

#### Section 42 *Conversion factors*

The Ministry may by regulations lay down conversion factors from processed or landed catches to live weight and between different stages of the production chain.

The owners and users of harvesting vessels and processing plants have a duty to cooperate when the Directorate of Fisheries collects samples for determining conversion factors.

#### Section 43 *Use of electronic equipment and software*

The Ministry may by regulations prescribe that the registration and transfer of information such as is mentioned in this chapter shall be carried out using specified electronic equipment and software.

## **Chapter 7 Control and enforcement**

#### Section 44 *Responsibilities of the Directorate of Fisheries*

The Directorate of Fisheries shall ensure that the persons to whom this Act applies comply with provisions laid down in or under the Act and with other legislation on participation in the harvesting, marketing, production, import and export of wild living marine resources.

#### Section 45 *Cooperation during control activities*

Any person whose activities are inspected in accordance with provisions issued in or under this Act or other legislation such as is mentioned in section 44 shall cooperate with the competent authorities during inspections, among other things by answering calls on the radio or other communication equipment.

#### Section 46 *Inspections*

The Directorate of Fisheries shall be given unimpeded and direct access to vessels when carrying out inspections under section 44. In the same way, the Directorate of Fisheries shall be given access to shipping company offices and onshore facilities and the premises of all others who possess, transport, store, process or in other ways handle wild living marine

resources for commercial purposes, and to places where relevant documents and information are kept. The same also applies to those persons that by regulations are required to provide information under the fifth paragraph of section 22.

The Directorate of Fisheries shall be given unimpeded and direct access to accounts and relevant documents, objects and information at the premises of all those mentioned in the first paragraph.

The person in charge or a representative of the person in charge shall make available and provide relevant objects, relevant and correct information and documents, and authenticate copies of these. Moreover, this person shall permit notes to be made in catch logbooks, delivery records, etc., and sign the inspection report. The person in charge or representative of the person in charge may add comments to the report.

The Directorate of Fisheries may issue orders to stop a vessel or haul in gear, or may itself haul in gear and moorings for gear and stop other activities that are being carried out on board a vessel or on land. Moreover, the Directorate of Fisheries may give orders to stop means of transport. The Directorate of Fisheries may seal gear and facilities for the storage of wild living marine resources, documents, relevant information and objects.

The Directorate of Fisheries may take samples of products, open packaging and take samples of goods, and may among other things thaw frozen products. If the owner of the goods or other persons incur expenses as a result of such investigations, they may not claim to have these expenses refunded.

The police shall provide the Directorate of Fisheries with any assistance and protection needed to conduct inspections.

#### *Section 47 Placing inspectors and observers on board vessels*

Inspectors and observers may be placed on board harvesting vessels. They shall be provided with necessary board and lodging at the vessel's expense, and they shall have use of communication equipment without charge.

The Ministry may adopt regulations relating to:

- a) the duties of an observer,
- b) which vessel groups and how many vessels are to carry an inspector or observer on board, and how these vessels are to be selected,
- c) that the costs of inspection and observation schemes, including wage and transport costs, are to be divided among all participating vessels in a specified vessel group, or in special cases are to be met partly or entirely by individual vessels,
- d) that vessels that have not paid the inspection and observation costs imposed may be refused permission to take part in harvesting operations.

Costs imposed by decisions under the second paragraph, c), are enforceable by execution proceedings.

#### *Section 48 Responsibilities of the sales organisations*

Sales organisations whose statutes have been approved under the Raw Fish Marketing Act of 14 December 1951 No. 3 shall ensure compliance with provisions laid down in or under the present Act. Their control activities shall be restricted to information acquired as a natural result of a sales organisation's activities under the Raw Fish Marketing Act, in particular ensuring that the catches taken and landed are in accordance with provisions laid down in or

under the present Act. The Ministry may order the sales organisations to check information on catches to which their right to first-hand sales does not apply.

When carrying out inspections, a sales organisation may require unimpeded access to harvesting or transport vessels and to offices, storage facilities and production plants belonging to the purchaser or recipient. The same applies when catches are transferred to or from net pens. In this connection, the sales organisation may require unimpeded access to catch logbooks, delivery records, landing and sales notes and accounts. The Ministry may by regulations lay down requirements relating to how sales organisations organise their control activities.

Any person that is inspected has a duty to cooperate during this process.

The Ministry may adopt regulations on conducting inspections such as are mentioned in this section, and on reporting and control routines.

*Section 49 Exchange of information between supervisory authorities, etc.*

Notwithstanding their duty of confidentiality, personnel from the Ministry of Fisheries and Coastal Affairs and the Directorate of Fisheries may provide other supervisory authorities, the police or the prosecuting authority with any information naturally relating to their duties under this Act.

The duty of confidentiality that applies to personnel in other supervisory authorities, the police and prosecuting authority does not prevent them from disclosing such information as is mentioned in the first paragraph to the Ministry of Fisheries and Coastal Affairs or the Directorate of Fisheries.

The King may adopt further regulations relating to the exchange of information under this section.

## **Chapter 8 Measures against illegal, unreported and unregulated fishing**

*Section 50 Prohibition on landing catches*

The Ministry may prohibit landing of wild living marine resources caught by vessels that are not Norwegian, or by vessels that are not under the command of a Norwegian national or a person assimilated to a Norwegian national, if:

- a) the catch is from a fish stock of joint interest to Norway and other states that is not subject to a joint management regime,
- b) the catch has been taken in contravention of a desired harvesting or fishing pattern, will result in a reasonable total allowable catch being exceeded, or is in contravention of international agreements,
- c) the flag state cannot on request confirm that the catch has been taken during fishing activities that are in accordance with a desired harvesting or fishing pattern or that are not in contravention of rules for fishing activities that have been agreed with another country.

*Section 51 Measures targeting persons engaged in or accessory to illegal, unreported and unregulated fishing*

The Ministry may adopt regulations

- a) prohibiting landings, transshipments and processing of catches in Norwegian ports by vessels that are not Norwegian if such vessels have taken part in fishing activities

in serious contravention of a desired harvesting or fishing pattern or in serious contravention of rules for fishing activities that have been agreed with another country,

b) prohibiting landings, transhipments and processing of catches in Norwegian ports by vessels that are not Norwegian, if such vessels are owned or operated by a legal person that has used another vessel to take part in fishing activities in serious contravention of a desired harvesting or fishing pattern or in serious contravention of rules for fishing activities that have been agreed with another country,

c) prohibiting on- and offloading and the provision of port, supply and support services in Norwegian ports to and from vessels that are or become subject to prohibitions under a) or b) above,

d) prohibiting transhipment and the provision of supply and support services in Norway's territorial waters to and from vessels that are or become subject to prohibitions under a) or b) above,

e) prohibiting the provision of supply and support services to and from vessels using a Norwegian vessel or in other ways, if the former are or become subject to prohibitions under a) to d),

f) prohibitions under a) to e) above applying to vessels that are included on lists of vessels that have taken part in illegal, unreported and unregulated fishing activities drawn up by fisheries management organisations.

The King may adopt regulations prohibiting vessels that are not Norwegian, cf section 2 of the Act relating to a prohibition against fishing etc by foreign nationals in Norway's territorial waters, from entering Norwegian internal waters if the requirements for prohibiting landing of catches under section 50 or under the first paragraph, a), b) or f), of this section are satisfied.

#### *Section 52 Prohibition against activities that may undermine management measures*

The Ministry may, in order to combat illegal, unreported and unregulated fishing, prohibit activities that may undermine national management measures or measures taken by international or regional fisheries management organisations.

### **Chapter 9 Catches taken or delivered in contravention of this Act**

#### *Section 53 Prohibition on sales*

It is prohibited to receive or sell catches caught in contravention of provisions set out in or issued under this Act. The Ministry may by regulations lay down a prohibition on receiving or selling catches if provisions laid down in or under sections 40, 41 or 52 have been contravened.

Nevertheless, it is permitted to receive or sell such catches when a decision has been made under section 54, or if the Directorate of Fisheries or sales organisation has consented to this.

#### *Section 54 Catches harvested or delivered in contravention of this Act*

Catches or the value of catches harvested or delivered in contravention of provisions laid down in or under the present Act or the Act relating to the right to participate in fishing and hunting, accrue to the appropriate sales organisation or to the state if the sales organisation's rights to first-hand sales do not apply to the catch. This applies irrespective of whether the case entails liability to a penalty.

The Ministry may by regulations adopt provisions on how such cases are to be dealt with, how the value of the catch is to be determined, whether remuneration may be paid for the

costs of landing catches, and the purposes for which the sales organisation may use the proceeds.

A final decision is enforceable by execution proceedings, and the value of the catch may be collected by deducting it from payments for catches. The Ministry may adopt regulations on the temporary withholding of the value of catches.

## **Chapter 10 Fees, registers and duty to provide information on the operation of vessels**

### *Section 55 Control fees*

The Ministry may adopt regulations relating to inspection fees.

Such regulations may contain provisions on a duty to pay control fees, how such fees are to be collected, and on the duty of those who deliver and receive catches to provide information if this is of importance for the extent of the duty to pay control fees.

Amounts outstanding are enforceable by execution proceedings.

### *Section 56 Registers*

The Directorate of Fisheries may establish registers for the collection, storage and use of information obtained by means of orders laid down in or under this Act.

Furthermore, the Directorate of Fisheries may for control purposes establish a register for the collection, storage and use of information such as is mentioned in the first paragraph, together with information obtained from other sources.

The Ministry may by regulations lay down further rules on registration and the use of the information in such registers.

### *Section 57 Duty to provide information on the operation of vessels*

The Ministry may by regulations order owners or users of harvesting vessels to provide the Directorate of Fisheries with accounts and other information on the operation of vessels.

## **Chapter 11 Coercive fines and infringement fines**

### *Section 58 Coercive fines*

The Ministry may impose coercive fines to ensure compliance with provisions made in or under this Act.

A coercive fine is a continuous fine that becomes effective from a specified deadline for complying with an order, if the deadline for compliance with the order is not met. The Ministry may in special cases reduce or waive a coercive fine that has accrued.

The Ministry may by regulations adopt further provisions on setting and imposing coercive fines, the time period for which they are to apply, and provisions on interest and surcharges in the event that a coercive fine is not paid by the due date.

A coercive fine may be collected through a sales organisation by deducting the amount from payments for catches.

### *Section 59 Infringement fines*

The Ministry may order any person that wilfully or through negligence contravenes provisions or decisions laid down in or under this Act to pay an infringement fine. An

infringement fine may be imposed as a fixed penalty or the amount may be fixed in each case. Such factors as the profit or potential profit the person responsible has made through the contravention, how serious the contravention was, and the extra costs of control measures and processing the case may be taken into account in determining the amount of the fine.

The Ministry may by regulations adopt provisions on fixing infringement fines and provisions on interest and surcharges in the event that an infringement fine is not paid on the due date.

A final decision on an infringement fine is enforceable by execution proceedings. An infringement fine may also be collected through a sales organisation by deducting the amount from payment for catches. The amount of an infringement fine may be put before a court.

An infringement fine and penal measures as set out in Chapter 12 may not be applied to the same offence.

## **Chapter 12 Criminal liability**

### *Section 60 Contravention of regulatory provisions*

Any person that wilfully or through negligence contravenes provisions laid down in or under sections 9, 10, 11, third and fourth paragraphs, and 12 to 14 is liable to fines or to a term of imprisonment not exceeding one year, unless more severe penal provisions apply.

### *Section 61 Contravention of provisions on the conduct of harvesting operations and order on harvesting grounds*

Any person that wilfully or through negligence contravenes provisions laid down in or under sections 15, 16, second paragraph, 18 to 21, 22, first and third paragraphs, 23 and 24 is liable to fines or to a term of imprisonment not exceeding one year, unless more severe penal provisions apply.

### *Section 62 Contravention of provisions on arrangements for control and enforcement*

Any person that wilfully or through negligence contravenes provisions laid down in or under sections 34 and 36 to 42 is liable to fines or to a term of imprisonment not exceeding one year, unless more severe penal provisions apply.

### *Section 63 Contravention of provisions on control and enforcement*

Any person that wilfully or through negligence contravenes provisions laid down in or under sections 45, 46, first to fifth paragraphs, 48, second to fourth paragraphs, and 50 to 53 is liable to fines or to a term of imprisonment not exceeding one year, unless more severe penal provisions apply.

### *Section 64 Miscellaneous provisions on penal measures*

Serious offences committed through gross negligence or wilfully are punishable by a term of imprisonment not exceeding three years. In evaluating whether an offence is serious, special weight shall be given to whether the financial or potential financial gain from the offence was large, whether the offence was committed systematically and over time, and whether it was committed as part of an organised activity.

If criminal liability under sections 60 to 63 can be imposed on the master of a vessel for an offence committed by one of the crew, only a subordinate who contravened provisions wilfully is liable to a penalty. In determining whether a subordinate is liable to a penalty, particular account shall be taken of the preventive effect of the penalty, how serious the

offence was, and whether the person in question has had or could have obtained any advantage by the offence.

If a foreign vessel has contravened provisions such as are mentioned in sections 60 to 63 outside the territorial sea, a term of imprisonment may not be imposed. Nor may a term of imprisonment be imposed in default of payment of a fine. A term of imprisonment may nevertheless be imposed if this follows from an agreement with a foreign state or if the vessel is stateless.

The master of a vessel may accept an optional fine on behalf of the employer. An employer may also be liable to a penalty in criminal proceedings against the master.

Complicity or an attempt is liable to the same penalties.

#### *Section 65 Confiscation*

In the case of contravention of provisions set out in sections 60 to 63, catches may be confiscated. The same applies to gear, objects, property, facilities or vessels that were used in the contravention. This applies irrespective of who the owner is. Instead of any object, its value may be confiscated wholly or in part from the offender or from the person on whose behalf he has acted or from the owner.

It may be decided that liens on or other rights to objects that are confiscated shall wholly or partly cease to apply. The provisions of section 37 c of the Act of 22 May 1902 No. 10, the Penal Code, apply correspondingly.

If lawful and unlawful catches have been mixed together, the entire catch may be confiscated.

### **Chapter 13 General provisions and entry into force**

#### *Section 66 Marine research and practical testing of gear*

When it is necessary to carry out marine research or practical tests of gear, catch methods, etc., the Directorate of Fisheries may grant exemptions from provisions laid down in or under this Act or other fisheries legislation. Other provisions of this Act apply in so far as they are appropriate.

The Ministry may lay down what is considered to constitute marine research and practical testing of gear, catch methods, etc.

#### *Section 67 Regulations*

The Ministry may adopt regulations for the implementation of this Act. Regulations made under this Act may differentiate between

- a) vessel groups and gear groups,
- b) areas, species or times of year,
- c) types of activities.

#### *Section 68 Regulations under the Seawater Fisheries Act, etc*

Regulations made under the Act of 3 June 1983 No. 40 relating to Seawater Fisheries, etc. (Seawater Fisheries Act) and the Act of 24 June 1994 No. 34 relating to registration as a first-hand purchaser of raw fish, etc., will continue to apply after the entry into force of the present Act. Regulations made under the present Act may nevertheless repeal regulations under the Acts mentioned above if this is expressly provided.

*Section 69 Entry into force*

This Act enters into force on the date determined by the King. From the same date, the Act of 3 June 1983 No. 40 relating to Seawater Fisheries, etc., is repealed. The King may put different provisions into effect on different dates and repeal individual provisions of the Seawater Fisheries Act on different dates. The Act of 24 June 1994 No. 34 relating to registration as a first-hand purchaser of raw fish, etc. is repealed from the date when section 38 is put into effect.

*Section 70 Amendments to other acts*

From the date of entry into force of this Act, the following amendments are made to other Acts: