

Act of 14 June 1985 No. 68 relating to aquaculture

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Act relating to aquaculture (Aquaculture Act)

See provisional Act of 8 June 1973 No. 48, Act of 15 May 1981 No. 19.

Chap. 1 Purpose and scope

§ 1 (*purpose of the Act*)

The purpose of the Act is to contribute to the balanced and sustainable development of the aquaculture industry and to its development as a profitable and viable regional industry.

(Amended by Act of 20 June 1991 No. 38.)

§ 2 (*scope of the Act*)

The Act applies to aquaculture activities in fresh water, brackish water and salt water. The Act applies within the Norwegian Economic Zone.

The term aquaculture means any activity involving the feeding or handling of live fish and shellfish for consumption, feed production, reproduction, stocking, including sea ranching, research or educational purposes. The storage of live fish or shellfish in connection with aquaculture activities also falls within the scope of the Act. This Act does not apply to any activities licensed pursuant to Act of 21 December 2000 No. 118 relating to sea-ranching.

The King may determine by means of regulations that the Act shall apply to other aquatic organisms (aquatic plants and animals).

In the event of a dispute, the Ministry will decide which activities shall be regarded as aquaculture pursuant to the second and third paragraph.

In order to ensure that proper technical standards are maintained at aquaculture facilities, the Ministry may issue regulations so that the Act shall apply to the production of goods and services for aquaculture activities.

(Amended by Act of 16 June 1989 No. 58.)

Chap. II. Obligation to hold a licence.

§ 3 (*activities requiring a licence*)

No person may construct, equip, expand, acquire, operate or own an aquaculture facility without a licence from the Ministry of Fisheries. Nor may any person engage in aquaculture activities other than by operating an aquaculture facility unless they have a licence to do so.

Hatcheries and rearing units for fish and shellfish that were not subject to the licensing requirement pursuant to provisional Act of 8 June 1973 No. 48 relating to the construction, equipment, establishment and expansion of hatcheries and rearing units, and that were registered in connection with the entry into force of the said Act, may not continue their activities without a licence.

A licence pursuant to the second paragraph may be granted if these facilities were established before 8 June 1973 and have been in operation without lengthy interruption or have not been moved or expanded, or if there has been no change in the form of operation.

The provisions of the second paragraph also apply to facilities registered pursuant to section 6, second paragraph, of the regulations of 10 January 1975 concerning hatcheries and rearing units. The provision of the third paragraph does not apply to these facilities.

Facilities for the hatching and production of anadromous salmonids and fresh-water fish for stock enhancement purposes are regulated by Act of 15 May 1992 No. 47 relating to salmonids and fresh-water fish etc.

(Amended by Acts of 20 June 1991 No. 38, 15 May 1992 No. 47, 11 June 1993 No. 75.)

§ 4 (*content of licence*)

Licences pursuant to section 3 are granted for specific localities and for the maximum size specified at any time.

The licence applies to a specified species of fish or shellfish and to a specified facility. A licence is issued to one or more specific persons, companies, associations or foundations, or to the state, a municipality or other public entity.

A new licence must be obtained if the circumstances mentioned in the first or second paragraph are changed. If a holder of a licence pursuant to section 3 is declared bankrupt, this is also regarded as a change in circumstances.

The Ministry may decide that changes in underlying circumstances, such as ownership conditions in enterprises etc. holding licences pursuant to section 6, must also be approved if the change is contrary to the allocation rules that have been laid down at any time. The Ministry will issue further provisions concerning the central register of ownership interests etc. in aquaculture facilities licensed pursuant to the present Act.

Amended by Act of 16 June 1989 No. 58.

§ 5 (*absolute conditions*)

A licence issued pursuant to section 3 shall not be granted if the facility:

- (1) will cause a risk of the spread of disease in fish or shellfish,
- (2) will cause a risk of pollution,
- (3) has a location which is clearly unfavourable to the surrounding environment, lawful traffic or other exploitation of the area.

In extraordinary situations, the King may grant complete or partial exemption from the conditions in the first paragraph and, for example, permit facilities to be moved notwithstanding other provisions that may otherwise have been laid down. Such exemptions will apply temporarily until the situation has ceased to exist.

(Amended by Act of 22 July 1988 No. 76.)

§ 6 (*salmonid aquaculture*)

The Ministry determines how many licences shall be allocated for salmonid aquaculture and issues guidelines for allocation, including which regions should be given priority.

The Ministry may require payment of a fee for the allocation of licences for salmon and trout aquaculture. The Ministry may establish the size of the fee for each licence by decision.

When allocating a licence pursuant to section 3 for farming of any salmonid species, particular emphasis shall be placed on the following:

- a) that the activity promotes favourable developments in the region and the industry,

- b) that ownership interests in the facility are, as far as possible, held by persons with a connection to the local community,
- c) that operators of aquaculture facilities possess the necessary professional qualifications. The Ministry may by means of individual decisions or regulations determine that the number of facilities licensed to a single owner shall be limited.

(Amended by Act of 20 June 1991 No. 38.)

§ 7 (*farming of fish other than salmonids*)

Licences may be issued pursuant to section 3 for the farming of shellfish and species of fish other than salmonids unless otherwise provided by the provisions of sections 1 and 5.

(Amended by Act of 16 June 1989 No. 58.)

| § 8 (*egg-hatching and production of smolt/fingerlings and juvenile forms of other organisms*)

Licences may be issued pursuant to section 3 for hatcheries and facilities for the production of smolt/fingerlings and juvenile forms of other organisms unless otherwise provided by the provisions in sections 1 and 5.

(Amended by Act of 16 June 1989 No. 58.)

Chap. III. Miscellaneous provisions.

§ 9 (*right to recapture escaped fish*)

It is prohibited for any person other than the owner of a facility licensed pursuant to section 3 to recapture fish and shellfish that are no longer in captivity and are living in a free state near the aquaculture facility.

The right to recapture escaped fish may be exercised for up to 14 days after escape. The right to recapture escaped fish applies even if a close season has been laid down for the relevant species.

Any person exercising the right to recapture escaped fish is entitled to moor fishing gear to the shore if this is done at a reasonable distance from inhabited buildings without unduly hindering or inconveniencing others.

The Ministry may by means of regulations restrict the right to recapture escaped fish to particular species and will lay down provisions regarding the gear that may be used for the recapture of escaped fish and the area in which escaped fish may be recaptured.

| §10 (*duty to provide information*)

Any person that holds or applies for a licence has a duty to provide any information necessary to enable the authorities to perform their tasks pursuant to the present Act. The information may be required in written or verbal form within a time limit determined by the Ministry.

The relevant authorities shall have access to the locations or facilities to which the Act applies, and shall be able to conduct any investigation necessary to perform their tasks pursuant to the Act.

§ 11 (*withdrawal of licences*)

A licence issued pursuant to section 3 may be withdrawn if the facility causes or involves the danger of causing substantial damage of a nature described in subparagraphs 1 and 2 of section 5. The same applies if the facility is substantially in contravention of the conditions set out in subparagraph 3 of section 5. The licence may not be withdrawn if the damage can be repaired or the location changed by order of the authorities.

The Ministry may issue regulations stating that the licence shall cease to be valid or may be withdrawn if it has not been used by a certain deadline, or if the licence has only been used to a limited extent in the course of a specified period of time.

§ 12 (*exemptions from the provisions of the Act*)

The King may by means of regulations determine that the farming of specified species for specified purposes shall be exempted from section 6 of the Act.

The Ministry may grant an exemption from the Act for small facilities established for non-commercial purposes.

§ 13 (*regulations*)

The Ministry may lay down further regulations to supplement and implement the provisions of this Act, including regulations governing the size of a facility, the use of feed and requirements regarding professional qualifications.

Amended by Act of 20 June 1991 No. 38.

§ 14 (*fees*)

The Ministry may lay down regulations concerning fees for the processing of applications and for other tasks conducted by the public authorities within the scope of this Act.

Fees due may be recovered by execution proceedings.

§ 15 (*public order and protection of facilities*)

Fishing within 100 metres and public access within 20 metres of aquaculture facilities is prohibited. Under special circumstances, the Ministry may reduce these limits. The Ministry may establish a prohibition on fishing or may regulate fishing beyond this boundary. The Ministry may also order escaped fish to be caught within or beyond the boundary.

(Added by Act of 16 June 1989 No. 58, amended by Act of 20 June 1991 No. 38.)

§ 16 (*technical standard of aquaculture facilities*)

Facilities used for aquaculture activities shall meet adequate technical standards.

The Ministry may issue regulations stipulating that only approved facilities, installations and equipment may be used for aquaculture activities. This may include issuing regulations concerning production, packaging, transport, storage and sales etc. of goods and services for aquaculture activities and approving commercial standards. The Ministry may issue regulations requiring assessment, documentation and information in connection with such an approval arrangement.

The Ministry may conclude agreements with approved firms etc. concerning on what terms and to what extent administrative bodies authorized pursuant to the present Act may utilize approved firms etc. to determine specifications and exercise control according to the Act.

(Added by Act of 20 June 1991 No. 38.)

§ 17 (*internal control*)

The Ministry may issue regulations stating that persons engaged in activities that fall under the scope of this Act shall by means of internal control ensure that requirements laid down in or pursuant to this Act are fulfilled.

§ 18 (*environmental monitoring*)

The Ministry may issue regulations requiring persons engaging in or who have applied to engage in activities pursuant to this Act to conduct environmental impact assessments and document the state of the environment at the site where the aquaculture facilities are located or where there are proposals to locate such facilities.

On the basis of environmental assessments or other documentation, the Ministry may lay down conditions for the operation of aquaculture facilities and implement or order the implementation of necessary measures.

§ 19 (*prohibition of aquaculture activities in certain areas*)

In areas that are particularly important to aquatic organisms, the Ministry may prohibit or lay down special conditions for aquaculture activities if this is deemed necessary in order to conserve the aquatic organisms in their habitats.

§20 (*import of live marine organisms*)

No person may import live eggs of marine species, fish, shellfish, etc for culture or stock enhancement without a licence from the Ministry.

(Added by Act of 16 June 1989 No. 58, amended by Act of 15 May 1992 No. 47.)

Chap. IV. Aquaculture activities in contravention of the Act.

(Added by Act of 16 June 1989 No. 58.)

§ 21 (*order to implement measures*)

If aquaculture activities are conducted in contravention of the provisions set out in or pursuant to the present Act, the Ministry may order measures to be implemented to stop the unlawful activities. Such measures may be required to be implemented within a specified time limit.

(Added by Act of 16 June 1989 No. 58.)

§ 22 (*coercive fines*)

In order to ensure implementation of the provisions set out in this Act or decisions pursuant thereto are implemented, the Ministry may issue regulations concerning coercive fines payable to the Treasury for contraventions of the Act.

The coercive fine will become effective if the person responsible does not meet the deadline for rectifying the contravention that has been set by the Ministry. A coercive fine may also be imposed in advance and in such cases becomes effective from the commencement of the contravention. It may be decided that the coercive fine shall continue to be effective for as long as the unlawful situation persists, or that it is payable each time contravention takes place.

A coercive fine is enforceable by execution. The Ministry may waive a coercive fine that has accrued.

(Added by Act of 16 June 1989 No. 58, amended by Act of 11 June 1993 No. 83.)

§ 23 (*implementation of decisions*)

The Ministry may issue regulations stating that decisions made pursuant to the Act may be implemented at the cost of the person responsible.

Payment of the costs is enforceable by execution.

(Added by Act of 16 June 1989 No. 58, amended by Act of 11 June 1993 No. 83.)

§ 24 (*withdrawal of licences*)

In the event of gross or repeated contravention of provisions set out in or pursuant to this Act or decisions made pursuant to the Act, the Ministry may withdraw a licence issued pursuant to section 3.

An application for a licence pursuant to section 3 may be rejected if the applicant has acted as described in the first paragraph.

(Added by Act of 16 June 1989 No. 58.)

§ 25 (*criminal liability*)

Any person that wilfully or negligently contravenes provisions or conditions set out in or pursuant to this Act shall be penalized by fines or imprisonment for a term not exceeding 1 year. Aiding and abetting and attempted contravention are liable to the same penalties.

If there are particularly aggravating circumstances, imprisonment for a term up to 2 years may be imposed, unless more stringent penalties apply.

Regulations may be laid down pursuant to the Act stipulating that contravention of regulations is not subject to a penalty.

(Amended by Act No 58 of 16 June 1989 (previously section 14), Act of 20 July 1991 No. 66.)

Chap. V. Entry into force. Repeal and amendment of other Acts.

(Amended by Act of 16 June 1989 No. 58 (previously Chap. IV).)

§ 26 (*entry into force*)

- 1. The Act enters into force on the date decided by the King.
 ... is repealed from the same date.
- 3. From the entry into force of the present Act, the following amendments are to be made in other Acts: ...

Amended by Act of 16 June 1989 No. 58 (previously section 15).