

Act of 21 December 2000 No. 118 relating to sea-ranching

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Act relating to sea-ranching

§ 1. Purpose of the Act

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

§ 2. Scope of the Act

The Act applies to the release and recapture of crustaceans, molluscs and echinoderms for commercial purposes (sea-ranching). Activities licensed pursuant to the Act of 14 June 1985 No. 68 relating to Aquaculture do not fall under the scope of the Act. In the event of a dispute, the Ministry will decide which activities shall be regarded as sea-ranching pursuant to the Act.

The Act applies in Norway's Economic Zone.

Chapter II. Licence for sea-ranching. Recapture.

§ 3. Licence for sea-ranching

No person may engage in sea-ranching without a licence from the Ministry.

A licence may not be issued if there is a risk of adverse effects on the environment, including the risk of adverse effects on biological diversity, of disturbing the ecological balance or of spreading disease.

When allocating licences, considerable emphasis shall be placed on the social benefits and adverse effects of the activities, including the role the activities will have in the regional business sector and the value of links with the local community.

§ 4. Special licence for feeding and other measures

The Ministry may grant a licence for feeding and other measures in connection with sea-ranching.

Section 3 applies in so far as it is appropriate.

§ 5. Content of licence

The licence applies to one or more geographically delimited areas (locality).

Further conditions may be specified in the licence, including a time limit, limitations on the species and numbers that may be released and other conditions that are necessary to safeguard the environment, the right of public access and other interests in the area.

The Ministry may issue regulations concerning installations and the equipment.

§ 6. Recapture

The holder of a licence pursuant to sections 3 and 4 (the rightsholder) has the exclusive right to capture the species released in the locality in so far as this does not conflict with special rights. The rightsholder has a similar obligation to recapture the species released.

The Ministry may grant exemption from the duty to recapture released fish. Recapture shall be conducted in such a way as to minimize adverse effects on wild stocks. The Ministry may regulate recapture of an individual species by decision, irrespective of other legislation.

§ 7. Duty to restore the local environment to its original state

Any person engaging in sea-ranching activities has a duty to restore the environment to its original state as far as possible when the activities are discontinued, including removing facilities and installations and recapturing organisms that have been released. The Ministry may issue rules requiring the licensee to provide the necessary security for restoring the original state of the environment as mentioned in the first sentence.

§ 8. Transfer of licence, changes in ownership conditions

A sea-ranching licence is not transferable.

Licences may nonetheless be mortgaged. The mortgage will be legally protected by registration in the Register of Mortgaged Moveable Property.

To ensure that the conditions applicable to allocation and operation will still be met, the Ministry may determine that any changes in ownership conditions pertaining to the licensee must be approved.

§ 9. Changes in and withdrawal of licence

If there are substantial changes in the conditions on which allocation of a licence were based or if necessary in order to ensure that environmental factors are taken into consideration, including biological diversity, the ecological balance and the prevention of disease, the Ministry may:

- a) withdraw the licence wholly or partly,
- b) change the terms of the licence,
- c) include new terms in the licence.

A licence may be withdrawn wholly or partly in the event of gross or repeated contraventions of the rules made in this Act or pursuant thereto, when the licence has not been used by a certain deadline, or as otherwise provided by the general rules of administrative law.

Any person that has a right based on private law to the value of the organisms in the locality does not lose this right even if the licence is withdrawn. However, this only applies to the extent that recapture can take place in accordance with the Act and for a limited period. The Ministry will lay down further conditions for recapture and will stipulate the length of the period in these cases by an administrative decision.

§ 10. Regulation of use and exploitation of the locality and buffer zone for other purposes

To the extent necessary to protect the licensee's right to recapture according to the first paragraph of section 6, the Ministry may restrict or prohibit the use or exploitation of the locality for other purposes, including fishing for other species. Restrictions on or prohibition of use or exploitation for other purposes in an area outside the locality (buffer zone) may similarly be laid down.

Fishing in the locality and buffer zones may be regulated notwithstanding provisions set out in or pursuant to the Act of 3 June 1983 No. 40 relating to sea-water fisheries etc.

§ 11. Compensation

If the right to recapture according to the first paragraph of section 6 restricts public rights that are protected by a legal right to compensation in accordance with general legal principles, the sea-ranching licensee shall pay compensation as assessed.

Chapter III. Implementation of the Act and decisions pursuant to the Act

§ 12. Duty to provide information

Any person who holds or applies for a licence to engage in sea-ranching activities has a duty, notwithstanding any duty of confidentiality, to provide any information and conduct any investigation required by the Ministry to enable the authorities to perform their tasks pursuant to this Act. When special grounds make this necessary, information may be required from persons that supply goods and services to the person holding or applying for a licence for sea-ranching.

§ 13. Supervision

The competent authority has access to all facilities and areas connected with sea-ranching activities and is entitled to conduct any investigations necessary in order to perform its tasks according to this Act.

§ 14. Coercive fines

In order to ensure implementation of the provisions in this Act or decisions pursuant thereto, the Ministry may issue regulations concerning coercive fines.

The coercive fine may be payable from a deadline set by the Ministry for rectifying the contravention. 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.

§ 15. Implementation

If the terms of the licence or orders issued pursuant to the Act are contravened, the relevant authority may effect implementation at the cost of the person responsible. Payment of the costs involved is enforceable by execution.

If immediate measures are necessary, the relevant authority may effect immediate implementation of measures without issuing an order.

§ 16. Confiscation

Any proceeds from activities conducted in contravention of the rules prescribed in this Act or administrative decisions made pursuant thereto may be confiscated. When calculating the proceeds, costs related to the illegal activities shall be deducted from earnings derived from such activities.

If the extent of the proceeds cannot be documented, an amount assumed to correspond to the proceeds may be determined. Proceeds may be confiscated irrespective of whether the

contravention involves criminal liability. The decision to confiscate is enforceable by execution proceedings. All aspects of the decision may be examined by the courts.

§17 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.

§ 18 Regulations

The Ministry may lay down further regulations to supplement and implement the provisions of this Act, including regulations governing internal control, supervision and requirements with regard to professional qualifications.

Chapter IV. Penal measures

§ 19 Criminal liability

Fines or imprisonment for a term not exceeding 1 year will be imposed on any person that wilfully or through negligence contravenes the provisions or conditions set out in this Act or issued pursuant thereto. Aiding and abetting is subject to the same penalties.

In particularly aggravating circumstances, a term of imprisonment not exceeding 2 years may be applied, unless the offence is subject to a more severe penalty.

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

Chapter V. Concluding provisions

§ 20. Entry into force and amendments to other Acts

This Act enters into force on 1 January 2001.

From the same date, the following provisions in other Acts shall be amended as follows:

1. Act of 23 October 1959 No. 3 relating to the compulsory purchase of real property

Section 2, subparagraph 28 shall read:

Fishing, capture of marine animals, aquaculture, sea-ranching and associated activities, including teaching and research and development.

2. Act of 14 June 1985 No. 68 relating to aquaculture:

Section 2, second paragraph shall read:

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.

3. Act of 13 June 1997 No. 54 relating to Measures to Counteract Diseases in Fish and Other Aquatic Animals (the Fish Diseases Act):

Section 3, new litra e shall read:

- d) sea-ranching; release and recapture of crustaceans, molluscs and echinoderms for commercial purposes.

Section 16 shall read:

Section 16. Operation of aquaculture facilities etc. The Ministry may issue regulations concerning disease prevention measures in sea-ranching activities, operation of aquaculture facilities and other enclosures.

Section 17, new second paragraph shall read:

Aquatic animals cannot be released for sea-ranching purposes without the approval of the Ministry.

Section 23, first paragraph shall read:

If there is proof or suspicion of infectious disease in the sea-ranching area, aquaculture facilities, other enclosure or means of transport, the Ministry may, in order to prevent the spread of the disease, order necessary measures to be implemented, including slaughter and destruction.