



FISKERI- OG KYSTDEPARTEMENTET

Norwegian Ministry of Fisheries and Coastal Affairs

The Aquaculture Act



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Introduction

This document presents the new Aquaculture Act, its background and main content. The Act will enter in to force on 1 January 2006.

A brief introduction of the aquaculture industry and details of some elements in the Act are included. It must be remarked that this document is not a translation of the proposition to the Odelsting (Chamber in the Norwegian Parliament).

1 The background of the Aquaculture Act

The Fish Farming Act was adopted almost 20 years ago at a time when the focus was on incorporating the existing enterprises into the licensing system and ensuring that new aquaculture activities were established in a responsible manner. This influenced the content and structure of the Act. The purpose and scope of the revisions and amendments of the Act up until today have been limited, and there has been no comprehensive revision.

There has been extensive development of the aquaculture industry since 1985. The industry has exhibited strong growth, and the ownership/structure, size, production technology, localisation and operating patterns have changed. Certain problems have become less relevant over the years, while new problems have arisen.

The outlook for the potential of the marine sector also indicates a high rate of change for the industry in the years to come. Aquaculture will become a more

diversified concept through the establishment of activities based on unexploited production opportunities. In addition, environmentally friendly production considerations, the weighing of land use interests in the coastal zone, market access, as well as food safety, health and fish welfare issues will be topics that one will be expected to take into consideration to an increasing extent.

It is not just the industry, the political goals and views of the public sector's role have also changed since the Fish Farming Act was adopted. Experience with the current Fish Farming Act shows that the Act does not adequately provide for the development and optimisation of the aquaculture industry's value creation potential. There is a need for legislation that provides better for a future-oriented development of the industry and establishes a more modern framework for the exercise of public administration.

The Ministry of Fisheries and Coastal Affairs has worked on the legislation on the basis of four special focus areas:

- Growth and innovation in the industry – profitability and innovation in light of Norway's international competitive situation
- Simplification for the industry and public administration – greater efficiency and user friendliness
- The environment – modern and comprehensive environmental regime
- Relationship to other user interests in the coastal zone – efficient land utilisation

2 Main content of the Aquaculture Act

The new Aquaculture Act replaces the Fish Farming Act and Sea-Ranching Act. Important goals of the aforementioned acts will be maintained, but the focus on how these goals should be achieved will be changed.

The purpose of the new act is to promote the profitability and competitiveness of the aquaculture industry within the framework of a sustainable development and contribute to the creation of value on the coast.

The Aquaculture Act is an instrument that shall facilitate the industry players' creation of value, through profitable operations, in a socio-economically optimal manner. The Act will therefore establish the framework for the industry's future growth through a responsible management of national interests, such as the environment and use of the coastal area. The industry's goals can thus be achieved while other national and regional interests are also realised.

Profitability is the basis for the existence and development of the industry in the coastal regions, and this is reflected in the Act's measures. The focus will change from who owns the enterprise to how it is managed.

This means that the administration's opportunity to regulate ownership will be phased out, and the industry will be given greater freedom to seek an optimal structure for how the enterprise should be managed to create value. The industry's contribution to the development of the coast is primarily through profitable companies that are naturally located in coastal communities with good natural conditions for aquaculture. The administration's opportunity to limit the

number of licenses that are allocated for salmon and trout and to prescribe a geographic distribution of the licenses will be retained in the Act. Regional considerations can thus be made in the allocation policy.

The new Act introduces the right to transfer and mortgage licenses. These amendments are a consequence of the fact that ownership regulation will be phased out. Deregulation of the ownership requirements in combination with the right to transfer and mortgage licences will normalise the industry in relation to other industries and make the industry more adaptable with respect to meeting future challenges.

A simplification of the application process for the establishment of all types of aquaculture is also laid down in the Act. This will be accomplished through the introduction of mandatory efficiency improvement and coordination between the sector authorities and the local municipality. The stipulation of time limits for the application process is also inducted.

The allocation of licenses for the farming of salmon and trout, which currently takes place through a traditional applicant competition, can be carried out in a less resource demanding manner pursuant to the Aquaculture Act. Alternatively the qualification and subsequent selection of applicants can be carried out through drawing of qualified applicants or through auctions. This will result in resource savings for both the industry and the administration, since it will no longer be necessary to finely screen the applicants to determine who is best, and an assessment will be made as to which applicants are

adequately qualified to receive a licence instead.

The payment for the licence can be stipulated as a preset amount or determined by the market through open or closed bidding.

The environment and the relationship to other land use and user interests in the coastal zone have a central place in the Act. The environmental measures in the earlier acts will be retained in the Aquaculture Act. The environmental conservation provisions also provide an

opportunity for the development of new requirements and measures to protect the environment. It is also proposed that the establishment of aquaculture activities shall take place based on an assessment of how the coastal area can best be utilised for various forms of aquaculture and other land use and user interests. The environmental and land use provisions shall contribute to a good coexistence between the aquaculture industry and other social interests.

3 About the aquaculture industry

What is aquaculture?

Norway manages some of the world's largest and most productive coastal and sea areas. A long protected coastline, accessible areas and a clean sea with a high water replacement rate and good water quality provide good biological prerequisites for aquaculture production.

The history of Norwegian marine farming during the last 40 years is a history of the development of an expansive and dynamic export industry. It is one of Norway's most international industries that is characterised by its natural localisation along most of the coast.

The aquaculture industry includes the production of fish, molluscs, echinoderms, crustaceans and other living aquatic animals and plants. The organisms are produced primarily for consumption, but they are also used as inputs in other products, including products in the cosmetics and pharmaceutical industries. Increasing the number, weight or quality of these organisms, or preferably a combination of these factors, lies at the core of these activities. This can be accomplished through active feeding and treatment, or by the stocking, collection and storage of these organisms in their natural habitat. The enterprises have developed from small-scale production with local roots to large production units with obvious industrial characteristics.

From the initial establishment of such activities at the end of the 1960s until the present, the Norwegian aquaculture industry has developed to become a diversified industry with respect to the species that are produced and the forms of production. Up until now we have generally distinguished between two main

forms of aquaculture, fish farming and sea ranching. Fish farming takes place in vats on land, cages/enclosures, suspended cultures or other installations in the sea or fresh water. Sea ranching on the other hand can take place without any installations, and it is a form of production in which organisms are stocked and recaptured on the sea bed. Up until now sea ranching has only been allowed as a form of production for stationary species.

Aquaculture is carried out in all phases of the organisms' life cycles; from the production of roe and hatching of spawn, to the stocking of organisms in the sea for further processing. It is common to refer to the various sectors of the industry according to where the operators are in the production cycle of the organisms; from brood stock and hatchery production to table fish production (and correspondingly for the production of organisms other than fish). The various producers are also distinguished by the name of the species that is produced, such as the salmon and trout industry or the mussel industry. All this is natural since the challenges associated with the various life cycles and the different species can be worlds apart for both the industry and the administration.

There is a wide gap between the various sectors of the industry with respect to the use of technology, operating structure and stage of commercial development. While the sea ranching of scallops and lobsters are in the starting phases and have the characteristics of experimental activities, Norway is a world leader in the farming of salmon and rainbow trout. Further research is a prerequisite for the future commercialisation and profitability for

many sectors of the aquaculture industry. Salmon and trout producers have, however, enjoyed profitable operations for a long time.

Value creation potential

The potential for increased seafood exports is related to global population growth, increasing purchasing power in a number of countries, a general increase in interest in seafood globally, and increasing trade in processed products and other marine products. Norway's advantages with respect to its natural resources, market, competence and experience indicate that the industry still has substantial growth potential. The potential value creation that these advantages represent is related primarily to the market conditions and the technological opportunities for exploitation of the raw materials.

The challenge to the Norwegian aquaculture industry lies in development of the industry from a raw material supplier with a primary focus on activities aimed at markets with low margins, to more diversified, competitive and profitable production. The principal message of the various scenarios mentioned for potential growth in the Norwegian aquaculture industry is that the value per kilo of raw material must increase. This means that there must be a continuous focus on innovation through research, product development, marketing, etc.

In 2004 the export value of salmon and trout was NOK 12.36 billion, and the value of the export of new aquaculture species was NOK 93.5 million. During the last two decades there has been a significant increase in the number of industry players in species other than salmon and trout, and during the next 20 years there are great expectations for the research results and commercial development of new marine aquaculture species such as cod, halibut and shellfish. It is expected that the value

creation potential of the aquaculture industry, in addition to the production of salmon and trout, will be triggered by aquaculture of marine species, as well as product development and, to some extent, the use of ingredients other than pure fish flesh.

Competitive power

The Norwegian aquaculture industry has always been part of a global market, and competition on the world market for seafood has become increasingly fierce in recent years. This is attributed primarily to the fact that a number of countries have surplus production of seafood that can be transported and sold internationally at low cost. The transfer of technology between countries has also increased the competition. The technological advantages of the Norwegian aquaculture industry are disappearing. Norway's total market shares for salmon and trout have declined due to the developments of recent years.

The trade barriers to its most important markets are a particular disadvantage to Norway. Scotland and Ireland are members of the European Union. Other competing countries such as Chile and the Faeroe Islands have the advantage of having negotiated free trade agreements with important markets such as the USA and EU. Another significant factor is the industry's commercial freedom and opportunity to optimise its structure in relation to competing nations. The Norwegian industry has been subject to regulations that give it less freedom to make commercial adaptations than most of its competitors.

To be competitive it is of decisive importance that the Norwegian industry has a regulatory framework that is at least as favourable as that of other industry players. The main challenges facing the industry in a global perspective are, therefore, a reduction of costs, better

market access and adequate commercial freedom to adapt to a global market under rapid development.

Environmental status

The administration of the Norwegian aquaculture industry has been leading in many areas with respect to the regulation of the industry's environmental impact. As a result of this and the industry's own efforts, the industry has a fairly good environmental status compared to certain other types of food production. In recent years, a number of new environmental measures have been introduced: requirements for the technical standard of floating fish farming installations, environmental monitoring and internal control are importance advances that ensure further reinforcement of the industry's environmental adaptation. Viewed in relation to the growth in production in recent years, the relative environmental impact is less now than before. Important environmental issues must still be dealt with, and there will be special environmental challenges related to further growth in the industry.

Aquaculture will of course affect the surrounding environment through the discharge of nutrient salts, etc., and the production will be affected at the same time by the surrounding environment. For development of the aquaculture industry it is therefore important that the production is environment friendly and does not pollute to any significant extent or otherwise damage the ecosystems where the production takes place. In addition, the industry must be ensured a good production environment with respect to other environmental impacts.

The discharge of nutrient salts and organic material from aquaculture does in general not represent any environmental problem at the individual enterprises at present. This is due to development of the

localisation of such enterprises so that aquaculture is carried out in more exposed localities than earlier and in areas with better biological recipient conditions, high bearing capacity and generally good self-cleaning properties. It is nevertheless well-known that intensive aquaculture may affect the seabed below installations as a result of the sedimentation of waste and the dispersion and decomposition rate not being high enough. The localisation of aquaculture at sites that are adapted to the environmental conditions is therefore important. In light of the continued growth of the aquaculture industry, challenges related to the regional environmental impact from the discharge of nutrient salts and organic material must be dealt with by the industry and administration to a greater extent than before.

In addition, the aquaculture industry currently faces several specific environmental challenges. In salmon farming, the challenges associated with the reduction of escapes and the fight against salmon lice will be given high priority by the authorities and industry. The industry players have invested substantial funds in measures to reduce the number of escapes and combat salmon lice.

The fisheries authorities have issued regulations and requirements for the technical standard of fish farming installations. The regulations apply to new and existing installations, and they require product certification for new installations and so-called capability certificates for existing installations. The primary purpose of the scheme is to limit the number of escapes from fish farming installations. Special competence requirements have also been introduced as measures to reduce escapes. In addition, internal control regulations have been introduced effective as of 2005 to ensure observance of the relevant regulations and thus reduce the risk of escape or other accidents. The salmon lice problem is combated, for

example, by special operating requirements as a follow-up to the national action plan against salmon lice and by testing more effective treatment regimes.

Other measures to reduce the aforementioned environmental impacts is the implementation of the Storting resolution on the establishment of the first 37 national salmon watercourses and 21 national salmon fjords, cf. Recommendation no. 134 to the Storting (2002-2003). The Government's proposal for completion of the scheme will be presented to the Storting in the autumn of 2005. Rules are also being established at the same time for management of aquaculture in such areas. To help safeguard the wild salmon stocks, there is a need for a continued focus on these areas, in order to achieve, for example, the Storting's goal of escapes not representing any problem to the wild salmon stocks.

In conclusion, it is mentioned that environmental considerations in a broader sense are also safeguarded through requirements for the maximum biomass and fish density at the individual sites, minimum distance between installations, fallowing of sites after slaughtering or disease outbreaks, etc. With regard to sea ranching, the authorities have issued special requirements for documentation of the environmental condition at the sites. In addition, there is a requirement that sea ranching can only be carried out with indigenous stationary species.

Need for production areas in the coastal zone

Aquaculture production takes place primarily in the near coastal areas today. Long-term and predictable access to suitable coastal areas is therefore a necessary prerequisite for the growth and profitability of the industry. This shared resource must, however, be managed so that the interests of other users and

interests in the coastal zone are also safeguarded in a responsible manner.

An increasing share of the sea areas are being used for various types of industrial, conservation and recreational purposes. The area used for aquaculture purposes currently encompasses over 2,800 approved sites in the coastal zone. Access to suitable production areas for aquaculture vary along the coast, and in certain areas suitable sites are already scarce. It is assumed that access to suitable areas will be an additional scarcity factor for further growth of the industry in the future.

To ensure access to suitable production areas and the efficient utilisation of these areas, it is important to ensure a good coexistence between the industry and other user and conservation interests. It is also important that the available areas are utilised to the greatest possible extent for the form of aquaculture they are best suited for. This means, for example, that the establishment of aquaculture will not take place until after an assessment of the environmental conditions, other relevant aquaculture production and other user and conservation interests in the area. In addition, the assessment for the establishment of aquaculture will be made within the framework of the existing land use and conservation plans.

The establishment of aquaculture will not normally conflict with other user interests. Depending on the farming system for the various types of aquaculture, normal traffic, various recreational activities and traditional fishing can be carried out in the same area around the aquaculture activities. If there are multiple user interests in the area, however, solutions that do not create any conflict of interests should be sought.

Importance of the aquaculture industry to the regions

The aquaculture industry has been regarded as important to the coastal regions in spite of its exceptional exposure to competition. Historically the industry has consisted of small family-owned companies with clear local roots. During the last 20 years, the industry has developed rapidly from experimental operations with a few species to a more diversified industry with a broad range of production forms, species and degrees of commercialisation. From its existence as an industry characterised by small companies, parts of the industry clearly exhibit the characteristics of a global industry now. This development has been of importance to the authorities' adaptation of the measures to optimise the industry's

contribution to the development of the coastal regions.

Even though the industry players have been given more latitude to consolidate their operations in recent years, the production will still have local roots. There are aquaculture activities in one form or the other along the entire coast, and it is along the coast that the conditions are right for such production. The public focus of the current regional policy is on facilitating the profitability of the aquaculture industry. With profitable companies, the aquaculture industry will be able to offer secure jobs and contribute thus to the development of a vibrant local community. In addition to the direct contribution to employment, the aquaculture industry also has ripple effects in the form of jobs related to the supplier industry, research, administration and management.

Part II
Details of some of the elements in the Act

4 Allocation of licences

Licence requirement

Pursuant to the current Fish Farming Act and Sea Ranching Act a licence is required to engage in aquaculture and sea ranching activities. This means that activities without a licence are illegal. In this context a licence represents an individual exemption from a general ban.

A license is an administrative decision. The rights and obligations of the licence holder will be stated in the actual administrative decision in addition to the general regulations that apply to the activities. The licence holder must observe the laws and regulations that apply to the activities encompassed by the licence. These laws and regulations will prescribe additional rights and obligations associated with the actual licence and can be regarded as part of the licence.

When the authorities allocate licences, they are allocated by virtue of the exercise of public authority. The authorities may unilaterally prescribe the rights and obligations associated with the licence. The role of the individual industry player is limited to either accepting or refusing the licence.

The aforementioned system, which is often referred to as the licensing system, retains in the new Aquaculture Act. A distinction must be made here between the limitation of the number of licences for salmon and trout, which is an allocation practice used in particular for this type of licence. The Ministry believes that a system of individual licences combined with general regulations will best ensure that the requirements placed on the industry players will be predictable. Special circumstances associated with an individual enterprise can be regulated in detail in the individual licence.

An aquaculture licence is a set of rights and obligations for the holder of the licence. The main components of the licence are set forth in Section 5, first paragraph of the Act and consist of the right to produce specific species, in a specific quantity, at specific sites. Normally a production licence for a specific species at a specific site will be allocated in the same decision. These elements of the licence may, however, be allocated at different times and in different decisions, so that there will, for example, be separate deadlines for appeal pursuant to the Public Administration Act for parts of the licence. It is to be regarded nevertheless as one licence, since the activities can only be carried out when a specific species can be produced at a specific site.

The reason why the licence requirement is retained for aquaculture activities is the fact that the administration should safeguard important overall social considerations that are more difficult for the individual industry player to safeguard. Environmental considerations and optimal use of the coastal zone are considerations that should be safeguarded during the establishment, operation and discontinuation of aquaculture facilities. Advance approval of the activities with respect to the environmental and area issues is therefore a key reason for the licence requirement.

In addition, the distribution and scarcity considerations call for a licence requirement. The farming of salmon and trout are, for example, regulated today with respect to how many licences shall be allocated, cf. Section 6, first paragraph of the Fish Farming Act. If there are multiple industry players interested in engaging in aquaculture activities and the number of

licences is limited, the licence requirement can solve the competition situation. One way of allocating this benefit will then be to allocate licences to applicants in accordance with an assessment based on the considerations the authorities regard as important.

In addition to the aforementioned reasons for the aquaculture licence requirement, the requirement for an individual licence will be a more flexible measure than if the activities were regulated solely by general regulations.

The fact that a licence is required does not in itself indicate whether the industry is strongly regulated or not. Even if the licence is allocated without any special conditions, the industry player must observe the provisions prescribed by the applicable laws and regulations at any given time. The Ministry also finds that it should be pointed out, for example, that the limitation of the number of licences for salmon and trout is not a consequence of the licence requirement; it is the result of a political decision to limit the number of new licences.

Coordination of the allocation authority for licences

A scheme is currently established for the processing of aquaculture licence applications, whereby the industry player just sends an application to the fisheries authorities. The fisheries authorities send the application to other relevant authorities as part of their own processing of the application. The fisheries administration ensures that statements and decisions are obtained from the local municipality, as well as various sector authorities, such as the County Governor (environmental authorities), Norwegian Food Safety Authority and Norwegian National Coastal Administration. Licences for land-based aquaculture that entail an encroachment on watercourses, such as hatchery production,

must also be evaluated and allocated a licence by the Norwegian Water Resources and Energy Directorate (NVE). The purpose of this scheme is to enable the applicants to deal with one public agency, which will coordinate the necessary licences and statements from other sector authorities.

Trials have been conducted since 2001 to test out alternative models to improve the coordination and efficiency of the application processing between the various sector authorities for the establishment of aquaculture activities. This has taken place by means of the so-called “Trøndelag Model”, in which authority has been delegated for routine matters from the County Governor (Pollution Control Act), Norwegian Food Safety Authority (Food Safety Act) and Norwegian National Coastal Administration (Harbour Act) to the Directorate of Fisheries, Trøndelag Regional Office. Evaluation of the project is not complete, but the aquaculture industry is very satisfied, and the results so far show that the administrative processing time for routine matters has been reduced from over a year to less than six months.

In the Ministries opinion there is a need to reinforce and improve coordination between the fisheries authorities (pursuant to the Aquaculture Act) and the sector authorities, and in relation to the local municipality. The Aquaculture Act states, in this connection, two amendments:

- *On the one hand*, the earlier responsibility of the fisheries authorities pursuant to the Fish Farming Act and Sea Ranching Act is eliminated with respect to the assessment of fish and public health considerations. It is proposed that the fish and public health considerations be regulated solely pursuant to the Food Safety Act.

Such an amendment will result in a clearer distribution of competence between the respective acts and supervisory authorities.

- *On the other hand*, the fisheries authorities are allocated additional responsibility and competence to undertake an efficient and comprehensive execution of the allocation process, including regulation competence to prescribe time limits for the processing of aquaculture applications.

In the opinion of the Ministry the establishment of a statutory right and obligation for the fisheries authorities ensures optimal coordination of the application process so that the industry

players can deal with one government agency if possible. The proposal entails that all the sector authorities and the local municipality is obligated to contribute to an efficient process and that the fisheries authorities are given the competence to ensure this.

It is also laid down in the Act that time limits can be prescribed for the administrative processing time for the authorities to make a decision or issue statements on other sectors. All the processing by the sector authorities can thus be coordinated so that they are finished at the same time or in an appropriate sequence. When these authorities have sent their assessments and decisions to the fisheries authorities, there should be a time limit for the fisheries administration to make a final decision.

See the model of the administrative process in Figure 7.1.

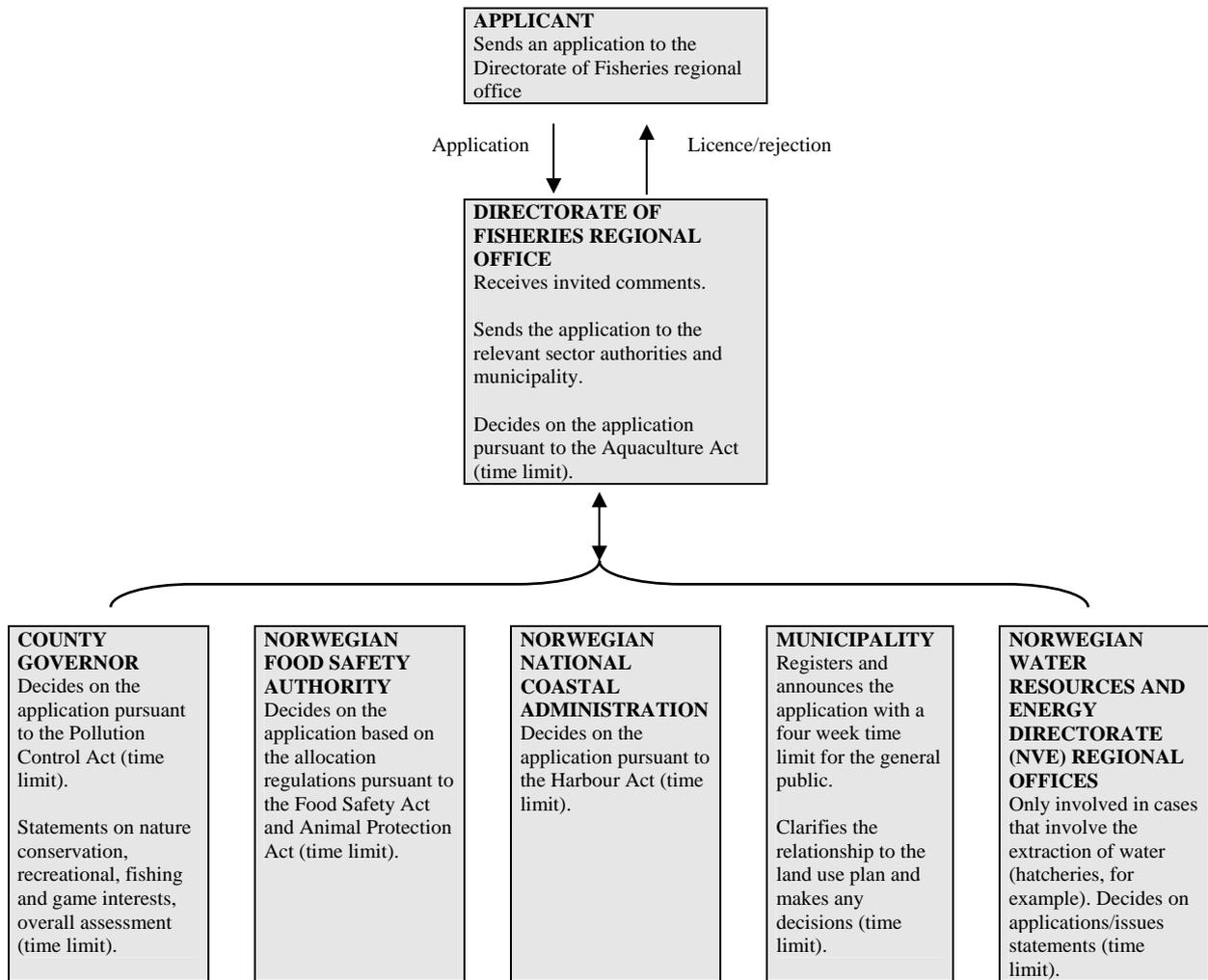


Figure 7.1: Processing of aquaculture applications

Principles for the allocation of licences for salmon and trout

The Aquaculture Act grants the Ministry authority to allocate licences. Decisions on who shall be allocated a licence and the scope of the licence etc. are at the discretion of the Ministry.

In deciding on the allocation principles, a major distinction must be made between the allocation of quota limited licences and the continuous allocation of licences without such quota limitations.

The continuous allocation of licences is currently the primary form of allocation for all types of aquaculture with the exception of salmon and trout pursuant to Section 6 of the Fish Farming Act. However, one allocation round has been conducted for sea ranching.

Sea ranching licences can be allocated continuously pursuant to the Sea Ranching Act. However, to ensure a cautious development, the Ministry has chosen to allocate licences in coordinated allocation rounds.

Licences for salmon and trout are normally allocated in so-called allocation rounds. This means that a limited number of licences will be advertised on the basis of specific criteria. Since the interest in salmon and trout licences has been greater than the number of licences advertised, the applicants have had to compete for the licences. The fisheries administration has allocated licences based on a traditional applicant competition, which means that licences are allocated to the applicants who are regarded as best meeting the allocation criteria. Payments have been received for such licences since 2002.

Experience from earlier allocation rounds with salmon and trout (such as the reallocation round in 1998 and allocation rounds in 2002 and 2003) has shown that it

is very resource demanding to prioritise the various applications in a traditional applicant competition, and this does not necessarily give adequate results with respect to achieving the industry policy goals of the allocation. The current scheme used in these cases is to allocate licences by means of a traditional applicant competition. This means that resources are used to determine which of the applicants are “best” and which are the “next best”. This is very resource demanding for both the industry and administration. More efficient principles can be used, and the industry policy goals of the allocation can be realised nevertheless.

The Act therefore allows a simpler process to prioritise the applicants when quota limited licences are allocated, in addition to allocation through the traditional application competition used today.

In the opinion of the Ministry, the comparison between the applicants in the competition should be determined based on whether the applying enterprise is regarded as suitable for realisation of the allocation’s goals. Less importance should be attached to differences between the applicants beyond this. The fundamental principle of the new allocation proposal is a qualification system in which the administration does not assess which of the already qualified applicants the licences should be allocated to. If the enterprise is qualified, then it is good enough to receive a licence. The subsequent selection can therefore take place by the drawing of lots among the qualified applicants or by other means. The question of an auction or bidding round in this context is in principle a question of *how* the payment shall be determined. In the 2002 and 2003 rounds, the payment was a fixed, predefined amount. A market determined payment, which can be accomplished by a closed or open bidding round, known as an auction in the latter case, is an alternative.

The Ministry also believes that, regardless of whether a traditional applicant competition or simplified procedures are used for the individual allocations, a fundamental principle should be established that applicants shall meet certain minimum requirements to come under consideration. Applicants who wish to participate in the competition must qualify themselves through demonstrating that they are able to realise the relevant industry policy goals of the allocation. Then there will be a prioritisation of the qualified applicants. If the prioritisation does not take place by means of a traditional applicant competition, it can take place as follows:

- If no payment is to be made, or if the payment is fixed, the prioritisation can take place by means of drawing to select from among the qualified applicants.
- If a market determined payment is to be made for the licence, then the prioritisation can take place through an open or closed bidding round, so that whoever pays the most is allocated the licence.

The prioritisation can for example take place by a drawing in two phases:

- In the first phase the application is assessed with respect to whether the concept is suitable for the realisation of the criteria stipulated for the allocation. Typical elements can include financing requirements, operating plans, competence, etc. If the application is deemed suitable in accordance with the requirements of the regulations, then it can participate in phase two.
- Phase two of the allocation will be the execution of the actual drawing or bidding round for the applications. One alternative is to

draw approved applications from the same batch of applications. Another alternative is to sort the applications into predefined categories. If there are licences that have not been allocated after the bidding round for one of the categories, then these can be transferred to another category.

The main idea behind the proposal to simplify the allocation procedure is to focus on the realisation of the value creation potential through limiting the use of public resources on less useful assessments and the subsequent processes. This will be accomplished by releasing the fisheries authorities from the execution of the allocation by prioritising between the applicants through the use of criteria that have little practical significance to the realisation of the value creation potential. A correctly executed drawing of lots for the applicants in the various categories ensures equal treatment. It is assumed that such an allocation procedure will reduce the number of complaints to the administration, and thus any subsequent lawsuits.

The efficiency gains that lie in the simplification of the actual allocation work, and the change in the resources used and role of the fisheries management away from work with complaints and lawsuits will result in a generally higher level of service in the fisheries administration. This is in accordance with the Government's goals of facilitating business activities and simplification.

Payment – fixed price or bidding round

In a legislative amendment of 12 June 2001, Section 6 of the Fish Farming Act was amended and the authority to demand payment for the allocation of new licences was included in Section 6, second paragraph. The legislative amendment was made due to the fact that it was regarded as unfortunate that licenses could still be allocated free of charge and subsequently transferred at a significant profit.

It may be difficult to fix the payment in advance. The licenses advertised in Finnmark in the 2002 and 2003 rounds are an example of this. The applicants in 2002 who were allocated licences were not willing to pay the fixed payment. In 2003 there were no applicants for the Finnmark

licenses. The payment per licence has, however, remained at NOK 4 million in Nord-Troms and Finnmark and NOK 5 million for the rest of the country, respectively, regardless of the market fluctuations.

An open or closed bidding round will be suitable for taking into account the consequences of fluctuations in the market situation for salmon on the ability/willingness to pay for new licences. What is of key importance here is the fact that the payment for licences will be determined based on the industry players' own assessment of the licence's value, and the price will thus correspond to the market value. It will thus be up to the industry players to assess how efficiently the licences can be operated.

5 Transfer, mortgaging and registration of aquaculture licences

Introduction

The Aquaculture Act establishes a statutory right to transfer and mortgage aquaculture licences in the new Aquaculture Act. A special register for aquaculture licences will also be established in this connection.

The legal situation during the Fish Farming Act and Sea Ranching Act

During the Fish Farming Act a new licence was required if the licence was transferred to another legal entity, cf. Section 3, cf. Section 4, third paragraph. In addition, sea ranching licences was non-transferable, cf. Section 8, first paragraph of the Sea Ranching Act.

The administration has, however, sought to address the industry's need to adapt through the transfer of licences by a scheme that has effects similar to a transfer. Based on the Fish Farming Act's requirement that a new legal entity requires a new licence from the authorities, the fisheries administration's has followed a practice in which licences can be reallocated to a new holder (acquirer) by application, provided the allocation of the licence is not in contravention of the provisions of the change of ownership regulations. In the current practice, this is accomplished by pointing out to the new licence holder that the conditions stipulated in the other sector licences will continue to apply to the new holder. The relevant sector authorities receive information on the change of ownership. Thus it is not a new licence that is issued; it is a continuation of the licence, including licences from other authorities. In reality, the current practice is not an opportunity to transfer; it is a reallocation of the licence at the holder's request.

Sea ranching licences can be mortgaged pursuant to Section 8, second paragraph of the Sea Ranching Act.

No right of mortgage has been established for licences pursuant to the Fish Farming Act. In accordance with the current regulations, however, there is an indirect opportunity for a mortgagee to gain control of the value represented by the licence through securing a charge on the shares of the company holding the licence, cf. Sections 4-1 and 4-2 a of the Mortgages and Pledges Act, cf. Section 27 of the Operating Regulations. By executing the charge on the shares, the creditor can thus gain control of the licence through his ownership stake in the company. The execution of the charge on the shares will, however, not guarantee the mortgagee of the value represented by the licence. If the aquaculture licences are realised, the payment will pass to the company and the mortgagee will not have any preemptive rights to the payment in relation to the other creditors.

About the right to transfer and mortgage

The laid down transfer right entails that the licence can be transferred between private parties without any public approval or licence. This means that there is no advance approval of who can be the licence holder after the administration's allocation of the licence. If special conditions are attached to the licence when it is allocated, these will be controlled by the supervisory authorities in connection with the supervision of the operations. This means that the focus is on how the enterprise is operated.

If an aquaculture licence is transferred, the conditions stipulated pursuant to licences from other authorities will follow the

transfer and apply in full to the new holder, in accordance with the current practice of reallocation pursuant to the Fish Farming Act.

The provision is based on the belief that the social interests stop when the area is used for aquaculture and the operations are conducted in a responsible manner. If the licence were to change hands, the other interests would be unaffected objectively by the proposal since the area used and activities conducted by the new holder would be the same as before. What is of key importance here is how the operations are conducted and not who conducts them.

Mortgage right means that the licence can be used as collateral for a creditor's security interest. This means that the mortgagee will have statutory protection for his security interest in the licence in relation to other creditors and an orderly debt collection process. As is the case with transfers, this can be performed without any public approval or licence. The Ministry means that the mortgagee has preemptive rights for satisfaction of his claim through the sale of the attached property (cf. Section 1-1 of the Mortgages and Pledges Act). The unsecured creditors can therefore only seek satisfaction from whatever remains after satisfaction of the mortgagee's claim. A mortgage represents a satisfaction privilege at the expense of other unsecured creditors.

The statutory liens can be taken out against the licence for enforcement damages, violation fines and execution in connection with restoration. Statutory liens are liens that arise immediately by virtue of laws, and they are fully protected from when they arise, without any registration, surrender or other legal protection measures. It is proposed that statutory liens pursuant to the Aquaculture Act be given the highest priority so that they take precedence over any other security interest claims.

The purpose of the introduction of a right of transfer and mortgage is to meet the commercial needs that already exist in the industry and create an orderly and predictable regulatory framework. In the opinion of the Ministry, the right of transfer and mortgage can contribute to greater predictability and improved access to capital for the industry. In addition, the industry's need for flexibility to conduct ordinary commercial transactions will be met within a comprehensive scheme.

The right of mortgage will increase the creditworthiness of the aquaculture companies and facilitate access to and the terms for loan capital. It may also result in a shift in the weighting of loan agreements from short-term to long-term debt.

For a financial institution the opportunity to hold a mortgage interest in the licence will represent a significant improvement in the institution's security interest in relation to the current situation in which the value of the aquaculture licences will pass to the creditors as a whole in the event of bankruptcy.

The Ministry finds that the introduction of the right to transfer aquaculture licences will result in an increased willingness to invest on the equity side from investors; the easier it is to sell an asset, the less the risk is to the investor.

The same evaluations will apply in relation to the financial institutions with respect to the industry's access to capital. When the licences are made transferable, they will have a more defined and stable value that can be realised in the same manner as other assets.

Relationship to the authorities' governance opportunities

The holder of an aquaculture licence has been granted a public licence for the production of a specific species within a

limited geographic area – the site. It is the content of the licence and the applicable provisions prescribed in or pursuant to legislation at any given time that form the legal basis for the operations. An aquaculture licence is thus subject in its entirety to changing regulations, and it is not a right that is exempt from subsequent regulation after its allocation.

The right of transfer and mortgage is an expansion of the licence holder's legal possession of the licence, and it does therefore not grant any increased physical right of use to the sites, for example, in relation to other interests. In addition, the licence holder's disposal of the production area is exclusively in pursuance of a public licence in accordance with the Aquaculture Act, and it is not founded on private property law.

The Ministry would like to point out accordingly that the right of transfer and mortgage does not entail any limitation of the authorities' governance opportunities. The introduction of these rights does not entail any limitation of the authorities' power to revoke or implement other sanctions that may be of significance to the value of the object to be mortgaged or transferred. The opportunity to transfer and mortgage is a right that is granted to the licence holder and no further rights beyond this can otherwise be derived. Whoever the rights are transferred to cannot receive any rights in the transfer that the transferor did not possess.

The rules of the Competition Act concerning the control of the amalgamation of business enterprises represent a limit for how much market power an industry player can obtain through the merger of business enterprises, cf. Chapter 5 of the Competition Act.

Details of the aquaculture register

In connection with the right of transfer and mortgage, a registration scheme will be established for aquaculture licences through the creation of an aquaculture register. The reason for this proposal is the fact that the existence of a register for credible information on the licences and any encumbrances on them will be required if the right to mortgage aquaculture licences is introduced. Another important factor is the fact that such a register can help the administration perform its duties pursuant to the Act.

The aim is to develop a multipurpose register. The register is necessary in order to implement the mortgage scheme since it gives the mortgage rights legal protection. In addition, the register scheme will contribute to making the transfer process easier and more surveyable. Emphasis will be placed on ensuring that the register's functions and administration shall correspond to comparable registration schemes that currently exist, such as the Register of Mortgaged Movable Property and Petroleum Register.

In order to perform its administrative duties, the Directorate of Fisheries currently keeps track of the holders of aquaculture licences through a fish farming register. This register is available to the public.

The individual licences are assigned unique numbers in the register. Detailed information on the licences is also registered, which includes the holder of the licence, whether it is a commercial or other type of licence, table fish or other activities, capacity, what species and the date of establishment. Information on what sites the licence encompasses and the geographic location of these sites is also registered.

The Directorate of Fisheries fish farming register will be upgraded so that the registered information is given legal credibility. Further details of the legal credibility of this information will, however, be determined by the formulation of the registration scheme, cf. Section 18, first paragraph of the Act. Whether all the information in the register shall have such credibility, or what information shall have such credibility, must be evaluated when the provisions relating to the registration scheme pursuant to the regulation competence are issued. The aquaculture register can be managed by the Directorate of Fisheries, but the aim is to attach the register to a central register such as the Brønnøysund Register Centre.

The information registered in the fish farming register will form the basis for the establishment of the new register. The most important aspect of the upgrade is the fact that the register will be suitable for the registration of encumbrances on licences. This will facilitate an efficient system for the transfer and mortgaging of aquaculture licences. The new element that must be implemented in relation to the existing information is thus information on encumbrances on licences.

The function of the register will be similar to that of the Petroleum Register. The registration unit will be aquaculture licences. It will be practical if the most important basic data on the licence (specific species in a specific geographic area) is permanently recorded on the record (the sites can change) and legal rights (mortgage interests, transfers, restrictions) are updated on a continuous basis.

Based on Section 12 of the Property Rights Registration Act, the scope of the documents that shall be registered in the aquaculture register can be specified as "...concerning the creation, amendment,

transfer, mortgage, recognition or revocation of a right..."

The legal rights that will be relevant to register are: transfer of an aquaculture licence, monetary encumbrances in the form of mortgaging the right, as well as any restrictions on the use.

The general public will be granted access to the register and be able to obtain printouts in accordance with the same rules that apply to the Land Register and Register of Mortgaged Movable Property. In addition, parts of the registered information should also be made available on the Internet, as is the case with the current fish farming register. The aquaculture register can thus be an important information tool for industry players, financial institutions and other stakeholders in the industry.

Part III
The Aquaculture Act

6 Act of 17 June 2005 no. 79 relating to aquaculture (Aquaculture Act)

Chapter I Purpose and scope

§ 1 Purpose

The purpose of this Act is to promote the profitability and competitiveness of the aquaculture industry within the framework of a sustainable development and contribute to the creation of value on the coast.

§ 2 Subject scope

The Act applies to the production of aquatic organisms (aquaculture). Aquatic organisms are defined as animals and plants that live in, on, or near water. Any measures to influence the weight, size, number, characteristics or quality of living aquatic organisms are regarded as production. In cases of doubt, the Ministry may determine what is to be regarded as aquaculture by an administrative decision or regulations.

Section 12 and Chapters VI to VIII of this Act also apply to the production of goods and services for the aquaculture industry.

The Ministry may determine, by regulations, that the activities mentioned in the first and second paragraphs shall not be encompassed by all or parts of this Act.

The production of anadromous salmonids and fresh-water fish for cultivation purposes is regulated by the Act of 15 May 1992 no. 47 relating to salmonids and fresh-water fish etc.

§ 3 Geographic scope

This Act applies:

a) on land territory and in territorial waters,

b) in jurisdiction areas established pursuant to the Act of 17 December 1976 no. 91 relating to Norway's economic zone, and

c) on the continental shelf.

This Act does not apply to Svalbard and Jan Mayen. The King may prescribe regulations stipulating that this Act shall apply, in full or in part, to Svalbard and Jan Mayen, and lay down detailed provisions out of consideration for the local conditions, including provisions that depart from the provisions in this Act.

Chapter II Aquaculture licences

§ 4 Aquaculture licence requirement

The Ministry may grant a licence to engage in aquaculture activities (aquaculture licence) pursuant to Sections 6 and 7. Such licences may also be acquired by transfer pursuant to Section 19.

No person may engage in aquaculture activities without registration as the holder of an aquaculture licence in the aquaculture register, cf. Section 18, first paragraph.

§ 5 Content of the aquaculture licence

The aquaculture licence permits the production of specific species in limited geographic areas (sites) subject to the prescribed restrictions on the scope of the licence that apply at any given time.

The Ministry may prescribe detailed provisions relating to the content of the aquaculture licences, including the scope, time limitations, etc., by administrative decision or regulations.

§ 6 General conditions for the allocation of aquaculture licences

The Ministry may grant an aquaculture licence by application, if:

- a) it is environmentally responsible,
- b) the requirements in Section 15 concerning land use plans and conservation measures have been met,
- c) the land use interests have been weighed in accordance with Section 16, and
- d) any licences required pursuant to the following acts have been granted:
 - Act of 19 December 2003 no. 124 relating to food production, food safety, etc.,
 - Act of 13 March 1981 no. 6 relating to protection against pollution and relating to waste,
 - Act of 8 June 1984 no. 51 relating to harbours, fairways, etc., and
 - Act of 24 November 2000 no. 82 relating to watercourses and ground water.

The Ministry may prescribe, by regulations, detailed provisions relating to the allocation of aquaculture licences, including requirements for applications and criteria for granting applications.

§ 7 Aquaculture licences for salmon, trout and rainbow trout in particular

For the allocation of licences for the production of salmon, trout and rainbow trout, the Ministry may prescribe regulations relating to:

- a) the number of licences to be allocated,
- b) geographic distribution of licenses,
- c) prioritisation criteria,
- d) selection of qualified applications in accordance with the prioritisation criteria in letter c, including the drawing of lots etc., and
- e) payment for the allocation of licences.

The King may prescribe, by regulations, provisions relating to the adaptation of the production of salmon, trout and rainbow trout.

§ 8 Coordination of matters related to the establishment of aquaculture

The authorities pursuant to this Act, the acts listed in Section 6, first paragraph, letter d, and the municipality, as the planning and building authority here, are obligated to undertake an efficient and coordinated processing of applications.

The Ministry may prescribe, by regulations, detailed provisions relating to the coordination of application processing, including the stipulation of time limits for the processing of applications.

§ 9 Amendment and revocation of aquaculture licences

The Ministry may amend or revoke aquaculture licences:

- a) if such actions are necessary due to environmental considerations,
- b) if there are changes in any material assumptions underlying the licence,
- c) in the event of gross or repeated contravention of the provisions prescribed in or pursuant to this Act,
- d) if the licence is not used, or only used to a limited extent, or
- e) if one or more of the licences required pursuant to the acts listed in Section 6, first paragraph, letter d, has lapsed.

The amendment or revocation of licences pursuant to the first paragraph may be time-limited. A time-limited amendment or revocation may be made contingent on the improvement or amendment of specific circumstances.

The Ministry may prescribe, by regulations, detailed provisions relating to the amendment and revocation of aquaculture licences.

Chapter III Environmental considerations

§ 10 Environmental standard

Aquaculture facilities shall be established, operated and abandoned in an environmentally responsible manner.

The Ministry may prescribe, by administrative decision or regulations, detailed provisions to ensure environmentally responsible aquaculture, including banning the release of foreign organisms.

§ 11 Environmental monitoring

The Ministry may require, by administrative decision or regulations, that any person who holds or applies for an aquaculture licence shall conduct the necessary environmental surveys and document the environmental condition of the site at the time of the establishment, operation and abandonment of aquaculture facilities.

§ 12 Requirements for installations, equipment, etc.

Installations and equipment that are used for activities encompassed by this Act shall be properly designed, have the proper characteristics, and be used with the necessary caution.

The Ministry may prescribe, by regulations, requirements for the manufacture, use and characteristics of the installations mentioned in the first paragraph, including the establishment of approval and certification schemes.

§ 13 Restoration and recapture obligations

Any person who engages in aquaculture activities shall restore the site and adjoining areas if the production is discontinued in full or in part, including the removal of organisms, installations, equipment, etc.

The Ministry may prescribe, by administrative decision or regulations, provisions requiring that any person who engages in aquaculture activities recapture any released species.

The Ministry may prescribe regulations requiring that security be pledged for the restoration and recapture obligation pursuant to the first and second paragraphs.

The Ministry may prescribe regulations relating to a taxation scheme to ensure satisfaction of the restoration and recapture obligation. The prescribed tax may be recovered by execution proceedings.

§ 14 Protection of specific areas

The Ministry may establish a ban, order relocation or place other conditions on aquaculture activities if such actions are necessary to protect areas of special value to aquatic organisms.

Chapter IV Land utilisation

§ 15 Relationship to land use plans and conservation measures

Aquaculture licences may not be granted in contravention of:

- a) adopted land use plans pursuant to the Planning and Building Act of 14 June 1985 no. 77,
- b) adopted conservation measures pursuant to the Act of 19 June 1970 no. 63 relating to nature conservation, or

b) adopted conservation measures pursuant to the Act of 9 June 1978 no. 50 relating to cultural heritage.

An aquaculture licence may nevertheless be granted if the relevant planning or conservation authority gives its consent.

§ 16 Weighing of land use interests with respect to aquaculture

The Ministry shall weigh the land use interests in determining sites for aquaculture. Particular importance shall be attached to:

- a) applicant's land use requirements for the planned aquaculture production,
- b) alternative use of the area for other aquaculture,
- c) other use of the area, and
- d) conservation interests that are not encompassed by Section 15, letters b and c.

The Ministry may prescribe, by regulations, detailed provisions relating to the use and localisation of aquaculture activities.

§ 17 Utilisation of sites etc.

A person who holds an aquaculture licence has exclusive rights to the withdrawal and recapture of the released species at the site.

The Ministry may, by administrative decision or regulations, regulate the withdrawal and recapture of the individual species at the site, regardless of the provisions in the Act of 3 June 1983 no. 40 relating to saltwater fisheries.

The Ministry may limit or ban, by regulations, any traffic on or other use of the sites and adjoining areas, including fishing for species other than the released

species, if this is necessary due to aquaculture production considerations.

Chapter V Registration, transfer and mortgaging of aquaculture licences

§ 18 Registration of aquaculture licences

A register shall be kept of the aquaculture licences (the aquaculture register). The individual licences shall have a separate record in the register.

A journal shall be kept of all the legal rights that are to be registered.

The Ministry may prescribe regulations relating to the registration scheme, including the registration authority, compensation scheme, journal keeping, etc.

The rules in the Act of 7 June 1935 no. 2 relating to property rights registration, Chapters 2 and 3 and Section 35, apply correspondingly as long as they are appropriate and the provisions prescribed in or pursuant to this Act do not state otherwise.

§ 19 Transfer of aquaculture licences

The aquaculture licences may be transferred.

The transfer of aquaculture licences is not of any significance to the authorities' use of measures pursuant to this Act.

The leasing of aquaculture licences is not permitted. In exceptional cases the Ministry may grant exemptions from the ban of leasing.

The Ministry may prescribe, by regulations, detailed provisions relating to the transfer of aquaculture licences.

§ 20 Mortgaging of aquaculture licences

Aquaculture licences may be mortgaged.

The mortgage will be afforded legal protection when it is registered on the licence's record in the aquaculture register.

The mortgaging of aquaculture licences is not of any significance to the authorities' use of measures pursuant to this Act.

The State's mortgage takes precedence over any other encumbrances on licences for claims for enforcement damages pursuant to Section 28, claims for the reimbursement of execution expenses pursuant to Section 29, and for violation fines pursuant to Section 30.

The Ministry may prescribe, by regulations, detailed provisions relating to the mortgaging of aquaculture licences, including limitation of the amount of the State's mortgage pursuant to the fourth paragraph.

Chapter VI General requirements and obligations

§ 21 Supervision

The Ministry determines who the supervisory authorities shall be pursuant to this Act. The supervisory authorities shall supervise that the provisions prescribed in and pursuant to this Act are observed.

§ 22 Professional competence

Any person who participates in the activities encompassed by this Act shall have the necessary professional competence to carry out such activities.

The Ministry may prescribe, by regulations, detailed provisions relating to the professional competence requirements for activities encompassed by this Act.

§ 23 Systematic control measures

To ensure that the requirements in or pursuant to this Act are observed, the Ministry may determine by regulations that any person who engages in the activities encompassed by this Act are obligated to establish and implement systematic control measures.

§ 24 Duty of disclosure and investigation

At the order of the supervisory authorities, any person who engages in the activities encompassed by this Act has a duty to disclose information, documents, test samples or other materials that are necessary so that the supervisory authorities can perform their duties pursuant to this Act.

At the order of the supervisory authorities, any person who engages in the activities encompassed by this Act has a duty to conduct any investigations that are necessary so that the supervisory authorities can perform their duties pursuant to this Act.

The Ministry may prescribe, by regulations, detailed provisions relating to the duty of disclosure and investigation in the first and second paragraphs, including whether these duties shall be performed regularly.

§ 25 Duty to assist

Any person who engages in the activities encompassed by this Act has a duty to grant the supervisory authorities access to areas, installations and equipment associated with the activities, so that the supervisory authorities can perform their duties pursuant to this Act.

Any person who engages in the activities encompassed by this Act shall provide the necessary premises, materials, organisms and assistance for the performance of the

supervision and otherwise provide assistance for the performance of supervisory work.

§ 26 Fees

The Ministry may prescribe regulations relating to fees for the processing of applications and the performance of supervisory work in accordance with the provisions in or pursuant to this Act.

Any fees owed may be recovered by execution proceedings.

Chapter VII Sanctions for contravention

§ 27 Orders to execute measures

If the provisions prescribed in or pursuant to this Act are contravened, the supervisory authorities may order the execution of measures to remedy the illegal situation and bring it to an end. A time limit may be stipulated for the performance of such measures.

§ 28 Enforcement damages

To ensure implementation of the provisions prescribed in or pursuant to this Act, the supervisory authorities may impose running enforcement damages on the responsible party. Enforcement damages that fall due for each contravention may also be adopted. Enforcement damages may also be adopted at the same time as an order to execute measures pursuant to Section 27, or at a later date.

The enforcement damages will take effect when the responsible party exceeds the deadline for remedying the situation stipulated by the supervisory authorities in the enforcement damages decision, and they will remain in effect for the duration of the situation. They will, however, not take effect as long as compliance is

impossible due to circumstances beyond the control of the responsible party.

If there are several responsible parties in accordance with the enforcement damages decision, the responsible parties are jointly liable for payment of the enforcement damages. The enforcement damages may be recovered by execution proceedings. The Ministry may waive the accrued damages.

The Ministry may prescribe, by regulations, detailed provisions relating to enforcement damages, including the amount and duration of the enforcement damages, stipulation of enforcement damages and waiving the accrued enforcement damages.

§ 29 Execution of measures at the expense of the responsible party

If the deadline for the performance of orders pursuant to Section 27 has expired, the supervisory authorities may take steps to ensure that the measures are executed.

Even if an order has not been made pursuant to Section 27, the supervisory authorities may, if it is necessary to execute the measure immediately or other special reasons exist, take steps to ensure the execution of measures to bring the illegal situation to an end.

The reimbursement of the expenses associated with the execution pursuant to the first and second paragraphs may be claimed from the responsible party. If there are several responsible parties, they are jointly and severally liable for the expenses. Claims for the reimbursement of execution expenses may be recovered by execution proceedings.

The Ministry may prescribe, by regulations, detailed provisions relating to the execution of measures, including the recovery of the execution expenses.

§ 30 Violation fines

Violation fines may be imposed on any person who contravenes with the provisions prescribed in or pursuant to this Act by the supervisory authorities. The fines shall be commensurate with any gain obtained by the responsible party as a result of the contravention. The supervisory authorities' expenses associated with control measures and work on the case may also be taken into account.

Final violation fine decisions may be recovered by execution proceedings.

The Ministry may prescribe, by regulations, detailed provisions relating to violation fines, including provisions relating to interest and additional fees if the violation fine is not paid when due.

§ 31 Criminal liability

Any person who contravenes the provisions prescribed in or pursuant to this Act with wilful intent or gross negligence may be punished by fines or imprisonment for a maximum of one year, or both, provided the offence is not subject to more severe penal provisions.

In particularly aggravating circumstances, imprisonment for a maximum of two years may be applied, unless the offence is subject to more severe penal provisions.

Aiding and abetting and attempts are subject to the same punishment.

Regulations prescribed pursuant to this Act may stipulate that contravention of the regulations is not punishable.

Chapter VIII Concluding provisions

§ 32 Entry into force

This Act enters into force on 1 January 2006.

§ 33 Transitional provisions

Administrative decisions and regulations issued pursuant to the Act of 14 June 1985 no. 68 relating to the farming of fish, shellfish, etc., and the Act of 21 December 2000 no. 118 relating to sea ranching will continue.

§ 34 Continuation of the regulations relating to the supervision of ownership in table fish farming

The Regulations of 22 December 2004 no. 1800 relating to the regulation of ownership in companies etc. licensed to operate seawater rearing units for salmon and trout will be continued, even though the legal authority pursuant to the Act of 14 June 1985 no. 68 relating to the farming of fish, shellfish, etc., is repealed.

Publish by:
Norwegian Ministry of Fisheries and Coastal Affairs
Visiting address: Grubbegata 1
Postadress: Postboks 8118 Dep., 0032 Oslo
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Internet: fkd.dep.no

Publication number: L-0525 E

Photo: Per Eide, Norwegian Seafood Export Council
Print: Kopi- og distribusjonsservice - 08/05 - 300

