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LANDBRUKS- OG MATDEPARTEMENT
The Royal Ministry of Agriculture and Food

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Dok 6

Your ref
Cases No: 2123 and 3040, Event no:
312682

Our ref
200500590-/IAA

Date
September 30, 2005

Subject: Application of the personal residency and farming requirements for agricultural and forestry land in the Concession Act

Reference is made to previous correspondence on this matter, first of all to your letter dated 16 March 2005 and our letter of 15 April 2005. In your letter you asked several questions regarding how the new Concession Act has been practised since it entered into force on 1 January 2004. The Ministry of Agriculture and Food informed you that statistical information was not available in April, but that the Ministry would collect the information and give you information on the questions in September /October this year.

The Ministry has, with the assistance from the Norwegian Agricultural Authority (Statens Landbruksforvaltning), addressed the County Land Boards and the municipalities, and is now able to present some information.

The Ministry has not collected similar information from the period prior to 2004. Consequently it is not possible to compare the collected figures to figures that illustrate practice from any year before the new Concession Act entered into force. The changes in practice emphasized in Circular M-5/2003, are therefore not visible through the information in this letter.

Question 1: Does the Norwegian government have information on how many applications have been submitted to the Norwegian authorities under the new Concession Act, where the applicant sought to get concession for acquisition of agricultural and forestry land (landbrukseiendommer) without having to personally reside on and/or farm the property himself?

Table 1. Cases concerning agricultural and forestry property handled during the year 2004. Applications where the applicant sought to get concession for acquisition without having to personally reside on and/or farm the property himself. Divided into groups showing the municipalities decision.

No. of applicants seeking for concession:	Total no. of applications handled	No. of permits without a requirement to live on or farm the property	No. of permits without a personal requirement to live on or farm the property	No. of refusals
1. without having to personally live on or farm the property	103	86	11	6 (5,83%)
2. without having to personally live on the property	265	249	5	11 (4.15%)
3. without having to personally farm the property	73	31	41	1 (1,37%)
4. Total	441	366	57	18 (4,08%)

The figures illustrate that concession was granted to most of the applicants without any requirements at all. 441 applications were processed, and 366 got concession without any requirement to live on or farm the property. The rate of refusal is low, close to 5% and less. The figures in the column for refusals contain cases where concession was refused, and cases where the applicant received concession with some sort of condition – conditions that either have nothing to do with the requirements to live on or farm the property or conditions with a personal requirement to live on or farm the property.

In comments received from the County Land Boards we have been informed that a substantial amount of the cases concern purchase of additional property (the applicant already is the owner of agricultural property, and buy more such property with an intention to enlarge his/her estate). We have reason to believe that these applicants may hold the majority of group 2; that is applicants seeking for concession without having to personally live on the property (these applicants normally live on the property they already own).

Your question was limited to concessions where the applicant sought concession without having to personally live on or farm an agricultural property. The municipalities were therefore not asked how many concession cases that totally were handled during 2004. Due to this we do not know the percentage of applicants that sought to get concession without having to personally reside on and /or farm the property themselves. We do assume, however, that the total amount of cases that were handled in 2004 is considerably lower than the amount in 2003 – before the new Concession Act entered into force¹.

¹ During 2003 2.223 cases were handled at County level. (The municipalities did not decide in cases regarding agricultural property at that time.) In 788 cases concession was given without any conditions, in 1.372 cases concession was given with different kinds of conditions, and in 63 cases (2,83%) concession was denied.

Question 2: How many cases, defined under point 1, have been appealed to a higher administrative authority, and, or a court?

The information from the municipalities (table 1) illustrates that the rate of refusal in these cases is very low. Indeed, almost all the applicants got concession without any such requirements. Due to this no cases have been appealed to a higher administrative authority. There have been no court cases related to this question in the period after the new act entered into force.

Question 3: Please provide, if possible, information on how many of the applicants were individuals, companies, Norwegian nationals and/or residents and nationals and/or residents of other EEA States than Norway.

As pointed out to you in our previous letter it is impossible to gather information on the question of citizenship unless we directly contact each applicant. We have, however, asked the municipalities to gather information about the applicants' postal-address stated in the application forms.

Table 2. Cases concerning agricultural and forestry property handled during the year 2004. Applications where the applicant sought to get concession without having to personally reside on and/or farm the property himself. Divided into groups showing the applicants and their postal address.

No. of applicants seeking for concession:	Total no. of applications handled	Individuals		Companies	
		Postal address in Norway	Postal address in other country	Postal address in Norway	Postal address in other country
1.without having to personally live on or farm the property	103	89	0	14	0
2.without having to personally live on the property	265	254	1	10	0
3.without having to personally farm the property	73	73	0	0	0
4.Total	441	416	1	24	0

The information from the municipalities shows that most applicants are individuals, and that they have their postal address in Norway. 25 out of a total of 441 were not in this category. One of these applicants (one person, living in USA) had her home address abroad. She originally got concession with residency and farming requirements. After concession was granted she applied for a change, and then the requirement to live on the property was dropped by the municipality. 24 companies applied for concession. All of them had their postal-address in Norway.

Question 4: What was the outcome of the applications defined in points 1 and 2?

Table 1 illustrates the outcome of the applications defined under point 1. The table illustrates that most applicants got concession even if they applied for concession without residence or farming requirements. The rate of refusals is less than 6 %, and most of the applicants got concession without any sort of residence or farming condition.

The decision of a concession case shall be based on an assessment of the applicants' purposes when buying the property, and be weighed according to the public needs put forward in the Concession Act section 1. According to section 9, which is a section regarding agricultural and forest property, special emphasis in favour of the applicant shall be placed on the following:

1. whether the agreed price provides for a socially justifiable price development,
2. whether the acquirer's purposes will take into account the interests of settlements in the area,
3. whether the acquisition involves an operationally satisfactory solution, and
4. whether the acquirer is regarded as qualified to work the property.

We have asked the municipalities about the reasons for the refusals. The reasons for the refusals do, of course, vary. In some cases where concession has been refused the reason has been that a personal requirement to live on the property gives better opportunities for a stable settlement in the area than a non-personal requirement. In other cases the reason has been that a personal requirement to live on the property can make sure that the property is better taken care of. Finally in some cases it is said that a personal requirement to live on the property increases the activity in the local community. In cases where the applicant has sought concession without a personal requirement to farm the property himself, the reasons behind the refusals have been that a personal requirement gives a better security for a proper farming of the property. We must add that this information has been collected in a statistical way, we do not have the municipalities' decisions.

The question of outcome can as you can see from the information in this letter be summed up in a statistical way. This method cannot, however, give an image of the total picture of the use of the Concession Act. It does not show how the individual case is handled by the municipalities, or which relevant data that has been essential to make the decision. The ministry's long experience in handling and administering concession cases has taught us that the relevant facts and the intentions of the applicants vary from case to case. The regulations in the act give a lot of freedom of assessment. A thorough examination of each case handled would therefore be necessary if the intention is to make certain that every decision is acceptable within the frames of the EEA-treaty.

We hope that this question can be discussed further when we meet later this autumn, and we will, in particular, draw attention to this in connection with the ministry's plans for future monitoring of the regulations of the Concession Act (as a part of the so-called KOSTRA). A brief overview of the KOSTRA system and the plans to use it are enclosed.

Yours sincerely,



Ellen Hambro
Director General



Inger Grette
Deputy Director General

Enclosure:

1. Overview of the KOSTRA system and the plans to use it as a monitoring tool.

KOSTRA is a national system that provides information on municipal and county municipal activities.

The data collection includes most of the municipal and county municipal activities, including economy, schools, health, culture, environment, social services, public housing, technical services and transport, and communication.

KOSTRA is an abbreviation for "Municipality-State-Reporting". The KOSTRA-project started in 1995. This pilot developed a first version of a new system for electronic data reporting and publishing. After the first pilot the government decided that all municipalities should report according to the new system. The first full scale reporting took place in March 2002.

KOSTRA's main purpose is:

- to provide better information on the municipalities, both to the State authority and the municipalities. This includes a more coherent data collection which makes it possible to combine data on accounts with data on services and personell.
- to collect data only once, even if it is collected for different purposes.
- to focus on comparability between municipalities and to make benchmarking possible as a part of the management process.

Today all data reporting from the municipalities are electronic. Electronic forms or file extracts are used.

The information is collected from the municipalities during February, and the first figures are published in March. Prior to this publishing only electronic tests check the reliability of the data. Revised figures are published in June.

Until 2004 information concerning the Concession Act was collected by means of a computing program called Ajour. The information we have presented earlier was collected by this program.

From the beginning of 2005 KOSTRA is used to monitor the handling of the regulations in the Concession Act. The 2005 data will be published on Internet by Statistics Norway (SSB), an organisation that also has the secretary function of KOSTRA.

The new monitoring method has been developed in a co-operative project between several participants: The Ministry of Local Government and Regional development, Statistics Norway (SSB), representatives of the municipalities, representative of the County Governor and The Ministry of Agriculture and Food.

The electronic form required to gather the information is under development and will be sent to the municipalities this autumn to be returned to Statistics Norway (SSB). You will find the proposed form enclosed.

The electronic form requires quantitative information such as number of applications, refusals, concessions with and without general conditions. The gathered information enables us to present automatically generated tables.

Through the electronic form the municipalities have to report:

- the number of applications submitted to the Norwegian authorities where concession is given with and without general conditions.
- the number of applications submitted to the Norwegian authorities with the following general conditions:
 - the number of concessions with a requirement to live on the property personally
 - the number of concessions with a requirement to live on the property
 - the number of concessions with a requirement to farm the property personally
 - the number of concessions with a requirement to farm the property
- refusals.

Today KOSTRA can not handle all kind of information. It can not illustrate how the individual case is handled by the municipalities or provide information that enables us to compare individual cases.

In the future development of KOSTRA we intend to measure the quality of the municipalities services. KOSTRA has so far assumed that the quality indicators will be transformed into objectively measurable indicators.

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KOSTRA 2005 - KOMMUNE-STAT-RAPPORTERING

Skjema nr	Skjema navn
32	FORVALTNING AV LANDBRUKSAREALER 2005
	Funksjon 325
	Opplysningene hentes inn av Statistisk sentralbyrå i medhold av § 2 i Landbruksdepartementets forskrift av 8. desember 2003 Om saksbehandling mv. i kommunene i saker etter konsesjonsloven, jordloven, odelsloven og skogbruksloven, og lov av 16. juni 1989 nr. 54 om offisiell statistikk og Statistisk sentralbyrå §§ 2-1 og 2-2, jf. kgl.res. av 16. juni 1989 nr. 387 og delegasjonsvedtak av 13. februar 1990 nr. 1228.

1. Opplysninger om kommunen og ansvarlig for rapporteringen

Kommunenr	Kommunens navn		
Navn skjemaansvarlig	E-post skjemaansvarlig	Tlf nr	

2. Omdisponering av dyrka og dyrkbar jord etter jordloven og etter plan- og bygningsloven

Dyrka og dyrkbar jord defineres i henhold til jordbruksareal og dyrkningsjord i Økonomisk kartverk.

- Dyrka jord omfatter fulldyrka jord, overflatedyrka jord og innmarksbeite.
- Fulldyrka jord er areal som er dyrka til vanlig pløyedybde, og som kan nyttes til åkervekster eller til eng som kan fornyes ved pløying.
- Overflatedyrka jord er areal som for det meste er ryddet og jevnet i overflaten, slik at maskinell høsting er mulig.
- Innmarksbeite er innmarksareal som kan nyttes som beite, men som ikke kan høstes maskinelt. Minst 50 % av arealet skal være dekket av grasarter.
- Dyrkbar jord er areal som ved oppdyrking kan settes i slik stand at det vil oppfylle kravene til lettbrukt eller mindre lettbrukt fulldyrka jord, og som oppfyller kravene til klima og jordkvalitet for plantedyrking.

For dyrkbar jord skal det ikke tas hensyn til om det for tida er ulønnsomt å dyrke opp jorda.

Har kommunen i 2005 behandlet søknader om omdisponering av dyrka eller dyrkbar jord etter jordloven § 9?

Ta også med fradelinger etter jordloven § 12 som innebærer omdisponering av dyrka eller dyrkbar

jord.

Ja Nei

Oppgi antall søknader behandlet etter jordloven § 9 i 2005, etter resultat (vedtak):

Ta også med fradelinger etter jordloven § 12 som innebærer omdisponering av dyrka eller dyrkbar jord.

	Antall
Søknader innvilget, helt eller delvis	<input type="checkbox"/>
Søknader avslått	<input type="checkbox"/>
Søknader i alt	<input type="checkbox"/>

Oppgi arealer av dyrka og dyrkbar jord som er godkjent omdisponert i 2005 etter jordloven eller plan- og bygningsloven:

Ta også med fradelinger etter jordloven § 12 som innebærer omdisponering av dyrka eller dyrkbar jord. Dersom det i 2005 søkes på nytt for areal som tidligere er godkjent omdisponert, skal bare en ev. utvidelse av arealet oppgis. Under vedtatte reguleringsplaner og bebyggelsesplaner skal det bare oppgis arealer som tidligere ikke er regulert. Plan eller deler av plan som det foreligger en uavklart innsigelse på, skal ikke rapporteres før den er endelig vedtatt. Dvs. etter at innsigelse er trukket eller departementet har stadfestet planen.

	Godkjent omdisponert som enkeltsak i medhold av jordloven: Dyrka jord, dekar	Godkjent omdisponert som enkeltsak i medhold av jordloven: Dyrkbar jord, dekar	Endelig vedtatte reguleringsplaner og bebyggelsesplaner: Dyrka jord, dekar	Endelig vedtatte reguleringsplaner og bebyggelsesplaner: Dyrkbar jord, dekar
Byggeområde				
Område for boliger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fritidsbebyggelse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forretninger, kontorer, industri	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Område for offentlige formål og andre allmennyttige formål	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Annet byggeområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Byggeområde i alt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landbruksområde				
Skogplanting	<input type="checkbox"/>	<input type="checkbox"/>		

Offentlig trafikkområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Friområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fareområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spesialområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Område for golfbane	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Annet spesialområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spesialområde i alt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fellesområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fornyelsesområde	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. I alt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Nydyrking

Tiltak som regnes som nydyrking er definert i forskrift om nydyrking § 3 første til tredje ledd, og omfatter:

- Opparbeiding fra udyrka mark til fulldyrka mark.
- Opparbeiding fra udyrka mark til overflatedyrka mark.
- Opparbeiding fra jordbruksareal som har ligget unyttet i over 30 år til overflatedyrka eller fulldyrka mark

Opparbeiding av innmarksbeite til fulldyrka eller overflatedyrka mark regnes som nydyrking. Rydding av areal til innmarksbeite regnes ikke som nydyrking.

Har kommunen i 2005 behandlet søknader om nydyrking etter jordloven § 11 andre ledd, jf. forskrift om nydyrking?

Ja Nei

Oppgi antall søknader behandlet i 2005, etter resultat (vedtak):

Kolonne 1 ("I alt-kolonnen") skal vise antall søknader. For søknader innvilget med vilkår kan det settes flere vilkår i et vedtak. Søknader innvilget med vilkår ut fra miljøhensyn spesifiseres nærmere i kolonnene 2 - 5. Eksempel: Er en søknad innvilget med vilkår ut fra hensynet til biologisk mangfold og landskapsbildet, skal den telles med i kolonnene 1, 2 og 4. Søknader avslått skal rapporteres på samme måte.

	1. I alt	2. Med vilkår ut fra hensynet til biologisk	3. Med vilkår ut fra hensynet til kulturminne	Med vilkår ut fra følgende miljøhensyn:Landskapsbildet	Med vilkår ut fra følgende miljøhensyn:Friluftsliv
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		mangfold			
Søknader innvilget uten vilkår	<input type="checkbox"/>				
Søknader innvilget med vilkår	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
-av disse med redusert areal som følge av miljøhensynene biologisk mangfold, kulturminne, landskapsbildet og/eller friluftsliv	<input type="checkbox"/>				
Søknader avslått	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Søknader i alt	<input type="checkbox"/>				

Oppgi omsøkt nydyrka areal ifølge behandlede søknader i 2005:

Dersom det i 2005 søkes på nytt for areal som tidligere er godkjent nydyrka, skal bare en ev. utvidelse av arealet oppgis.

	Areal i alt, dekar	Areal som er registrert som A-område for biologisk mangfold, dekar	Areal som er registrert som B-område for biologisk mangfold, dekar
Omsøkt nydyrka areal i alt	<input type="checkbox"/>		
Godkjent nydyrka areal i alt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ikke godkjent nydyrka areal	<input type="checkbox"/>		

4. Deling av eiendom etter jordloven

Har kommunen i 2005 behandlet søknader om deling etter jordloven § 12?

Ja Nei

Oppgi antall søknader behandlet i 2005, etter resultat (vedtak):

En søknad kan omfatte fradeling av flere tomter/arealer. Dersom deling har medført omdisponering av dyrka eller dyrkbar jord, skal det også rapporteres under punkt 2.

	Antall	Antall
Søknader innvilget (helt eller delvis) i alt	<input type="text"/>	<input type="text"/>
- av disse med formål tilleggsjord til annen landbrukseiendom	<input type="text"/>	<input type="text"/>
Søknader avslått	<input type="text"/>	<input type="text"/>
Søknader i alt	<input type="text"/>	<input type="text"/>

5. Søknader etter konsesjonsloven

Har kommunen i 2005 behandlet søknader om konsesjon i medhold av konsesjonsloven, unntatt "0-grense-saker" (jf. § 7)?

0-grense-saker" rapporteres seinere i skjemaet.

Ja Nei

Oppgi antall søknader behandlet i 2005, etter resultat (vedtak):

Dersom det for en søknad innvilget med vilkår er satt både vilkår om boplikt og vilkår om driveplikt, skal begge vilkårene telles med i kolonne 2.

	Antall	Antall
Søknader innvilget uten vilkår i alt	<input type="text"/>	<input type="text"/>
Søknader innvilget med vilkår i alt	<input type="text"/>	<input type="text"/>
Av disse:		
- med vilkår om personlig boplikt	<input type="text"/>	<input type="text"/>
- med vilkår om upersonlig boplikt	<input type="text"/>	<input type="text"/>
- med vilkår om personlig driveplikt	<input type="text"/>	<input type="text"/>
- med vilkår om upersonlig driveplikt	<input type="text"/>	<input type="text"/>
Søknader avslått	<input type="text"/>	<input type="text"/>
Søknader i alt	<input type="text"/>	<input type="text"/>

Har kommunen innført forskrift om nedsatt konsesjonsgrense for bebygd eiendom ("0-grense") etter konsesjonsloven § 7?

Ja Nei

Oppgi antall søknader behandlet i 2005, etter resultat (vedtak):

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	Antall
Søknader innvilget uten vilkår i alt	<input type="text"/>
Søknader innvilget med vilkår i alt	<input type="text"/>
Søknader avslått	<input type="text"/>
Søknader i alt	<input type="text"/>

6. Boplikt etter konsesjonsloven og odelsoven.

Gjelder konsesjonsfrie overdragelser av jord- og skogbrukseiendommer, jf. konsesjonsloven § 5 og odelsoven § 27a.

Har kommunen i 2005 behandlet søknader om fritak fra boplikt etter konsesjonsloven § 5 siste ledd, eller odelsoven § 27a første ledd?

Ja Nei

Oppgi antall søknader behandlet, etter resultat (vedtak):

	Antall
Søknader innvilget med varig fritak fra boplikt	<input type="text"/>
Søknader innvilget med tidsbegrenset fritak fra boplikt	<input type="text"/>
Søknader avslått	<input type="text"/>
Søknader i alt	<input type="text"/>

Kildefil:

Knapp for innsending
