

Act relating to concession in the acquisition of real property (Concession Act)

TABLE OF CONTENTS

- Chapter 1. Purpose and instruments 2
 - Section 1. (*Purpose of the Act*)..... 2
 - Section 2. (*Instruments*) 2

- Chapter 2. Dispositions regarded as equivalent to acquisition of real property 2
 - Section 3. (*Special rights covered by this Act*)..... 2

- Chapter 3. Transfers that do not require a concession; reduced concession limit, etc..... 2
 - Section 4. (*Exceptions based on the character of the property*) 3
 - Section 5. (*Exceptions based on the status of the acquirer*) 3
 - Section 6. (*Content of the residence obligation*)..... 4
 - Section 7. (*Reduced concession limit for built-on property*) 4
 - Section 8. (*Regulations concerning information requirements pursuant to sections 4, 5 and 7*)..... 5

- Chapter 4. Circumstances of relevance for whether a concession shall be granted..... 5
 - Section 9. (*Special circumstances for agricultural properties*) 5
 - Section 10. (*Special circumstances affecting decision of cases pursuant to regulations concerning reduced concession limits*) 5
 - Section 11. (*Conditions for granting a concession*)..... 5

- Chapter 5. Procedures 5
 - Section 12. (*Application for a concession*) 5
 - Section 13. (*Time limit for applying for a concession*) 6
 - Section 14. (*Regulations concerning procedures*) 6

- Chapter 6. Miscellaneous provisions 6
 - Section 15. (*Concession is a condition for registration of property rights*) 6
 - Section 16. (*Contravention of concessionary conditions*) 6
 - Section 17. (*Control of compliance with conditions, etc.*) 7
 - Section 18. (*Time limit for arrangement of matters when a concession is not granted*) 7
 - Section 19. (*Failure to observe a fixed time limit*)..... 7
 - Section 20. (*Prohibition against impairment of the property*)..... 7
 - Section 21. (*Entry into force*) 7
 - Section 22. (*Transitional provisions*)..... 8
 - Section 23. (*Amendments to other Acts*) 8

Act relating to concession in the acquisition of real property (Concession Act)

Proposition No. 79 (2002-2003) to the Odelsting, Recommendation No. 11 to the Odelsting and Decision No. 8 (2003-2004) of the Odelsting, Decisions of the Odelsting and Lagting respectively 13 and 20 November 2003. Submitted by the Ministry of Agriculture.

The following Act is repealed: The Act of 31 May 1974 No. 19 relating to concession in the acquisition of real property (Concession Act).

Chapter 1. Purpose and instruments

Section 1. (*Purpose of the Act*)

The purpose of this Act is to regulate and control the sale of real property in order to achieve an effective protection of agricultural production areas and such conditions of ownership and utilization as are most beneficial to society, inter alia, in order to provide for:

1. the needs of future generations
2. agricultural industry
3. the need for development sites
4. consideration for the environment, general interests of nature conservation and outdoor recreation.
5. consideration for settlements.

Section 2. (*Instruments*)

With the exceptions ensuing from this Act, real property may not be acquired without the permission of the King (concession). The authority of the King may be delegated to the municipalities.

This Act shall not apply to acquisition that is subject to concession pursuant to:

1. The Act of 3 July 1914 No. 5 relating to acquisition of limestone reserves
2. Chapter I or II of the Act of 14 December 1917 No. 16 relating to acquisition of waterfalls, mines and other real estate
3. The Act of 17 June 1949 No. 3 relating to acquisition of quartz reserves
4. Chapter 3 of the Act of 29 June 1990 No. 50 relating to the production, conversion, transmission and distribution of energy, etc.

The King may in regulations make exceptions from the concession requirement beyond what follows from sections 4, 5 and 7. When special considerations so indicate, the King may also make exceptions from the concession requirement in individual cases.

Chapter 2. Dispositions regarded as equivalent to acquisition of real property

Section 3. (*Special rights covered by this Act*)

The provisions of this Act concerning concession shall also apply to establishment and transfer of leases and other similar right to use of real property unless the right is established for a period of a maximum of 10 years without the user holding the right to demand extension of the contractual term in excess of this period. The same shall apply to other rights to real property entailing a substantial reduction of the owner's right to dispose of the property or to receive the financial yield deriving from it. Establishment and transfer of development contracts of any kind including contracts for development options entail a concession requirement regardless of duration.

Real property may not be subjected to possession by a mortgagee (*antichresis*) for a period exceeding three years without a concession.

Chapter 3. Transfers that do not require a concession; reduced concession limit, etc.

Section 4. (*Exceptions based on the character of the property*)

A concession is not necessary for the acquisition of:

1. individual undeveloped sites for a dwelling or holiday home if the size of the site does not exceed two decares and partition has been approved pursuant to the Planning and Building Act and the Land Act.
2. Individual undeveloped sites for dwellings or holiday homes in an area designated for development in the land-use part of the municipal master plan or building development plan laid down pursuant to the Planning and Building Act, and where parcelling out of sites has been undertaken or approved by the building authorities.
3. other undeveloped land areas if they are located in an area that is regulated by a local development plan for other than agricultural use or that is designated as a development area by the land-use part of the municipal master plan.
4. built-on property not exceeding 100 decares, where not more than 20 decares of the area are fully cultivated.

Dispensation from the concession requirement pursuant to the first paragraph (1) and (2) is conditional upon development of the site within five years.

Dispensation from the concession requirement pursuant to the first paragraph (3) is conditional upon there being no change of use by the acquirer in contravention of the plan.

In areas regulated by local development plans, dispensation from the concession requirement pursuant to the first paragraph (4) is conditional upon there being no change of use by the acquirer in contravention of the plan. The same applies when the property included in the land-use part of the municipal master plan is designated as a development area or an agricultural, nature conservation or outdoor recreation area. Dispensation from the concession requirement pursuant to the first paragraph (4) may be set aside by regulations pursuant to section 7, first paragraph.

Section 5. (*Exceptions based on the status of the acquirer*)

Concession is not necessary when the acquirer is:

1. the owner's spouse or is related by blood to the owner or the owner's spouse in a direct line of ascent or descent or in the first collateral line of the owner or owner's spouse including children of siblings, or is related by marriage to the owner in a direct line of ascent, provided that the owner's concession is in order. The concession requirement may nevertheless ensue from section 7, second paragraph.
2. has an allodial entitlement to the property
3. the state
4. the county or municipal authority where the property lies, provided that the acquisition concerns a property in an area covered by a municipal master plan, local development plan or building development plan pursuant to the Planning and Building Act and the property is designated by the plan for use other than agricultural use or the acquisition takes place by means of expropriation. A municipal real estate company where the municipality concerned holds at least half of the capital and has a majority on the board of directors shall be equivalent to the municipality as regards dispensation from the concession requirement pursuant to this subsection.
5. a bank or other institution that the King has approved in this connection when the acquisition takes place by means of a compulsory purchase for the purpose of securing a claim in respect of which the acquirer holds a mortgage on the property. The property must be resold within two years. This time limit shall run from acceptance of the auction bid and may be extended by the Ministry.

In the acquisition of agricultural and forest properties with a total area in excess of 100 decares, or where more than 20 decares are fully cultivated, dispensation from the concession requirement pursuant to the first paragraph (1) is conditional upon the acquirer taking up residence on the property within one year and operating it himself for a minimum of five years. The acquirer may fulfil the operation obligation by renting out the farmland as additional land to another agricultural property for a minimum of 10 years. Such fulfilment of the operation obligation is conditional upon the existence of a written tenancy agreement and that the arrangement results in operationally satisfactory solutions. Agreements that result in operationally unsatisfactory solutions may be responded to as breaches of the requirements for dispensation from the concession requirement, cf. section 17.

The King may relax or completely exempt from the residence and operation obligation pursuant to the second paragraph.

Section 6. (*Content of the residence obligation*)

An acquirer who, pursuant to section 5, second paragraph, is obliged to reside on a property shall take up genuine residence on the property. Genuine residence is taken up on a property when the owner is registered as resident on the property pursuant to provisions laid down in or pursuant to the Act of 16 January 1970 No. 1 relating to population registration.

An owner who over time stays the night on the property for at least 50 per cent of the nights, but who fails to fulfil the conditions for registration in the Population Register, cf. the first paragraph, because the remainder of the owner's household is resident elsewhere must notify the municipality of how his residence will be arranged. Such notification must be sent in writing within one year. The Ministry will decide whether the residence obligation may be regarded as fulfilled by the arrangements described by the owner.

Section 7. (*Reduced concession limit for built-on property*)

The King may in regulations set aside dispensation from the concession requirement pursuant to section 4, first paragraph (4) in respect of:

1. built-on property that is or has been in use as a year-round residence.
2. property with buildings not utilized as a year-round residence, including property with buildings under construction, in areas regulated for dwelling purposes in a local development plan pursuant to the Planning and Building Act.

In areas covered by regulations pursuant to the first paragraph, dispensation from the concession requirement shall apply to close relatives, pursuant to section 5, first paragraph (1), only if the owner has held registered title to the property for the five years immediately prior to the transfer. This period of ownership shall also include any period during which the property has been owned by other persons in relation to the acquirer who fall under section 5, first paragraph (1). If the owner dies before the end of the five-year period, dispensation from the concession requirement pursuant to section 5, first paragraph (1), shall apply fully.

The concession requirement pursuant to regulations issued pursuant to the first paragraph shall not apply when the acquirer commits himself to using the property as a year-round residence for himself or others during the period he owns the property.

A property is in use as a year-round residence pursuant to the third paragraph when genuine residence has been taken up on the property by the acquirer or others, cf. section 6.

The time limit for taking up residence pursuant to the third paragraph is one year calculated from the date of acquisition. The Ministry may on application extend this time limit when special grounds so indicate.

Regulations pursuant to the first paragraph may only be issued at the request of the municipality and when regarded necessary in order to prevent properties that should be used for year-round residence from being used for recreational purposes.

Section 8. *(Regulations concerning information requirements pursuant to sections 4, 5 and 7)*

The Ministry may issue regulations concerning what information must be provided in order that an acquisition may be said to fall under sections 4, 5 and 7 and what shall be regarded as fully cultivated land pursuant to section 4, first paragraph (4).

Chapter 4. Circumstances of relevance for whether a concession shall be granted

Section 9. *(Special circumstances for agricultural properties)*

When deciding applications for concessions in respect of acquisition of property to be used for agricultural purposes, 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.

A concession shall not generally be granted if the acquisition results in co-ownership of the property or if the number of co-owners is increased.

A concession may be granted to companies with limited liability. Emphasis shall be placed on consideration of persons occupied in agriculture.

Section 10. *(Special circumstances affecting decision of cases pursuant to regulations concerning reduced concession limits)*

The Ministry shall grant a concession when it is not necessary to prevent a property from being used for recreational purposes. In making such a decision, consideration may, inter alia, be given to the situation of the property, including whether the area where the property is situated has the character of an typical recreational area, the type and standard of the buildings, the length of time that has elapsed since the property was used as a year-round residence, how long it was used as a year-round residence and whether it is to be expected that other persons would purchase the property to use it as a year-round residence.

A concession shall also be granted if the Ministry finds it to be established that the property can only be used as a year-round residence at a price that is considerably lower than the price level of comparable year-round residences in the area in question.

Section 11. *(Conditions for granting a concession)*

A concession pursuant to this Act may be granted on such conditions as are found necessary in each individual case with regard to the purposes of this Act. The conditions may be relaxed on the basis of an application.

Chapter 5. Procedures

Section 12. *(Application for a concession)*

An application for a concession pursuant to this Act shall be sent to the Chairman of the Municipal Council of the municipality where the property is located. The application shall comply with the form prescribed by the Ministry. The application shall provide information concerning the acquirer, the property in question and the purpose of and all the conditions for the acquisition. When a property or right is inherited or received as a gift or is purchased at a price set so low that it must in part be considered to be a gift, its value shall be stated. Copies of the title deed, contract and valuation shall be enclosed if such documents exist. An account shall be given of circumstances of significance for the question of concession. The owner and

the user must submit to inspection, measurement, survey and valuation of the property and buildings.

The King may issue further provisions concerning the information and documents that shall accompany an application for a concession and prescribing a special form to be used for the application.

Section 13. *(Time limit for applying for a concession)*

Applications pursuant to section 12 shall be sent to the Chairman of the Municipal Council within four weeks after conclusion of a transfer agreement or after the acquirer takes possession of the property. In the case of compulsory purchase, the time limit is calculated from the date of confirmation of the offer. The court of execution and enforcement shall notify the Ministry when it confirms an offer from a purchaser who requires a concession for acquisition.

If the provisions of the first paragraph are not complied with, the King shall fix a time limit for the acquirer to apply for a concession.

The King may fix a time limit for the acquirer to apply for a concession if:

1. the time limit for possession of a property by the mortgagee pursuant to section 3, second paragraph, is exceeded.
2. the acquirer omits to build within five years in contravention of section 4, second paragraph.
3. the acquirer makes a change of use in contravention of a plan pursuant to section 4, third or fourth paragraph.
4. an acquirer, as referred to in section 5, first paragraph (1) or (2) fails to comply with the residence and operation obligation pursuant to section 5, second paragraph, or section 27 of the Allodial Act.
5. the acquirer, as referred to in section 5, first paragraph (5), fails to comply with the time limit for resale.
6. The residence requirement pursuant to section 7, third paragraph, cf. section 6 is not complied with.

If the time limit for applying for a concession is exceeded, section 19 shall be applied correspondingly.

Section 14. *(Regulations concerning procedures)*

The King may issue further regulations supplementing the procedural provisions of the Public Administration Act and the present Act, involving departure from ordinary procedures for certain types of matter and internal division of labour in the County Agricultural Committee so that the Committee can entrust the administration with the responsibility for statements and decisions on behalf of the Committee in specific matters.

Chapter 6. Miscellaneous provisions

Section 15. *(Concession is a condition for registration of property rights)*

An acquisition that requires a concession pursuant to this Act may not be registered unless a concession is granted.

Section 16. *(Contravention of concessionary conditions)*

In respect of contravention of conditions fixed for concessions pursuant to this Act, the King may impose a coercive fine to be payable until the matter is settled or for each contravention. Any fine imposed is enforceable by execution.

If a concession is granted on the basis of false or incomplete information concerning circumstances of major importance or the acquirer contravenes established conditions of major importance, the concession may be withdrawn.

If the concession is withdrawn, the holder shall be given a time limit to ensure that the property is transferred to a person who may legally acquire it. If this time limit is exceeded, section 19 shall apply correspondingly.

Section 17. (*Control of compliance with conditions, etc.*)

The municipality and the County Governor shall supervise compliance with the conditions for concessions. Notification of contravention or breach of conditions shall immediately be sent to the Ministry. The same applies if the municipality or the County Governor learns of acquisitions that lack the necessary concession pursuant to this Act.

The King may decide that other specialized bodies shall perform the tasks pursuant to this section instead of or in addition to the County Governor or the municipality.

Section 18. (*Time limit for arrangement of matters when a concession is not granted*)

If an application for a concession is not submitted within the time limit fixed pursuant to section 13, second or third paragraph, or if the application is refused, the King may fix a time limit for the mortgagee to terminate possession of a property that is in contravention of section 3, second paragraph, or fix a time limit for the acquirer to ensure either that such transfer is reversed or that the property is transferred to a person who may be granted a concession or who does not require a concession.

Section 19. (*Failure to observe a fixed time limit*)

If a time limit fixed pursuant to section 17¹ for winding up of a property acquisition or of the possession of a property by the mortgagee is exceeded, the Ministry may without notice have the property sold through the enforcement authorities pursuant to the rules relating to compulsory sale in so far as they are appropriate. The provisions of section 11-20 of the Enforcement of Claims Act relating to the lowest acceptable bid shall not apply in such cases.

If a time limit fixed pursuant to section 17² in respect of rights as referred to in section 3, first paragraph, is exceeded, the Ministry may either have the rights compulsorily sold pursuant to the provisions of the first paragraph or with binding effect declare the rights to have expired.

Section 20. (*Prohibition against impairment of the property*)

If the acquisition of a real property is conditional upon a concession pursuant to this Act, until the matter is settled, no felling of timber or other actions that reduce the value of the property may be carried out. The Ministry may in specific cases make exceptions from this.

Intentional contraventions of the prohibition laid down in the first paragraph shall be punishable by fines. That which is harvested or otherwise removed from the property in contravention of this prohibition or the value of that which is harvested or otherwise removed may be confiscated from the person responsible or from the person on whose behalf he acted.

Section 21. (*Entry into force*)

This Act shall enter into force on the date decided by the King.

From the same date the Act of 31 May 1974 No. 19 relating to concession in the acquisition of real property (Concession Act) shall be repealed.

¹ Should be section 18

² Should be section 18

Section 22. *(Transitional provisions)*

Regulations issued pursuant to section 5, third paragraph of the Act of 31 May 1974 No. 19 relating to concession in the acquisition of real property shall apply until they are amended or repealed. The Regulations shall be interpreted in accordance with the new provisions in section 7 of this Act, cf. section 4, first paragraph (4).

If a case concerning concession has not been finally decided by the date that the Act enters into force, the exceptions from the concession requirement based on the character of the property and status of the acquirer laid down in sections 4 and 5 shall apply even if the property was acquired before the Act entered into force.

If a case concerning concession has not been finally decided by the date that the Act enters into force, acquisition of shares or interests in companies with limited liability covered by the provision concerning the concession requirement pursuant to section 4 of the previous Concession Act shall comply with the new provisions even if the property was acquired before the Act entered into force.

A case concerning concession is regarded as finally decided in relation to the second and third paragraph if an appeal is not received within the time limit for appeals or if the appeal has been decided by the administration.

In the case of a statutory residence and operation obligation pursuant to section 6, first paragraph (1) of the previous Concession Act, the new provision laid down in section 5, second paragraph, shall apply even if the property was acquired before the Act entered into force.

Section 23. *(Amendments to other Acts)*

1. The following amendments shall be made to the Act of 21 May 1965 relating to forestry and forest protection:

Section 4, third paragraph is repealed.

The current fourth paragraph shall now be the third paragraph.

Section 35, second paragraph is repealed.

Section 37 is repealed.

2. In the Act of 12 May 1995 No. 23 relating to land, section 4 is repealed.