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# **Act No. 16 of 14 December 1917 relating to acquisition of waterfalls, mines and other real property etc. (Industrial Licensing Act)**

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**Act relating to acquisition of waterfalls, mines and other real property etc.**

## **Chapter I. Waterfalls.**

**Section 1.** Without the permission of the King (hereinafter referred to as licence) no one other than the State may with full legal effect acquire the right of ownership or of use to waterfalls (falls or rapids) that, when harnessed, can be expected to produce more than 4,000 natural horsepower either alone, or in conjunction with other waterfalls that the acquirer owns or uses when it can be appropriate to develop them jointly. The licence obligation also applies to agreements relating to acquisition of long-term disposition rights to hydropower resources.

However, a licence is not necessary when waterfalls are acquired through distribution of joint marital property or by inheritance, redemption of allodial property or transfer when the acquirer (the heir) has greater allodial rights than the transferor (the deceased), is the latter's spouse or is related to him by marriage in direct line of ascent or descent or in the first or second collateral branch. If a licence was previously granted for the waterfall in question, the conditions stipulated in the licence shall also apply to the new acquirer (cf., however, section 27).

Disputes about the amount of power shall be determined by appraisal unless the acquirer agrees having the Ministry concerned take the decision.

When special considerations exist, the Ministry concerned may in individual cases make exceptions from the licence obligation and right of pre-emption.

Should the acquired waterfall not be utilised for power production, the King may permit acquisition without the application of the basic rules in section 2, fourth paragraph.

Should the licensee subsequently apply to develop the waterfall, the King shall stipulate terms and conditions in line with the basic rules of the Act in effect at the time in question. Should development be commenced without the stipulation of terms and conditions, the provisions in sections 31 and 32 will apply accordingly.

**Section 2.** Norwegian citizens and citizens in other states party to the EEA Agreement, other foreign nationals and legal persons, may under special circumstances be granted a licence to acquire ownership rights to waterfalls on specified conditions stipulated by the King.

The provision also applies to legal persons described in Article 34 of the EEA Agreement, which were formed in accordance with the law of one of these states, and have their registered office, central administration or principal place of business in such a state.

Should the acquisition concern a waterfall that, when harnessed, can be expected to produce more than 20,000 natural horsepower, or there is a conflict of vital interests, the matter shall be submitted to the Storting before a licence is granted, unless the Ministry deems this unnecessary.

In granting a licence and stipulating conditions, the following basic rules shall be adhered to:

1. The licence shall be granted to a specified person, company, corporation or foundation.

Companies shall be obliged to keep a list of all participants and their citizenship,

2. The licence permits the utilisation of the waterfall as a source of power in accordance with the licence conditions and the legislation in force at any given time respecting such activities.
3. Development of the waterfall must commence within a time limit of not more than five years. The work must be completed and the installation put into operation within a further time limit of not more than five years. Operation of the plant must not be continuously interrupted for a period as long as three years or reduced for the same period to less than one-third of the capacity of the machinery installed and intended for regular operation, not including the portion reserved for the State, municipality or county pursuant to subsection 12, and such interruptions or reductions must not add up to as much as five years over the course of ten years. The time calculations do not include time impossible to make use of due to *vis major*, strikes or lockouts. When necessary, permission may be granted to develop the waterfall in stages within specified time-limits, or for its partial development. The King may grant exemptions from these provisions.
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6. The licensee may be required to pay compensation for expenditure connected with stepped-up wildlife and fish monitoring during the period of construction.  

The Ministry concerned may further stipulate that the licensee be required to guarantee immediate compensation to the survivors of someone who perishes in a work accident during the period of construction.
7. If the licence is expected to result in urban development or a large influx of people, the licensee may be required to cover all or part of the expenditure connected with preparing a zoning plan, and in certain cases, for the land use part of the municipal

master plan, as further stipulated by the Ministry.

If the licence entails a substantial encroachment in mountain regions, the licensee may be required to cover all or part of the expenditure connected with preparing a zoning plan and the land use part of the municipal master plan, as further stipulated by the Ministry.

8. The licensee should be required to pay compensation for all or part of the expenditure for maintaining and repairing public roads, bridges and quays, when these outlays are expected to rise considerably as a consequence of construction work and in consequence of transports to and from licensee-owned industrial works powered by the installation. Roads, bridges and quays built by the licensee shall be open to the public, unless the Ministry decides otherwise.

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10. It may be stipulated in the licence that should the licensee utilise the hydropower for industrial production, the export of the products shall not, without the consent of the Ministry concerned, take place at prices below normal world market prices. Furthermore, it may be stipulated that importation for production may not, without the consent of the Ministry, take place at prices above normal world market prices.

It may also be stipulated that remuneration for economic, technical and commercial assistance shall be subject to Ministry approval.

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12. It shall be stipulated in the licence that the licensee shall surrender to municipalities and counties in which the power plant is located up to 10 per cent of the average amount of power that the waterfall, when harnessed, can produce based on the expected rate of flow from one year to the next. The amount surrendered and its distribution shall be decided by the Ministry concerned on the basis of the county's or municipality's general electric power supply needs. The county or municipality may use power provided as it sees fit.

The licensee may be required in addition to surrender up to five per cent of the power to the State calculated as in subsection 12, first paragraph. The State may freely dispose over the allocated power.

The licence shall have provisions to notify the licensee before power is drawn on or terminated.

The Ministry shall decide how the power is to be surrendered and calculate the output and energy.

Power shall be drawn from the power station's transmission substation or the licensee's transmission lines for securing a supply of firm power and a utilisation period as low as 5,000 hours a year. The licensee may not oppose power being drawn from another party's transmission lines, and is in that case obliged to make the power available. The cost of transforming and transmitting the power when drawn from somewhere other than the power station's transmission substation shall be paid by the party drawing the power.

The price of the power shall be set on the basis of the average cost for a

representative sample of hydroelectric power stations throughout the country. Taxes calculated on the profit from power production in excess of a normal rate of return are not included in the calculation of this cost. Each year the Ministry shall set the price of power supplied at the power station's transmission substation. The provisions of the first and third sentences do not apply to licences valid prior to the entry into force of Act No. 2 of 10 April 1959.

A decision regarding the surrendering and distribution of power may be brought up for reconsideration after twenty years.

The King may issue further regulations relating to surrendering, distribution and prices.

13. The licensee shall be required to pay an annual fee to the State and an annual fee to the counties and rural and urban municipalities as determined by the King, calculated on the basis of the average amount of power that the waterfall, once its harnessing is completed, can produce, based on the expected rate of flow from one year to the next. The King shall lay down regulations regarding the maximum and minimum rates that are to apply. In laying down the regulations special allowance must be made for changes in the purchasing power of the krone. Should the waterfall be subject to annual regulation fees, the fees shall be deducted from the fees imposed under this subsection, in respect of that portion of the amount of power on which regulation fees are paid.

After five years, the stipulation of the fee may be re-examined by the licensing authorities.

Unless laid down by the King, further provisions regarding the payment of the fee and monitoring of water consumption shall be stipulated in each individual case by the Ministry concerned on the recommendation of the Norwegian Water Resources and Energy Directorate.

Payment of the fee is enforceable by attachment. Should it not be paid when due, interest shall be levied as laid down in pursuance of section 3, first paragraph, Act No. 100 of 17 December 1976 relating to interest on overdue payments, etc.

If the annual amount of the fee to the State or counties and municipalities comes to less than the minimum specified by the King, and the parties entitled to as well as subject to the fee agree, the Ministry may stipulate that the annual fee be paid in a lump sum pursuant to regulations laid down by the King. In special circumstances, the King or Storting, if the licence has been submitted to the latter, may reduce or waive the fee for a specific period of time.

The fee to the counties and municipalities shall be apportioned among them as stipulated by the King for ten years at a time. The fee shall be set aside in a separate fund for each county or municipality to be used as stipulated by the county or municipal council. This authority may be delegated to another municipal or county body. In accordance with statutes subject to the approval of the Ministry concerned, the monies in the fund shall preferably be used for local industrial development. The Ministry may delegate the authority to approve the statutes to the county governor. The municipality may appeal the decision of the county governor according to rules further stipulated by the Ministry. Statutes for funds under an amount stipulated by

the King do not require approval.

14. The licensee should be required to avoid the destruction of natural resources and areas when such avoidance is desirable on scientific or historical grounds or for reasons of the area's natural beauty or uniqueness. If such destruction cannot be avoided, the nature conservation authorities must be notified well in advance.

The licensee shall be required to ensure that the installations disfigure the countryside as little as possible, in accordance with further provisions from the Ministry concerned. The licensee is obliged to obtain a permanent right to use disposal sites and other areas necessary for carrying out orders issued pursuant to this paragraph. The licensee shall undertake a proper cleanup of the construction areas and the cleanup must be completed no later than two years after the installation in question has gone into operation.

The licensee should be required to the extent possible to plan temporary auxiliary installations so that they may be of permanent use to the public.

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16. The licensee shall be required to submit to the verification of his compliance with a list of conditions that the Ministry concerned deems necessary. The licensee may be required to cover expenses connected therewith.

17. The licence shall be granted for a specified period of time of up to sixty years reckoned from the date the licence is granted. When the licence period expires, the waterfall and all the facilities through which the course and bed of the water have been altered, such as dams, canals, tunnels, reservoirs, pipelines etc., the parcels of land and the rights acquired for the development and power plant, the power stations and appurtenant machinery and other equipment, as well as the housing built for workers and other buildings that belong to the power plant, shall revert to the State with full ownership rights and without any compensation. The State may redeem whatever property does not revert to it at a price appraised at its expense or order its removal within a time limit set by the Ministry.

When the licence period expires, the installation including buildings and installed machinery shall be in full working order. Disputes in this regard shall be resolved by appraisalment. The licensee is obliged to comply with the decision of the court of appraisalment. The court shall decide which party shall pay the costs of appraisalment.

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21. A licence should be granted only if older mortgages, easements of considerable importance, leasing rights and similar encumbrances are removed or yield in priority to the obligations imposed in the licence, including coercive fines pursuant to section 26. When a waterfall is sold, the fact that the seller reserves, after the licence period, ownership rights to power from the plant that utilises the waterfall for his private domestic use, farming needs and any trades and small-scale manufacturing that can be carried out in natural connection with the farm, shall, however, pose no obstacle to the granting of the licence.

22. A licence is required for further transfer of the waterfall to parties other than the State or parties described in section 1, second paragraph. In any case the acquirer must abide by the conditions stipulated in the original licence (cf., however, section 27). In addition, the conditions described above under subsection 1 and such other conditions that otherwise may not be deviated from pursuant to the legislation in force at the time the new licence was granted may be stipulated in the licence. If the acquirer is a Norwegian municipality or county, the King may waive all or parts of the conditions that are not mandatory pursuant to section 4, third and fourth paragraphs.

23.

Further conditions may be set in the licence, including a requirement to establish an industrial development fund for the benefit of the individual municipality, when in the particular instance this is deemed necessary in the public interest or for protecting private interests that will suffer harm. The provisions stipulated for industrial development funds in section 12, subsection 17 of Act No. 17 of 14 December 1917 apply to the fund.

The licence and associated terms and conditions shall be officially registered at the expense of the licensee. All subsequently registered encumbrances on the properties and items enumerated in subsection 17 shall lapse when, according to the licence, said properties and items are transferred to or redeemed by the State. When the waterfall is transferred to the State, notice thereof shall be sent by the Ministry concerned to the registration authorities for registration.

Anyone who grants or has granted loans against a mortgage on a waterfall, may, when the conditions for acquisition pursuant to this Act are otherwise present, be granted pursuant to this section an advance licence to acquire the waterfall by forced sale, provided that the person in question, at the time of the forced sale, is still the mortgagee. The licence period is calculated from the licence notification date, whereas the other conditions enter into force when the acquisition takes place. If the owner of the waterfall has acquired it under a time-limited licence before the mortgagee obtains his licence, the mortgagee shall be granted a licence for the remainder of the owner's licence period.

**Section 3.** (Repealed by Act No. 119 of 27 November 1992 (in force on 1 January 1994).)

**Section 4.** Enterprises organised according to the Act relating to State-owned Enterprises, Norwegian municipalities and counties may, when public interest does not weigh against it, be granted a licence to acquire ownership rights, rights of use or long-term disposition rights to waterfalls according to further conditions stipulated by the King. The same applies to limited liability companies, public limited liability companies, co-operative societies or other associations in which at least two-thirds of the capital and votes are held by enterprises organised pursuant to the Act relating to State-owned Enterprises, one or more municipalities or counties, provided the waterfall in question is to be utilised primarily for supplying electricity to the general public. The State has pre-emption rights to shares or interests pursuant to this provision should two-thirds of the capital and votes in limited liability companies, public limited liability companies, co-operative societies or other associations no longer be owned by one or more municipalities or counties. The State's right to exercise pre-emption arises as soon as the Ministry has been notified that the conditions for the licence are no longer being met. The decision to exercise the State's

right of pre-emption must be taken within one year. When the right of pre-emption is exercised, the State is subrogated into the purchaser's rights and obligations.

Should the acquisition concern a waterfall that, when harnessed, can be expected to produce more than 20,000 natural horsepower, or there is a conflict of vital interests, the matter shall be submitted to the Storting before a licence is granted, unless the Ministry deems this unnecessary.

The licence may be granted for an indefinite period.

In stipulating other conditions the basic rules in section 2, subsections 2-8, 12-14, 16 and 22-23 shall apply accordingly.

The licence and associated conditions shall be officially registered at the expense of the licensee.

**Section 5.** Norwegian citizens and citizens of other states party to the EEA Agreement, other foreign nationals and legal persons, may, under special circumstances, be granted a licence to acquire the right to use or long-term disposition rights to waterfalls belonging to the State, enterprises organised pursuant to the Act relating to State-owned Enterprises, Norwegian municipalities or counties according to further conditions stipulated by the King.

The provision also applies to legal persons described in Article 34 of the EEA Agreement, which were formed in accordance with the law of one of these states, and have their registered office, central administration or principal place of business in such a state.

Should the rights of use concern a waterfall that, when harnessed, can be expected to produce more than 20,000 natural horsepower, or there is a conflict of vital interests, the matter shall be submitted to the Storting before a licence is granted, unless the Ministry deems this unnecessary.

In granting a licence and stipulating conditions, the following basic rules shall be adhered to:

1. The licence shall be granted for a specified period of time of up to sixty years reckoned from the date the licence is granted.
2. The licensee shall be required to pay an annual fee to the State and an annual fee to counties and rural and urban municipalities as determined by the King, calculated on the basis of the average amount of power that the waterfall, once its harnessing is completed, can produce, based on the expected rate of flow from one year to the next. The King shall lay down regulations regarding the maximum and minimum rates that are to apply. In laying down the regulations special allowance must be made for changes in the purchasing power of the krone. Should the waterfall be subject to annual regulation fees, the fees shall be deducted from the fees imposed under this subsection, in respect of that portion of the amount of power on which regulation fees are paid.

After five years, the stipulation of the fee may be re-examined by the licensing authorities.

Unless laid down by the King, further provisions regarding the payment of fees

and monitoring of water consumption shall be stipulated in each individual case by the Ministry concerned on the recommendation of the Norwegian Water Resources and Energy Directorate.

Payment of the fees is enforceable by attachment. Should they not be paid when due, interest shall be levied as laid down in pursuance of section 3, first paragraph, Act No. 100 of 17 December 1976 relating to interest on overdue payments, etc.

If the annual amount of the fee to the State or counties and municipalities comes to less than the minimum specified by the King, and the parties entitled to as well as subject to the fee agree, the Ministry may stipulate that the annual fee be paid in a lump sum pursuant to regulations laid down by the King. In special circumstances the King or Storting, if the licence has been submitted to the latter, may reduce or waive the fee for a specific period of time.

The fee to the counties and municipalities shall be apportioned among them as stipulated by the King for ten years at a time. The fee shall be set aside in a separate fund for each county or municipality to be used as stipulated by the county or municipal council. This authority may be delegated to another municipal or county body. In accordance with statutes subject to the approval of the Ministry concerned, the monies in the fund shall preferably be used for local industrial development. The Ministry may delegate the authority to approve the statutes to the county governor. The municipality may appeal the decision of the county governor according to further rules stipulated by the Ministry. Statutes for funds under an amount stipulated by the King do not require approval.

3. The provisions in section 2, subsections 1-12, 14, 16 and 22-23 otherwise apply accordingly.

The licence and associated conditions shall be officially registered at the expense of the licensee.

**Section 5a.** The terms and conditions for a licence pursuant to the first chapter of this Act may be brought up for a general revision after thirty years. If a number of acquisition licences have been granted in the same watercourse, a shorter revision period may be stipulated. If the terms and conditions are revised, the licensee has the right to relinquish the licence within three months of being notified of the revised terms and conditions. If the licence is relinquished, the provisions in sections 31 and 32 apply accordingly. If the licence is not relinquished within the stipulated period, the licensee is bound by the new terms and conditions.

If applied for by the licensee, the King may amend the conditions stipulated in a licence granted pursuant to the first chapter of this Act or previous legislation.

The King may issue further regulations relating to administrative procedure in connection with the revision of licence terms and conditions.

Added by Act No. 62 of 19 June 1992.

## **Section 6.**

1. If, according to section 1, a licence is required to acquire ownership rights to waterfalls, the State has the right of pre-emption, provided the acquisition does not take place through a forced sale.



2. Should other real property, rights or moveable property be sold during the same legal transaction, and the State wishes to exercise its right of pre-emption, it shall at the request of the licence applicant also be obliged to take over the other items to the extent requested. The request to this effect must be presented in conjunction with the licence application. Even if such a request is not presented, the State is entitled to extend its right of pre-emption to the parcels of land and rights sold jointly with the waterfall, and which are necessary for its harnessing, regulation of the watercourse or construction of the power station. Whether or not this is the case shall, in the absence of an amicable settlement, be determined by appraisalment.

3. The State's power to exercise its right of pre-emption to a waterfall arises as soon as an application for a licence is received by the Ministry. The decision to exercise the State's right of pre-emption must be made as soon as possible, though no longer than within one year. The Ministry shall immediately inform the county concerned if the right of pre-emption is not exercised.

4. When the right of pre-emption is invoked, the State enters into the purchaser's rights and obligations. The portion of the compensation that does not consist of money, benefits derived from a surrendered property, or delivery of power as described in section 2, subsection 21, or that depends on a condition over which the State has no control, shall nevertheless be converted to a sum of money. In the absence of an amicable settlement the amount shall be set by appraisalment. If the purchaser is a company, and part of the compensation is to be paid in shares or interests in the company, the State may, however, pay this portion of the compensation by paying the par value of the shares or interests. If a monetary value cannot be assigned to a conditional benefit, which likewise in case of dispute shall be determined by appraisalment, the benefit shall lapse without compensation.

Should the sales terms and conditions permit the seller to repurchase or annul the sale on conditions over which the State has no control, said right of repurchase or annulment may not be invoked vis-à-vis the State.

Should the State exercise its right of pre-emption, it shall, in addition to expenses incurred, compensate the licence applicant at the rate of 2 per cent of the first 50,000 kroner of the purchase price, and 1 per cent of the remainder.

5. If it is noted in the licence application that the transfer is wholly or partly a gift and the sum entered on the application can be assumed to represent the property's value, this sum shall be considered the pre-emption purchase price, unless the Ministry concerned deems the amount to be too high. In that case the Ministry may have the purchase price set by appraisalment.

If a joint purchase price has been assessed for waterfalls and other real property, rights or moveable property sold with the waterfall, it shall likewise be decided by appraisalment how much of the joint purchase price covers the waterfall and how much covers the other property to be taken over by the State pursuant to subsection 2.

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7. If the seller is in possession of the property when the decision is made to invoke the right of pre-emption, he is obliged to surrender the property to the State in as good a

condition as the contracting party is entitled to demand. Compensation may be demanded for any loss incurred by the State due to contravention of this rule.

If the contracting party has taken possession of the property without a licence he is obliged to surrender it in an undiminished condition. Otherwise, the State may demand a reduction of the purchase price corresponding to the depreciation. The amount of the deduction shall be determined by appraisal, the cost of which shall likewise be deducted from the purchase price. If the acquirer has encumbered the property to the extent that the total amount of the encumbrances exceeds the pre-emption purchase price, less any aforementioned deductions, the excess amount of the encumbrances shall not be binding for the State.

**Section 7.** (Repealed by Act No. 65 of 19 June 1969.)

**Section 8.** (Repealed by Act No. 65 of 19 June 1969.)

**Section 9.**

1. If the State does not exercise its pre-emption rights pursuant to section 6, the county in which the waterfall is located may exercise its pre-emption rights.

If the acquisition pertains to waterfalls in several counties, they may exercise their right of pre-emption jointly. If they fail to come to an agreement, and if the waterfalls located in each of the counties cannot be adequately developed apart from the other falls, the right of pre-emption to all waterfalls devolves to the county or counties deemed to have the greatest interest in the sale, in view of general and economic factors. Any disputes arising in this connection shall be decided ultimately by the King. In conjunction with such a decision, the King may require the county entitled to exercise the right of pre-emption to provide electricity to the other counties, and stipulate further rules regarding the amount of power to be provided and the terms and conditions for the provision.

2. The right of the counties to exercise pre-emption arises as soon as with a decision or pursuant to section 6, subsection 3, it is clear that the State will not exercise its right of pre-emption.

The right of pre-emption lapses unless the decision to exercise it is taken within 3 months after the county has received the case from the Ministry with notification that the State's right of pre-emption will not be exercised.

The decision must be ratified by the King. Notification of the decision shall be sent immediately to the Ministry and the licence applicant and the seller shall likewise be informed. Unless information is provided at the same time about development plans, energy needs, etc., the Ministry shall set a deadline to present such information.

3. The provisions in section 6, subsections 2, 4, 5 and 7 apply correspondingly. If an appraisal has already been made pursuant to section 6, subsections 2, 4 or 5, this will also be binding in relation to the county.

4. An agreement whereby for compensation a county relinquishes its right of pre-emption is invalid and the compensation may as stipulated by the Ministry concerned be confiscated by the treasury.

5. What a county has acquired through the right of pre-emption may not be sold without the permission of the King.

**Section 10.** When acquiring rights of use to a waterfall, the State and the county concerned may as stipulated in sections 6 and 9 similarly have the preferential right to be subrogated to the contract of use.

In cases where the State or the county concerned does not exercise its preferential right, the municipality concerned shall have the preferential right to be subrogated to the contract of use.

## **Chapter II. Mines.**

**Section 11.** Without a licence, no one other than the State, Norwegian municipalities and counties may with full legal effect acquire the right of ownership or of use to deposits of claimable minerals that others have claimed or received a patent claim to pursuant to mining legislation. However, a licence is not necessary when waterfalls are acquired through distribution of joint marital property or by inheritance or transfer when the acquirer (the heir) is the spouse of the transferor (the deceased) or is related to him or related to him by marriage in direct line of ascent or descent or in the first or second collateral branch. If a licence was previously granted for acquisition of the deposit in question, the conditions stipulated in the licence shall also apply to the new acquirer (cf., however, section 27).

Nor may regular mining operations (cf., however, section 18) of claimable ores and metals in the kingdom be initiated without a licence by parties other than the State, Norwegian municipalities and counties.

**Section 12.** Acquisition of claimable deposits by claims and patent claims pursuant to mining legislation obliges the acquirer to commence trial operations pursuant to section 18 within ten years from the date of the patent claim letter or apply for a licence for regular operation pursuant to section 13. Following an application, the Ministry concerned may extend the deadline.

Extension of the time-limit should not be denied if the deposit of claimable mineral must be regarded as a reasonable reserve for the acquirer's mining operations. Unless warranted by other grounds, the extension should similarly not be denied if there are no reasonable grounds for assuming that operation of the deposit can commence if the extension is denied.

The time limit may be extended by up to ten years at a time.

Provided that trial operation has not commenced at the right time or an application for an operating licence has not been submitted, the provisions in sections 31 and 32 will apply correspondingly.

**Section 13.** Norwegian citizens and foreign nationals as well as limited liability companies, public limited liability companies and other companies with limited liability, corporations and foundations may, when the public interest does not weigh against it, receive a licence to acquire and operate mines or claimable deposits within one or more specified fields on conditions to be specified by the King.

In granting a licence and stipulating conditions, the following basic rules shall be adhered to:

1. The licence shall be granted to a specified person, company, corporation or foundation.

Provisions may be stipulated regarding the composition of capital, including that equity shall constitute a further specified minimum share of the total capital need for the acquisition, development and operation of the mine or deposit, and the facilities necessary for its exploitation.

Companies shall be obliged to keep a list of all participants and their citizenship.

2. The licence permits the exploitation of the mine or deposit in accordance with the licence conditions and the legislation in force at any given time pertaining to such activities.
3. Preparatory work for the commencement of mining operations must begin by a certain date.

Operations shall be carried out in a minerlike manner in conformity with the legislation in force at the time in question. This also includes development of ore stocks with a view to as steady operation as possible. If the Ministry concerned finds that the operation of a mine deviates substantially from said minerlike manner and requests to the licensee to remedy the situation are not complied with, the Ministry may demand that the licensee submit a plan for a specified period of time for future minerlike operation of the mine. The plan shall be submitted for Ministry approval no later than 4 months after the demand was made. Operation of the mine may be undertaken only in accordance with the Ministry's approved plan, although deviations may take place with the consent of the Ministry. In case of dispute the question of whether operations are carried out in a minerlike manner shall be decided by appraisal. The extent to which operations are in conformity with the approved operations plan shall be determined in the same manner.

Closure of a mine may take place only with the approval of the Ministry concerned.

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6. If the licence can be anticipated to cause a major influx of construction workers, the licensee should be required at the commencement of work to provide a temporary assembly hall, or should it be more practical and not considerably more expensive, to participate in building or refurbishing a permanent assembly hall, such as a community centre. The licensee should also be required to furnish a suitable amount to fund general educational programmes for the workers and for clergy services as prescribed by the Ministry concerned.

Furthermore, as further stipulated by the Ministry concerned, the licensee should be required to cover all or part of medical expenses for workers and managers at the licensee's installation and enterprises, and their families, and to erect or expand a hospital or clinic. As prescribed by the Ministry concerned, the licensee may also be required to cover all or part of the expenditure of the municipality or municipalities concerned on general preventative health care and general social initiatives.

The licensee may likewise be required to pay compensation for expenditure

connected with stepped-up wildlife and fish monitoring.

The Ministry concerned may further stipulate that the licensee be required to guarantee immediate compensation to the survivors of someone who perishes in a work accident.

7. In cases where circumstances make it necessary or desirable, the licensee should be required to provide, on reasonable terms and conditions and at no profit, workers and managers and their families with healthy and adequate housing and sites for building their own homes with roads, water mains, sewer lines and electricity as well as sites for common facilities, as further stipulated by the Ministry concerned.

If the licence is expected to result in urban development or a large influx of people, the licensee may be required to cover all or part of the expenditure connected with preparing a zoning plan, and in certain cases, for a master plan, as further stipulated by the Ministry.

If the licence entails a substantial encroachment in mountain regions, the licensee may be required to cover all or part of the expenditure connected with preparing a mountain plan, as further stipulated by the Ministry.

8. The licensee should be required to compensate all or part of the expenditure on maintenance and repair of public roads, bridges and quays, in those cases where the outlays can be deemed to have been substantially increased by the mining operations. Roads, bridges and quays built by the licensee shall be open to the public, unless the Ministry decides otherwise.
9. It may be stipulated in the licence that without the consent of the Ministry concerned, the export of mining products may not take place at prices below the normal prices on the world market. Furthermore, it may be stipulated that without the consent of the Ministry, importation for production may not take place at prices above normal world market prices.

It may also be stipulated that remuneration for economic, technical and commercial assistance shall be subject to Ministry approval.

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11. To the extent it can take place without unreasonable inconveniences and expense, the licensee should be required to avoid the destruction of natural resources and areas when such avoidance is desirable on scientific or historical grounds or for reasons of the area's natural beauty or uniqueness. If such destruction cannot be avoided, the National Nature Conservation Board must be notified well in advance.

To the extent it can take place without unreasonable inconvenience and expenses, the licensee shall be required to ensure that the installations disfigure the countryside as little as possible, in accordance with further provisions from the Ministry concerned. The licensee is obliged to obtain a permanent right to use disposal sites and other areas necessary for carrying out orders issued pursuant to this paragraph. The licensee shall undertake a proper cleanup of the construction areas. Should the mine be closed, cleanup must be completed no later than within two years, at the same time as the licensee is obliged to take such steps as decided by the Ministry in order to prevent any danger or damage to the surroundings.

The licensee should be required to the extent possible to plan temporary auxiliary installations so that they may be of permanent use to the public.

12.

The licensee shall be required to submit to the verification of his compliance with a list of conditions that the Ministry concerned deems necessary. The licensee may be required to cover expenses connected therewith.

13. The licence may be granted for a limited time or without a time limit. When the licence is granted for an indefinite period, the terms and conditions for the licence may be brought up for a general revision in fifty years. If the terms and conditions are revised, the licensee has the right to relinquish the licence within three months of being notified of the revised terms and conditions. If the licence is not relinquished within the stipulated period, the licensee is bound by the new terms and conditions. If the licence is relinquished, the provisions in sections 31 and 32 apply accordingly.

14. - - -.

15. A licence is required for a new transfer of the mine or the deposits to parties other than the State or parties described in section 11, first paragraph, second sentence, even though the new acquirer is a Norwegian municipality or county. In any case the acquirer must abide by the conditions stipulated in the original licence (cf., however, section 27). In addition, the conditions described above under subsection 1 and such other conditions that otherwise may not be deviated from pursuant to the legislation in force at the time the new licence was granted, may be stipulated in the licence. If the acquirer is a Norwegian municipality or county, the King may waive all or part of the provisions stipulated in the original licence.

16. A licence should be granted only if older mortgages, easements of considerable importance, leasing rights and similar encumbrances are removed or yield in priority to the obligations imposed in the licence, including coercive fines pursuant to section 26.

17. There is a provision for setting further conditions in the licence when in the particular instance this is deemed necessary in the public interest or for protecting private interests that will suffer harm.

The licence and associated conditions shall be officially registered at the expense of the licensee.

Anyone who grants or has granted loans against a mortgage on a mine, may, when the conditions for acquisition pursuant to this Act are otherwise present, be granted pursuant to this section an advance licence to acquire and operate it, provided the acquisition takes place by forced sale and that at the time of the forced sale, the person in question is still the mortgagee. The licence period is calculated from the licence notification date, whereas the other conditions enter into force when the acquisition takes place. If the owner of the mine has acquired it under a time-limited licence before the mortgagee obtains his licence, the mortgagee shall be granted a licence for the remainder of the owner's licence period.

**Section 14.** (Repealed by Act No. 65 of 19 June 1969.)

**Section 15.** (Repealed by Act No. 46 of 22 June 1990.)

**Section 16.** (Repealed by Act No. 65 of 19 June 1969.)

**Section 17.** Notwithstanding the provision in section 2 of the Mining Act, said legal persons who at the time of the entry into force of this Act have acquired or subsequently acquire under the licence claimable deposits or mines covered by the mining legislation, may for a specified period be granted the right to prospect, claim and receive a patent claim for, or by other means acquire claimable deposits or mines within one or more specified areas. The licence may be renewed upon expiry of the time-limit. It also entitles the holder to commence regular mining operations on the deposits and mines thus acquired. If the original acquisition of a deposit or mine is based on a licence, the licensee shall in subsequent acquisitions also abide by the original conditions stipulated in the licence, and otherwise such conditions that otherwise may not be waived under the legislation at the time the new licence is granted. If no conditions have been stipulated for the original acquisition, the provisions of section 13 shall apply to the new licence.

**Section 18.** A licence pursuant to this Act is not required for trial operation if the sole purpose is the preliminary examination of the deposit to ascertain its commerciality, and whereby not more than 10,000 tonnes of raw ore are extracted annually in each individual mine. Permission to extract more than 10,000 tonnes per year may be granted by the Ministry concerned. Whether or not the operation has the aforementioned purpose shall in cases of doubt be settled by the Ministry, which may decide that operations shall cease or be kept within specified limits. Contravention of the Ministry's decisions in this regard shall be punishable by fines.

### **Chapter III. Other real property.**

**Section 19.** (Repealed by Act No. 79 of 23 December 1994 from 1 January 1995)

**Section 20.** (Repealed by Act No. 79 of 23 December 1994 from 1 January 1995)

**Section 20a.** (Repealed by Act No. 79 of 23 December 1994 from 1 January 1995)

**Section 21.** (Repealed by Act No. 79 of 23 December 1994 from 1 January 1995.)

### **Chapter IV. Leasing of electricity and export and import of electricity.**

**Section 22.** (Repealed by Act No. 50 of 29 June 1990.)

**Section 23.** (Repealed by Act No. 50 of 29 June 1990.)

**Section 23a.** (Repealed by Act No. 50 of 29 June 1990.)

### **Chapter V. General provisions.**

**Section 24.** Applications for licences pursuant to this Act shall be accompanied by descriptions that the Ministry may demand be supplemented by drawings, maps and the like.

Applications from a company shall be accompanied by a declaration from the board of directors that the information provided in conjunction with the licence application regarding the management of the company and ownership rights to the basic capital is

exhaustive and covers the actual facts. If a licence is granted, the board of directors of the company shall subsequently, when requested, submit a similar declaration that the licence terms and conditions have been complied with.

Section 166 of the General Civil Penal Code shall apply should said declarations be incorrect.

As a general rule, a statement shall be obtained from the county and municipal council concerned before an application for a licence pursuant to this Act is decided.

**Section 25.** (Repealed by Act No. 3 of 25 June 1926.)

**Section 26.** For contravention of terms and conditions laid down for licences pursuant to this Act, the King may stipulate a coercive fine that accrues until the matter is remedied or falls due with each contravention. Any fine imposed is enforceable by attachment.

If a licence is granted on the basis of incorrect or incomplete information on matters of considerable importance or the acquirer violates stipulated terms and conditions of considerable importance, the licence may be revoked.

If the licence is revoked, a time limit shall be set for the holder to ensure that the property or the rights are transferred to someone who can legally acquire them. If the time limit is not complied with, section 32 shall apply accordingly.

**Section 27.** By application of the acquirer in question, the King may amend the conditions stipulated in a licence granted according to this Act or earlier legislation regarding acquisition of waterfalls, mines and other real property etc. However, the amendment may not exceed the limits ensuing from the basic rules set forth in this Act for stipulating licence terms.

**Section 28.** If a foreign national who is not a resident of the kingdom is granted a licence pursuant to sections 2, 5, 13, 17 or undertakes operations as described in section 18, he shall, at the place where the property is located or operations take place, have a legal representative who is authorised in his absence to appear before the courts and other authorities in connection with matters concerning the licence, property, installation or its operation. In such cases, the legal representative shall receive summons to the local conciliation board and court. His name and residence shall be officially registered.

These provisions shall also apply to a corporation, foundation or a company that does not have its registered office in Norway, and that receives a licence pursuant to sections 2, 5, 13 or 17, or undertakes operation as described in section 18.

If the aforementioned provisions are not adhered to, the district court in the district where property is located or operations take place, shall, at the request of anyone interested in the case, appoint with binding effect such a representative for the licensee in question. The same applies should a corporation, a foundation or a company fail to comply with its obligation to have its registered office in the kingdom (cf. section 34).

**Section 29.** Enforcement of any agreement that might not be in conformity with the provisions in sections 1, 11 or 36, may be demanded only if the licence for the acquisition is granted.

Any option or other legal transaction by which a person reserves the right to acquire ownership rights or other rights to waterfalls or mines or deposits of claimable minerals,



becomes invalid after five years. If it is officially registered, it shall be deleted from the land register upon its expiry.

**Section 30.** An application for a licence shall be sent to the Ministry concerned within four weeks after an agreement was concluded regarding acquisition of ownership rights or other rights for which a licence is required pursuant to this Act, or the acquirer gained possession of the property or right. In the event of a forced sale, the time limit shall be calculated from the confirmation of the bid.

If the provision in the first paragraph is not complied with, the Ministry concerned shall set a new time limit to apply for a licence.

If registration is requested for any document pertaining to an acquisition that pursuant to this Act requires a licence, and none is submitted, the registrar may, however, not refuse registration, but shall in that case, including when he finds reasons to doubt whether the acquisition is in conformity of the Act, make an annotation to this effect in the land register and on the document. The annotation shall be reported to the Ministry concerned, which may decide that it shall subsequently be deleted.

When the licence for the acquisition of electrical power is granted, both the supplier of the electricity and any intermediaries shall upon request send the Ministry concerned complete statements covering deliveries of electricity (output as well as energy) to the licensee. The Ministry may require the electricity supplier and any intermediaries to ensure that no more electricity than is permitted by the licence is delivered.

**Section 31.** If the application for a licence is not submitted by the time limit stipulated pursuant to section 30, second paragraph, or the application is denied, or a licence limited by time has expired, the Ministry shall set a time limit for the acquirer to ensure that the transfer is either reversed or that the property or rights are transferred to a party that can obtain a licence or does not need a licence. The time limit may be extended if warranted by special considerations.

The Ministry's decisions pursuant to this section shall be officially registered.

**Section 32.** If the time limit stipulated in accordance with section 31 for discontinuing the right of ownership is not met, the Ministry may demand that the property be sold through the execution and enforcement authority according, insofar as they apply, to the rules covering forced sales. The provision of section 11-20 of the Enforcement Act regarding the smallest bid that can be confirmed does not apply in this case.

If the time limit stipulated according to section 31 is not met with respect to other rights, the Ministry may either permit the forced sale of the right according to the provisions of the first paragraph or with binding effect declare the right as having lapsed.

The provisions of the first paragraph apply correspondingly to the transfer of shares or interests in companies with limited liability. Should the holder of a cooperative share certificate sold by forced sale pursuant to this section fail to surrender it, the purchaser may, at the joint expense of the owner and holder, demand the cancellation of the cooperative share certificate. The company is subsequently obliged to issue a new cooperative share certificate that expressly states that it replaces the cancelled certificate.

**Section 33.** (Repealed by Act No. 107 of 23 June 1988.)

**Section 34.** When a corporation, a foundation or a company that has been granted a licence pursuant to this Act or previous legislation relating to waterfalls, mines or other real property etc. subsequently undergoes such changes that the statutory or licence-stipulated terms and conditions are no longer present with respect to registered office, board of directors or voting rights shares, or if it appears that such conditions were not present from the outset, the provisions in sections 30, 31 and 32 shall apply correspondingly.

The same applies if a corporation, a foundation or a company has, without needing a licence, acquired ownership or other rights covered by this Act, and has subsequently undergone such changes with respect to operations, registered office, board of directors or voting rights shares that the terms and conditions for acquisition without licence pursuant to this Act, or the statutory provisions in force at the time of the acquisition, are no longer present.

**Section 34a.** (Repealed by Act No. 79 of 23 June 1994.)

**Section 35.** (Repealed by Act No. 107 of 23 June 1988.)

**Section 36.** When shares or interests in a company with limited liability are acquired in such quantity that the acquirer thus becomes the owner of shares or interests representing more than one-fifth of all shares, interests or votes in the company, a licence is required provided the company possesses ownership or other rights that the acquirer could not acquire without a licence pursuant to this Act. A licence is similarly required when two or more persons or other legal persons, either jointly or individually, acquire shares or interests in a company with limited liability in such quantity as described above, when the acquisition has taken place in accordance with a previous mutual agreement. Shares or interests belonging to the acquirer's spouse, children, parents or siblings shall be counted together with his own shares or interests. Shares or interests belonging to the company or the other members of the company shall also be included if the acquirer is a member of a general partnership or a limited company. This rule shall apply correspondingly to the owner and the silent partner of a silent company. If the acquirer is a company with limited liability, shares and interests belonging to the company's board of directors and officers or another company shall also be counted if the majority of the company's board of directors consists of persons who are also members of the board of directors of the first company.

This Act's provisions regarding acquisition of shares or interests in companies with limited liability, shall also apply to acquisition of shares or interests in companies (holding companies), that directly or indirectly own shares or interests representing a fifth of all shares, interests or votes in other companies that hold ownership or other rights as covered in this Act.

Likewise, the provisions of this Act regarding acquisition of shares or interests shall apply correspondingly in cases where there is an increase in the voting rights share of the shares or interests in question or share of the basic capital in consequence of the company purchasing its own shares or interests for amortisation purposes.

Acquisition of shares or interests requiring licensing pursuant to this section, is in no case valid without the consent of the company's board of directors.

A licence is not necessary in the event of a change in marital joint ownership or when the acquirer is the owner's spouse, or is related or related by marriage to him in direct line of ascent or descent or in the first or second collateral branch. If a licence was previously granted for acquisition of the shares or interests in question, the terms and conditions stipulated in the licence shall also apply to the new acquirer (cf., however, section 27).

When a licence is granted pursuant to this section the King may stipulate such terms and conditions deemed necessary in the public interest.

In the case of acquisition of shares or interests in companies with ownership rights to waterfalls of a capacity described in section 1, first paragraph, for which transfer to the State without compensation has been stipulated, it may be stipulated that the shares or the interests shall revert to the State without compensation at the expiry of a licence-stipulated time limit that must not exceed sixty years.

**Section 37.** (Repealed by Act No. 79 of 23 June 1994.)

**Section 37a.** (Repealed by Act No. 107 of 23 June 1988.)

**Section 38.** When the right of ownership or another right covered by this Act is allegedly held by someone who does not need a licence to acquire it, but circumstances are said to exist whereby it must be considered likely that the property or the right belongs to someone who could not acquire it without a licence, or that the latter has such rights with respect to the property or the right that the ostensible owner's right to control it or derive financial gains from it are substantially curtailed, the property or right shall, for the purposes of this Act, be regarded as belonging to the person who thus in reality can be considered to be the owner or holder of such rights.

Real property may not be taken by antichresis or be the subject of a court-ordered transfer into mortgagee's use and possession for a period longer than three years without a licence. Should the time limit be exceeded, the provisions in sections 30, 31 and 32 shall apply correspondingly.

When a share or interest in a company is registered in the name of a person who does not need a licence to acquire such properties or rights as are held by the company, but circumstances are said to exist whereby it must be considered likely that the share or interest actually belongs to someone who could not acquire the company's properties and rights without a licence, or that the latter has such rights with respect to the share or interest that the ostensible owner's right to control it or derive financial gains from it are substantially curtailed, the share or interest shall, for the purposes of this Act, be regarded as belonging to the person who thus in reality can be considered to be the owner or holder of such rights.

**Section 39.** (Repealed by Act No. 79 of 23 June 1994.)

**Section 39a.** (Repealed by Act No. 79 of 23 June 1994.)

**Section 39b.** Wilful or negligent contravention of the provisions in sections 30 or 32 shall be punishable with fines.

Liability to punishment pursuant to this section is statute-barred after ten years.

Public prosecution shall take place only when it is deemed necessary in the public interest.

**Section 40.** The claim applicant's right according to the mining legislation to obtain the land and water necessary for mining operations, shall not be infringed by the provisions of Chapter III of this Act.

**Section 41.** When less than twenty-five years remain of the licence period for a waterfall that pursuant to licence shall revert to the State, the King, with the Storting's consent, has the power to enter into an agreement with the licensee to the effect that the waterfall and its installations shall revert to the State immediately. At the same time, the licensee is permitted to acquire ownership rights to the rights that have reverted to the State for a new period of fifty years.

When less than twenty-five years remain of the licence period for a waterfall that, according to the licence, shall revert to the State, the King, with the consent of the Storting, has the power to enter into an agreement with the licensee on the acquisition of the right of use to the relevant waterfall with appurtenant installations at the expiry of the licence period, or, if applicable, leasing of electric power from the State, and issue an undertaking that the necessary licences will be granted, cf. sections 5 and 13.

The licensee should normally have the right to enter into such agreements on the right to use waterfalls with appurtenant installations as described above. Such agreements should be signed, or an undertaking given, no later than three years after the licensee has raised questions in this regard.

During the last three years of the licence period for a waterfall that pursuant to licence shall revert to the State, the State shall have unhindered access to the installations and have the right to undertake the necessary steps to prepare for the State's take-over and ensure continued operation. However, this must not take place to the exclusion or detriment of the licensee's utilisation of the regulating installation in accordance with the licence. The licensee is obliged to provide such information and such assistance of an advisory nature deemed necessary for the State to be able to protect its interests pursuant to this provision. Expenses connected herewith shall be covered by the State.

When a waterfall with appurtenant installations reverts to the State pursuant to a licence, a portion of the installations or their value, though not over one-third, shall be allocated to the municipalities in which the waterfall, power plant or regulating installations are located. In such instances the Storting shall determine the value and the municipalities' shares and apportion these among them. The Storting may also decide that the monies shall be used to set up a fund for the benefit of the municipalities or that the municipalities be paid a share of any profits from the installations.

**Section 41a.** In licences for acquisition and operation of claimable deposits or mines where pursuant to earlier legislation transfer to the State without compensation is conditional, the condition lapses provided the licensee otherwise abides by new licence terms and conditions stipulated by the King in accordance with the rules in this Act.

**Section 42.** This Act enters into effect immediately. It shall not apply in cases where its provisions are at variance with existing treaty obligations.

The Act of 18 September 1909 relating to acquisition of waterfalls, mines and other real property is hereby repealed. References to said Act in other statutes shall hereafter apply to the corresponding provisions in this Act.