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Act No. 82 of 24 November 2000 relating to river systems and groundwater (Water Resources Act)

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Act relating to river systems and groundwater (Water Resources Act)

Chapter 1. Purpose and scope

Section 1. (*purpose*)

The purpose of this Act is to ensure socially proper use and management of river systems and groundwater.

Section 2. (*definition of river systems and groundwater for the purposes of the Act*)

A river system is defined as all stagnant or flowing surface water with a perennial flow, with appurtenant bottom and banks up to the highest ordinary floodwater level. Even if certain sections of a river system flow underground or under glaciers, it is considered to be a river system in its entirety. Watercourses without a perennial flow are also considered to be river systems if they are clearly distinct from their surroundings.

The rules in the Act for river systems also apply to

- a) artificial watercourses with a perennial flow excluding pipelines and tunnels;
- b) artificial reservoirs directly connected to groundwater or a river system.

The Act applies to river systems abutting the sea provided

- a) at the mean rate of flow, the river system lies above sea level at normal low tide; or
- b) the bottom is characterised by an inflow of fresh water.

The King may stipulate

- a) where the boundary to solid ground shall run pursuant to paragraph one;
- b) where the boundary to the sea shall run pursuant to paragraph three;
- c) that the Act shall apply in full or in part to *poller* (rounded fjords with a narrow inlet) and other landlocked bodies of water without outlets to the sea, when it is reasonable to treat them as the equivalent of a river system;
- d) by regulation the extent to which the provisions of the Act shall apply to artificial

watercourses and reservoirs;

- e) by regulation that beyond chapter 9 the Act shall also apply in full or in part to pipelines and tunnels that carry water under pressure.

Groundwater is defined as water in the saturated zone in the ground.

Section 3. (*definitions*)

In this Act, the following terms are so defined:

- a) measures in a river system: watercourse installations and other measures in a river system that by their nature are apt to affect the rate of flow, water level, the bed of a river or direction or speed of the current or the physical or chemical water quality in a manner other than by pollution;
- b) watercourse installation: building or structure in or above a river system other than overhead lines;
- c) perennial flow: flow of water that at a mean temperature above freezing does not dry up from natural causes more often than every ten years on average;
- d) highest ordinary floodwater level: water level at the highest flood that may be expected empirically every ten years on average.

Section 4. (*territorial scope of the Act*)

The King may stipulate the extent to which the Act shall apply to Svalbard, Jan Mayen and the dependencies, and may lay down for these areas such special rules that local conditions warrant.

The Act applies to trans-boundary river systems with the limitations deriving from ordinary international law or conventions that the King has entered into. River systems that constitute or cross the border to another State are considered to be trans-boundary river systems. The King may issue regulations for implementing rules under international law.

For trans-boundary river systems adjoining Sweden the Act applies provided it is compatible with Act No. 1 of 12 June 1931 pursuant to the convention between Norway and Sweden relating to certain issues regarding river system law of 11 May 1929.

Chapter 2. General rules concerning river systems

Section 5. (*stewardship and duty of care*)

Care shall be taken by all to avoid harm or nuisance in the river system to public or private interests.

Measures in a river system shall be planned and implemented so as to harm or inconvenience public or private interests as little as possible. This duty applies as long as it can be met without disproportionate expense or inconvenience. The water authorities may by regulation lay down further rules relating to planning, implementing and operating certain types of measures in a river system.

Measures in a river system shall meet all requirements that may reasonably be set to safeguard against hazards to people, property or the environment.

Section 6. (*relationship to the Neighbouring Properties Act*)

The rules in the Neighbouring Properties Act are applicable to measures that affect neighbours to river systems unless otherwise stated in this section.

The rules on neighbour notification and neighbour appraisal in sections 6 - 8 of the Neighbouring Properties Act do not apply to measures requiring a licence pursuant to this Act or Act No. 17 of 14 December 1917 relating to regulations of watercourses (Watercourse Regulation Act).

A neighbour may not demand corrective measures pursuant to section 10 of the Neighbouring Properties Act of measures licensed pursuant to this Act or the Watercourse Regulation Act.

That harm or nuisance is permitted pursuant to this Act is no obstacle to ordering the developer to pay compensation or remuneration as long as this in accordance with the rules in the Neighbouring Properties Act.

Section 7. (*the flow of water in river systems and infiltration into the ground*)

No one may impede the flow of water in river systems without authority in this Act.

Development and other utilisation of land should preferably take place so that precipitation can still drain by infiltration into the ground. The water authorities may order measures that will improve infiltration into the ground, provided this can be implemented without unreasonable costs.

Section 8. (*measures subject to a licensing requirement*)

No one may implement measures in a river system that may be of appreciable harm or nuisance to any public interest in the river system or the sea, unless this is done in pursuance of the rules in section 12 or section 15 or with a licence from the water authorities.

The water authorities may by regulation or in the individual case stipulate that measures outside of the river system that may have tangible impacts on a river system must have a licence. In that case the Act's other rules regarding measures in a river system shall also apply, except the power pursuant to section 18 to petition for an advance decision on whether the measures are subject to a licensing requirement.

If measures in a river system that fall under paragraph one must be implemented immediately to prevent material damage, notification shall be given to the water authorities as soon as possible. If necessary, the water authorities may issue orders on its design and to take corrective action.

In other respects, further rules in chapter 3 apply to the requirement to obtain a licence and licensing.

Section 9. (*quality targets for river systems*)

The water authorities may set quality targets for river systems, *inter alia* on rate of flow, the content of substances and occurrence of species in the river system and provisions on the obligations of the water authorities if the quality targets are not reached. Quality targets that are to be binding on the exercise of public authority shall be set pursuant the rules for regulation in the Public Administration Act.

Quality targets for pollutants shall be set pursuant to the Pollution Control Act.

Section 10. (abstraction of water and minimum permitted rate of flow)

When water is abstracted or diverted, changing the rate of flow in rivers or streams with a perennial flow, at least the ordinary low water flow must remain, unless otherwise stated in this section. The same applies when water is retained by damming.

In a licence for abstraction, diversion or damming, the specification of terms and conditions for the minimum permitted rate of flow in rivers and streams shall be decided according to a specific evaluation. In deciding, importance shall be attached *inter alia* to preserving

- a) water levels,
- b) the value of the river system to flora and fauna,
- c) water quality and
- d) groundwater body.

The water authorities may grant permission to derogate from the terms and conditions pursuant to paragraphs one and two in individual cases without environmental impacts. Decisions pursuant to this paragraph cannot be appealed.

Section 11. (*riparian vegetation*)

Along the banks of river systems with a perennial flow, a limited natural belt of vegetation shall be maintained to counteract runoff and provide a habitat for plants and animals. However, this provision does not apply to construction necessarily connected to the river system or where an opening is needed to ensure access to the river system.

The landowner, developer and affected authorities may require that the municipality stipulate the width of the belt. The width may also be stipulated in legally binding plans pursuant to the Planning and Building Act.

In special cases the water authorities may grant exemptions from the requirement in paragraph one.

Section 12. (*restoration of the course of a river*)

When a river or stream assumes a new course, is clogged with sediment or is deepened, the original course may, without a licence pursuant to section 8,

- a) be restored within three years if the change is owing to a single event;
- b) earth may be removed or filled in up to the depth or width that the river or stream had five years previously.

Restoration pursuant to paragraph one that may be of appreciable harm or nuisance to any public interest must be notified to the water authorities. The restoration may be carried out by the landowner himself, by other owners in the river system or by the water authorities.

In connection with restoration pursuant to paragraph one, use of another person's property may be made provided it does not cause material harm or nuisance that can reasonably be avoided. The landowner shall be notified in advance in reasonable time.

Ditches on agricultural or forestry holdings may be cleaned up without a licence pursuant to section 8 in accordance with regulations pursuant to provisions laid down in

or pursuant to the Act of 21 May 1965 relating to forestry and forest protection and Act No. 23 of 12 May 1995 relating to land.

With regard to beaver dams, the rules in Act No. 38 of 29 May 1981 relating to wildlife and wildlife habitats apply.

Section 13. *(the general rule regarding the landowner's rights)*

A river system belongs to the owner of the land it covers, unless otherwise dictated by special legal status. When all or part of a river system is located on commonhold property, the rules in Act No. 6 of 18 June 1965 relating to jointly-owned property apply to the relationship between the joint-owners.

The owners on each side of a river system have equal rights to exploiting its hydropower, unless special legal grounds dictate otherwise.

The landowner may oppose others exercising rights to a river system belonging to him without special legal grounds. Within the framework set by the legislation the landowner himself may control the river system provided no special rights are an obstacle to this.

The water authorities may stipulate restrictions on the rights to a property in the interest of a future supply of drinking water that is being planned. Such a restriction may not be imposed for more than five years. The restriction may be renewed once for up to five additional years.

Section 14. *(reopening of river systems)*

The water authorities may with six months' notice reopen a closed river system. The landowner has a right to compensation pursuant to the rules in Act No. 17 of 6 April 1984 relating to compensation for the expropriation of real property for losses due to the reopening. Unless otherwise agreed, the compensation shall be set by an appraisal requested by the water authorities.

Section 15. *(supplemental rules relating to the landowner's abstraction of water)*

A landowner along a river system may without a licence pursuant to section 8 abstract water for his household and domestic animals on the property. This applies provided the abstraction does not contravene the rules in sections 5 and 10.

If there is a shortage of water, the landowners along the river system have equal rights as needed to abstract water for the following purposes according to the following ranking:

1. permanent household,
2. domestic animals.

If necessary, the water authorities may issue further administrative decisions regarding the distribution and implementation of the abstraction of water during shortages, including taking into account adjacent properties not abutting the river system and the public interest. If the water authorities receives a request to issue a decision on distribution or implementation, the decision on whether or not the request is to be honoured shall be considered to be an individual decision.

The landowner's abstraction right pursuant to paragraph two also applies with regard to measures in a river system licensed pursuant to section 8, unless the licensee provides

another water supply. Nevertheless, the water authorities may stipulate in the rules for reservoir operation or terms and conditions for the licence that the abstraction right shall be limited to a certain quantity or be annulled completely in exchange for the licensee paying compensation for damage or nuisance.

Section 16. (*the general public's rights to river systems*)

Anyone may use a river system for

- a) abstraction of water without digging trenches or using a permanent pipe or engine power;
- b) swimming in accordance with Act No. 16 of 28 June 1957 relating to outdoor recreation;
- c) non-motorised traffic;
- d) motorised traffic on open or ice-covered river systems when taking place in accordance with Act No. 82 of 10 June 1977 relating to motorised traffic on uncultivated land and in watercourses and the landowner has not prohibited it pursuant to paragraph two.

The use of river systems in accordance with paragraph one shall take place with such consideration that it does not cause nuisances of significance for the landowner or other users. The landowner may prohibit motorised traffic in the river system. The water authorities may set aside a prohibition, if after weighing the interests put forward the prohibition would have to be deemed unreasonable. The water authorities may grant permission to charging a reasonable fee for traffic in canals and river systems that have been adapted for this purpose.

Everyone has the right to retrieve objects that have sunk in river systems and to float logs in river systems that are deep enough to float logs provided that this does not trigger a requirement to obtain a licence pursuant to section 8. If a retrieved object would have to be considered lost property, the rules in Act No. 3 of 29 May 1953 relating to lost property apply. If it must be regarded as waste, the rules the Pollution Control Act apply. Regarding the right to fish, the rules in Act No. 47 of 15 May 1992 relating to salmonids and fresh-water fish etc.

Section 17. (*rights to the centre portion of lakes*)

The state controls what is the unrestricted centre portion of larger lakes. If the lake is located on State-owned common land, the centre portion is included in the common land. Private individuals have the right to use the centre portion pursuant to law or other legal basis.

Chapter 3. Further details regarding licences for measures in a river system etc.

Section 18. (*special decision on the requirement to obtain a licence*)

The water authorities may by regulation or individual decision stipulate whether measures in a river system require a licence pursuant to section 8 or issue regulations to the effect that certain measures in a river system shall be notified to the water authorities. The water authorities shall issue individual decisions pursuant to paragraph one if the

developer, affected competent authority or others with a legal interest request it and may prohibit implementation before the decision is reached. An appeal of a decision stipulating that the measure requires a licence will not delay the decision's entry into effect. The provisions of section 27 apply correspondingly.

Section 19. (*special rules for hydropower development*)

A licence for hydropower development that includes watercourse regulations shall be granted pursuant to the rules in Act No. 17 of 14 December 1917 relating to regulation of watercourses (Watercourse Regulation Act) when this follows from sections 1 and 2 of that Act. This Act nevertheless applies to such watercourse regulations insofar as no exemption has been made pursuant to this Act or special rules have been laid down in the Watercourse Regulation Act.

For run-of-river power stations with mean annual generation above 40 GWh, section 5 littera a-d and f, section 6 and section 8, paragraph one, of the Watercourse Regulation Act apply instead of sections 20 and 23-25 of this Act. Section 10, subsection 3, section 12, subsections 1-13, 16-20, 21, except for paragraphs three and four, section 16, subsections 1-3, section 19 and section 20 of the Watercourse Regulation Act apply to licences for such run-of-river power stations instead of sections 26 and 27-29 of this Act. If a licence has not been granted for a run-of-river power station with mean annual generation above 40 GWh pursuant to Act No. 16 of 14 December 1917 relating to the acquisition of waterfalls, mines and other real property, etc., the licence fee shall be stipulated pursuant to the rules in section 2, paragraph four, no. 13, cf. section 5, paragraph three, no. 2, of that Act.

For other hydropower plants, this Act applies in full, though such that section 12, subsection 1, of the Watercourse Regulation Act regarding construction deadlines applies instead of section 27.

Section 20. (*coordination of permits*)

The water authorities may lay down in regulation or in the individual case that no licence is required pursuant to this Act for measures that

- a) require a permit pursuant to section 7, paragraph two or three, or section 10 of Act No. 47 of 15 May 1992 relating to salmonids and fresh-water fish etc.;
- b) require a permit pursuant to section 11 of the Pollution Control Act or to regulation in pursuance of the Pollution Control Act;
- c) require a dispensation from a conservation decision pursuant to Act no. 63 of 19 June 1970 relating to nature conservation or are implemented as a management measure pursuant to the Nature Conservation Act;
- d) are permitted in a zoning plan or building development plan pursuant to the Planning and Building Act; or
- e) are approved pursuant to a regulation in pursuance of section 17 a of the Act of 21 May 1965 relating to forestry and forest protection or of section 11 of the Land Act.

The King may issue regulations to the effect that licensing pursuant to this Act may in certain types of cases replace licensing pursuant to certain other Acts.

Section 21. (*reconstruction of watercourse installations*)

The reconstruction of watercourse installations with a licence pursuant to section 8 may take place without a new licence if the work is initiated within five years of the time the installation became inoperative and is completed with reasonable speed. The water authorities may extend the deadline once.

Section 22. *(planning in river systems)*

Once central public authorities have instituted preparation of a master plan for the use or protection of river systems for a larger area, the water authorities may without further consideration delay or reject an application for a licence that pertains to a river system included in the scope of the plan. A licence may be granted only if the measure is without appreciable importance for the plan.

When a plan as mentioned in paragraph one is completed, the processing of applications for licences shall be based on it. An application that is at variance with the plan may be rejected without further consideration. Only the Ministry may grant a licence for measures in a river system that may reduce the hydropower in river systems that are assigned to power development in the plan.

A master plan for various measures within a single river system should preferably be drawn up pursuant to the rules in the Planning and Building Act.

Measures in a river system subject to a licensing requirement must have a licence pursuant to this Act, and legally binding plans pursuant to the Planning and Building Act may not substitute for a licence.

Section 23. *(content of applications; case documentation)*

An application for a licence pursuant to section 8 must, in accordance with regulations pursuant to section 65, provide the necessary information about the planned measures and the advantages and disadvantages connected therewith and about the relationship to legally binding plans pursuant to the Planning and Building Act.

The water authorities may require further information from the applicant and may decide that the applicant must undertake or defray the cost of studies or reports required to ascertain the advantages or disadvantages of the measures. For measures that fall under the rules relating to environmental impact in the Planning and Building Act, these rules apply instead.

If measures in a river system can cause substantial damage or nuisances, the impact assessment must consider relevant alternatives such as a different siting, different technical solutions or a different design. If the measures will have an impact on the use of the river system in other respects, the assessment must clarify such impacts.

Section 24. *(publication of applications)*

The application is subject to public disclosure in accordance with the rules in the Freedom of Information Act.

Public notice of the application must be made at the applicant's expense according to the rules in section 27-1, no. 2, of the Planning and Building Act. The water authorities may exempt the applicant from the public notice requirement if

- a) the matter can be completely notified in some other way;
- b) it is evident that consideration must be postponed pursuant to section 22; or

c) it is evident that the application must be rejected.

Section 25. (*criteria for a licence*)

A licence may be granted only if the benefits of the measure outweigh the harm and nuisances to public and private interests affected in the river system or catchment area.

When measures are of a permanent nature or may for other reasons have longer-term impact, the requirement in paragraph one must be met in the longer term.

Section 26. (*terms and conditions of a licence*)

In a licence, terms and conditions may be set for counteracting harm or nuisances to public or private interests. The emphasis must be on promoting safeguards against harm to people, property or the environment, ensuring that the measures are as well adapted to the landscape as possible and maintaining the natural aquatic life. Terms and conditions may be set for *inter alia*

- a) safeguarding against harm through design and functional requirements and requirements for the necessary maintenance of watercourse installations;
- b) ensuring clean-up or restoration when the measures are closed down;
- c) adapting the measures to another relevant use;
- d) allowing others to be participants in the measures in the river system;
- e) mitigating damage and nuisances connected with older measures in the river system, including the reopening of streams, re-establishment of edge zones and other restoration of natural areas, if this is reasonably connected with what the licence pertains to.

If measures in a river system can impact the rate of flow and water level, limits shall be set for the water level and rate of flow in accordance with section 10, with the necessary mandates for compliance monitoring, and, if necessary, instructions shall be issued for how reservoir operation is to take place.

In a licence for measures in a river system that may impose substantial inconvenience on other utilisation of the river system or catchment area, terms and conditions may be set for the developer to facilitate such utilisation elsewhere or provide subsidies for this purpose.

The licence may be limited in time. The licensing authority may decide that the licence shall be revised after a certain period of time.

Terms and conditions may be set for security for any liability to pay compensation for damage or nuisance that the measures cause. If the developer himself owns and controls the land on which the measures are to be implemented, and the measures will obviously not cause losses or damage, the water authorities may exempt the developer from having to request appraisalment to determine possible compensation.

Section 27. (*lapse of a licence*)

The licence lapses if construction work is not initiated by later than three years after the licence was granted. The same applies if construction work is subsequently stopped for more than two years. The water authorities may extend the time limit once by up to three additional years.

Section 28. *(modifying licences)*

In special cases, the water authorities can rescind or amend terms and conditions or set new terms and conditions in the public or private interests. Consideration shall be given to the losses that an amendment will impose on the licensee and the advantages and disadvantages that the amendment will otherwise entail. This provision does not apply to measures dealt with pursuant to Act No. 17 of 14 December 1917 relating to regulations of watercourses.

Section 29. *(consideration of modification cases)*

For the consideration of cases pursuant to section 28, the rules in section 23 will apply insofar as they are applicable.

Changes of rules for reservoir operation that permit the licence holder to vary the water level or rate of flow must be submitted for consultation pursuant to the rules in the Public Administration Act regarding regulations and made public pursuant to the rules in section 27-1, no. 2, of the Planning and Building Act. The water authorities shall hold public meetings on the case at the applicant's expense, unless the Ministry exempts him from this.

Chapter 4. Common measures

Section 30. *(facilitating common measures for supplying water and draining)*

Measures for supplying water or draining shall to a reasonable extent be implemented so as to benefit other landowners.

When the water authorities consider an application for a licence pursuant to section 8 for supplying water or draining, they should, by public or individual notification, seek to establish whether the measures can also meet the needs of other interested parties. In the terms and conditions for the licence, the water authorities may stipulate in detail how this is to take place, *inter alia* that other interested parties shall be able to participate in ownership or with a subsidy, cf. section 31.

Section 31. *(refunding expenses for common measures)*

Anyone drawing substantial benefits from measures in a river system or the utilisation of groundwater shall be considered to be a participant in the measures with regard to dividing the measures' expenses for installations, maintenance or operation.

The participants may conclude an agreement on the division of the measures' expenses.

If not all of the common expenses are divided as agreed among the participants or according to special rules, they may be divided among the participants

- a) by the water authorities. The decision is enforceable by attachment;
- b) by appraisalment upon the request of a participant or referral from the water authorities. A new appraisalment may be requested after ten years;
- c) in the event of the dissolution of joint ownership of land upon the request of a participant or referral from the water authorities, if the measures in the river system are connected with other measures subject to the dissolution.

A common expense may be divided only among the participants that benefit from it. When one part of the measures depends on another part that more than one person benefits from, the expenses for both parts shall be divided among them all. No participant has to pay so high a share of the measures' common costs that said participant is worse off than if the measures had not been implemented.

The King may issue further regulations concerning the division of costs for common measures.

Chapter 5. Protected river systems

Section 32. *(protected river systems)*

In this Act, protected river systems are understood to be river systems protected from hydropower development by a resolution of the Storting on a protection plan for a river system or by another resolution of the Storting.

Protected river systems shall be announced in the Norwegian Law Gazette.

Changes in the extent of protected river systems may only be made by a resolution of the Storting. Such resolutions shall be announced in the Norwegian Law Gazette.

Section 33. *(rules for protected river systems)*

In protected river systems, protection is guaranteed in particular by

- a) the rules in this Act, including the special rules in this chapter,
- b) the provisions of decisions pursuant to Act no. 63 of 19 June 1970 relating to nature conservation, or
- c) legally binding plans pursuant to the Planning and Building Act.

Insofar as the river system comes under decisions pursuant to the Nature Conservation Act, the rules in and in pursuance of the Nature Conservation Act apply instead of this Act. Nevertheless, the rules in the Act concerning safety, supervision, compensation and who may exercise rights apply. If a protected river system comes under a binding plan pursuant to the Planning and Building Act, the rules in this Act apply alongside such a plan.

Section 34. *(hydropower development in protected river systems)*

No one may undertake hydropower development in contravention of Storting resolutions on the protection of river systems.

All plans for hydropower development in protected river systems must be notified to the water authorities for assessment before the measures are implemented.

The rules in section 35 apply insofar as they are applicable to measures connected with hydropower development in protected river systems.

Section 35. *(other measures in protected river systems)*

In protected river systems in which protection is guaranteed by this Act, existing installations may remain and ongoing activities may continue, unless otherwise dictated by sections 66 and 67. In other respects the following special rules apply:

1. Existing installations may not be utilised for new purposes without a licence pursuant

to section 8.

2. If a change in ongoing activities within the framework of a current licence will affect the conservation value of the river system, this may take place only with a new licence. The same applies to the resumption of activities that have been stopped for at least five years.
3. Measures pursuant to section 12, paragraph one, in protected river systems are not exempted from the requirement to obtain a licence pursuant to section 8.
4. The water authorities may stipulate for specified areas in protected river systems that all measures are to be subject to notification.
5. New installations may be permitted only if the interest of the conservation value of the river system does not weigh against them.
6. The rebuilding of an existing installation that involves expansions may be permitted only if after an overall assessment, conditions in the river system will be as environmentally favourable as before the rebuilding.
7. Abstraction of water is permitted in accordance with section 15. Nevertheless, the water authorities may set a limit for the total abstraction of water.
8. When the water authorities issue decisions applying to a protected river system pursuant to this Act, the interest of its conservation value shall be given preponderant weight. The water authorities may reject an application for a licence without further consideration. If a licence is granted, the justification for the decision shall show how the conservation value is assumed to be affected and why this was not crucial for the decision.
9. The water authorities may issue decisions to re-establish vegetation along protected river systems that is natural to the site in a zone along their banks that is stipulated in a binding plan pursuant to the Planning and Building Act. Compensation pursuant to the rules in Act No. 17 of 6 April 1984 relating to compensation for the expropriation of real property shall be paid for losses due to the decision. Unless otherwise agreed, the compensation shall be set by an appraisal requested by the water authorities.

Chapter 6. Safeguarding against harm

Section 36. *(regulations concerning requirements for safeguards)*

The water authorities may issue regulations to promote safeguarding against harm to people, property and the environment.

Section 37. *(maintenance of measures in a river system)*

The party or parties responsible at the time in question for measures in a river system that may cause damage shall keep such measures in proper order. This maintenance obligation runs until the installation is legally closed down pursuant to section 41.

The water authorities may issue orders to take measures pursuant to paragraph one. The authorities shall consider any order as soon as possible when any party with a legal interest so requests. The decision is an individual decision even if an order is not issued.

Section 38. *(emergency preparedness plans)*

The developer with the responsibility for measures in a river system that can cause substantial harm to people, property or the environment shall have an emergency preparedness plan. The plan shall provide guidelines for what is to be done if an accident occurs or in the event of a sudden increase of risk. The plan shall be modified or replaced as needed.

The water authorities may

- a) require that an emergency preparedness plan be prepared and submitted for approval;
- b) issue orders for changes to the plan;
- c) issue orders for several developers to collaborate on an emergency preparedness plan or for the plan to be prepared by a joint organisation;
- d) issue regulations concerning emergency preparedness plans and emergency preparedness for sudden accidents in the river system.

Section 39. *(requirements for professional qualifications)*

The water authorities may by regulation or individual decision stipulate requirements regarding the professional qualifications of personnel to be in charge of planning, building, operating and conducting investigations of measures in a river system.

Section 40. *(measures in serious hazardous situations)*

When the conditions in a river system create a special and extraordinary hazard to people, the environment or property, the water authorities can order any developer to arrange his operations so as to reduce the hazard. If the responsible party is patently incapable of meeting his maintenance obligation for installations that pose a risk of substantial harm, the water authorities shall see to the necessary maintenance pursuant to section 37 or close-down pursuant to section 41.

The water authorities may, if necessary, implement measures on the property of a third-party to protect people, property or the environment from a particular risk of serious harm. If such measures are implemented on a property that is not threatened, the owner has a right to compensation pursuant to the rules regarding liability for emergency actions.

Chapter 7. Closing down of watercourse installations

Section 41. *(power to close down watercourse installations)*

If the owner of a watercourse installation no longer wishes to maintain the installation, the installation is to be removed and the river system restored as much as possible to the conditions as they were before the installation was built. Prior to closing down, the owner shall inform all interested parties in ample time in advance.

If the shut-down can result in tangible harm or nuisance to the public interest, a licence pursuant to section 8 is required. Such a licence shall be granted unless special grounds warrant otherwise. The water authorities may set terms and conditions in the licence according to the rules in section 26.

The water authorities may grant a licence for the shut-down to take place in a manner other than that mentioned in paragraph one, provided this will not result in any increased hazard or harm.

Section 42. (*transfer of watercourse installations instead of closing down*)

The water authorities may transfer a watercourse installation from a party wishing to close it down to one wishing to maintain it, unless the owner abandons his plans to close it down.

Section 43. (*dissolution of timber floating associations*)

Before a timber floating association is dissolved, the association's timber floating installations shall be transferred or closed down in accordance with the rules in this chapter and other necessary clean-up shall be undertaken, or such security shall be pledged for continued operation and maintenance as well as possible liability as the water authorities stipulate. The water authorities may order a timber floating association to pledge security for expenses connected with the closing down of timber floating installations.

Chapter 8. Groundwater

Section 44. (*rights to groundwater*)

Groundwater belongs to the owner of the land in the ground of which the water occurs, unless special legal circumstances dictate otherwise. If a groundwater body lies under more than one property, it is contiguous to the properties as a joint holding whereby each property's share corresponds proportionally to its area on the surface. Section 10, paragraph two, of Act No. 6 of 18 December 1965 relating to joint-ownership does not apply to these shares of the jointly-owned property.

Rights to groundwater must be exercised in accordance with the requirements in sections 10 and 15, paragraphs two and three. Abstraction of groundwater shall be limited to what the groundwater reservoir will tolerate.

For damage or nuisance resulting from exercising rights to groundwater, the rules in chapter 9 regarding compensation for damage apply insofar as they are appropriate.

Section 45. (*requirement to obtain a licence for rights to groundwater*)

A landowner may without a licence abstract water for his household and domestic animals on his property.

Rights to groundwater are subject to a requirement to obtain a licence pursuant to section 8, cf. chapter 3, for

- a) abstraction of water in excess of a limit that the water authorities have stipulated in regulation;
- b) abstraction of water in excess of the scope that is natural for the activity normally engaged in on such properties;
- c) other rights to or impact on groundwater, provided the water authorities have determined this in regulation or in the individual case.

Section 46. (*groundwater drilling*)

Anyone who engages in drilling for water shall act with due care to avoid damage and nuisance as a consequence of drilling. The provisions of section 39 are likewise applicable to groundwater drilling.

After drilling is completed, the party in question shall, as soon as possible and by three months at the latest, submit a notification of the drilling to the water authorities.

The Ministry may issue regulations concerning the information that a notification pursuant to paragraph two shall contain. Regulations may be issued concerning the implementation of drillings, including how surveys and sample taking are to be carried out.

Anyone who conducts surveys of groundwater and prepares a report about that survey shall send notification of this to the water authorities as soon as possible and within three months at the latest after the submission of the report. The water authorities may, if necessary, request a copy of the report with necessary documentation.

Chapter 9. Compensation for damage

Section 47. *(liability to pay compensation)*

The developer may be held liable pursuant to ordinary compensation rules for infringement of section 5, paragraph one, and section 46, paragraph one.

The developer is liable regardless of any culpability

- a) for damage or nuisance from measures in a river system owing to faults or defects in the execution of the measures pursuant to section 5, paragraphs two and three, or the maintenance of the measures pursuant to section 37, paragraph one, or in connection with a breach of the requirement to obtain a licence pursuant to section 8 or terms and conditions of a licence pursuant to section 26;
- b) for damage or nuisance to property or rights from licensed measures in a river system;
- c) for damage or nuisance to property or rights in connection with the closing down of a watercourse installation, cf. section 41;
- d) for damage from water pipelines or water tunnels;
- e) for damage due to motorised traffic or floating in the river system;
- f) when it otherwise follows from ordinary compensation rules.

Section 48. *(onus of proof)*

If measures in a river system are in violation of this Act or decisions pursuant to this Act, and the measures cause damage, the developer has the onus of proof for the condition prior to the damage if it no longer can be observed.

Section 49. *(scope and meting out of compensation)*

Compensation for damage or nuisance to property from lawful measures in a river system may be claimed only to the extent the damage or nuisance is unreasonable or unnecessary pursuant to section 2, paragraphs two through four, of the Neighbouring Properties Act.

For compensation for damage and nuisance affecting the exercise of public rights, the rules in section 57, litra d, cf. section 58, of the Pollution Control Act apply correspondingly, and such that the water authorities act in lieu of the pollution control authorities.

For mitigation of the liability to pay compensation, section 5-2 of Act No. 26 of 13 June 1969 relating to compensation in certain circumstances. In assessing damage to real property or objects, consideration shall also be taken of whether the property or the object is particularly sensitive to damage.

Section 50. *(obligation to be insured)*

The water authorities may issue an order that measures in a river system that can cause substantial damage shall be insured for possible liability to pay compensation.

Chapter 10. Compulsory purchase and compensation for compulsory purchase

Section 51. *(the relationship to ordinary compulsory purchase law)*

In the event of a compulsory purchase of the rights to a river system or groundwater, the rules of Act No. 3 of 23 October 1959 relating to the expropriation of real property and Act No. 17 of 6 April 1984 relating to compensation for the expropriation of real property apply, unless otherwise stipulated in this chapter. Compulsory purchase may also take place pursuant to other legislation.

In the event of a compulsory purchase for hydropower generation, all compensation shall be increased by 25 per cent.

Permission to undertake a compulsory purchase pursuant to the Act relating to expropriation should be granted at the same time as a licence pursuant to section 8.

Awarded compensation shall be set at an annual amount unless the compensation is less than the minimum amount that the King decides. Nevertheless, lump-sum compensation shall be stipulated if the property is surrendered in its entirety or a substantial portion thereof, or if the acquiring authority demands it.

Previously stipulated compensation under the minimum amount determined by the King may be converted to a lump-sum compensation if one of the parties so demands.

Section 52. *(compensation for latent damage)*

If measures in a river system cause damage of significance that was not foreseen at the time of the earlier settlement, the injured party may sue for compensation for the damage. The provisions of section 51, paragraph two, are likewise applicable.

Chapter 11. Supervision of river systems and groundwater

Section 53. *(supervision)*

The water authorities shall supervise measures in a river system and the condition of and developments in river systems, unless otherwise stipulated in other legislation. The water authorities may by regulation or in an individual case hand over this supervisory duty to others.

The rules in this chapter apply to supervision of groundwater and groundwater measures insofar as they are appropriate.

Section 54. *(internal controls)*

The party responsible for a watercourse installation shall see that the installation and the operation thereof meet the requirements that are specified in or pursuant to this Act.

The water authorities shall issue regulations concerning internal controls and internal control systems.

Section 55. *(the right to information and inspection)*

To perform their supervisory duties the water authorities shall have unimpeded access to measures in a river system, river systems and catchment areas. The developer is obliged when ordered to furnish the water authorities with information, documents or other material of importance for these supervisory duties. When special grounds warrant it, such information may be officially requested by others.

Section 56. *(establishing water-level gauges)*

The water authorities have the right to establish water-level gauges or set up devices for taking measurements in river systems and catchment areas. The landowner shall be notified prior to establishment or set-up. The water authorities may upon application also grant others the right to undertake such establishment or set-up.

Provided the purpose of the placement makes it possible, the placement shall take place without inconveniencing the landowner or other interests in the river system.

Section 57. *(investigations)*

The water authorities may conduct investigations in river systems and catchment areas. If the investigations cause damage or nuisance beyond what one reasonably would have to accept, the injured party may claim compensation.

The water authorities may order a developer in a river system to see to or defray the cost of studies or similar measures that may reasonably be requested to determine the measures' functional reliability. The same applies to a developer with a licence pursuant to this Act to determine the measures' effects on the natural conditions in the river system.

Section 58. *(fee for inspecting measures in a river system)*

The water authorities may issue regulations regarding a fee for inspecting measures in a river system. The rates for this fee shall be set so that the fees overall do not exceed the water authorities' costs for inspection and for measures pursuant to section 40, paragraph one, second sentence. The fee is recoverable by attachment. Should the fee not be paid when due, interest shall be levied as laid down in pursuance of section 3, paragraph one, of Act No. 100 of 17 December 1976 relating to interest on overdue payments, etc.

Chapter 12. Implementation of the Act and decisions pursuant to the Act

Section 59. *(orders to take corrective action)*

Anyone who has a legal interest therein may demand that corrective action be taken of situations in violation of the Act or of decisions pursuant to the Act. Once the water authorities have established the existence of a situation contrary to law in connection with

measures in a river system or measures to utilise groundwater subject to a licensing requirement, it shall issue an order to take corrective action if a licence pursuant to section 8 is not granted or the previous decision is modified pursuant to section 28. If necessary, the water authorities may order a stoppage of ongoing activities.

If the water authorities find other circumstances that may cause a hazard or nuisance to people, property or the environment, they may issue an order to take corrective action in accordance with the rules in sections 28 or 40.

In connections with demands for corrective action, the rule in section 48 likewise applicable.

Section 60. *(coercive fines)*

To ensure that decisions pursuant to this Act are carried out, the water authorities can impose coercive fines payable to the State on the responsible party.

A coercive fine may be stipulated when a violation of the Act or of a decision pursuant to the Act has been discovered. The coercive fine begins to accrue if the party responsible exceeds the time limit for rectifying the situation that the water authorities have set. A coercive fine may also be stipulated in advance and accrue from the time any violation begins. It may be stipulated that the coercive fine shall accrue as long as the unlawful situation persists, or that it comes due for each violation.

The water authorities may waive an accrued coercive fine.

Section 61. *(immediate implementation by the water authority)*

If the water authority has issued an order to take action pursuant to this Act with which the responsible party does not comply, the water authorities may see to it that the action is taken.

The water authority may implement such measures without a prior order if this is necessary to avert an impending danger or if under the circumstances it would be unreasonably burdensome to find the responsible party.

Coverage of the expenses for implementation may be claimed from the responsible party. They are recoverable by attachment.

Section 62. *(use of another person's property for implementation)*

If it is necessary for implementation pursuant to sections 59 or 61, the water authorities may make use of the property of the responsible party or of another person. The water authorities may, if necessary, grant the responsible party the right to use another person's property.

If use is made of another person's property pursuant to paragraph one, the party in question shall be compensated for losses due to damage or nuisance. The water authorities shall vouch for the amount of compensation.

Chapter 13. Penalties

Section 63. *(criminal liability)*

Whoever wilfully or negligently

- a) implements measures that are subject to a requirement to obtain a licence pursuant to

- this Act without authorisation in a licence or permission in a plan;
- b) implements measures subject to notification in a river system without following the rules in the Act or pursuant to this Act relating to the duty of notification;
 - c) oversteps a licence or violates the terms and conditions of a licence or orders stipulated pursuant to this Act;
 - d) violates the provisions of section 5, paragraph three, section 10, paragraph one (cf. section 44, paragraph two), sections 11, 16, paragraph two, 37, paragraph one, 38, paragraph one, first sentence, 39, 46 or 54;
 - e) violates a provision of regulations pursuant to sections 36, 38, paragraph two, *litra d*, or 39, for which the regulations set penalties.

shall be punished with fines or up to three months' imprisonment.

Whoever wilfully violates the provisions of section 44, paragraph two, shall be punished in the same manner.

If a risk has been inflicted of considerable harm to people, property or the environment, or there exist aggravating circumstances in other respects, violations pursuant to paragraphs one and two may be punished by up to two years' imprisonment, unless a more severe penal provision is applied. The same applies in instances where the violation has inflicted harm on persons or the conservation value in a protected river system.

Complicity shall be punished in the same way.

Chapter 14. Administrative provisions

Section 64. *(the water authorities)*

The King stipulates who shall be the water authorities and which water authorities may issue decisions pursuant to the Act, including assigning tasks pursuant with the Act to municipalities. The Ministry may also assign tasks pursuant to the Act to entities other than the water authorities, including to private legal entities.

The country governor is the appeals body for decisions made by a municipality.

The King may grant anyone with authority pursuant to the Act instructions on how this authority is to be exercised and how it is to be delegated.

Section 65. *(implementation provisions)*

The Ministry may issue regulations for the implementation and supplementation of the Act, including regarding

- a) the content of applications and notifications and regarding the administrative body's processing of them;
- b) collaboration between the water authorities and other public authorities.

Chapter 15. Final provisions

Section 66. *(relationship to older measures)*

The Act also applies to measures in a river system that were begun before the Act enters into force (older measures in a river system).

A licence pursuant to sections 104 and 105 of Act No. 3 of 15 March 1940 relating to watercourses (Watercourse Act) or a decision pursuant to section 144 serves as a licence pursuant to this Act.

Older measures in a river system that did not require a permit pursuant to previous water resource legislation may continue to operate without a licence pursuant to section 8. In special cases the water authorities may nevertheless decide in an individual decision that the measures must have a licence, and that the measures will be unlawful if an application is not submitted by a stipulated deadline.

Section 10 applies to older measures in a river system to the extent that the measures have not made use of the ordinary low water flow before the Act's entry into force. Section 10 applies in full in connection with the licensing of older measures in a river system pursuant to paragraph three, second sentence. If older measures in a river system have a licence pursuant to the Watercourse Act, requirements may be set in accordance to section 10, paragraph two, if the licence is modified pursuant to section 28. Section 10 does not apply to older measures in a river system that come under the Watercourse Regulation Act.

Paragraphs one through four apply to the exercise of rights to groundwater insofar as they are appropriate. Abstraction of groundwater established before the Act's entry into force may be engaged in to the same extent as previously regardless of the provisions of section 44, paragraph one.

Section 67. (*relationship to decisions issued pursuant to previous legislation*)

Regulations or individual decisions stipulated pursuant to statutory provisions that have been repealed pursuant to sections 68 and 69 remain in force until they are amended or repealed pursuant to this Act.

Parties to agreements on the delivery of electric power pursuant to the rules in the previous Act No. 3 of 15 March 1940 relating to watercourses may seek to have them superseded by appraisalment in exchange for full compensation.

Section 68. (*entry into force*)

This Act enters into force on the date decided by the King.

From the same date, all sections, except for sections 2-6, of Act No. 3 of 15 March 1940 relating to watercourses are hereby repealed.

Section 69. (*amendments to other Acts*)

When the Act enters into force, the following amendments shall be made to other Acts: - - -

Regulations

Section 2

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 36

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 38

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 39

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 51

Ministry of Petroleum and Energy, 1987-12-04 945

Regulations governing the adjustment of licence fees, annual compensation and funds etc., pursuant to water resources legislation

Section 53

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 54

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 58

Ministry of Petroleum and Energy, 2002-12-15 1271

Regulations governing the safety and inspection of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1317

Regulations governing the classification of watercourse installations.

Ministry of Petroleum and Energy, 2002-12-18 1318

Regulations governing qualifications for the person who is in charge of the planning, construction and operation of watercourse installations.

Section 64

Ministry of Petroleum and Energy, 2002-12-15 1270

Regulations governing who is to be the water authority pursuant to the Water Resources Act.