

# **Act of 17 June 2005 No. 85 relating to legal relations and management of land and natural resources in the county of Finnmark (Finnmark Act)**

## **Chapter 1 General provisions**

### **Section 1 The purpose of the Act**

The purpose of the Act is to facilitate the management of land and natural resources in the county of Finnmark in a balanced and ecologically sustainable manner for the benefit of the residents of the county and particularly as a basis for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.

### **Section 2 Scope**

The Act shall apply to real property and watercourses with natural resources in the county of Finnmark. On the shoreline, the Act shall apply as far out to sea as private right of ownership extends.

### **Section 3 Relationship to international law**

The Act shall apply with the limitations that follow from ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Act shall be applied in compliance with the provisions of international law concerning indigenous peoples and minorities and with the provisions of agreements with foreign states concerning fishing in transboundary watercourses.

### **Section 4 The guidelines of the Sami Parliament regarding changes in the use of uncultivated land**

The Sami Parliament may issue guidelines for assessing the effect of changes in the use of uncultivated land on Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines shall be approved by the Ministry. The Ministry shall examine whether the guidelines lie within the framework laid down in the first sentence and whether they have been drawn up in an appropriate manner.

In matters concerning changes in the use of uncultivated land, state, county and municipal authorities shall assess the significance such changes will have for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines of the Sami Parliament shall be followed in the assessment of Sami interests pursuant to the first sentence.

### **Section 5 Relationship to established rights**

Through prolonged use of land and water areas, the Sami have collectively and individually acquired rights to land in Finnmark.

This Act does not interfere with collective and individual rights acquired by Sami and other people through prescription or immemorial usage. This also applies to the rights held by reindeer herders on such a basis or pursuant to the Reindeer Herding Act.

candidates of the under-represented sex shall move up on the list with fewest votes of the lists that shall be represented. In the event of tied votes, the list on which candidates of the under-represented sex are to move up shall be decided by drawing lots.

If in connection with proportionally representative elections in the Sami Parliament it is necessary in order to fulfil the requirement that one of the board members and that member's deputy shall be representatives for reindeer husbandry, representatives for reindeer husbandry shall move up on the list that has received fewest votes of the lists that shall be represented and that have such candidates. If there is no such list, the last place on the board shall be given to the representatives for reindeer husbandry on the list that has received most votes of the lists that have such candidates. In the event of tied votes, the list that shall be regarded as having received most or fewest votes shall be decided by drawing lots.

### **Section 9 The duties and procedures of the board**

The board is responsible for management of Finnmarkseiendommen. The board shall ensure that the body is satisfactorily organized. The board shall to the extent necessary provide plans, budget, guidelines and instructions for the body. The board shall implement the investigations it finds necessary for performance of its duties. The board shall implement such investigations if so required by a board member.

The chairman of the board shall ensure that appropriate matters are dealt with by the board and that board meetings are convened in an appropriate manner and with reasonable notice. A board member may require that specific matters be dealt with by the board.

The board shall deal with matters in meetings unless the chairman finds that a matter may be submitted to the board in writing or be dealt with in another satisfactory manner. A board member may require that a matter be dealt with at a meeting of the board.

The board may make decisions when at least five members are present. Such decisions are made by simple majority unless otherwise provided by section 10. In the event of tied votes, the chairman shall have the casting vote.

The board shall submit an annual report to the Control Committee concerning Finnmarkseiendommen's activities. This annual report shall include a particular account of changes in the use of uncultivated land and an assessment of the significance of these changes for the natural resource base for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.

The board shall fix its own fees. Such fees are to be covered by Finnmarkseiendommen.

### **Section 10 Matters concerning changes in the use of uncultivated land and transfer of real property, etc.**

In matters concerning changes in the use of uncultivated land, Finnmarkseiendommen shall assess the significance a change will have for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines of the Sami Parliament pursuant to section 4 shall be followed in the assessment of Sami interests pursuant to the first sentence.

The employees' representative shall not be entitled to take part in the consideration of matters concerning the employer's preparations for negotiations with employees, labour disputes, legal disputes with employee organizations or termination of collective pay agreements.

### **Section 12 Representation**

The board represents Finnmarkseiendommen externally and signs on its behalf.

The board may assign to one or more board members or other named persons the right to sign on behalf of Finnmarkseiendommen. The right to sign on behalf of Finnmarkseiendommen may be withdrawn at any time.

If any person who represents Finnmarkseiendommen externally pursuant to this provision has exceeded his or her authority, the transaction shall not be binding for Finnmarkseiendommen when Finnmarkseiendommen establishes that the contracting party understood or should have understood that the authority was exceeded and that it would be contrary to fair practice to uphold the transaction.

### **Section 13 Accounts, audit and registration**

Finnmarkseiendommen shall keep accounts in compliance with the provisions of the Accounting Act.

The accounts shall be audited by a state authorized public accountant. The auditor shall for each accounting year submit an auditor's report to the board of Finnmarkseiendommen.

Finnmarkseiendommen shall be registered in the Register of Business Enterprises.

### **Section 14 Mortgage and debt proceedings**

Real property owned by Finnmarkseiendommen and limited rights held by Finnmarkseiendommen in real property owned by others may not be offered as security for debt or other commitments and may not be subject to attachment by creditors. This shall not however apply to properties and limited rights to properties that have been partitioned by public division proceedings and that have been designated for development in plans pursuant to the Planning and Building Act or sites that have been parcelled out and developed.

Bankruptcy or debt settlement proceedings may not be instituted regarding Finnmarkseiendommen.

### **Section 15 Distribution of surplus assets**

If Finnmarkseiendommen in bank deposits, cash and the like holds assets which, less any liabilities, exceed reserves necessary for ensuring continued operations, the board may decide that such a surplus shall wholly or partly be paid to the county of Finnmark or the Sami Parliament or used for the common good of the county's inhabitants.

### **Section 16 The Control Committee**

To Finnmarkseiendommen, chapter II of the Public Administration Act concerning disqualification, section 11 concerning duty to provide guidance, section 11a concerning time spent on dealing with a case and provisional replies and sections 13 to 13f concerning duty of secrecy shall apply correspondingly. Finnmarkseiendommen shall give the right holders in an area prior notification and the opportunity to express their opinions pursuant to the provisions of section 16 of the Public Administration Act before Finnmarkseiendommen makes a decision that may have legal or actual consequences for them.

Finnmarkseiendommen's case documents are public pursuant to the provisions of the Freedom of Information Act. In the event of a rejection of a request for access to a document, an appeal on the question of the power to exempt the document from public disclosure lies to the County Governor of Finnmark.

### **Section 19 National parks on Finnmarkseiendommen's land**

Land owned by Finnmarkseiendommen may be designated as national parks pursuant to the provisions of the Nature Conservation Act. When drafting rules of use, emphasis shall be placed on the possibility of continuing traditional use. Finnmarkseiendommen and affected holders of rights of use may demand compensation for financial loss pursuant to the provisions of section 20b of the Nature Conservation Act.

### **Section 20 Relationship to future legislation**

Finnmarkseiendommen has no protection against change, reduction or revocation of its legal position or rights by statute.

## **Chapter 3 Renewable resources on Finnmarkseiendommen's land**

### **Section 21 Main principles for management**

Finnmarkseiendommen shall manage the renewable resources on its land in compliance with the purpose of this Act and within the frameworks provided by the Wildlife Act, the Act relating to salmonids and fresh-water fish and other legislation. The diversity and productivity of nature shall be preserved.

The provisions of this chapter shall not apply in so far as otherwise established by special legal relations.

### **Section 22 Rights of the persons resident in municipalities**

Pursuant to the provisions of this chapter and within the frameworks provided by other legislation, residents of a municipality in the county of Finnmark have on Finnmarkseiendommen's land in the municipality the right to:

- a) fish for freshwater fish with nets,
- b) fish for anadromous salmonids with fixed gear in the sea,
- c) gather eggs and down,
- d) fell deciduous trees for domestic fuel,
- e) cut peat for fuel and other domestic purposes and

For up to ten years at a time, Finnmarkseiendommen may grant special rights to administer hunting, trapping and fishing in specific areas of Finnmarkseiendommen's land to local organizations and associations whose purpose lies in the general promotion of hunting, trapping and fishing.

### **Section 27 Further conditions for utilization of renewable resources and restrictions on such utilization**

Finnmarkseiendommen may issue further rules for utilization of renewable resources as mentioned in section 22 (a) to (f) and section 23 (a) to (e). Finnmarkseiendommen may stipulate that utilization is subject to issue of a permit. Conditions may be provided in the permits.

For hunting, trapping and fishing, permission is always required. Persons who are granted permission shall be issued cards or the like indicating that they have permission. With the consent of the Ministry, Finnmarkseiendommen may make exceptions to the provisions of this paragraph.

For permission to hunt, trap and fish, Finnmarkseiendommen may claim a fee. The fee for persons resident in Finnmark shall not exceed double the fee charged to the persons resident in a municipality. Fees may not be charged in connection with assignment of special rights pursuant to section 24.

Fishing for anadromous salmonids in the sea with fixed gear may only be carried out at places indicated by Finnmarkseiendommen.

For specified areas, Finnmarkseiendommen may lay down restrictions on access to exploitation of renewable resources as referred to in the first paragraph if due consideration for any such resource so indicates. Municipalities, authorities with responsibility for wildlife, fisheries, etc. and organizations for the affected users shall be consulted in advance.

In connection with restrictions on the exploitation of renewable resources as referred to in the first paragraph, due consideration shall be taken as regards the use of the resource by the various user groups.

Finnmarkseiendommen's decisions concerning restrictions as referred to in the fifth and sixth paragraphs may be appealed to the Ministry pursuant to the provisions of the Public Administration Act chapter VI. The decision of the Ministry may not be appealed.

## **Chapter 4 Tana and Neiden**

### **Section 28 Fishing in the Tana and Neiden watercourses**

In the Tana and Neiden watercourses, the local population holds special rights to fishing on the basis of statutes, immemorial usage and local customs.

The King may issue regulations prescribing further rules concerning administration and exercise of the fishing. Such regulations shall make provision for a local, rights-based

The Finnmark Commission is itself responsible for obtaining sufficient information concerning a matter. The Commission may in the manner it finds appropriate obtain statements, documents and other material and conduct surveys and investigations, etc. concerning actual and legal circumstances that may be significant for the Commission's conclusions.

The parties have the right to give an account of the actual circumstances and provide evidence significant for the Commission's conclusions. The parties may request the implementation of measures pursuant to the first paragraph. The Finnmark Commission may refuse such a request if it finds it to be unfounded or that it would involve excessive delays or costs to comply with it.

In order to safeguard the interests of the parties, the Finnmark Commission may appoint representatives from various interest groups to monitor the work of the Commission. The costs shall be covered by the state.

### **Section 33 The Finnmark Commission's report**

After investigating a field, the Commission shall issue a report containing information concerning:

- a) who, in the view of the Commission, are owners of the land
- b) what rights of use exist in the Commission's view
- c) the circumstances on which the Commission bases its conclusions

The report shall state whether the conclusions are unanimous. If this is not the case, it shall be stated who disagrees and which points the disagreement concerns. Grounds shall be given for the conclusions of both the majority and the minority.

Following submission of the report, it shall be announced in the manner described in section 31. It is sufficient that an announcement pursuant to section 31, first paragraph contains a brief summary of the conclusions and information concerning where interested persons can obtain the report in its entirety. In such an announcement notification shall be given of the final date for bringing disputes before the Uncultivated Land Tribunal.

### **Section 34 Consideration by Finnmarkseiendommen**

Finnmarkseiendommen shall without undue delay assess the Commission's conclusions. In the case of decisions to accept the conclusions of the Commission that other parties hold rights, section 10, sixth paragraph shall apply correspondingly.

To the extent that Finnmarkseiendommen agrees with the Commission that other parties hold rights, Finnmarkseiendommen is obliged to state this in writing, and without undue delay ensure that the right is officially registered or, if appropriate, bring the matter before the Land Consolidation Court pursuant to section 45.

### **Section 35 Negotiations**

Parties that are not in agreement with the Commission's conclusions, or that need assistance in ensuring that the conclusions are laid down in a binding agreement may request the

and that they can be considered without considerable delay to the court's proceedings. Decisions made pursuant to this paragraph may not be challenged by way of an interlocutory appeal or an appeal proper.

### **Section 39 Dismissal of cases**

Cases found inappropriate for consideration by the Uncultivated Land Tribunal may be wholly or partly dismissed by the court. When so deciding, consideration shall be paid, *inter alia*, to the nature of the claim and to the basis on which it is made.

Before dismissing a case, the plaintiff shall be given the opportunity to make a statement. The case may be dismissed without summoning the parties to a sitting of the Tribunal. Dismissal pursuant to this section may not be challenged by way of an interlocutory appeal or an appeal proper.

### **Section 40 Consolidation of cases, separation, etc.**

The Uncultivated Land Tribunal may:

- a) consolidate two or more cases for joint consideration and, in such case, joint decision
- b) separate the proceedings and judgment of one or more claims that are consolidated in a single case or individual issues in dispute concerning the same claim
- c) decide the order in which cases brought will be heard

When making decisions pursuant to the first paragraph, emphasis shall be placed, *inter alia*, on paying due consideration to a natural and appropriate delimitation of the areas of dispute as regards extent, legal and historical context and the need to clarify the legal relations.

Before making decisions pursuant to the first paragraph, the parties shall be given the opportunity to express their views unless this is found to be unnecessary or would result in disproportionate delay or expense.

Decisions pursuant to this section may not be challenged by way of an interlocutory appeal or an appeal proper.

### **Section 41 Responsibility for obtaining information concerning a case, etc.**

The parties are responsible for giving an account of the actual circumstances and evidence significant for deciding the case. The Uncultivated Land Tribunal shall of its own motion obtain the report of the Finnmark Commission and use this as a basis for its consideration of the case. The parties may in addition produce as evidence documents received by, submitted to or issued by the Finnmark Commission.

The Uncultivated Land Tribunal may not receive testimony from the members of the Finnmark Commission or from persons who have carried out work for the Commission in connection with the case.

Court sittings for examination of parties and witnesses outside the main hearing may be held by two members of the Uncultivated Land Tribunal, of which at least one must hold the

the parties pay for the costs of boundary marking, fixing of coordinates and survey of the boundaries. Section 24 of the Land Consolidation Act shall apply to official registration as far as it is applicable.

In respect of rights established by a legally enforceable judgment of the Uncultivated Land Tribunal or by a declaration or agreement in accordance with the conclusions of the Finnmark Commission, the limitations of public law as regards the right to establish or transfer such rights shall not preclude their being officially registered. No fee or document duty shall be paid in connection with the official registration.

#### **Section 46 Relation to other legislation**

Chapter 6 of the Courts of Justice Act concerning disqualification and the Freedom of Information Act shall apply to the activities of the Finnmark Commission in so far as they are applicable. In the event of a rejection of a request for access to a document, an appeal on the question of the power to exempt the document from public disclosure lies to the County Governor of Finnmark. The Public Administration Act does not apply to the activities of the Finnmark Commission.

Unless otherwise provided by the present Act, the Courts of Justice Act and the Civil Procedure Act shall apply in so far as they are applicable to the activities of the Uncultivated Land Tribunals.

#### **Section 47 Authority to issue further provisions**

The King may issue further provisions concerning the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark, including provisions concerning organization and financial matters, etc.

### **Chapter 6 Final provisions**

#### **Section 48 Entry into force**

The Act shall enter into force on the date decided by the King. The King may bring into force the various provisions on different dates.

#### **Section 49 Transitional provisions**

The real property in the county of Finnmark to which Statskog SF holds the registered title or which it owns without holding the registered title shall be transferred to Finnmarkseiendommen as soon as chapter 2 of the Act comes into force. This applies correspondingly to restricted rights to real property. Re-registration in the real property register shall be effectuated by means of a change of name. Fiscal continuity shall be maintained in connection with the transfer and the transfer shall entail no tax liability for Statskog SF pursuant to section 5-2 of the Taxation Act.

Finnmarkseiendommen shall take over the personal responsibility from Statskog SF for mortgages and other encumbrances for monetary claims on the properties or rights taken over by Finnmarkseiendommen. Finnmarkseiendommen shall also take over the responsibility for agreements concerning rights of use, leases and the like in respect of the transferred properties



In chapter 3, a new section 22a shall read as follows:

#### Special provisions concerning licensed prospecting in Finnmark

Applications for licensed prospecting in the county of Finnmark may be rejected if general considerations contraindicate granting of the application. When considering such applications, significant emphasis shall be placed on due consideration of Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. If the application is granted, conditions may be stipulated in order to safeguard such considerations.

When considering the application the Commissioner of Mines shall give the landowner, the Sami Parliament, the County Governor, the county authority, the municipality and the appropriate area and district boards for reindeer husbandry an opportunity to comment.

If the Sami Parliament or Finnmarkseiendommen as landowner oppose granting of the application, the application shall be decided by the Ministry.

If the Ministry grants the application in cases mentioned in the third paragraph, an appeal to the King from the Sami Parliament or from Finnmarkseiendommen as landowner will have suspensive effect.

In chapter 4, a new section 39b shall read as follows:

#### Special provisions concerning patenting of claims in Finnmark

In connection with applications for patenting of claims in the county of Finnmark, the provisions of section 22a shall apply correspondingly. In cases mentioned in section 22a, third paragraph, the Ministry shall decide whether patenting of claim proceedings shall be held before or after the Ministry considers the application.

Section 42, first paragraph, new second sentence shall read as follows:

In the case of mines on Finnmarkseiendommen's land, the King may by regulations stipulate a larger fee.

3. In the Act of 9 June 1978 No. 49 relating to reindeer husbandry, the following amendments shall be made:

Section 13, third paragraph, new fourth sentence shall read as follows:

Finnmarkseiendommen may not claim payment pursuant to the provisions of this paragraph.

Section 14, first paragraph, first sentence shall read as follows:

In connection with the lawful practice of reindeer husbandry in reindeer herding areas, the right to hunt, trap and fish covers hunting, trapping and fishing on state-owned common land, on state-owned land that is not specifically registered and on Finnmarkseiendommen's land in the reindeer herding district where reindeer husbandry is practised on the same conditions as apply for persons who are permanent residents of the municipality, rural district or