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## Commission II

### I. The new rural development period of the EU 2014-2020 and the maintenance of rural communities

1. *Which specific national objectives were determined and promoted by your country during the negotiations of the EU's new rural development legislation? Will your country be able successfully to implement these national objectives under Regulation No. 1305/2013 and other EU provisions? (For non-member states: what are the goals provided in national rural development legislation?)*

Norway is not part of the European Union, but the traditional policy for maintaining rural welfare and development are quite similar to the objectives listed in Regulation No. 1305/2013. The previous government's white paper to the Parliament in 2012,<sup>1</sup> listed four main and sub objectives for rural development. It is necessary to emphasize that the present government wants to change parts of the policy and to repeal some acts, but so far it does not seem they will achieve the necessary majority in the parliament.

Firstly we have *food security* with the sub objectives; increased sustainable food production, producing safe food and facilitating a various diet for the population, to safeguard consumer interests and to develop Norway further as a food nation.

Secondly it is *agriculture across the entire country*. The sub objectives are to secure the use of arable land, to strengthen and contribute to increased settlement across the country and to adapt policy suitable to meet regional challenges and possibilities.

Thirdly we need to *increase performance from farming and natural resources as a mean to achieve increased income*. The sub objectives are to create competitive product chains and units in agriculture and forestry, to increase competence by education and farm advisory services and to provide the framework necessary in order to make the farmer able to obtain a competitive income.

The fourth main objective is *sustainable agriculture* with sub objectives as; protecting land resources, producing environmental benefits, securing the conditions for biodiversity, making

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<sup>1</sup> Meld. St. 9 2011-2012 Landbruks- og matpolitikken

agriculture as a part of the solution to the climate changes and to reduce emission and other pollution from agriculture.

The above mentioned objectives are reached in different ways, partly through legislation and partly through economic incentives as subsidies, other financial support and tax benefits.

A series of acts have an impact on the objectives mentioned above. Among these, we find the Concession Act, the Planning and Building Act, the Nature Diversity Act and the Innovation Norway Act. The first three regulates transactions and use of the land and the resources, while the last forms the basis of public financial and advisory measures.

*The Concession Act* aims to regulate and control the sale of real property in order to achieve an effective protection of agricultural production areas and such conditions of ownership and utilization as are most beneficial to society, inter alia, in order to provide for the needs of future generations, agricultural industry, the need for development sites, consideration for the environment, general interests of nature conservation and outdoor recreation and consideration for settlements.

*The Planning and Building Act* aims to promote sustainable development in the best interest of each individual, the society and future generations. Planning according to the act, will contribute to coordinate governmental, regional (county) and local (municipality) tasks, and make the basis for decisions linked to use and protection of the resources.

*The Nature Diversity Act* aims to protect biological, geological and landscape diversity and ecological processes through conservation and sustainable use, in such a way that the environment provides a basis for human activity, culture, health and well-being, now and in the future, including a basis for Sami culture.

Innovation Norway contributes to (especially rural) businesses, by advice, financial support as favourable loans and networking. *The Innovation Norway Act* aims to be the tool of the state and the county in order to facilitate the development of profitable businesses across the country.

2. *Which rural development measures in Regulation No. 1305/2013 have a particular significance for your country? (For non-member states: which provisions of the rural development legislation are of particular importance?)*

Norway is a country with very different climatic conditions from south to north and from the ocean to the mountainous areas. In addition to this there are major topographic differences between the regions. Also, those parts of the country that is sparsely populated experience challenges with maintaining the present population. Decreasing population makes it more challenging to maintain welfare and public services and the consequence is a negative spiral.

Due to this the most important provisions for rural development is considered to be those that contribute to ownership and utilization of the natural resources and arable land, by the people who are willing to live in the local communities. Examples of such regulations are the Concession Act and the Innovation Norway Act. Furthermore, some subsidies increase with a more difficult climate or apply only to specific areas as steep terrain.

The present government however means that regulations as mentioned above do not lead to necessary innovation or increased productivity, but rather the opposite.

3. *Is the maintenance of rural communities an important issue in the national rural development programme of your country, as provided for under art. 6 of Regulation No. 1305/2013?*

This question does not apply to Norway. However there are a series of programmes designed to contribute to rural development. The Innovation Norway Act gives this particular finance institution and the counties possibilities to contribute to the development. In addition there are programmes through the annual agreements between the government and the farmers' associations. Furthermore several ministries and directorates have means that may be used in particular programmes.

In spite of this our present government deems it necessary to merge the municipalities with least population and public services of different kinds. This will necessarily give an impact on the maintenance of many rural communities as described in the answer to question two.

4. *Which noteworthy difficulties are arising during national implementation of Regulation No. 1305/2013? (For non-member states: are there any noteworthy difficulties arising during the enforcement of the relevant law on rural development?)*

The regulations linked to rural development is well established in Norway.

Despite this, the municipalities practice the rules in very different ways. Some are very strict, especially in areas where it is difficult to maintain the population, while others are very liberal, especially in urban or other areas without settlement challenges. This difference in practices makes the rules seem unfair to those who e.g. are denied concession to buy an agricultural estate, because they do not want to settle down on the estate.

The «unfairness» mentioned above and the general «lack of freedom», are amongst the most important arguments for repealing the regulations.

5. *Does the support of "basic services and village renewal in rural areas" under art. 20 of Regulation No. 1305/2013 have a significant role in your national rural development programme? (For non-member states: are there any provisions comparable to those governing basic services and village renewal?)*

In Norway there are different kinds of support to objectives as mentioned under art. 20 of Regulation No. 1305/2013, but these are not reserved for rural areas and development.

There is a strict preservation regime both with regard to buildings and natural resources (except most arable land which is less protected). In conjunction with this it is possible to apply for means to maintain and preserve existing buildings. Nature conservation is performed by the authorities often with very little or no compensation to the land owner.

Some investments are conducted by the municipalities, such as local services, recreation, tourist information and culture. When it comes to infrastructure such as water and sewer pipes, broadband, deliverances of renewable energy etc. the investments are often made by companies owned or partly owned by the municipality or the county. However, especially small hydropower plants and wind power plants are owned by one farmer or (more often) groups of farmers who have financed and built the power plants.

6. *Do the thematic sub-programmes under art. 7 of Regulation No. 1305/2013 (especially, “young farmers”, “small farms” and “women in rural areas”) have a significant role in your national rural development programme? (For non-member states: are there any comparable provisions and, if so, of what importance are they in your country?)*

In Norway the concern for young farmers, small farms and farming in mountain areas, women in rural areas and biodiversity, are taken into account by advice and guidance from the authorities or other specialists or by financial support through Innovation Norway, the agreement between the government and the farmers’ organisations or by other programmes.

The desire for a short supply chain is mostly taken care of by the farmers themselves, either through farm shops or a farmer initiated foundation called «The Farmers Market». Some restaurants offer locally produced food, but very few supermarkets.

7. *What other national legislation (i.e., in addition to national implementation of EU-law) addresses rural development in your country?*

This question is answered through the questions 1 – 6 above.

## **II Legal framework and implementation part**

### **Cross border acquisitions and acquisitions by non-agricultural capital of agricultural land**

**Question 8.** *Background information, facts and figures: is cross-border acquisition and/or acquisition by non-agricultural capital an issue in your country’s agricultural policy (e.g., investors in your country wishing to engage in cross-border acquisitions or your country being a target for cross-border acquisitions; non-agricultural investors in your country intending to buy land in your country)?*

The statistic information below is based on a hearing document dated 15. October 2014 made by the Norwegian Ministry of Agriculture. The information is based on numbers from 2012, but the information is still representative today. The purpose of the hearing was a proposal to abolish the Concession Act entirely. The proposal has not yet been presented to Parliament. Information on the Concession Act is given in the answers to question 9-15.

Statistics show that Norway in 2012 had 186.700 so called agricultural properties. Many of the properties are rather small. 24 % of the properties are less than 10 hectares in size, or have less than 2,5 hectares agricultural farming land. With the cold climate in Norway it is important to understand that these small properties do not produce much agricultural products. Most of them have primarily a function as a home or a second home used for leisure. Many areas in Norway are scarcely populated – especially in the northern parts of Norway. In many counties and villages both the large and the small properties have an important function in order to uphold the population, and thus to create and uphold a vivid local society. Approximately 16,5% of the above mentioned 186.700 properties were uninhabited. Many of these are located in the northern parts of Norway. Most of the properties regardless of the size, are owned and run as family enterprises.

Statistics show that about 9.000 properties changed owner in 2012. This is approximately 5% of the 186.700 properties mentioned above. 59% of the properties that changed owner were bought or inherited by close family relations. 2.460 properties were sold in an open market situation. That means that the property according to the statistic systems were sold for a price based on market value. It is not a criterion that the property was actually sold in the open market, but 81% of these transactions were sold to others than close family relations. 1.600 of the properties sold in an open market situation were larger than 10 hectares or held more than 2,5 hectares of agricultural farming land. In most of these transactions – 1.450 properties – the new owner informed that the intention was to use the property for agriculture or settlement purposes.

We do not have updated information on how many properties that have been sold to foreign citizens. From 1917 to 1995 foreigners that bought property in Norway had to apply for a concession. During many years the authorities handled on average 250-300 such applications. Most of them were Swedish citizens who bought second-homes close to the border. Very few applications were related to acquisition of agricultural land. During the last 10-15 years some municipalities have run recruiting activities to increase the number of inhabitants. We know that this has brought some foreign citizens to the country, and some of them have bought agricultural property. Many of these have come from Holland. There is still an internet-site that give Dutch people information on how life is in Norway, where to attend classes in Norwegian language, which municipalities that are searching for new inhabitants etc. <http://www.norsk.nl/no/> A description on how this has been working in Norway (in Norwegian ) can be seen in this newspaper article: <http://www.gd.no/magasiner/halvparten-av-nederlenderne-drar-tilbake-hvem-blir-igjen/s/1-934610-7416817>

We do not have updated information on how many properties that has been sold to non-agricultural interests. The statistic information referred to above show that many properties are sold to close family relations. The family has very often strong emotional ties to the property. Some of the new family owners run the agricultural land themselves, but statistics from the last 20 years show that the number of owners who rent the agricultural land to other farmers are rising. Many of these owners

live on the farm, but some use it as a secondary home. The amount of rented land is at present at 44 % of the arable land.

**Question 9.** *Does national legislation in your country address the issue of cross-border acquisition and/or acquisition by non-agricultural capital? If so, please outline the legal framework.*

The first restrictions on foreigners' purchase of land in Norway came in 1887. The legislation was enforced when Norway was a part of Sweden, and it was a copy of regulations that Sweden<sup>2</sup> enforced in order to prevent a Russian and Finnish immigration. During the period from 1907 to 1920 a lot of new regulations were enforced in Norway. The purpose was to keep Norwegian natural resources; waterfalls, rivers, forests, agricultural land, mountain areas with a potential for hunting etc. on Norwegian hands.

The regulations were put into several Acts, and applied both to acquisitions made by foreign citizens or corporations, and acquisitions made by Norwegian citizens. Norwegians that lived outside the municipality where the property was situated had to a certain extent a stricter regime than inhabitants already based in the municipality. The Acts concerned the acquisition of land in general, not only agricultural properties. The buyer had to apply for a concession. In the case handling process, the authorities could grant concession, deny it, or grant concession on certain terms. In some cases the authorities could also use a pre-emption right in order to use the property for common purposes<sup>3</sup>.

In 1974 most of these acts merged into one main act, The Concession Act dated May 31 1974. From 1975 until today Norway has had two main acts with regulations on property ownership. Today this is The Concession Act dated November 28 2003<sup>4</sup> and The Industrial Concession Act dated December 31 1917. The first act regulates acquisition of properties in general, not only agricultural property. In reality though, due to the many exceptions, the act has most influence on transactions concerning agricultural property of a certain size. Until 2003 also transactions of stocks were regulated to a certain extent. The last act regulates acquisition of larger waterfalls.

**Question 10.** *What is the intended purpose any such legal framework (e.g., the maintenance of rural communities)?*

The Concession Act Article 1 describes the purpose of the act which is to regulate and control transactions of real estate. The aim of the control is to protect agricultural land and such ownership and use of land that is best for society. The needs of future generations is mentioned, and so is agricultural industry, the environment, recreational interest, nature, and a wish to uphold and create vivid societies. These are all elements to considerate.

The act regulates all kinds of transaction of land; buying, selling, inheritance, gift etc. It does also apply to leases (if the period of lease exceeds 10 years), and other personal rights to use the property. In addition the Act regulates negative easements.

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<sup>2</sup> Sweden still have some regulations of this kind regarding transaction of agricultural property, one of them related to scarce populated areas, the other to corporate ownership. Their regulations are, however, not based on citizenship.

<sup>3</sup> The pre-emption legislation was abolished in 2001.

<sup>4</sup> The Concession Act 2003 in English is enclosed. The English text is not updated.

There are many exemptions from the obligation to apply for a concession. The exemptions are connected either to the character of the property, or to the person who is buying. For example, if you buy a flat for living or an ordinary house, a concession is not needed. Concession is not needed if you inherit your parents' farm either. Most of the exceptions are found in Article 4 and 5. Even though the Concession Act applies to all acquisitions in general, the exceptions mentioned means that the obligation to apply for a concession is mainly restricted to acquisition of agricultural land.

*Question 11. Are there any legal instruments in the national law of your country which address cross-border acquisition and/or acquisition by non-agricultural capital of agricultural land; e.g. special rules which limit rights in rem such as liens, mortgages and beneficial interests (usufructus); and restrictions on types of contract for agricultural land use (such as leasehold contracts or share cropping)?*

There are no special legal instruments which address cross-border acquisition. Foreign citizens and Norwegians must follow the same procedures. We had, however, regulations in the 1917-act until 1994. Then the regulations were abolished because Norway aspired for a membership in the EU. The regulations were changed, and moved from the Industrial Concession Act to the Concession Act. The scope of the new regulations was to control purchase of holiday homes. If anyone bought a holiday home and did not live in Norway on a permanent basis or had spent 5 years in the country previously, the person had to apply for a concession. Denmark had similar regulations. The Norwegian regulations were abolished in 2003 with the new Concession Act.

*Question 12. Are there any special provisions in the national law of your country which concern the status of the individual land owner or land user (e.g. requirements as to citizenship, agricultural qualifications or proof of intention to pursue agricultural activities on the land in question)?*

The new owner of a property with a residential building and more than 2,5 hectares arable land or more than 50 hectares productive forest has usually an obligation to live on the property for at least 5 years. If the owner has taken over from close relatives and therefore is exempted from the obligation to apply for a concession, the obligation to live on the farm is stated in the Concession Act Article 5. If the owner must apply for a concession, the municipality has since the act was amended in 2009 an obligation to assess whether it is necessary or not to live on the farm (Article 11).

The assessment the municipality has to make when the case regards agricultural property is described in Article 9. According to the article the municipality must place special emphasis on whether the agreed price provides for a socially justifiable price development, whether the acquirer's purposes will take into account the interests of settlement in the area, whether the acquisition involves an operationally satisfactory solution, and whether the acquirer is regarded as qualified to run the property. The municipality also has to consider whether the resource management as a whole will become satisfactory. Experience from many years' shows that co-ownership in agricultural properties often present challenges when it comes to operate the farm. The decision-making has repeatedly shown to be difficult, and different owners may be in various situations such as finance. The article therefore says that a concession in general shall not be granted if the acquisition results in co-ownership of the property or if the number of co-owners is increased. Spouses are excepted from this regulation. When it comes to companies with limited liability, concession can be granted. In that case emphasis shall be placed on consideration of persons who have their occupation in agriculture.

Article 9 was amended in 2009. According to this, close relatives that for example inherit a farm exceeding the size mentioned above, but do not intend to use it as their home, have to apply for a

concession in order to keep the farm. The assessment the municipality has to do in these cases is different from the general regulation of their assessment mentioned above. There will be no evaluation of the price or whether the new owner is capable to take over the farm. The municipality shall, however, consider whether the acquirer's purposes will take into account the interests of settlement in the area and whether the acquisition involves an operationally satisfactory solution. The municipality also has to consider whether the resource management as a whole will be satisfactory. Emphasis must be put on the size of the agricultural property, the productivity and the building conditions. Emphasis can also be put on the applicant's connection with the farm and the applicant's life situation.

*Question 13. Is there any relevant national legislation for the acquisition of land ownership or use of agricultural land by legal persons (legal entities)? Please focus solely on the conditions which differ from the conditions regulating the acquisitions of natural persons.*

See the answer to Question 12. The Concession Act Article 9 regulates the possibilities for a company (legal entity) to buy agricultural land. The article says that such enterprises can achieve concession. When the municipality makes this assessment, the municipality has to consider whether the transaction might be of benefit for the society. It is easier for a company to achieve concession if the property is forest land.

*Question 14. How is any national law on cross-border acquisition and/or acquisition by non-agricultural capital enforced in your country (e.g., prior authorization procedure for the acquisition of agricultural land and control systems)?*

The Concession system is a prior authorization system. When the contract is signed, according to Article 12 an application for a concession shall be sent to the municipality where the property is located. The application shall give information about the acquirer, the property in question and the purpose of and all other conditions for the acquisition. The application shall be sent within four weeks after the contract is signed.

An acquisition that requires a concession pursuant to the Concession Act may not be registered in the judicial registration system unless a concession is granted. See Article 15. Most people want to be registered as owners. The registration gives protection from other parties than those bound by the contract, and for most buyers registration makes it easier to finance their investment through banks or other investment channels.

*Question 15. How is judicial control of the acquisition of agricultural land ensured in your country? Does national law lay down any special legal procedures (e.g., special courts or special arbitration procedures for the settlement of land-related legal disputes)? How does national law prevent the circumvention (e.g., by sham contracts) and violation of restrictions on agricultural land acquisition?*

Article 13 to 20 gives tools for the municipality in order to ensure that the regulations are followed. It is possible to change the conditions, give a fine, or enforce a sale, even as a compulsory sale. Article 15 that connect with judicial registration must also be regarded as a way to ensure that the regulations in the act is followed.

**Short postscript**



The conservative party and the party of progress at present hold a minority government in Norway. One of the aims is to abolish the Concession Act. A proposal to abolish the price control system was presented to Parliament in June 2014. The parliament has not handled this proposal yet. The reason is perhaps that the Ministry of Agriculture and Food in October 2014 presented a hearing document with a proposition to abolish the whole act. The hearing was over in January 2015, and the proposition met much criticism. This proposal is still not presented to Parliament. Time will show what will happen.

## **Act relating to concession in the acquisition of real property (Concession Act)<sup>5</sup>**

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

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

### **Chapter 1. Purpose and instruments**

#### **Section 1. (*Purpose of the Act*)**

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

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

#### **Section 2. (*Instruments*)**

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

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

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

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

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

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

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

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<sup>5</sup> The act was amended in 2009. The text in the act enclosed is based on the official translation from 2003. I have marked some of the main changes in 2009, but not all.

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

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

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

A concession is not necessary for the acquisition of:

1. individual undeveloped sites for a dwelling or holiday home if the size of the site does not exceed two decares and partition has been approved pursuant to the Planning and Building Act and the Land Act.
2. Individual undeveloped sites for dwellings or holiday homes in an area designated for development in the land-use part of the municipal master plan or building development plan laid down pursuant to the Planning and Building Act, and where parcelling out of sites has been undertaken or approved by the building authorities.
3. other undeveloped land areas if they are located in an area that is regulated by a local development plan for other than agricultural use or that is designated as a development area by the land-use part of the municipal master plan.
4. built-on property not exceeding 100 decares, where not more than 20 decares of the area are fully cultivated.<sup>6</sup>

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

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

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

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

Concession is not necessary when the acquirer is:

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

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<sup>6</sup> Changed in 2009. Fully cultivated and less fully cultivated area is now included.

claim in respect of which the acquirer holds a mortgage on the property. The property must be resold within two years. This time limit shall run from acceptance of the auction bid and may be extended by the Ministry.

In the acquisition of agricultural and forest properties with a total area in excess of 100 decares, or where more than 20 decares are fully cultivated,<sup>7</sup> dispensation from the concession requirement pursuant to the first paragraph (1) is conditional upon the acquirer taking up residence on the property<sup>8</sup> within one year ~~and operating it himself for a minimum of five years<sup>9</sup>. The acquirer may fulfil the operation obligation by renting out the farmland as additional land to another agricultural property for a minimum of 10 years. Such fulfilment of the operation obligation is conditional upon the existence of a written tenancy agreement and that the arrangement results in operationally satisfactory solutions. Agreements that result in operationally unsatisfactory solutions may be responded to as breaches of the requirements for dispensation from the concession requirement, cf. section 17.~~

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

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

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

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

### **Section 7.** <sup>10</sup>*(Reduced concession limit for built-on property)*

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

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

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

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

<sup>7</sup> Changed in 2009. Fully cultivated and less fully cultivated is now included. At the same time the total area must exceed 500 dekar productive forest land.

<sup>8</sup> Changed in 2009. The property must have a living house. The obligation to farm the land has been moved to the Land Act.

<sup>9</sup> Changed in 2009. Also co-habitants have rights and obligations according to the article.

<sup>10</sup> Changed in 2009. Special local concession regulation may also apply to close relatives.

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

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

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

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

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

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

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

When deciding applications for concessions in respect of acquisition of property to be used for agricultural purposes, special emphasis in favour of the applicant shall be placed on the following

1. whether the agreed price provides for a socially justifiable price development,
2. whether the acquirer's purposes will take into account the interests of settlements in the area,
3. whether the acquisition involves an operationally satisfactory solution, and
4. whether the acquirer is regarded as qualified to work the property.<sup>11</sup>

<sup>12</sup>

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

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

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

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

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

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

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

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<sup>11</sup> Changed in 2009. New sentence no. 5, emphasis shall also be placed on a intergrated recourse management and the cultural landscape.

<sup>12</sup> Changed in 2009. Close relatives that do not fulfil the residence obligation has to apply for a concession.

## Chapter 5. Procedures

### Section 12. *(Application for a concession)*

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

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

### Section 13. <sup>13</sup>*(Time limit for applying for a concession)*

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

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

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

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

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

### Section 14. *(Regulations concerning procedures)*

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

## Chapter 6. Miscellaneous provisions

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<sup>13</sup> Slightly changed i 2009.

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

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

**Section 16.** *(Contravention of concessionary conditions)*

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

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

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

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

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

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

**Section 18<sup>14</sup>.** *(Time limit for arrangement of matters when a concession is not granted)*

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

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

If a time limit fixed pursuant to section 17<sup>1</sup> for winding up of a property acquisition or of the possession of a property by the mortgagee is exceeded, the Ministry may without notice have the property sold through the enforcement authorities pursuant to the rules relating to compulsory sale in so far as they are appropriate. The provisions of section 11-20 of the Enforcement of Claims Act relating to the lowest acceptable bid shall not apply in such cases.

If a time limit fixed pursuant to section 17<sup>2</sup> in respect of rights as referred to in section 3, first paragraph, is exceeded, the Ministry may either have the rights compulsorily sold pursuant to the provisions of the first paragraph or with binding effect declare the rights to have expired.

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

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

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

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<sup>14</sup> Slightly changed in 2009.

**Section 21.** (*Entry into force*)

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

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

<sup>1</sup> Should be section 18

<sup>2</sup> Should be section 18

**Section 22.** (*Transitional provisions*)

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

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

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

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

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

**Section 23.** (*Amendments to other Acts*)

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

Section 4, third paragraph is repealed.

The current fourth paragraph shall now be the third paragraph.

Section 35, second paragraph is repealed.

Section 37 is repealed.

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