

**Act 13 March 1981 no 6 relating to protection against pollution and relating to waste. Last amended by Act 10 December 1999 no 83.**

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## **CHAPTER 1 INTRODUCTORY PROVISIONS**

### **Section 1**

#### **Purpose of the Act**

The purpose of this Act is to protect the external environment from pollution and to reduce existing pollution, to reduce the volumes of waste as well as to promote better treatment of waste.

The Act is aimed at ensuring an adequate environmental quality, so that pollution and waste do not cause damage to health, adversely affect human well-being, or damage nature's capacity for production and self-renewal.

### **Section 2**

#### **Guidelines**

The Act shall be implemented in accordance with the following guidelines:

1. Efforts shall be made to prevent pollution from occurring or increasing and to limit pollution which already occurs. Efforts shall likewise be made to avoid waste problems. The Act shall be used to achieve a satisfactory environmental quality taking into account a comprehensive appraisal of health, welfare, the natural environment, costs related to the measures, and economic considerations.
2. The pollution control authorities shall coordinate their activities with the land-use planning authorities so that the legislation pertinent to land-use planning together with this Act shall be used to avoid and limit pollution and waste problems.
3. The prevention and abatement of pollution and waste problems shall be based on the technology which, from a total appraisal of the present and future use of the environment, and of economic considerations, gives the best results.
4. Waste shall be managed in such a way as to cause minimal damage or disamenity. It shall be recycled when this is justified on the basis of a total appraisal of environmental considerations, use of resources and economic considerations.
5. The costs of preventing and limiting pollution and of treating waste shall be borne by the person responsible for the pollution or by the person who has produced the waste.
6. Pollution and waste problems due to activities on Norwegian territory shall be counteracted to the same extent whether the damage or disamenity occurs within or outside Norway.

### **Section 3**

#### **General rules relating to the scope of the Act**

This Act applies to pollution and waste in the external environment. With regard to the discharge of gene modified micro-organisms and the deposit thereof as waste in the environment, the gene technology act shall apply.

Subject to limitations following from international law, the Act applies :

1. to sources of pollution and waste which are located in Norway
2. to pollution which threatens to occur in Norway,
3. to sources of pollution which are located in, or to pollution which threatens to occur in Norway's economic zone, if the source of pollution is a Norwegian vessel or installation, or otherwise to the extent determined by the King. The Act's application to exploration for, recovery and exploitation of submarine natural resources on the Norwegian part of the continental shelf, including the cessation of such activities, is regulated in Section 4.

The Act applies to Svalbard, Jan Mayen, and other Norwegian dependencies to the extent determined by the King. For these areas, the pollution control authority may make such changes in the Act as are justified by local conditions.

Regarding liability for pollution damage, special rules will apply cf. Section 53.

## **Section 4**

### **Application of the Act to activities on the continental shelf**

Subject to limitations following from international law and the Act itself, (cf. Chapter 8), the rules and regulations of this Act shall also apply to exploration for, recovery and exploitation of submarine natural resources on the continental shelf, including the cessation of such activities. The provisions of Section 7, first paragraph, cf. Chapter 3, concerning the duty to obtain permission and in Section 9 concerning regulations, are nevertheless only applicable to those aspects of the activities which regularly lead to pollution. The provisions of Section 7, second paragraph, cf. fourth paragraph, are likewise not applicable to measures aimed at avoiding or stopping acute pollution.

The pollution control authority may issue specific regulations concerning waste from such activities on the continental shelf as mentioned in the first paragraph. For clean-up of waste the provision in Section 74, cf. Section 7, apply correspondingly instead of Section 37.

The pollution control authority may by regulations or individual decisions decide what in cases of doubt shall be understood as activities which normally lead to pollution, and may make exceptions from the first paragraph.

## **Section 5**

### **Pollution from transport**

The Act applies to pollution from roads, railways etc., harbours and airports, to the extent determined by the pollution control authority.

For pollution from the individual means of transport the relevant provisions in, or laid down pursuant to, the Product Control Act, the Road Traffic Act, the Seaworthiness Act, the Harbours Act, the Civil Aviation Act and the Railroad Act apply instead of the provisions of this Act.

Irrespective of the provision in the second paragraph, Section 7, second and fourth paragraphs, Chapter 6 and Sections 74-77 of this Act are correspondingly applicable provided that the pollution is not considered as permissible in pursuance of other legislation. For the implementation, and in cases of violation, of these provisions, the rules in Chapter 7, Section 74, and in Chapter 10 apply.

Limitations to the application of the Act according to this section are only valid as far as this does not follow from Chapter 8.

## **CHAPTER 2**

### **GENERAL PROVISIONS RELATING TO POLLUTION**

## **Section 6**

### **What is meant by pollution**

For the purpose of this Act pollution means:

1. the introduction to air, water, or into the ground of solid matter, fluid or gas,
2. noise and vibrations,
3. light and other radiation to the extent determined by the pollution control authority,
4. temperature modification which cause or may cause damage or disamenity to the environment.

Pollution also means whatever may cause previous pollution to lead to increased damage or disamenity, or which together with environmental impacts as listed in sub-paragraphs 1 to 4, causes or may cause damage or disamenity to the environment.

## **Section 7**

### **The duty to avoid pollution**

No one may have, do or implement anything which may entail risk of pollution, unless this is permitted by law pursuant to Sections 8 or 9, or unless it is permitted in accordance with decisions pursuant to Section 11.

When there is danger of pollution in violation of this Act, or of decisions taken pursuant to this Act, the person responsible shall take steps to prevent this from occurring. If the pollution has occurred, then the person responsible shall take steps to stop, remove or limit the effect of the pollution. The person responsible is also required to take steps to remedy the damage or disamenity resulting from the pollution or from the steps taken to counteract the pollution. The obligation laid down in this paragraph applies to measures which are in reasonable proportion to the damage or disamenity to be avoided.

The provision in the second paragraph also applies to pollution permitted in accordance with Section 11 if it is evident that the decision can be reversed in accordance with Section 18, first paragraph, sub-paragraphs 1 or 2. The same applies in cases where for the same reason it is evident that exemptions to the regulations permitting pollution can be made pursuant to Section 9 third paragraph.

The pollution control authority may require the person responsible to take measures in accordance with the second paragraph, first to third sentences, within a specified time limit.

## **Section 8**

### **Limitations to the duty to avoid pollution**

Normal pollution from:

1. fishing, agriculture and forestry etc.,
2. residential dwellings, vacation dwellings, offices, business or assembly premises, schools, hotels, warehouses etc.,
3. temporary construction work is according to this Act permitted to the extent that special regulations have not been issued pursuant to Section 9. However, permission to discharge sanitary waste water must be sought unless otherwise stipulated in regulations.

The provision in the first paragraph applies correspondingly to defence activities. The Act applies in full to pollution from permanent defence constructions that are not mainly used for combat purposes.

Pollution which does not lead to significant damage or disamenity may take place without permission pursuant to Section 11.

## **Section 9**

### **Regulations relating to pollution**

The pollution control authority may issue regulations relating to:

1. limit values for which forms of pollution shall be permitted, or that pollution shall be prohibited completely, or at given times,
2. limit values for the occurrence of certain substances, noise, vibrations, light or other radiation in the environment, and what measures are to be taken if the limit values are exceeded,
3. the way in which permanent or temporary installations shall be equipped and the way in which an activity shall be operated in order to counteract pollution,
4. quality requirements for pollution control equipment, and that such equipment may not be sold without being approved by the pollution control authority,
5. that operating personnel in activities which can cause pollution shall have specific qualifications.

The regulations issued pursuant to sub-paragraphs 1-3 may stipulate that they, completely or partly, on conditions to be specified, shall apply instead of permission granted in accordance with Section 11. If, in accordance with the regulations, it is necessary to apply for permission, then the provisions in Chapter 3 will apply. The specific conditions that may be stipulated in the individual permit, cf. Section 16, may instead be issued as regulations pursuant to the present Section.

The pollution control authority may in individual cases make exemptions from regulations permitting pollution, if the conditions specified in Section 18 first paragraph, are applicable, or if the regulations themselves permit it.

Regulations in accordance with this section may be restricted to particular geographical areas.

## **Section 10**

### **Relationship to the Neighbour's Act etc.**

The rules concerning notification and judicial appraisal in Sections 6-8 of the Neighbour's Act do not apply to pollution requiring permission in accordance with Section 11. The same may be stipulated in regulations pursuant to Section 9 second paragraph.

Pollution permitted in accordance with Section 11, or by regulations stipulating that Sections 6-8 of the Neighbour's Act do not apply, is not subject to corrective measures pursuant to Section 10 of the Neighbour's Act. Even if damage or disamenity is permitted in accordance with this Act, this does not exempt from the obligation to pay compensation, or the requirement to pay remuneration according to the Neighbour's Act.

For damage and disamenity other than that due to pollution, the Neighbour's Act applies in full.

## **CHAPTER 3**

### **PERMISSION FOR ACTIVITY WHICH MAY CAUSE POLLUTION. IMPACT ANALYSES.**

#### **Section 11**

##### **Special permission for polluting activities**

The pollution control authority may upon application give permission for activities which may lead to pollution. The pollution control authority may in special cases provide such a permit without application having been made, and in such a permit may issue orders which then apply instead of conditions pursuant to Section 16.

The pollution control authority may issue regulations to the effect that anyone wishing to carry out particular types of activities which, according to their nature may lead to pollution, must apply for permission in accordance with this section.

Pollution problems shall if possible be solved for larger areas taken as a whole, and on the basis of comprehensive and local land-use plans. If the activity concerned will be in violation of land-use plans approved in accordance with the Building and Planning Act, the pollution control authority may only give permission pursuant to the Pollution Control Act with the approval of the land-use planning authority.

When the pollution control authority decides whether permission shall be given, and stipulates conditions in accordance with Section 16, emphasis shall be laid on the disadvantages from the point of view of pollution as compared with the advantages and disadvantages which the activity otherwise will entail.

#### **Section 12**

##### **Content of application**

An application for permission pursuant to Section 11 shall contain whatever information is necessary to be able to evaluate whether permission should be given, and which conditions shall be stipulated. The pollution control authority may by regulations or in the individual case stipulate what kind of information or studies the applicant must provide.

#### **Section 13**

##### **Notification requirements and impact analyses for activities which may lead to significant pollution problems**

Anyone planning activities which may lead to significant pollution in a new place, or planning major developments of a new character at a place where there is existing activity, shall at an early stage of the planning process notify the pollution control authority. The pollution control authority shall issue specific regulations concerning the notification requirement.

The pollution control authority may stipulate that anyone planning activities which are required to be notified to the authorities, shall undertake an impact analysis in order to determine the effects which the pollution will have. The impact analysis shall normally contain a study of:

1. which types of pollution the activity will cause under normal operational conditions and in the case of

- conceivable types of accidents, as well as the probability of such accidents,
2. which effects the pollution may have in both the short and the long term. If necessary, studies shall be undertaken of the natural environment where the pollution will occur. In particular, it shall be ascertained how the pollution will affect people's use of the environment, and who will be particularly exposed to adverse effects from the pollution,
  3. alternative sites, production processes, treatment equipment and methods for recycling of waste which have been evaluated, and a detailed justification of the solution which the applicant has chosen,
  4. the way in which the activity is to be integrated into the comprehensive and local plans for the area, and if relevant, the way in which it may restrict future planning. The pollution control authority may issue orders concerning the time limit for the completion of the study, and concerning what it shall contain.

#### **Section 14**

##### **The study is public**

When the study in accordance with Section 13 is completed, anyone has the right to obtain the study from the person who is responsible for notification or from the relevant pollution control authorities. The pollution control authority may decide that parts of the study shall be available to the public before the entire study is completed.

Information that is subject to pledge of secrecy on the part of the pollution control authority pursuant to the Public Administration Act, Section 13 and following may be withheld also by the person responsible for notification. The same applies to information as specified in the Public Information Act, Section 6, sub-paragraph 1.

The provision in the Public Information Act, Section 8, concerning the way in which documents shall be made known, and the provision in Section 9 concerning appeals against decisions not to make documents available to the public, applies both when a request for making the impact analysis public is addressed to the pollution control authority and to the person responsible for notification. Appeals against decisions made by the person responsible for notification shall be addressed to the pollution control authority.

#### **Section 15**

##### **Public meetings relating to activities which may lead to significant pollution problems**

When an impact analysis in accordance with Section 13 is completed, the pollution control authority shall, in cooperation with the applicant, convene a public meeting to discuss the possible polluting consequences of the activity in question. The meeting shall be convened in good time before a decision on the application has been taken and shall be announced locally. At the meeting the applicant and the pollution control authority shall give an account of the activity in question and of the polluting consequences it may have.

The pollution control authority may dispense with holding such a meeting as provided for in the first paragraph, if the planned activity in question will not lead to serious pollution. The same applies if the matter in question has been sufficiently clarified by there having been held a public meeting in connection with the administrative review of the matter pursuant to other legislation, or if for other reasons it is considered unnecessary to hold such a meeting.

#### **Section 16**

##### **Conditions in the permit**

Specific conditions may be stipulated in permits issued pursuant to the Act or to regulations pursuant to the Act, in order to counteract pollution leading to damage or disamenity, and in order to provide efficient utilization of energy that the activity uses or generates. In this respect, conditions may be stipulated concerning protective or treatment measures, recycling, and length of the permit's validity.

If the pollution from the activity will normally exclude or make difficult the use of the environment for a particular purpose, conditions may be stipulated to the effect that measures shall be implemented to the



benefit of such use or that financial assistance is provided for such measures. It may also be stipulated as a condition that the polluter through agreement or expropriation, shall acquire or restrict the use of areas which become strongly polluted.

### **Section 17**

#### **Purchase of real estate etc.**

Upon request of the owner, the pollution control authority may decide that the person responsible for the pollution, in exchange for compensation following judicial appraisal, shall redeem the property concerned if the pollution will make the property unsuitable for the purpose for which it is used.

The provision in the first paragraph is also applicable in cases of leasing, land tenancy or other special rights of use in regard to real estate. Order of compulsory purchase can apply to part of a property or to rights to a property.

Instructions pursuant to the first and second paragraphs may also be issued after a permit to pollute has been granted. In determining compensation, the rules in the Expropriation Compensation Act of 6 April 1984 No. 17 shall apply correspondingly. In apportioning compensation, deductions shall be made for damage or disamenity which the owner or other person having rights to the property is obliged to accept without compensation, in accordance with Section 2 of the Neighbour's Act. The cost of the judicial appraisal shall be borne by the person responsible for the pollution. The same applies to reappraisal if not the court for special reasons decides otherwise.

### **Section 18**

#### **Alterations to and withdrawal of permits**

The pollution control authority may cancel or alter the conditions of the permit issued pursuant to the present Act or to regulations pursuant to the Act, or stipulate new conditions, and may if necessary withdraw the permit if:

1. it turns out that the damage or disamenity resulting from the pollution is significantly greater or different than anticipated when the permit was granted,
2. the damage or disamenity can be reduced without un-reasonable cost to the polluter,
3. new technology makes it possible to reduce the pollution to a significant extent,
4. the conditions in the permit are unnecessary to counteract the pollution,
5. the advantages the polluter or others receive from modification or cancellation of conditions are significantly greater than the damage or disamenity which the pollution will cause the environment, or
6. this otherwise follows from other rules in force regarding alterations of administrative decisions.

The permit may in any case be withdrawn or changed when ten years have passed since the permit was granted.

Decisions taken in accordance with this section shall take into account the costs which a change or withdrawal of a permit will involve for the polluter, and of the advantages and disadvantages such a change or withdrawal will otherwise entail.

### **Section 19**

#### **Notification requirement when replacing equipment or increasing pollution**

Anyone in possession of a permit in accordance with Section 11 and who is planning a major replacement of equipment which will make it technically possible to counteract pollution in a significantly better manner shall give advance notification to the pollution control authority.

The pollution control authority may issue specific regulations relating to the notification requirement in accordance with the first paragraph.

### **Section 20**

#### **Closing down and cessation of operations**

If an installation is closed down or an enterprise ceases operation, the owner or user must do whatever is necessary at any given time in order to counteract pollution. If the installation or enterprise may lead to

pollution following closedown or cessation of operations, prior notification shall be given well in advance to the pollution control authority.

The pollution control authority may stipulate in more detail what measures may be necessary in order to counteract the pollution. The owner or user may be instructed to pose a guarantee for covering future expenses and possible compensation liability.

Any person wishing to start an activity with a permit in accordance with Section 11, after the activity has been closed down or out of operation for over two years, must give notification of this to the pollution control authority, which will decide whether a new permit must be applied for before the activity is resumed.

The pollution control authority may issue specific regulations relating to the notification requirement in accordance with the first and third paragraphs.

## **CHAPTER 4 SPECIAL RULES RELATING TO DRAINAGE SYSTEMS ETC.**

### **Section 21 Definitions**

By drainage systems is meant installations for the transportation and treatment of waste water.

By waste water is meant both sanitary and industrial waste water and surface water.

### **Section 22 Requirements for construction of drainage installations**

The pollution control authority may by regulations or by individual decision stipulate particular requirements for waste water pipes, including whether they shall be closed and watertight. The pollution control authority may decide whether all waste water shall be conducted in a common pipe or whether special pipes shall be required for different types of waste water.

When relaying or repairing waste water pipes, the pollution control authority may require the owner of an attached pipe to undertake a corresponding alteration or improvement. The pollution control authority may also in other cases require alterations or improvements of the attached pipe when special reasons justify this.

In the discharge permit for drainage installations it may be stipulated as a condition that the installation shall be so constructed that it can receive waste water from another municipality or from other properties. The additional costs involved shall be paid by those who will have the opportunity to be attached to this system. Where no agreement exists, additional costs and their apportionment shall be determined by judicial appraisal. The cost of the judicial appraisal shall be borne proportionally by the parties of the case who obtain the opportunity to get attached to the system.

### **Section 23 The right and obligation of attachment to existing drainage systems**

The pollution control authority may decide that waste water may be conducted into the drainage system of someone else.

Concerning the obligation of attachment to existing drainage pipes, the rules contained in the building and planning Act apply. However, decisions in accordance with the building and planning Act can be made by the pollution control authority.

If attachment is to the municipal drainage system, an attachment charge is to be paid in accordance with the Act of 31 May 1974 No. 17 relating to Municipal Water and Drainage Charges. If attachment is to a private relating to system, the owner of the system may require the person in question to be responsible for or pay for the extensions or changes of the drainage system which the attachment necessitates, and that security be advanced for this. The owner may also require refunding of the installation expenses in accordance with the rules of the building and planning Act. The costs of the

judicial appraisal shall be borne by the person who obtains the right of attachment.

#### **Section 24**

##### **Operation and maintenance of sewerage systems**

The municipality is responsible for the operation and maintenance of drainage systems which are completely or partly owned by the municipality. In the case of private drainage systems the owner of the property for which the system was first constructed, is responsible for the operation and maintenance.

The pollution control authority may decide that others than those named in the first paragraph shall be responsible for the operation and maintenance, e.g. that the municipality shall be responsible for private drainage systems.

The pollution control authority may issue specific regulations relating to the operation and maintenance of drainage systems, including stipulation of personnel requirements.

#### **Section 25**

##### **Costs of installation, operation and maintenance of drainage systems**

The costs of installation, operation and maintenance of drainage systems operated by the municipality shall be borne by the municipality. The municipality may require full or partial payment of its costs by imposing a charge in accordance with Act of 31 May 1974 No. 17 relating to Municipal Water and Drainage Charges. The municipality may irrespective of the second sentence claim a refund in accordance with the building and planning Act, Chapter 6.

#### **Section 26**

##### **Municipal emptying of sludge from sludge separators (septic tanks), privies etc.**

The municipality shall be responsible for emptying small sewerage treatment installations such as sludge separators and other collecting tanks for treatment of sanitary waste water and surface water. The same applies to collection tanks with untreated sanitary waste water.

The municipality shall also see that necessary facilities exist for emptying waste water from caravans, pleasure craft etc.

The municipality shall be responsible for emptying of privies in densely populated areas, and outside densely populated areas to the extent decided by the municipality.

The rules in Section 30 relating to municipal collection of waste and in Section 34 relating to a waste charge shall be correspondingly applicable to the emptying of sludge separators, privies etc.. The municipality's duties according to the first paragraph are never the less valid both in and outside densely populated areas.

If sanitary waste water is conducted through sludge separators to treatment installations the pollution control authority may require the sludge separators to be disconnected.

### **CHAPTER 5 RELATING TO WASTE**

#### **Section 27**

##### **Definitions**

By waste is meant discarded objects or substances. Waste also includes superfluous objects and substances from service activities, production and pollution control installations etc. Waste water and exhaust gases are not considered as waste.

By consumer waste is meant normal waste, including larger objects such as furnishings etc., from households, small shops etc., and offices. This is also the case for waste of similar nature and quantity from other activity.

By production waste is meant waste from industrial activity and service activities which in type or quantity is significantly different from consumer waste.

By special waste is meant waste which cannot be appropriately treated together with consumer waste because of its size, or because it can lead to serious pollution, or danger of damage to human beings or animals.

### **Section 28** **Prohibition against litter**

No one may empty, leave behind, store or transport waste in such a way that it appears unsightly or leads to damage or disamenity to the environment. The provision in the first sentence is also applicable to wrecked ships and aeroplanes and other similar large objects.

The first paragraph does not preclude waste from being taken care of on a storage site or in a treatment facility with a permit in accordance with Section 29 or waste being delivered there .

Anyone violating the prohibition in the first paragraph shall be responsible for whatever clean-up operation may be necessary.

### **Section 29** **Requirements for waste treatment installations**

Anyone operating a storage site or facility for treatment of waste which can lead to pollution or which is unsightly, must have a permit in accordance with the rules in Chapter 3. The permit may stipulate conditions concerning inter alia the transport, treatment, recycling and storage of waste, and concerning measures to prevent the installation from having an unsightly appearance.

Section 10 of this Act apply correspondingly for storage sites or facilities for treatment of waste which require permission pursuant to the first paragraph.

The municipality shall have facilities for storage or treatment of consumer waste and sewerage sludge and shall be obliged to receive such waste and sludge. The pollution control authority may by regulations or in the individual case stipulate that the municipality shall also have facilities and shall be obliged to receive special waste and production waste. The pollution control authority may likewise stipulate specific requirements for the waste treatment facility.

### **Section 30** **Municipal collection of consumer waste etc.**

The municipality shall be responsible for collection of consumer waste.

The municipality may issue regulations to the effect that municipal collection of waste shall only apply to densely populated areas, that certain types of consumer waste shall be excluded from municipal collection services, and that certain types of waste shall be kept separate. The pollution control authority may by regulations or in each separate case order that the municipality introduces measures for sorting the waste. Such order must be based on an overall evaluation of the costs involved in relation to the environmental gains that can be achieved. The municipality may upon application, exempt certain properties from the municipal collection of waste.

The municipality may issue regulations necessary to ensure appropriate and hygienic storage, collection and transport of consumer waste. No one may collect consumer waste except by consent of the municipality. In particular cases the pollution control authority may decide by regulation or by individual administrative decision that the consent of the municipality is not required.

### **Section 31** **Handling of special waste**

The pollution control authority may by regulations or in the individual case require a municipality to collect special waste and may make it an obligation for the individual person to deliver his/her special waste to the municipality or to another receptor facility.

The pollution control authority may by regulations or in the individual case adopt decisions to ensure appropriate and adequate storage, collection, transport and treatment of special waste, including rules prohibiting anyone from collecting such waste without the consent of the pollution control authority.

## **Section 32**

### **Handling of production waste**

Production waste shall be brought to a lawful waste facility unless it is recycled or used in some other way. The pollution control authority may consent to another form of disposal of the waste, under conditions to be determined.

The pollution control authority may by regulations or in the individual case require the producer to deliver production waste to a municipal waste facility. The provision in Section 31, second paragraph, applies correspondingly.

## **Section 33**

### **Recycling and other treatment of waste**

In order to solve waste or pollution problems, the pollution control authority may, by regulations or by individual administrative decisions, stipulate that waste shall be recycled or otherwise treated.

The pollution control authority may according to this, inter alia make decisions with regard to:

- a) re-use
- b) recycling of materials
- c) utilization of energy
- d) destruction
- e) collection, storage, sorting
- f) aims with binding effect relating to re-use, recycling etc.

In such decision importance shall be attached to whether the total environmental benefits achieved are reasonable in proportion to the costs, and to the costs of other ways of handling the waste.

Decisions as mentioned in the first paragraph may be made in relation to anyone manufacturing, importing, marketing or using waste producing products and to anyone collecting or possessing waste.

If a voluntary arrangement is not reached between the parties, a decision as mentioned in the first paragraph may also be made in relation to anyone who can use or treat waste from others if

- 1) this is necessary to ensure an adequate treatment of waste that can cause serious pollution or health damage, or
- 2) such decision is necessary to obtain a satisfactory implementation of an organized system for collection and treatment of waste.

Anyone who delivers waste to someone who according to the fourth paragraph is under obligation to receive such waste, shall indemnify the recipient and shall deliver the waste on terms that ensure the recipient a reasonable remuneration for his work. If the waste has a value beyond this, the recipient of the waste shall pay a reasonable remuneration for the waste. The parties may require the question of remuneration to be settled by arbitration pursuant to Act of 13 August 1915 relating to Civil Procedures.

## **Section 33a**

### **Waste Plan**

The municipality shall prepare a plan for reduction and handling of waste in the municipality (the Waste Plan). This plan shall include, among other things, a list of waste sources, waste volumes, measures implemented to limit the volume of waste and measures aimed at sorting, collecting, recycling and final disposal of waste. The plan shall also include an overview of anticipated income and expenses in the waste sector.

The plan shall be adopted by the Municipal Council. At least once during each election period the Municipal Council shall consider the Waste Plan, including the question of whether amendments are required. The Waste Plan shall be harmonized with the Municipality Plan pursuant to the Planning and Building Act of 14 June 1987 No. 77.

One copy of the plan shall be forwarded to the County Governor.

The Waste Plan shall constitute the basis for the municipal waste reduction and handling schemes.

### **Section 34**

#### **Waste Fee**

The municipality shall impose fees to cover costs related to the waste sector, including collection, transportation, reception, storing, handling, after care etc. The costs shall be fully covered by the fees. The term costs includes capital costs and operating costs. With regard to waste which the municipality is under obligation to collect, receive and/or handle according to Sections 29, 30 or 31, the fee must not exceed the expenses incurred by the municipality.

The fees imposed by the municipality should be differentiated where this may contribute to waste reduction and increased recycling. The Pollution Control Authority may issue regulations governing the assessment of fees.

Waste handling according to Section 35 is not comprised by this provision.

Fees shall be paid by the owner of a property which is comprised by a system for waste collection or for emptying of sludge separators, privies etc. according to the Act. If the property is leased out for a period of 30 years or more, however, the leasee shall pay the charge unless otherwise agreed. The same applies when the lease has the right to have the lease extended, so that the total period of lease exceeds 30 years.

The waste charges together with accrued interest and costs are secured by statutory mortgage pursuant to Section 6-1 of the Mortgages and Pledges Act. As regards the obligation to pay interest for delayed payment, repayment and for enforced collection of the waste charge, the rules in Sections 26 and 27 of Act of 6 June 1975 No. 29 relating to tax on real estate to the municipalities shall apply correspondingly.

### **Section 35**

#### **Waste in connection with sales outlets, tourist activities, excursion destinations etc.**

The managers of general stores, petrol stations, kiosks and similar sales outlets shall provide for the setting up of waste containers in the vicinity of the place of sale, and for the emptying of these containers. The managers of camping sites and other tourist facilities are also responsible for setting up and emptying waste containers. The managers of enterprises as mentioned in the first and second sentences shall in addition undertake necessary clean-up operations in the area.

The municipality shall provide for the setting up and emptying of waste containers at excursion destination sites, and other much-visited public places where it is likely that waste will be discarded. In connection with emptying of containers, a reasonable amount of clean-up shall be undertaken in the area. The municipality's responsibilities in accordance with this paragraph do not apply in cases where someone else is responsible in accordance with the first paragraph or with Section 36.

The organisers of various arrangements, performances or meetings shall provide for necessary clean-up afterwards to the extent that this is not the responsibility of persons operating enterprises as mentioned in the first paragraph.

The municipality may in the individual case issue the orders necessary for implementation of the rules laid down in the first and third paragraphs.

### **Section 36**

#### **Waste alongside public roads etc.**

The highway authorities shall provide for the setting up and emptying of waste containers alongside public roads outside densely populated areas, at places where travellers are known to discard waste. The containers shall be placed in such a way as to be consistent with traffic safety requirements. In connection with emptying of containers, the highway authorities shall be responsible for necessary clean-up within the road property boundaries, to the extent that this is not the responsibility of someone else in accordance with Section 35, first and third paragraphs.

The pollution control authority may by individual decision or by regulations stipulate that the highway authority shall provide for toilets for the travellers if unsatisfactory conditions otherwise would arise.

### **Section 37**

### **Orders to clean-up waste etc., or to pay for such clean-up**

The municipality may issue orders to the effect that anyone who has discarded, emptied or stored waste in violation of Section 28, shall remove it, clean up within a given period of time, or pay reasonable costs incurred by someone else who has removed or cleaned up the waste in question. Such instructions may also be issued to anyone who has violated Section 35, first or third paragraph, in cases where this has led to dispersal of waste.

The pollution control authority may also issue orders relating to clean-up and removal to anyone who was the owner of a motor vehicle, ship, aircraft or similar large object, at the time when such object was left behind in violation of Section 28, or who is the owner when the order is issued.

If anyone requests the municipality to issue orders to clean up or to pay expenses in accordance with the first or second paragraph, the municipality shall as soon as possible take a decision on this request. The decision is an individual decision even when orders are not issued.

## **CHAPTER 6 ACUTE POLLUTION**

### **Section 38 Acute pollution**

By acute pollution is meant pollution of significance, which occurs suddenly, and which is not permitted in accordance with the provisions in or pursuant to this Act.

### **Section 39 Notification requirement**

In cases of acute pollution or danger of acute pollution the nearest police authority shall be notified immediately.

The notification requirement in accordance with the first paragraph is the responsibility of the person who has caused the pollution. Other persons are also required to provide such notification unless it obviously is unnecessary.

The pollution control authority may stipulate more specific provisions concerning notification of acute pollution, either by regulations or through approval of emergency preparedness plans in accordance with Section 41. It may hereunder also be stipulated that notification shall be given to another authority than the police, and that notification rules shall be applicable to Norwegian vessels regardless of where such vessels are located.

### **Section 40 Requirements to emergency preparedness**

Anyone operating an enterprise which may lead to acute pollution shall provide for the necessary emergency preparedness to prevent, discover, stop, remove and limit the effect of the pollution. The emergency preparedness shall be in reasonable proportion to the probability of acute pollution occurring and to the scope of damages and disamenities which may occur.

The pollution control authority may in the individual case or by regulations issue further requirements concerning emergency preparedness in accordance with the first paragraph. The emergency preparedness shall, when so decided by the pollution control authority, be adapted to the municipal and state emergency preparedness for acute pollution.

### **Section 41 Emergency preparedness plans**

The pollution control authority may by individual decision or by regulations stipulate that for activities which may lead to acute pollution, an emergency preparedness plan shall be submitted for approval. The plan shall provide guidelines for what is to be done in cases of acute pollution, and it shall be updated

according to need.

The pollution control authority may stipulate further conditions for approval of the emergency preparedness plan. It may hereunder be stipulated that the emergency preparedness plan shall be coordinated with plans to meet other accident situations than acute pollution. The pollution control authority may issue instructions concerning changes in approved emergency preparedness plans, and if necessary withdraw the approval given.

## **Section 42**

### **Cooperation relating to private emergency preparedness**

The pollution control authority may order anyone operating enterprises which may entail acute pollution to cooperate with others on emergency preparedness. Such orders may include the requirement to prepare a joint emergency plan in accordance with Section 41, and to maintain joint emergency equipment.

The pollution control authority may require agreements on the establishment of a special emergency preparedness organisation and other agreements on emergency preparedness cooperation to be submitted for approval. When no such agreement exists, the pollution control authority may make decisions concerning the organization and apportionment of costs in connection with the emergency preparedness cooperation.

## **Section 43**

### **Municipal and State emergency preparedness**

Municipalities shall provide for the necessary emergency preparedness to be used in lesser cases of acute pollution which may occur or cause damage within the municipality, and which are not covered by private emergency preparedness in accordance with Sections 40-42.

The State shall provide for emergency preparedness in major cases of acute pollution which are not covered by municipal emergency preparedness in accordance with the first paragraph, or by private emergency preparedness in accordance with Section 40-42.

The pollution control authority shall as far as possible ensure that private, municipal and state emergency preparedness are coordinated in a national emergency preparedness system.

## **Section 44**

### **Municipal and intermunicipal emergency preparedness plans**

The pollution control authority may require the submission of a municipal emergency preparedness plan for approval, and may by individual decision or by regulations stipulate further requirements for the municipal emergency preparedness.

The pollution control authority may by individual decision or by regulations instruct municipalities to cooperate on emergency preparedness against acute pollution, and may hereunder adopt decisions concerning inter-municipal emergency preparedness plans and concerning the apportionment of costs between municipalities.

## **Section 45**

### **Governmental action command group in case of large-scale accidents**

The King may appoint an action command group for large-scale accidents which may cause acute pollution. The action command group consists of representatives from the authorities concerned and of other appointed persons, and shall coordinate the work of the various authorities in tackling the accident. The action command group shall evaluate the measures being implemented by the person responsible for fighting the accident, and may if necessary take over the leadership of the efforts to fight the accident, either completely or partly.

The King shall provide rules concerning the composition, convocation, authority and activities of the action command group.

## **Section 46**



### **Emergency action in cases of acute pollution**

If acute pollution or danger of acute pollution occurs, the person responsible, in accordance with Section 7, shall initiate measures to prevent or limit damage or disamenity from such pollution.

If the person responsible does not implement adequate measures, the municipality in question shall attempt to fight the accident. The municipality shall notify the state pollution control authority, which shall provide necessary assistance.

In major cases of acute pollution or danger of such pollution the state authorities may partially or totally take over the leadership of the efforts to fight the accident.

If comprehensive acute pollution or danger of such pollution occurs, the pollution control authority shall convene the action command group in accordance with Section 45.

### **Section 47**

#### **Requirement to provide assistance**

When municipal emergency action has been initiated in accordance with this chapter, the person responsible for emergency preparedness in accordance with Section 40, is required following instructions by the municipality to place at the disposal of the municipality equipment and personnel which is part of the private emergency preparedness in accordance with Section 40-42. Upon request, other municipalities shall as far as possible provide assistance.

In the case of emergency actions led by the State, the person responsible for emergency services in accordance with Section 40 and municipalities, when so instructed by the pollution control authority are required to make available the equipment and personnel belonging to the emergency services in accordance with Section 40-44. If there is danger of very considerable pollution damage, any person may be required to provide material or personnel in order to fight the accident.

The provision in the second paragraph also applies to emergency actions outside national boundaries. In such cases the pollution control authority may also stipulate that the equipment and personnel shall be placed at the disposal of other national authorities to the extent that this may otherwise follow from the second paragraph.

All public authorities shall to the extent consistent with their other duties provide assistance in cases of comprehensive acute pollution.

Anyone who has provided assistance in accordance with this section has a right to claim payment in accordance with the provisions in Section 75, second paragraph.

## **CHAPTER 7**

### **SUPERVISION OF POLLUTION AND WASTE CONDITIONS**

#### **Section 48**

##### **The Responsibilities of the pollution control authority**

The pollution control authority shall supervise the general pollution situation and pollution from individual sources. The pollution control authority shall also supervise the handling of waste.

The pollution control authority shall through advice, guidance and information, strive to counteract pollution and waste problems and ensure that the rules in the Act and decisions taken in pursuance of the Act are followed.

#### **Section 49**

##### **Requirement to provide information**

When so ordered by the pollution control authority, anyone who has, does or initiates anything which may pollute or lead to waste problems is required, notwithstanding the provisions relating to professional secrecy, to provide the pollution control authority or other public bodies with whatever information is necessary for the implementation of obligations in accordance with the Act. When special reasons so indicate, the pollution control authority may require information to be provided by anyone doing work for

the person who is required to provide information in accordance with the first sentence.

Information as specified in the first paragraph may also be required from other public authorities, regardless of the pledge of secrecy which is otherwise applicable. The pollution control authority may decide the form in which the information shall be submitted.

Decisions in accordance with the first or second paragraph are made by regulations or by individual decision.

## **Section 50**

### **The right to inspect**

The pollution control authority shall have unrestricted access to property where pollution may occur or has occurred, or which is or may be exposed to pollution, when this is necessary for the fulfilment of its responsibilities in accordance with this Act. The same applies to activities which have led, or may lead to waste problems.

The pollution control authority may require the submission and inspection of documents and other material which may be of importance for the fulfilment of its duties in accordance with this Act.

Before inspecting an enterprise or activity the pollution control authority shall first contact representatives of the management of the enterprise or activity in question.

Unless weighty reasons dictate otherwise, the pollution control authority shall report in writing to the company about the result of the control.

## **Section 51**

### **Requirement to launch investigations**

The pollution control authority may order anyone who has, does or initiates anything which leads to or which there is reason to believe may lead to pollution, to provide for or pay for investigations or similar measures which may reasonably be required in order to

- a) determine whether and to what extent the activities lead or may lead to pollution,
- b) to ascertain the cause or effects of the pollution which has occurred
- c) to ascertain the way in which the pollution may be counteracted.

The provision in the first paragraph applies correspondingly to activities which lead or may lead to waste problems.

Orders in accordance with the first and second paragraphs may be issued by regulations or by individual decision.

## **Section 52**

### **Approval of laboratories and methods of analysis**

The pollution control authority may by regulations or individual decisions determine that studies and analyses carried out following decisions pursuant to the Act shall be undertaken as stipulated by the pollution control authority or shall be conducted by someone approved by the pollution control authority.

## **Section 52a**

### **Charges**

The pollution control authority may issue regulations relating to charges for the handling of permits according to this Act or regulations issued in pursuance of the Act, and for control measures implemented in order to ensure that the Act or decisions pursuant to the Act are complied with. The charges shall be stipulated such that they in total do not exceed the pollution control authority's expenses in connection with the administrative procedures or the control measures.

The charges are legal grounds for enforcement of attachment proceedings

## **Section 52b**

### **Internal control**

The pollution control authority may issue regulations relating to internal control and internal control

systems to ensure observance of requirements contained in or issued by virtue of this Act.

## **CHAPTER 7A VOLUNTARY PARTICIPATION FOR INDUSTRIAL ENTERPRISES IN AN ECO- MANAGEMENT AND AUDIT SCHEME (THE EMAS SCHEME)**

### **Section 52c**

#### **The EMAS scheme**

Annex XX 2f of the EEA Agreement (Council Regulation (EEC) 1836/93) allowing participation by companies in the industrial sector in an eco-management and audit scheme (the EMAS scheme) is applicable as law with the general adjustments that follow from Protocol 1 of the Agreement and from the Agreement in general.

The decision of the Brønnøysund Registers regarding whether an enterprise is to be registered or struck from the register according to the said Regulation, Article 8 subsections 1, 3 and 4, and the decision of the Office of Weights and Measures to grant, extend, refuse, suspend or withdraw accreditation of environmental verifiers according to Article 6 subsection 4, may be appealed to a special Appeal Board.

The Appeal Board shall have three members. The members with personal deputies are appointed by the Ministry.

The pollution control authority may by regulations issue more detailed provisions relating to the implementation of the present Section. For the purpose of dealing with appeals in relation to decisions made according to the second paragraph, exemptions from Section 33 second to fourth paragraphs of the Public Administration Act may be made by regulations.

## **CHAPTER 8 COMPENSATION FOR POLLUTION DAMAGE**

### **Section 53**

#### **Operational scope of application**

This chapter deals with the obligation to pay compensation for pollution damage insofar as question of liability is not regulated by other statutory legislation or by agreement.

The term pollution damage refer to damage, disamenities or loss caused by pollution (cf. Section 6). Irrespective of what is decided in pursuance of Section 6, also light or other radiation which causes or may cause damage, loss or disamenity to the environment, shall here be regarded as pollution

The provisions of this chapter shall apply correspondingly to damage, disamenities or loss caused by waste (cf. Section 27.)

Irrespective of what is decided in or in pursuance of Section 5, pollution and waste from fixed transportation facilities as well as from the individual means of transport shall also be comprised by this chapter, cf. Section 5, fourth paragraph.

### **Section 54**

#### **Geographical scope of applications and choice of legislation**

The provisions of this chapter are applicable to pollution damage which:

- a) occurs in Norway or inside the Norwegian economic zone,
- b) occurs outside areas mentioned in litrae a) above, insomuch as the damage is caused by an occurrence or activity in Norwegian sea or land territories.

Damage not comprised by the scope of activities under paragraph one shall nevertheless be comprised by this chapter to the extent that Norwegian law on liability for damages is applicable under regulations on applicability otherwise in force.

With regard to measures to avert or to limit pollution damage, it is sufficient that damage may occur in

an area covered by the chapter.

The injured party may require that the question of compensation for pollution damage shall be decided according to the provisions applicable in the state where the act or activity causing the pollution took place.

Section 3, third paragraph, shall apply correspondingly.

### **Section 55**

#### **Obligated party and grounds for liability**

The owner of property, object, installation or activity causing pollution damage is liable according to this chapter, regardless of fault of his own, if the owner also operates, uses or holds the property etc. If not, such responsibility rests solely on whoever actually operates, uses or holds the property etc., insomuch as the damage is not due to matters for which the owner is also liable according to the regulations in force concerning liability for damage.

Anyone who indirectly by supplying goods or services, carrying out control or supervision, or in a similar way has contributed to pollution damage, shall only be liable if the action is intentional or negligent. In assessing guilt, the question of whether such conditions or demands that the injured party may reasonably put forward with regard to the activity or the service have been set aside, shall be taken into account.

The provision shall nevertheless not constitute any limitation of the liability that exists pursuant to other regulations in force concerning liability for damages.

### **Section 56**

#### **Acceptance limit**

Compensation for pollution which is permitted, can only be claimed to the extent the pollution is unreasonable or unnecessary according to the rules stipulated in Section 2, second to fourth paragraphs, of Act of 16 June 1961 No. 15 relating to Legal Matters between Neighbour's

Even in the event that a case of pollution damage in itself does not qualify for compensation under this chapter, it may be taken into account for claims pursuant to the Neighbour's Act.

### **Section 57**

#### **Scope of liability**

Liability according to this chapter comprises:

- a) compensation for financial loss due to pollution damage as mentioned in Section 53,
- b) compensation for damage, loss, disamenity or expense due to reasonable measures to avert, limit, remove or remedy pollution damage. Expenditure in respect of measures against pollution which is permitted, may however not be claimed compensated to the extent that such compensation clearly would exceed the compensation that could have been claimed if the measures had not been carried out,
- c) compensation for damage, loss or disamenities due to the pollution obstructing or impeding the execution of common public rights in business, trade and industry,
- d) compensation for damage, disamenities or loss with regard to other execution of common public rights under the regulations stipulated in Section 58,
- e) compensation for loss suffered by an employee due to the pollution causing an enterprise he or she is employed in to halt or reduce its activities. This shall not be applicable, however, when the enterprise as such cannot claim compensation for its loss because the loss is a too distant and unpredictable consequence of the pollution.

### **Section 58**

#### **Restoration compensation to the public for damage affecting the execution of common public rights outside the scope of business, trade, industry etc.**

Pollution which is not permitted, and which obstructs, impedes or limits benefit from the execution of

common public rights outside the scope of business, trade and industry is subject to claims for compensation according to the present section, inasmuch as it is related to reasonable expenses to restore the environment so that common public rights to the extent possible may be executed as before.

Claims for compensation according to paragraph one shall be filed by the municipal pollution control authority in accordance with Section 81, first paragraph, litrae c), when the pollution damage is limited to the municipality in question. If the claim is brought against the county municipality, or if damage is caused in more than one municipality, the claim shall be filed by the state pollution control authority according to Section 81, first paragraph, litrae a). The Ministry may issue rules as to which pollution control authority as mentioned in Section 81, first paragraph, litraes a) and b), may file the claim.

Claims for compensation according to paragraph one can also be filed by a private organisation or society with legal interest on the matter, irrespective of whether a claim is filed by the pollution control authority.

If a party as mentioned in paragraph three files a claim according to this section, the amount granted in compensation shall nevertheless go to the pollution control authority according to the rules laid down in paragraph two.

The pollution control authority shall decide the further details on how the amount granted in compensation shall be put to use. Necessary legal cost incurred by a private organisation or similar may be reclaimed from this amount.

## **Section 59**

### **Several possible causes of damage**

Anyone causing pollution which by itself or in combination with others caused the damage unless it is established that another cause is more likely.

Those who cause pollution which in each separate case or in combination is sufficient to cause the pollution damage, shall be joint and severally liable in accordance with Section 5-3 of the Damages Act.

If it is established that other causes of damage to a predominant degree has contributed to the damage, the liability in connection with a less significant cause of damage may cease to exist completely or be reduced proportionately to the extent this is reasonable. When such case is being considered, the proportion of the damage attributable to the perpetrator, the nature and the extent of the perpetrator's activities and conditions in general shall be taken into account.

## **Section 60**

### **Once for all compensation or installments**

The regulations contained in Section 16 of the Neighbour's Act relating to once for all compensation or installments are similarly applicable to compensation according to this chapter.

## **Section 61**

### **Alleviation of liability**

In the question of alleviation of liability incurred as a consequence of damage caused to a property or an object, the fact that the tolerance of the property or object is particularly delicate may be taken into account in the assessment of damages according to Section 5-2 of the Damages Act.

## **Section 62**

### **Compensation when a dwelling is let for residential purposes**

Compensation for pollution damage to an apartment let as lodging shall be used as protection against the pollution. To the extent that this may not be useful to the tenants, the compensation may be used for other purposes which will improve the standard of the accommodation or otherwise in such a way as to also benefit the tenants.

The Ministry will issue further rules as to the implementation of the first paragraph, e.g. with regard to the necessary rules of procedure.

### **Section 63**

#### **Duty to offer security etc.**

A permit according to the present Act or to regulations pursuant to the Act may include a condition that security for possible liability for damages according to this chapter is offered.

The pollution control authority decides what security shall be demanded

The pollution control authority may stipulate regulations concerning the duty to offer security with regard to specified types of activities.

The King may lay down provisions for the establishment of particular compensation arrangements to cover claims according to this chapter, e.g. on matters of financing, contribution obligation, the right to bring action and settlement of claims.

### **Section 64**

#### **Legal venue in the case of cumulation**

Claims for compensation or other claims mentioned in Section 22, third paragraph of the Dispute Act may be brought collectively before the court in any court district which is legal venue for one of the claims insofar as the basis for the claims is the same or substantially similar. On the same conditions a claim may be filed by several injured parties or by brought against several perpetrators collectively.

## **CHAPTER 9**

### **IMPLEMENTATION OF THE ACT AND DECISIONS PURSUANT TO THE ACT. COMPENSATION AND PAYMENT FOR MEASURES AGAINST POLLUTION**

### **Section 73**

#### **Enforcement damages in cases of violation of the Act**

To ensure that the provisions of this Act or decisions adopted pursuant to the Act are implemented, the pollution control authority may make a decision on enforcement damages payable to the State.

Enforcement damages may be imposed when violations of the Act or of decisions adopted pursuant to the Act are discovered. Enforcement damages are effective from the time when the person responsible fails to meet the time limit stipulated by the pollution control authority for corrective measures.

Enforcement damages may also be imposed in advance and will then be effective from the time the violation takes place. It may be decided that enforcement damages shall continue to be paid for as long as the unlawful condition lasts, or that it is payable for each individual violation. Enforcement damages shall be stipulated either as continuous damages or as one-time. It may be decided that the enforcement damages shall run as long as the unlawful condition lasts, or that they are payable for each violation.

Enforcement damages are imposed on the person responsible for the violation. If the violation has occurred on behalf of a company or other association, a foundation, municipality, county municipality or other public agency, the enforcement damages shall normally be imposed upon the activity as such. If the violation has occurred on behalf of an emergency preparedness organization established in accordance with Section 42, the enforcement damages may be imposed upon the participating companies.

Decisions of enforcement damages are grounds for enforcement of distraint. The pollution control authority may waive incurred enforcement damages.

### **Section 74**

#### **Direct implementation by the pollution control authority**

If the pollution control authority has issued orders pursuant to Section 7 fourth paragraph or pursuant to Section 37 first or second paragraph, which are not complied with by the party responsible, the pollution control authority may itself provide for the implementation of the measures.

The pollution control authority may also provide for implementation of measures without prior instructions if such instructions may mean that implementation of the measures will be delayed or if it is not clear who is responsible.

When implementing measures in accordance with the first paragraph the pollution control authority may make use of, and if necessary cause damage to, the property of the person responsible.

The pollution control authority may issue specific regulations concerning the implementation of measures in accordance with the first and second paragraphs.

Intervention against acute pollution or danger of acute pollution on the open sea and in outer Norwegian sea territory shall take place in accordance with international agreements to which Norway has acceded. The pollution control authority may issue regulations concerning such intervention and concerning the implementation of such agreements in Norwegian law.

#### **Section 75**

##### **Use of third parties' property in order to combat pollution and waste problems and compensation for assistance**

When implementing measures in accordance with Sections 7, 37, 46 and 74, the pollution control authority may decide, on condition that remuneration is paid, that property belonging to third parties may be used or damaged, provided that the gain thereby achieved is significantly greater than the damage or disamenity which the intervention entails.

Anyone who has provided assistance in accordance with Section 47, first to third paragraph, and who is not responsible for the pollution, is also entitled to remuneration.

The pollution control authority is responsible for paying remuneration in accordance with the first and second paragraphs. The State shall stand as guarantor for the claim.

Municipalities which have incurred significant expenses in combatting acute pollution may receive compensation from the State in accordance with more specific provisions stipulated by the pollution control authority.

#### **Section 76**

##### **Payment of expenses for measures against pollution and waste problems**

Payment of public expenses, damage or loss according to Section 74 may be claimed from the party responsible for the pollution or the waste problems. The same applies to expenses incurred by public authorities when paying remuneration in accordance with Section 75. If the person responsible is unable to pay, or if it is not known who is responsible, the expenses may also be claimed from the person suffering the damage or from the person whose interests are provided for by the measures implemented.

If the person responsible has not implemented measures which he is required to do within a reasonable time, or if the implementation of the measures is urgent, the person who has taken measures to protect his property or to remedy damage inflicted on the property, may claim payment of expenses from the person responsible to the extent that these measures have been implemented with due care.

The public authority in question may completely or partly renounce its claim to having its expenses covered in accordance with the first paragraph if it would mean that others who have suffered damage will be disadvantaged, or if it would seem unreasonable to make such a claim.

Concerning liability in accordance with the first and second paragraphs, the Damage Compensation Act Section 5-2 applies correspondingly.

#### **Section 77**

##### **Limited right to claim payment of expenses before measures have been taken**

Payment of claims submitted by public authorities in accordance with Section 76, first paragraph, may be required irrespective of agreements, judgements or settlements between the person responsible and other injured parties.

When others than public authorities claim payment of expenses for measures against pollution of real estate, and the measures have not been implemented, the amount may then only be claimed from the person responsible:

- a) when it is obvious that the measures are of no importance for the general public, or
- b) when the pollution control authority gives its consent. Conditions may be stipulated for such consent

in order to ensure that the compensation will be used for the purpose.

In the case of amounts which have been paid in accordance with the second paragraph litrae a) or b), the person responsible is released from his responsibility with respect to the public authorities in accordance with Section 76, first paragraph.

## **CHAPTER 10 PUNISHMENT**

### **Section 78**

#### **Penal liability for pollution**

Fines, imprisonment up to three months or both are applicable to anyone who wilfully or negligently:

- a) has, does or initiates anything which may pollute in violation of this Act or in violation of regulations pursuant to this Act,
- b) does not take measures which he is required to take in accordance with Sections 7 and 40, in accordance with regulations issued pursuant to the Act, in accordance with conditions stipulated in individual permits issued in accordance with Section 11, in accordance with conditions stipulated in approved emergency preparedness plans in accordance with Section 41, or in accordance with special orders pursuant to this Act,
- c) does not provide notification in accordance with Sections 19 or 20, or who does not submit an emergency preparedness plan in accordance with Section 41,
- d) does not comply with the orders of the pollution control authority in accordance with Sections 49-51,
- e) is a party to violation as specified in litraes a) to d) above

If the violation has created danger of major damage or disamenity, or if there are other aggravating circumstances, prison sentences of up to two years may be imposed, and up to five years if the violation has involved danger to human life or health.

If violation has only led to insignificant pollution or to insignificant danger of pollution, public prosecution will only be raised at the request of the pollution control authority.

### **Section 78a**

#### **Penal liability for violation of the EMAS scheme**

Anyone who wilfully violates the provisions of Article 10 subsection 1 or subsection 3 or Article 4 subsection 7 of Council Regulation (EEC)1836/93 allowing participation by companies in the industrial sector in an eco-management and audit scheme (the EMAS scheme) cf. Section 52c, or who contributes thereto, shall be punished by fines or imprisonment up to 3 months or both, provided a more severe penalty is not applicable according to any other penal provision.

Negligent violation of the provisions mentioned in the first paragraph, or contribution thereto, shall be punishable by fines, provided a more severe penalty is not applicable according to any other penal provision.

### **Section 79**

#### **Penal liability for unlawful handling of waste**

Fines, imprisonment of up to 3 months or both are applicable to anyone who wilfully or negligently:

- a) discards or empties collected waste, large discarded objects or special waste, in such a way that they are unsightly or cause damage or disamenity to the environment,
- b) does not comply with orders to implement measures against waste in accordance with Section 37,
- c) is a party to violation as specified in litrae a) and b).

By regulations pursuant to Sections 30-33 it may be determined that violation of the regulations shall be punishable by fines.

If violation of the first paragraph has only led to insignificant damage or disamenity, public prosecution will only be raised upon request of the pollution control authority.



**Section 80**  
**Penal liability for companies etc.**  
(Repealed)

**CHAPTER 11**  
**ADMINISTRATIVE PROVISIONS. THE RELATIONSHIP TO THE PUBLIC**  
**ADMINISTRATION ACT.**

**Section 81**  
**The pollution control authorities**

The pollution control authorities are:

- a) At the national level: the King, the Ministry and the State Pollution Control Authority.
- b) At the county level: the County Municipality and the County Governor or whoever is designated by the Ministry,
- c) At the municipal level: the Municipality.

The King shall determine which pollution control authority shall be empowered to make decisions in accordance with this Act. The Ministry may further stipulate that decisions in accordance with the Act may be taken by others than the pollution control authorities including private bodies.

The King may order the other pollution control authorities to carry out duties in accordance with this Act. Instructions may also be given concerning the execution of authority and concerning the delegation of authority in accordance with Sections 83 and 84.

**Section 82**  
**The pollution control council**  
(Repealed)

**Section 83**  
**Delegation of authority assigned to the municipality or to the county municipality**

The County and Municipal Administration Act is applicable with regard to the right to delegate authority to the municipality or to the county municipality.

When special circumstances so warrant, the Municipal Council and the County Council may delegate authority for making individual administrative decisions to municipal/ inter-municipal and county municipal/inter-county municipal enterprises, respectively.

**Section 84**  
**Authority assigned to the county municipality delegation**  
(Repealed)

**Section 85**  
**Relationship to the public administration Act**

The Public Administration Act applies to the administrative handling of cases in accordance with the present Act.

Decisions taken by the State Pollution Control Authority may be appealed to the Ministry. Decisions taken by the County Governor may be appealed to the State Pollution Control Authority. With regard to decisions taken by the municipality, Section 28 second paragraph of the Public Administration Act applies, with the exception of decisions according to Section 47, where appeal shall be addressed to the County Governor. The Ministry may designate another appeal body than that which follows from this paragraph, and to whom appeals concerning decisions taken by private legal bodies shall be addressed.

The pollution control authority may issue supplementary regulations concerning the administrative

handling of applications in accordance with Section 11, including to whom the applications shall be submitted, the announcement of applications and permits and concerning payment of such announcement.

## **CHAPTER 12 FINAL PROVISIONS**

### **Section 86**

#### **Relationship to Older Enterprises**

The Act also applies to activities which were initiated before the Act entered into force. The provisions in Section 37 concerning the obligation to clean up waste, also applies to violations of Section 28 which have taken place before the entry into force of this Act.

It is nevertheless not necessary to apply for a new permit in accordance with Section 11 for pollution which has been permitted in accordance with Act of 15 March 1940 No. 3 relating to Watercourses, Sections 48 and 49, Act of 16 June 1961 No. 15 relating to Legal Matters between Neighbours, Section 19, or Act of 26 June 1970 No. 75 relating to Water Pollution, Sections 6 or 10.

Activities already initiated when this Act entered into force and which did not need permission in accordance with provisions as specified in the second paragraph, can continue unaffected without a permit in accordance with Section 11, cf. Sections 7 and 29. The same applies to activities permitted following, neighbour appraisal, carried out pursuant to the Neighbour's Act, Sections 7 and 8 before the Act entered into force. The pollution control authority may, nevertheless, by regulations or individual decisions that such activities are unlawful after a stipulated time limit, if the activities do not have permission in accordance with Section 11.

### **Section 87**

#### **Relationship to decisions taken pursuant to older legislation**

Regulations or individual decisions adopted pursuant to legal provisions which are repealed in accordance with Section 90, remain in force until they are amended or repealed pursuant to this Act.

### **Section 88**

#### **Implementation provisions**

The Ministry may lay down provisions for supplementing and implementing this Act, including provisions concerning cooperation between the pollution control authorities and other authorities.

### **Section 89**

#### **Entry into force**

This Act enters into force from such time as the King decides. Parts of the Act may enter into force at different times, as well as in different counties and municipalities. In connection with the entry into force of this Act, or at a later time, the King may set a time limit for all municipalities or for individual municipalities to fulfil the responsibilities which the Act imposes on them. The same applies to the highway authorities in relation to Section 36.

### **Section 90**

#### **Repeal of and amendments to other Acts**

(These provisions are not included)