

## **Act No. 117 of 27 November 1992 relating to State aid**

Cf. EEA Agreement, Articles 61, 62, 63 and 64 and Annex XV, Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, Protocol 3

### *§ 1. Scope of the Act*

This Act applies to all State aid measures that fall within the scope of Article 61 of the EEA Agreement, the OECD shipbuilding agreement or the WTO/GATT agreement on subsidies and countervailing measures.

The King may decide that this Act shall be applicable when implementing other international agreements by which Norway is bound.

### *§ 2. Notification of aid measures*

State aid measures which come within the scope of Article 61 of the EEA Agreement or the OECD shipbuilding agreement must be notified to the Ministry by the person that is to provide the aid before the aid measure may be put into effect. The Ministry may require the submission of any information deemed necessary to verify that the provisions laid down pursuant to this Act are complied with.

The Ministry may require the person that is to provide the aid to draw up reports concerning the allocation of any aid that comes within the scope of section 1.

The King may issue further provisions concerning the aid measures to which the notification requirement applies, the time limit for notification and the types of information that may be required.

### *§ 3. Repayment of aid granted*

If such aid as set out in Article 61 of the EEA Agreement to which the notification requirement applies is granted before the EFTA Surveillance Authority has approved the notification, or the EFTA Surveillance Authority finds that the aid is not compatible with the provisions of the EEA Agreement concerning State aid, it may be required that the aid is repaid.

Repayment of aid that has been granted may also be required if the Ministry finds that the aid is not compatible with other international agreements as mentioned in section 1, or if the aid is found to be incompatible with such agreements in a decision that under international law is binding for Norway.

The Ministry may prescribe that the amount to be repaid shall include interest. The King may issue further provisions concerning the conditions for and the implementation of such repayment.

§ 4. *The Ministry's decision in cases of doubt*

In cases of doubt the Ministry decides whether an aid measure is deemed to fall within the scope of this Act and any regulations issued pursuant thereto.

§ 5. *Entry into force*

This Act enters into force as from the date on which the EEA Agreement enters into force for Norway.<sup>1</sup> The Act applies to State aid granted subsequent to its entry into force.

---

<sup>1</sup>As from 1 January 1994.

## **Regulations relating to the implementation of the provisions on State aid of the EEA Agreement<sup>1</sup>**

### § 1. *Scope*

These regulations apply to all existing state aid schemes and all plans to introduce or alter State aid to industrial activity that falls within the scope of Article 61 ff. of the EEA Agreement.

The Ministry may issue further provisions concerning which aid measures fall within the scope of the Act relating to State aid and these regulations. In cases of doubt, the department may also decide whether an aid measure falls within the scope of the Act and the regulations.

### § 2. *Notification of aid measures*

The Ministry may order the granting authority to provide information on existing aid schemes.

The granting authority shall, on prescribed forms, notify the Ministry of all plans to introduce or alter State aid pursuant to section 1.

Individual awards of aid or aid schemes are exempt from the notification requirement if the aid granted to a recipient does not contravene the conditions for *de minimis* aid.

Awards of aid under approved aid schemes are normally also exempt from the notification requirement. Separate grants exceeding certain threshold values must be notified in the case of certain types of aid, aid to certain sectors and in the case of cumulation, cf. section 3.

Aid which is subject to the notification requirement may not be granted until the notification has been approved by the EFTA Surveillance Authority.

The Ministry may lay down further provisions concerning the notification requirement.

### § 3. *Cumulation*

When granting aid, the granting authority shall verify that the total amount of aid granted to the recipient from State sources:

1. does not exceed the limits set for *de minimis* aid for aid outside approved schemes,

---

<sup>1</sup> Laid down by Royal Decree of 4 December 1992 pursuant to Act No. 117 of 27 November 1992 relating to State aid, cf. EEA Agreement, Article 61 ff. Submitted by the Ministry of Industry and Energy. Amended by Royal Decree of 31 March 1995. Amended by Royal Decree of 13 September 1996.

2. does not exceed the level of aid prescribed for the purpose for which the aid is intended. *De minimis* aid shall not be included,
3. does not exceed the level of aid prescribed for individual projects when the aid is granted for different purposes. *De minimis* aid shall not be included.

If the total amount of aid exceeds the levels set out in item 1, 2 or 3, the aid measure shall be notified pursuant to section 2.

The Ministry may lay down further provisions concerning when cumulation is subject to the notification requirement.

#### § 4. *Duty to provide information and conditions*

The recipient of aid has a duty to provide the information required to enable the Ministry and the granting authority to verify compliance with the provisions concerning State aid.

The granting authority shall therefore when granting State aid lay down conditions concerning:

1. the right of the Ministry and the granting authority to require submission of the prescribed information from the recipient of the aid,
2. the duty of the recipient of the aid to provide information concerning other State aid,
3. the right of the Ministry to order that repayment may be claimed for aid granted unlawfully,
4. the right of the Ministry to order that aid schemes shall be altered or abolished,
5. the provision that the recipient of the aid must not receive *de minimis* aid for the same activity on such a scale that this exceeds the total permissible limit for *de minimis* aid of 100,000 ECU over a period of three years.

#### § 5. *Repayment of aid etc.*

The Ministry may order the granting authority to require the repayment of aid granted unlawfully that is found to be in breach of the provisions of the EEA Agreement. The conditions for any claim for repayment of aid are to be laid down by the Ministry in each individual case. The rate of interest on the claim for repayment be based on the market rate. The interest shall generally run from the date on which the aid is received until the date of repayment.

The Ministry may also order the granting authority to abolish or alter the aid scheme. The Ministry may lay down further provisions in individual cases.

§ 6. *Reporting aid granted*

The Ministry may order the granting authority to draw up a report on the allocation of aid funds. The Ministry may lay down further guidelines concerning the duty to report.

§ 7. *Entry into force*

These regulations enter into force as from the date on which the EEA Agreement enters into force for Norway.