

## **Act no. 7 of 25 March 1994 relating to protection against and compensation for natural damage (Act on Natural Damage)**

Cf. the previous Act no. 24 of 9 June 1961. Cf. Act No. 70 of 16 June 1989 relating to insurance of damage caused by natural perils.

### **Chapter One. The Norwegian National Fund for Natural Damage Assistance.**

#### **Section 1**

The Norwegian National Fund for Natural Damage Assistance has the following purposes:

1. to provide compensation for natural damage in those cases where insurance against such damage is not available through ordinary insurance arrangements,
2. to promote protection against natural damage, and
3. to provide support for protection measures.

The Fund may not provide compensation in cases where the damage is actually covered by an insurance policy.

#### **Section 2**

The Norwegian National Fund for Natural Damage Assistance shall have a board consisting of five members with personal deputies. The Board shall be appointed by the King for a period of five years. The King shall decide who shall be the Chairman and the Deputy Chairman of the Board.

The Board of the Fund shall have a secretariat. Further rules concerning the secretariat shall be issued by the King.

The King may lay down instructions concerning the activities of the Board of the Fund. The instructions may include provisions indicating that the authority of the Board may in specific cases be entrusted to the Chairman of the Board or to the secretariat.

### **Chapter Two. Compensation for Natural Damage.**

#### **Damage for which compensation is provided (sections 3–6)**

#### **Section 3**

Compensation is provided for natural damage to real property in Norway. Compensation is provided for damage to movable property located in Norway when the owner resides or is employed in Norway, or is a company, a corporation or foundation that is situated in Norway or operates industrial activities in Norway.

Compensation is not provided in respect of damage to property that belongs to the State, a municipality or a county authority. This also applies to property that belongs to a company, foundation, etc. formed on the basis of the transfer of funds from the State, a municipality or a county authority, or where any of these has a major financial interest.

In the case of interruption of activities for long periods, full or partial compensation of operating losses may be provided when special grounds so indicate. The same applies to expenses incurred in averting damage.

#### **Section 4**

For the purposes of this Act, natural damage shall signify damage that directly results from a natural disaster, such as landslide, storm, flood, storm surge, earthquake, volcanic eruption or similar natural disaster.

Compensation is not provided for damage immediately caused by lightning, frost (frozen soil) or drought. The same applies in the case of damage caused by attacks by animals, insects, bacteria, fungi or similar cause. Nor may compensation be claimed from the Fund for damage immediately caused by rainfall or by ice drift, but the Board of the Fund may notwithstanding provide full or partial compensation where special grounds so indicate.

#### **Section 5**

Compensation is not provided in respect of damage to standing crops, shipping vessels and small craft and objects in these, aircraft, fishing gear, equipment in the sea for production of fish, fish in nets, seines or dams, aerials, signs, or similar constructions, equipment for extraction of crude oil, natural gas or other natural resources on the seabed, cash and securities. The Board of the Fund may, however, provide full or partial compensation where special grounds so indicate and in those cases where insurance against such damage is not available through ordinary insurance arrangements.

When a statement has been judicially registered, as referred to in section 14, compensation is not provided in respect of damage to buildings and constructions erected after registration has taken place, or for movable property in these buildings, when the damage is of a nature to which the statement applies. Where such a statement has been judicially registered, compensation may not be provided in respect of damage to property of which the claimant has retained ownership, which occurs after support has been provided for moving from the damaged property on the basis of the full value of the property. In the case of damage to forest, compensation is provided according to regulations laid down by the King. The King may issue regulations stipulating that compensation may not be provided in respect of specific types of buildings.

#### **Section 6**

The claimant has not right to compensation from the Fund when he is entitled to compensation by a third party. The Board of the Fund may however award full or partial compensation if special grounds so indicate. Conditions may be stipulated requiring the claimant to institute legal proceedings against the person responsible for the damage, and requiring the claimant in such a case to include claims for compensation that the Board of the Fund may enforce pursuant to the second paragraph.

The Board of the Fund may require any compensation paid to be reimbursed by the person responsible for the damage in an amount found reasonable with regard to the financial standing of the person responsible, the degree of fault shown and other circumstances. If the claimant himself submits claims for compensation against the person responsible for the damage, such claims shall be covered prior to the Fund's claims for reimbursement.

## **Notification and valuation of damage (sections 7–10)**

### **Section 7**

Provision of compensation is conditional upon notification of the damage being made to the district police officer (the Lensmann) in police districts presided over by a Lensmann – and elsewhere to the city court or district court – not later than four weeks after the damage has occurred. The Board of the Fund may extend the time limit. If the circumstances so indicate, the Board of the Fund may decide that the case shall be examined even if the time limit for notification of the damage has been exceeded.

### **Section 8**

The damage shall be evaluated as soon as possible. In police districts presided over by a Lensmann, the Lensmann shall be the valuation administrator. Elsewhere, the valuation administrator shall be appointed by the city or district court.

If the valuation administrator decides that valuation shall not be carried out because notification of the damage has been received too late or because the conditions for compensation are not present, he sends the claim to the Board of the Fund with his recommendation. The same applies if he finds that any of the provisions in the next paragraph shall apply, or this is so requested by the claimant.

The Board of the Fund may decide that the valuation shall be carried out as a judicial assessment, or agree with the claimant that another method of valuation shall be used. In the case of minor damage, the claimant's statement of damage may be accepted.

If the Board of the Fund decides that no valuation of the damage shall be made, the claimant may request to have a valuation made at his own expense. The decision of the Board of the Fund may not be appealed. The time limit for requesting such a valuation is two weeks after receipt of notification of the Board's decision. If the claimant is awarded compensation, he is entitled to reimbursement of the cost of such valuation in accordance with the provisions laid down by the fourth paragraph of section 9.

## **Section 9**

In respect of the amendments ensuing from this section, the provisions of the Act on Public Survey Valuation shall apply for valuations pursuant to the present Act. Valuation administered by a valuation administrator shall be dealt with in accordance with the provisions for the administration of valuation by a Lensmann.

The parties shall be summoned to the valuation by registered mail unless the valuation administrator decides otherwise. The valuation administrator may reduce the period of notice stipulated in section 21 of the Act on Public Survey Valuation.

Unless the valuation authority finds the presence of the parties to be necessary, the valuation may take place even though the parties are not present. The valuation may be postponed if so requested by one of the parties, giving a reason that is found acceptable by the valuation authority.

The valuation costs shall be borne by the Fund. The fourth paragraph of section 8 shall, however, apply correspondingly. No fee shall be paid to the State.

The parties shall be notified of the result of the valuation by registered mail unless otherwise decided by the valuation administrator.

## **Section 10**

If the damage can be repaired, the valuation shall be fixed to the amount required to cover the cost of so doing. If the utility value of the damaged object is greater after repair than before the damage occurred, the increase in utility value shall be valued separately. If the Board of the Fund finds it necessary to stipulate conditions as mentioned in the second paragraph of section 14, the cost of such measures shall be valued separately.

If the valuation administrator or any of the valuers finds that there is a risk of natural damage on the site of the damaged building (cf. section 22), or that there may be grounds for taking measures to protect against natural damage, this shall be stated in the valuation. In such a case, the municipality shall be notified of the result of the valuation.

If the damage cannot be repaired, the valuation shall be fixed to the amount required to compensate for the decrease in value caused by the damage.

Valuation shall be based on the market value of the property immediately prior to the occurrence of the damage.

The King may issue regulations concerning valuation and concerning the information that can be procured in connection with the valuation.

## **Compensation (sections 11–17)**

### **Section 11**

When the Board of the Fund receives a valuation of damage as referred to in sections 7–10 of the Act, the Board shall decide whether natural damage has occurred and whether the claimant is entitled to compensation.

The amount of compensation shall be determined on the basis of the appraised value or accepted statement of damage according to the following rules:

1. An amount determined by the King is deducted from the appraised value of each instance of natural damage.
2. The compensation may be reduced or completely refused when the damage has affected property that has no utility value or whose replacement value is considerably greater than the utility value.
3. The compensation may also be reduced or, depending on the circumstances, completely refused
  - (a) in the case of buildings erected on a site, where, in view of the conditions obtaining on erection or at the time of purchase, the claimant should have been aware of the high risk of such damage that has occurred. The same applies for movable property placed on a site where the claimant should have been aware of the high risk of occurrence of such damage.
  - (b) in the case of buildings, where factors such as weak construction in relation to the stresses the building could be expected to be exposed to, faulty construction, bad workmanship, unsuitable materials, poor maintenance or inadequate inspection are contributory causes of the damage that has occurred, or where such factors have increased the extent of the damage. When making a decision, importance shall be attached to the claimant's qualifications for understanding what requirements should be placed, to his potential for correcting the deficiencies and to other aspects. No reduction shall be made if the claimant can only be given a small part of the blame.
  - (c) if the foundations or the building have been exposed previously more than once to damage of the same kind.
  - (d) when the claimant before or after the damage occurred has neglected to take steps that, in the circumstances, were reasonable to prevent or limit the damage, or when he has acted in ways that he knew or should have known would increase the risk for such damage as has occurred.
  - (e) when the risk of such damage as has occurred is foreseeable in relation to the claimant's activities.

When compensation is refused or reduced pursuant to litra a, b or c, the same may apply to movable property that was in the building being damaged.

4. When determining the amount of compensation, the Board of the Fund may deduct the estimated increase in utility value pursuant to section 10 if this is found reasonable.
5. The King issues regulations concerning how the amount of compensation shall be determined on the basis derived from the rules laid down by no. 1–4 above.

6. If the amount of compensation determined by applying these rules would be greater than the claimant's financial loss, the Board of the Fund board may reduce the compensation to the amount necessary to cover the loss.
7. When special grounds so indicate, the King may consent to the Board of the Fund fix the compensation to an amount in excess of the largest amount of compensation that can be determined according to no. 5.

## **Section 12**

If the damaged object is owned by two or more persons in common, the appraised value shall be divided between them according to their shares in the ownership. The compensation shall then be determined according to the rules laid down by section 11.

## **Section 13**

The claimant shall be notified in writing of the decision of the Board of the Fund. The grounds for the decision shall be given. At the same time, the claimant shall be informed of the rules for appeal as laid down by sections 18 and 19.

## **Section 14**

The compensation shall be used to repair the damage, unless otherwise decided by the Board of the Fund. When special grounds so indicate, the Board of the Fund may permit that the claimant may freely dispose the compensation paid to him.

The Board of the Fund may decide that payment of compensation shall be conditional upon the damage being repaired in such a way that the risk of natural damage is reduced. If the site of a damaged building is particularly susceptible to natural damage, the Board of the Fund may impose the condition that the building be moved to a site that is less susceptible. It may alternatively impose the condition that the compensation shall be used to purchase another property outside the area susceptible to damage. The Board of the Fund may in this connection decide that a statement that the site is susceptible to natural damage shall be judicially registered.

If the Board of the Fund has imposed such conditions as referred to in the previous paragraph, it may award the claimant a grant to cover the excess costs incurred. The King may issue further regulations concerning this issue.

The Board of the Fund may stipulate as a condition for payment of compensation that mortgages or other real security in the damaged objects shall be wholly or partially redeemed or that other security shall be provided.

## **Section 15**

The compensation shall be paid on repair of the damage or on fulfilment of the other conditions referred to in section 14.

The Board of the Fund may pay an advance on the compensation. In special cases, such payment may also be made before the amount of compensation has been fixed. The payment may be made conditional on the provision of guaranteeing that the advance is used for the approved purpose. The decision of the Board of the Fund may not be appealed.

If the conditions for payment of compensation are not fulfilled within three years after the date when the amount of compensation was finally fixed, the compensation claim expires. The Board of the Fund may extend the time limit.

The Board of the Fund may instruct the municipality to ensure that the claimant fulfils the conditions referred to and to assist in ensuring that the compensation is correctly paid. The King may also lay down in regulations that other public bodies may be instructed to carry out such duties.

## **Section 16**

If the means allocated to the Fund after a major natural disaster are not sufficient to cover claims that the claimant is entitled to make pursuant to the provisions laid down by the Act, amounts of compensation that have been fixed but not yet paid by the Fund may be reduced by the Board of the Fund to the same extent as the compensation following the disaster must be reduced. However, the Fund shall consider whether this would result in unreasonable treatment of a claimant in cases where the claimant has contracted obligations in order to have the damage repaired. The Board of the Fund may make corresponding reductions in compensation for damage that occurs at a later date during the current and the subsequent fiscal year. The decisions of the Board of the Fund may not be appealed.

## **Section 17**

Claims for compensation pursuant to this Act may not be transferred without the consent of the Board of the Fund. Nor may such claims, without the consent of the Board of the Fund, be subject to distraint or attachment, or be confiscated in a bankrupt estate or insolvent estate of a deceased person.

The provision laid down in the second sentences of the first paragraph shall also apply if the Board of the Fund pursuant to the first sentence of section 14 has decided that the compensation shall be used for a purpose other than repair of the damage.

## **Appeals against decisions of the Board of the Fund (sections 18 and 19)**

### **Section 18**

The claimant may appeal to the Board of Appeal against decisions made by the Board of the Fund pursuant to this Act.

The Board of Appeal consists of five members with personal deputies. The Board of Appeal is appointed by the King for a period of five years. The Chairman, the Deputy Chairman and their deputies shall have the qualifications required of Supreme Court judges.

### **Section 19**

Appeals must be sent the Board of the Fund within three weeks after the claimant has received notification of the decision of the Board. The provisions laid down in chapter VI of the Act on Public Administration shall apply unless otherwise laid down by the present Act.

Legal proceedings concerning the legality of a decision made by the Board of the Fund may not be instituted unless the claimant has made use of his right to appeal pursuant to section 18. Legal proceedings must be instituted within three months after receipt of the decision of the Board of Appeal.

### **Chapter Three. Measures to Prevent Natural Damage.**

#### **Management of land areas susceptible to natural damage (sections 20–23)**

##### **Section 20**

The municipality is responsible for taking measures against natural damage pursuant to section 25, first paragraph, no. 5 and section 68 of the Act on Building and Planning and in addition to make necessary protective measures.

The King may lay down in regulations or decide in individual cases that the State shall assist in taking certain kinds of protective measures.

##### **Section 21**

The municipality may order the relinquishment of real property or title to real property, and may also prohibit the felling of timber or other particular utilisation of property when necessary with regard to the implementation of protective measures against natural damage, except in cases referred to in section 102 of the Act on Water Resources of 15 March 1940.

The King may issue further regulations concerning planning and implementation of protective measures and maintenance of protective measures.

##### **Section 22**

The municipality may decide to impose a ban on building and division of property in respect of properties or parts of properties located in areas where a risk of natural damage may arise. Such a ban shall indicate the properties concerned and specify what kind of damage there are grounds for anticipating. The area shall be mapped in so far as it forms part of the economic cartography.

The ban on building and division of property may be judicially registered.

When the risk of natural damage is no longer present, the decision concerning the ban on building and division of property is required to be revoked and the judicial registration erased.

#### **Expropriation of a site for which compensation has been granted (section 23)**

**Section 23**

When owing to the risk of natural damage an owner or lessee must move a building or re-erect a damaged building elsewhere, the municipality may permit expropriation of a building site for ownership or use.

## **Reimbursement (section 24)**

### **Section 24**

The municipality may claim reimbursement of expenses for protective measures against natural damage pursuant to the provisions laid down by the present section. The same applies to persons who have carried out such measures by approval of the municipality and who are owners or lessees of property that is susceptible to natural damage.

The expenses shall be paid by persons who own or lease property within the area affected by the protective measures. The expenses for which reimbursement may be claimed are limited to the total growth in value of the site and buildings brought about as a result of the measures.

The reimbursement obligation for any property subject to reimbursement is limited to the growth in value brought about as a result of the measures.

When calculating the growth in value, account shall be taken of whether the measures have resulted in increased potential for development, cultivation and forestation, etc.

The municipality determines the amount of reimbursement for each property on the basis of accounts of the necessary legitimation for the measures.

The owner or lessee may require disputes concerning the obligation to pay reimbursement and the size of reimbursement to be decided on the basis of valuation according to the provisions laid down by the first paragraph of section 8 and by paragraphs 1 to 3 of section 9. Such valuation must be requested within three weeks after receipt of the decision of the municipality.

When the amount of the reimbursement is finally fixed, the owner or lessee of the property is obliged to pay the amount within five weeks. Finally established claims for reimbursement constitute charges on the property. Such claims constitute enforceable grounds for distraint.

Chapter IX of the Act on Planning and Building, with the exception of the third paragraph of section 56, shall apply correspondingly.

## **Chapter Four. Entry into Force. Amendments to Other Acts.**

### **Section 25**

The Act shall enter into force from the date decided by the King.

### **Section 26**

With effect from the entry into force of the present Act, the following amendments are made to other Acts: - - -

