

Unofficial translation

**Act No. 51 of 8 June 1984 relating to
Harbours and Fairways¹
(The Harbour Act)**

**Chapter I
General Provisions**

§ 1 (Purpose)

The purpose of this Act is to facilitate the best possible planning, development and operation of harbours, and to safeguard traffic.

§ 2 (Scope)

This Act applies to Norwegian internal waters and Norwegian sea territory in general. The applicability of this Act on land is defined in Section 14.

This Act also applies to watercourses as far upstream as they are navigable by vessels from the sea. The Ministry² may determine what is meant by navigability by individual decision or by regulation. The Ministry may render the provisions of this Act wholly or partly applicable to rivers and lakes above and beyond the provisions of this paragraph.

The King³ will determine to what extent this Act applies to Svalbard. The King will determine such amendments to this Act as are required by local conditions.

¹As subsequently amended, most recently by Act No. 85 of 1 June 1993.

²At present, the Ministry of Fisheries

³The King in Council

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The King may direct that land or sea areas, or work or construction or other measures related to defence purposes shall be exempt from this Act and may otherwise direct that all powers pursuant to this Act be transferred to central government authorities in the event of contingency measures or war.

§ 3 (Definition of vessel)

For the purpose of this Act, "vessel" shall mean any floating object that may be used as a means of transport or conveyance, or as a place of sojourn, production or storage, including all kinds of underwater vessels. The Ministry may determine what is meant by vessel by individual decision or regulation.

Chapter II.

(The organs,duties and authority of the State)

§ 4 (The National Coastal Administration)

The Ministry's duties shall be carried out through the National Coastal Administration, which includes the Coast Directorate, the Coastal District Offices and subordinate organs having the Coast Directorate as their central authority. The King will lay down regulations for the National Coastal Administration.

§ 5 (The authority of the State and delegation of powers)

The Ministry is responsible for the supervision and control of harbours and fairways, including the State Harbour Service, the State Lighthouse Service and the State Pilotage Service.

Outside a harbour district the Ministry exercises the authority and rights conferred on the municipality pursuant to this Act.

The King or the Ministry may delegate powers to the municipalities. Powers pursuant to Section 6 third paragraph may however only be delegated by the Ministry to municipalities in relation to permits for measures of minor importance to the traffic in the area. Unless otherwise decided by the Ministry,

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the National Coastal Administration may delegate powers to District Offices of the National Coastal Administration or to municipalities. Powers delegated to the Coast Directorate pursuant to Section 6 third paragraph may nevertheless not be delegated to a municipality.

When State authority is delegated, it may be prescribed that individual decisions shall be made by the municipal council itself. In accordance with regulations issued by State authorities pursuant to this Act, the municipality, an organ for intermunicipal harbour cooperation or a harbour board appointed in accordance with a decision by the Ministry may be empowered to lay down supplementary provisions.

In matters pertaining to Act No. 68 of 14 June 1985 relating to the farming of fish, shellfish etc, the Ministry may delegate powers pursuant to this Act to Chiefs of Fisheries. Powers may only be delegated in this way for matters which may be considered straightforward.

§ 6 (Regulation of fairways, etc.)

In the interests of national security, the flow of traffic, or general environmental considerations, the King may lay down regulations or make individual decisions concerning the use of, or prohibition against the use of certain waters, or concerning permission to use the same on specific conditions.

The Ministry may lay down regulations or make individual decisions concerning the regulation of traffic, including traffic separation and maximum speed limits for vessels, and concerning the authority of the municipality to make such decisions within the harbour district.

Any measures which may alter the course of a river or fairway, or the flow of the current, or may restrict the waters in depth, breadth or height in such a way as to impede traffic, require the permission of the Ministry.

§ 7 (Beacons and navigation marks etc)

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The Ministry is responsible for the supervision, construction and operation of beacons, navigation marks and other aids to navigation, and for any fairway where the municipal council is not responsible pursuant to Section 16.

The Coast Directorate may lay down regulations or make individual decisions concerning the location or design of or technical requirements for beacons or marks or fairway signs to regulate traffic. The Ministry may lay down regulations or make individual decisions concerning other installations or facilities to aid navigation.

The Coast Directorate may grant permission to set up beacons, navigation marks, fairway signs and facilities for supervising traffic. Such installations and facilities must not be used for mooring or be removed, moved, altered or obstructed etc. without special permission from the Coast Directorate. The Ministry may grant permission to establish other installations or facilities to aid navigation. No one may without permission from the Ministry use such installations or facilities for other purpose than intended, or take any action which may impede or complicate their intended functions.

The provisions of this section also apply to the shore above the highest ordinary spring high-water line.

§ 8 (Construction and other measures)

The Coast Directorate may lay down regulations and take individual decisions concerning the technical requirements for wharfs and other installations and harbour facilities, and concerning which tasks may be carried out at such installations and facilities.

Any construction or other measures which may be of importance to installations, facilities or activities of the Defence Forces or the National Coastal Administration require the permission of the Ministry. If there is any doubt whether or not the constructions or measures are of such a nature, the matter shall be referred to the Ministry and the defence authority concerned.

The King may determine that the construction of wharfs or other facilities or installations in the harbour which are essential to traffic at sea or to the

seaward approaches requires the permission of the Ministry after the County Council has expressed its opinion. The Ministry will lay down provisions for the procedure to be followed pursuant to this paragraph.

§ 9 (Conditions on which permission may be granted)

Conditions may be laid down in respect of any permission granted or other decisions made in accordance with the provisions of this chapter. The conditions may include investigations, implementation, dimensioning, equipment, maintenance or use, or any other necessary measures. The terms may state that disputes concerning compliance with the conditions shall be settled by a committee and may include the composition of such committee and procedures to be followed. Such a decision by the committee is an individual decision according to the normal rules of administrative law, and may as such be appealed to the administrative body which laid down the conditions. These provisions do not restrict the parties' right to bring the committee's decision before the court. It may be decided that the party who is granted permission, or the party in whose interest a decision is made, shall cover the expenses incurred by compliance with the conditions as described in the second sentence. Permission may also be made contingent on the right to close down or remove the installation or parts of it at the expense of the owner and/or user should the conditions not be complied with. Permission may be granted for a limited period of time.

§ 10 (Ministerial supervision of municipal decisions etc.)

The Ministry shall approve municipal regulations if their violation is punishable, or if the regulations restrict the right of free passage through or the free use of waters and harbours in the harbour district. Municipal regulations on harbour dues are exempted from the provisions in the first sentence.

The Ministry may decide that a synopsis shall be drawn up of current provisions and of other information of importance to those using or staying in the harbour.

§ 11 (Decisions by the Ministry)

The Ministry may lay down regulations or make individual decisions concerning:

1. the obligation of masters, owners, consignees, consignors or others to report vessels, vehicles or cargoes to the harbour authorities,
2. restrictions on the right of the municipality to regulate the use of waters outside the base lines or in main fairways or important secondary fairways within the harbour district, for instance in the interests of fishing or other activities in or on the sea,
3. the unloading, loading, storage and transport of hazardous substances and goods within the harbour district,
4. the laying of cables and pipelines in the sea, dumping of substances or objects, and the use of beacons or other facilities or devices to aid navigation,
5. measures to prevent pollution from anchored and moored vessels, including the screening of light and abatement of noise,
6. the right of State or municipal officials to have access to vessels, installations and facilities in the course of their duties,
7. the laying-up of vessels. Environmental problems or inconvenience to the fishing industry which may be caused by laid-up vessels shall be taken into consideration,
8. the fact that fishing vessels have priority to use wharfs or harbour installations built or purchased for fishery purposes. This also applies to the use of sea areas in connection with such installations.

Chapter III.

Special steering bodies for harbours and fairways

§ 12 (Municipal steering body for harbours and fairways)

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If the importance of a harbour for trade and transport extends beyond the municipality in which it is located, or if a harbour is of particular importance from a military or contingency point of view, the Ministry may prescribe that a harbour board shall be appointed and lay down specific provisions concerning the appointment and composition of the harbour board. If the harbour administration is organized as a municipal concern, the Ministry may also lay down such provisions for the board and the other organs of the concern.

Two or more municipalities may establish intermunicipal cooperation and organs for such cooperation for entire municipalities or parts of municipalities to deal with matters pursuant to this Act. If the municipalities fail to agree on voluntary intermunicipal harbour cooperation in areas where this would be particularly appropriate, the King may issue an order concerning intermunicipal harbour cooperation and the establishment of organs for such cooperation to deal with matters pursuant to this Act. Unless otherwise provided in the statutes for intermunicipal harbour cooperation, the intermunicipal cooperation organ shall have the same authority as the municipalities pursuant to this Act to take individual decisions and adopt regulations. Otherwise, the provisions of the Local Government Act concerning intermunicipal cooperation apply in so far as they are appropriate.

§ 13 (Harbour administration)

(Repealed by Act No. 85 of 11 June 1993.)

Chapter IV.

The geographical boundaries of the municipal council's authority

§ 14 (Harbour district)

The authority vested in the municipal board pursuant to this Act may only be exercised within the boundaries of the harbour district.

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The Ministry will establish, alter or repeal harbour districts outside the highest ordinary spring high-water line after the municipal council itself has expressed its opinion, subject, however, to the King determining the boundaries outside the base lines. The King will also determine how the boundaries shall be drawn in the sea between municipalities. As a general principle, boundaries in the sea shall not extend further than the distance at which there is a reasonable connection between activities ashore and at sea.

The municipal council itself will establish boundaries for the harbour district on land. Areas which are designated as harbour areas in a binding zoning plan pursuant to Section 25, cf. Section 29, of Act No. 77 of 14 June 1985 relating to Building and Planning, shall be included in the harbour district.

§ 15 (Areas subject to dues)

The municipal council may establish one or more areas which are subject to harbour dues.

Chapter V.

The duties and authority of the municipality

§ 16 (The responsibility and authority of the municipality)

The municipality is responsible for the planning, development and operation of its own wharfs and harbour installations.

The municipality shall ensure that wharfs and other facilities and harbour installations and the surrounding areas are in good repair and that traffic at sea or on land is not obstructed or impeded. Within a harbour district the municipality is responsible for fairways and the necessary beacons and navigation marks, and for signs informing of decisions made pursuant to this Act. The Ministry will lay down exemptions from the municipal responsibility pursuant to this section for fairways, beacons, navigation marks, and signs which are part of the main fairway or important secondary fairways used for general traffic. If the harbour board has been appointed pursuant to a decision of

the Ministry or in connection with intermunicipal harbour cooperation arrangements, the harbour board will assume the municipal responsibility pursuant to this paragraph.

Should the municipality make use of breakwaters, wharfs or other harbour installations owned by the State, the Ministry may require the municipality to assume responsibility for their operation and maintenance.

Unless otherwise provided pursuant to this Act, the municipality may lay down regulations concerning order in and use of the harbour and competing uses of waters in the harbour district, including rules relating to the placement of buoys or other mooring devices, to dumping areas, to icebreaking or measures to prevent ice from forming, to fixed installations in the sea, and if required for reasons of maritime safety, to the control of persons, luggage or cargo in the harbour district. In such regulations, the municipal council may give a permanent committee or the harbour board the authority to issue supplementary provisions.

§ 17 (The duties of the harbour board, delegation of powers etc)

For the purposes of this section, the term harbour board means a harbour board appointed in accordance with a decision by the Ministry or, unless otherwise prescribed, an intermunicipal harbour cooperation organ.

The harbour board shall prepare matters concerning harbours and fairways and submit proposals to the municipal council. The harbour board shall express its opinion where a decision may be of importance to such matters.

The harbour board shall take individual municipal decisions pursuant to this Act unless the municipal council determines that it shall decide on such matters itself, or unless it is determined pursuant to the penultimate paragraph of Section 5 that the municipal council itself shall take decisions. The municipal council may not delegate such powers to another municipal board unless the latter serves as a harbour board.

The harbour board may not take final decisions that are at variance with adopted plans or in matters requiring additional allocations.

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Unless otherwise decided by the municipal council, the harbour board has such authority in budgeting cases as may be delegated to it according to the budget regulations in force at any given time.

If the Ministry makes a decision on the appointment of a harbour board, it may also prescribe:

- that the harbour board is to lay down such regulations as the municipality is authorized to lay down pursuant to this Act
- that the municipal council may not restrict the authority of the harbour board pursuant to the third and fifth paragraphs, and
- that the harbour board has the authority to take decisions in matters requiring additional allocations, cf. the fourth paragraph.

Nevertheless, allocations may not exceed the funds which shall be used for harbour purposes pursuant to the last paragraph of Section 23. When a decision is taken pursuant to this paragraph, the harbour board will determine how the funds of the harbour treasury are to be administered.

§ 18 (The authority of the harbour board)

If a harbour board has been appointed in connection with intermunicipal harbour cooperation arrangements or in accordance with a decision by the Ministry, the harbour board will assume the municipality's authority pursuant to this section.

The permission of the municipality is required for any work or construction in areas outside the scope of the Building and Planning Act. Within the scope of the Building and Planning Act, such permission is required for measures referred to in Section 84 of the same Act. Prior to giving its permission, the municipality shall ensure that such work etc will not contravene provisions in or pursuant to this Act. Conditions may be laid down in accordance with Section 9. Should the provisions of Section 6 of the Act apply to the work etc., the permission of the Ministry instead of the municipality is required.

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If a vessel, motor vehicle or other object or installation may constitute a hazard or cause damage, the municipality may prohibit its further use, or construction work, or prescribe other necessary measures to be taken within a certain time limit. This also applies to the removal of wrecks or objects which sink or strand, or are left or abandoned. The person who was the owner of such vessel or object when it sank or stranded, or was left or abandoned, is responsible for its removal as specified in the previous sentence. In the interests of traffic at sea, injunctions concerning the screening of lights or prohibitions against the use of lights ashore may be laid down, independent of the restrictions specified in Section 14.

§ 19 (The harbour board's power to delegate authority)

(Repealed by Act No. 85 of 11 June 1993.)

§ 20 (Implementation of the Act by the municipalities)

It is the duty of all persons to comply with any injunctions issued by the municipality or the harbour board pursuant to this Act. Should immediate action be required and an injunction which has been issued is not obeyed, or if there is no time or opportunity to find a person to whom an injunction may be issued, an official may, after giving advance notice, close off areas at sea and on shore, and if necessary salvage, remove or take in custody vehicles, vessels, goods or other objects. The previous sentence also applies to wrecks or objects that have sunk or stranded, or been left or abandoned.

Chapter VI.

Harbour dues.

§ 21 (Harbour dues on vessels and goods)

The municipality may stipulate harbour dues and shall ensure that these are collected, on vessels that call at port or stay in or pass through areas subject

to dues and on goods loaded, unloaded, stored, or towed or floated into, within or from such areas.

§ 22 (What the harbour dues shall cover)

The King will lay down regulations concerning the expenses which shall be covered by the various dues. In the regulations the Ministry may be empowered to deviate from these in special cases. It is not permitted to stipulate or collect fees for services if the cost is already covered by the dues.

§ 23 (Kinds of harbour dues)

To cover the expenses etc. specified in regulations issued in accordance with Section 22, the following dues may be stipulated pursuant to Section 21:

- a. harbour dues
which are imposed on a vessel and shall constitute the vessel's payment for its use of sea areas and installations and measures which may facilitate its passage.
- b. wharfage dues
which are imposed on a vessel on mooring and shall constitute the vessel's payment for the use of municipal wharfs or mooring facilities,
- c. traffic dues
which are imposed on goods imported through the harbour
- d. dues on goods
which are imposed on goods and shall constitute payment for the use of municipal wharfs and areas and installations connected with these.

To the extent that ice conditions involve expenses or the harbour incurs expenses for passenger facilities, dues may be collected from vessels and goods according to rules laid down by the Ministry.

The King may decide that harbours which derive most of their income from a particular trade or from specific goods may collect one or more dues pursuant to the former Act.

Dues collected by the municipality in pursuance of this Act shall be used exclusively for harbour purposes. If a harbour board has been appointed in accordance with a decision by the municipality itself, in connection with intermunicipal harbour cooperation arrangements or in accordance with a decision by the Ministry, the harbour board shall express its views on the administration of the dues collected, which shall be kept separately in a harbour treasury. The same applies to payment for the use and rental of the municipality's special harbour installations in the harbour district. The Ministry may, by individual decision or regulations, define what is meant by harbour purposes and special harbour installations.

§ 24 (Ministry decisions)

The Ministry may lay down regulations concerning:

1. the scheduling of tariffs, including calculation, collection and remission,
2. registration of the municipality's expenses as a basis for stipulating dues,
3. discount schemes based on expenses,
4. information which is to be provided by the municipality, harbour users or private wharf owners, and on the obligation of the municipality to record statistics,
5. payment for the laying-up of vessels, including the inconveniences in addition to expenses for which compensation may be required,
6. payment for the use of fairways where there is vessel movement control etc,
7. agreements on payment and other conditions for the use of wharfs and facilities etc in lieu of paying dues pursuant to Section 23.

§ 25 (Liability for payment, collection)

The shipowner is liable for payment of harbour dues pursuant to Section 23, first paragraph a and b, and ice-breaking dues pursuant to the second paragraph. The vessel may be detained until any dues owed have been paid or a guarantee is provided. Section 247, second paragraph of the Maritime Act shall

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apply correspondingly. Customs clearance shall be refused when harbour dues are not paid. For harbour dues on goods according to Section 23, first paragraph c and d, and ice-breaking dues according to the second paragraph, the consignee is liable for incoming goods and the consignor for outgoing goods.

With regard to unpaid harbour dues on goods under Section 23 first paragraph c and d, and ice-breaking dues according to the second paragraph, Section 251 ff. of the Maritime Act shall apply correspondingly.

Any dues owed on vessels or goods may be collected by distraint.

Should harbour dues not be paid within the time stipulated, interest is to be paid according to the provisions of the Act relating to Interest on Overdue Payments.

Chapter VII

Harbour planning

§ 26 (Municipal and county planning)

Harbour planning shall be incorporated into municipal and county planning and shall be carried out within the framework of Section 8.

§ 27

(Repealed by Act No. 77 of 14 June 1985.)

Chapter VIII

Miscellaneous provisions

I.

§ 28 (Criminal liability)

Fines will be imposed on anyone who wilfully or through negligence

- a. performs or allows labour to be performed or allows action to be taken without the requisite permit according to Section 6, Section 7 second and third paragraphs, Section 8 second and third paragraphs, or Section 18

first paragraph, or fails to comply with conditions specified pursuant to Section 9.

- b. infringes specific injunctions imposed by the public authorities pursuant to Section 18 second paragraph, provided that he is notified in writing that failure to comply with the injunction may involve criminal liability.
- c. infringes local regulations pursuant to Section 16 or Section 17, sixth paragraph, cf. Section 10 first paragraph, provided that the provision is included in the synopsis mentioned in Section 10, second paragraph.
- d. infringes decisions made pursuant to Chapter II.
- e. evades payment of valid harbour dues.

Anyone who wilfully or through negligence hinders an official in the exercise of the authority vested in him pursuant to Section 20, or who refuses to obey an injunction given in that connection, will be liable to fines, or to imprisonment for a term not exceeding three months, or both.

If a punishable offence such as is referred to in the first or second paragraphs has been committed by someone on behalf of a company or other association, or a foundation or public enterprise, except the State as such, fines may be imposed on the enterprise as such. When determining the penalty in accordance with this paragraph, particular importance shall be attached to whether the offence was committed for the purpose of promoting the interests of the enterprise, and whether the enterprise has benefited from the offence.

These provisions shall apply unless the offence is subject to a more severe penalty.

§ 29 (The stopping of illegal construction and the cessation of illegal use.)

If work is carried out or use made without a permit or in contravention of the provisions of this Act, the municipality or the harbour board, or any person authorized thereby, may require that the construction work be stopped or that the use cease. If necessary the police may be called upon for assistance.

§ 30 (Writ to comply with injunctions or prohibitions.)

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If work has in any essential respect been carried out in contravention of this Act or any regulations issued pursuant to the Act, the municipality or the harbour board may issue a writ giving the option of a fine to the owner or holder of rights instructing him to remove or rectify the work which has been carried out illegally within a period of time to be stipulated in the writ. A writ may also be issued to any person who otherwise fails to comply with injunctions or prohibitions issued pursuant to this Act.

If possible the writ shall be served on the owner or holder of rights in person. The person to whom a writ is directed may bring legal action against the municipality to have the writ tried. If such legal action is not brought within 30 days of the date on which the decree is served, the writ has the same effect as a final judgement, and may be executed in accordance with the rules which apply to judgements.

The writ shall provide information concerning the provisions of the second and third sentences of the second paragraph. Before a writ is issued, the person to whom the writ is directed shall be given an opportunity to make a statement.

The provisions of Section 33 concerning appeals in respect of individual decisions do not apply when a writ has been issued.

§ 31 (Enforcement)

In the event of failure to comply with injunctions contained in a final judgement or a writ with equal force, the municipality or the harbour board itself may have the work done at the expense of the owner or ship owner.

As regards the procedures to be followed during enforcement through the enforcement authorities, see Chapter 13 of Act No. 86 of 26 June 1992 relating to the Enforcement of Claims.

§ 32 (Compensation etc.)

The municipality has a lien on objects as mentioned in Section 20, and which are removed, kept in custody or salvaged for the expenses incurred, with

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priority over all other claims or provisions concerning maritime liens as prescribed in the Maritime Act. If full compensation for the expenses incurred is not received, the owner or shipowner is liable for the balance, subject to the restrictions prescribed in Chapter 10 of the Maritime Act concerning vessels. This also applies to enforcement pursuant to Section 20.

§ 33 (Relation to the Public Administration Act)

Individual decisions made by the municipal council, the harbour board or another municipal administration organ pursuant to this Act may be appealed directly to the Coast Directorate after the appeal has been drawn up by the organ that took the decision which is being appealed. The King may appoint another appeals instance.

II. Other legislation

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III. Entry into force. Transitional provisions

This Act shall enter into force from the date stipulated by the King. From the same date, the following Acts are repealed.....

Regulations and individual decisions issued by any authority in pursuance of earlier harbour legislation, and which are in force at the time of entry into force of this Act, shall continue to apply until otherwise decided in pursuance of this Act. Until the municipal council concerned defines the boundaries of harbour districts on land according to this Act, the provisions of Section 19, last paragraph, first and second sentences in Act No. 8 of 24 June 1983 relating to Harbour Administration apply. Harbour district boundaries in accordance with the repealed Acts under 1-33 shall apply as ministerial decisions. Section 2, second paragraph, second sentence of Act No. 8 of 24 June 1933 relating to Harbour Administration shall also apply as a ministerial decision.

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The King may issue any transitional regulations considered necessary in connection with the entry into force of this Act. Until otherwise decided by the King, the following provisions shall apply:

The municipal council may lay down regulations stating that a vessel of at least 70 tonnage units gross shall use a harbour pilot in the harbour district, and may charge a fee for this. Such regulations are not valid until approved by the Ministry.