

The Land Consolidation Act.

Act No. 77 of 21 December 1979 relating to Land Consolidation etc.

As subsequently amended, the latest amendment being by Act No. 71 of 14 June 1985.

¹ Cf. Acts of 23 October 1959 section 30, 29 November 1968, 23 June 1978 No. 70. Cf. previous Act No. 2 of 22 December 1950.

Chapter 1. Conditions for land consolidation.

§ 1. Landed property which it is difficult to utilize efficiently under the existing circumstances may be subjected to land consolidation in terms of this Act.

The same applies when circumstances become unfavourable as a result of:¹

- (a) building, improvement, maintenance and operation of public roads.
- (b) building, improvement, maintenance and operation of railways, including the closing down of private railway crossings.

¹ See sections 5 and 6.

§ 2.¹ Land consolidation may comprise:

- (a) dissolving a system of joint ownership under which land or rights are jointly owned by estates.
- (b) reallocating landed property through the exchange of land.
- (c)
 1. prescribing rules relating to the use of any area that is subject to joint use by estates.
 2. prescribing rules relating to the use of any area that is not subject to joint use by estates when the land consolidation court finds that the attendant circumstances make such use particularly difficult.
- (d) eliminating such rights of user as are mentioned in section 36.
- (e) organizing such joint measures as are mentioned in chapter X of

the Land Act No. 2 of 18 March 1955 and section 31 of Act No. 3 of 15 March 1940 relating to Water Resources.²

- (f) reallocating landed properties when land and rights are to be disposed of in accordance with the purpose of the Land Act No. 2 of 18 March 1955.
- (g) dividing a landed property with the rights pertaining to it in accordance with a specific scale of values.
- (h) clarifying and determining conditions relating to property and rights of user under joint ownership and in other areas that are subject to joint use by estates when this is necessary with a view to a rational use of the area.

A land consolidation case may include one or more of these measures.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See sections 4 and 5.

² See section 44.

§ 3. Land consolidation cannot be effected:

- (a) if the costs and disadvantages involved exceed the benefit accruing to each individual property.
- (b)¹ for properties situated in built-up areas, before the building council has had an opportunity to express its opinion. In doubtful cases the County Governor will decide what constitutes a built-up area under the provisions of this Act.

¹ See section 89.

§ 4. Property that has previously been subjected to public land consolidation in terms of section 2, items a to f, cannot be subjected to new land consolidation proceedings until 10 years have elapsed since the previous consolidation was concluded.

The same applies if land consolidation has been rejected on factual grounds. If these grounds have lapsed, the land consolidation may be effectuated without regard to the 10-year time limit.

Any extension of the land consolidation area in terms of sections 16 and 25 may be done without regard to what is laid down in the first and second paragraphs of this section.

Decisions made pursuant to sections 43, 44 and 52 hereof, or corresponding sections in previous land consolidation Acts¹, may, 10 years after the conclusion of the land consolidation in question, be made the subject of new proceedings in the land consolidation court.

The 10-year time limit does not apply when landslide, flood, construction of public roads, purchase of additional land, etc. make it no longer natural to regard the area as previously consolidated.

¹ See previous Acts No. 2 of 22 December 1950, sections 35, 36 and 37, and 13 March 1882, sections 39, 41 and 42.

§ 5. The owner of specially registered real property and any person who has a perpetual right of use may apply for land consolidation.

The Ministry¹ may apply for land consolidation:

- (a) When it finds that measures for promoting agriculture have been made possible by subsidies from the State and such subsidies can have greater beneficial effect if a land consolidation is carried out, or when it is necessary in the public interest, or when one can count on considerable saving of land consolidation costs. In such cases the Ministry may also apply for an extension of the consolidation area of any land consolidation that is already in progress, and that two or more land consolidation proceedings be combined into one. The same applies when the Ministry finds it necessary that provisions be made for the coordination of the use of large areas or for the whole or parts of any waterway.
- (b) In the cases mentioned in item f of the first paragraph of section 2.

The county board of agriculture may apply for land consolidation in the cases mentioned in items f and g of the first paragraph of section 2. The highway authorities may apply for land consolidation in the case mentioned in item a of the second paragraph of section 1.

The Norwegian State Railways may apply for land consolidation in the case mentioned in item b of the second paragraph of section 1.

The right to apply for land consolidation cannot be renounced. Any agreement that the land consolidation court finds to be an obstacle to proper land consolidation may be disregarded by the court.

¹ Ministry of Agriculture. See sections 13 and 88.

§ 6.¹ If land consolidation is being carried out simultaneously with or in connection with any expropriation of land for the building, improvement, maintenance and operation of public roads and railways, cf. items a and b of the second paragraph of section 1, the land consolidation court shall carry out the expropriation assessment as part of the land consolidation case. To such proceedings the provisions of this Act² and section 27 of Act No. 1 of 1 June 1917 relating to Assessment and Expropriation Cases apply.

¹ See previous Act No. 23 of 21 June 1963, section 60, second paragraph.

² See sections 7, 9 and 91.

Chapter 2. The land consolidation courts

§ 7.¹ The King will divide the realm into areas of jurisdiction for land consolidation courts of appeal and into separate districts for land consolidation courts.

In each area of jurisdiction there shall be one land consolidation appeal judge, and in each land consolidation court district one or more land consolidation judges. When the number of cases so requires, land consolidation judges may be appointed on a temporary basis, and a land consolidation judge may be appointed to deal with a particular case.

The King will appoint land consolidation appeal judges and land consolidation judges. The Ministry² may appoint such officials for short periods or for a particular case.

The Ministry² may give land consolidation supervisors a general power to deal with consolidation cases and particular court proceedings with the exception of cases connected with expropriation

as mentioned in section 6. In such cases special power may be granted when there are special reasons for doing so.

The officials here mentioned must have a degree from the Agricultural University of Norway in a range of subjects laid down by the Ministry.

Rules relating to the terms of service, responsibility, etc. of these and other officials in the land consolidation service will be prescribed by the Ministry, cf. section 96 of this Act.

For technical staff the provisions of chapter 6 of Act No. 5 of 13 August 1915 relating to Courts of Justice apply as far as they are appropriate.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

² The Ministry of Agriculture.

§ 8.¹ In each municipality there shall be a special panel of lay judges for land consolidation cases. The members of this panel shall be well versed in such cases as normally come before the land consolidation court in the municipality. The land consolidation appeal judge shall decide how many members the panel shall have in each municipality.² The panel shall be established according to the provisions of Act No. 5 of 13 August 1915 relating to Courts of Justice as regards the choice of lay judges,³ though no person who has reached 65 years of age may be chosen. Members of the High Court (lagrett) and lay judges are not exempted from election to the land consolidation panel.

¹ Amended by Act No. 71 of 14 June 1985 (in force from 1 January 1986).

² See section 9.

³ See chapter 4 of the Act relating to Courts of Justice.

§ 9.¹ In each particular case the land consolidation court shall be composed of one land consolidation judge acting as president and two

duly appointed lay judges, and the land consolidation court of appeal shall be composed of one appeal judge acting as president and four duly appointed lay judges.

The president of the court shall appoint the lay judges from the panels mentioned in section 8, regardless of municipal boundaries. Persons who may act as deputies for the lay judges shall also be appointed.

As far as is possible, persons shall be appointed who are especially well versed in the main issues of the land consolidation in question. For the investigation of land consolidation done on an amicable basis,² and for appellate cases, persons should if possible be appointed who have previous experience of public land consolidation.

When any of the persons appointed do not attend or cannot serve,³ and none of the duly appointed deputies can put in an appearance within a reasonable time, the president of the court may appoint others to attend. In such cases persons who are not members of the panel may be appointed if it is not feasible to get hold of any person who is a member within a reasonable time.

The land consolidation court may sit without lay judges if the parties are agreed on this, and the land consolidation judge consents.

For the expropriation assessment mentioned in section 6 the president of the court shall in addition appoint two land consolidation lay judges from the panel of ordinary assessors when the parties so require or the land consolidation court finds it necessary, cf. Act No. 1 of 1 June 1917 relating to Assessment and Expropriation Cases, section 14. In the land consolidation court the appointment applies only to the assessment, whereas in the land consolidation court of appeal it applies to the whole case.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

² See chapter 9.

³ See section 105 of the Courts of Justice Act.

§ 10. When the number of cases so indicates, the land consolidation

judge of appeal may deal with a particular land consolidation case at first instance. Any appeal in such a case shall be dealt with by another land consolidation judge of appeal appointed by the Ministry¹.

¹ The Ministry of Agriculture.

§ 11.¹ The first time any person serves as a land consolidation lay judge, the president of the court shall acquaint him with the duties of a land consolidation lay judge. Thereupon the land consolidation lay judge shall enter in the court records a promise that he in the present case and in all future cases will perform his duties honestly and faithfully.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See section 100 of the Courts of Justice Act and section 20 of the Assessment Act.

Chapter 3. Procedure at public land consolidation¹

¹ See section 97.

§ 12.¹ An application for public land consolidation may be submitted to the land consolidation court in the district where the property is situated. The application shall as far as possible identify the properties in question, the owners, holders of rights of user, neighbours, and other persons concerned, what problems it is desired to solve, and whether land consolidation lay judges with special knowledge will be required.

The land consolidation judge may reject the application on his own initiative according to the provisions of section 301 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases.

The application shall manifestly be brought to the knowledge of those who are named in the application as soon as possible. A time limit may be imposed for the submission of written statements, but the parties may also be summoned to take part in preliminary oral proceedings. Similar proceedings may be carried out at each hearing during the case.

An application for public land consolidation may be withdrawn as long as no decision to carry out the consolidation has been entered in the court records.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984, pursuant to resolution No. 1173 of 8 June 1984). See section 97.

§ 13.¹ The president of the court shall decide at what time the case will be dealt with in situ. The summons inscribed with the names of the land consolidation lay judges shall manifestly be brought to the knowledge of all owners, holders of rights of user, neighbours, and other persons concerned, and not less than three weeks' notice shall be given.² When land consolidation has been applied for in terms of the second paragraph of section 5, similar notice shall be given to the Ministry, or to the body that has been authorized by the Ministry³ to apply for land consolidation. If any person who is entitled to notice is absent or resident outside the municipality, and his place of abode is not known, or if he resides outside the realm, notice may be given at his last-known place of residence within the realm, or if this place is not known, at the venue.

When any person is summoned to attend the court, any person he has authorized to represent him shall also be given notice.

If the area to be consolidated is large or the circumstances of ownership or user obscure, the Ministry may permit a summons to be given by notice in the Norwegian Gazette⁴ and in one or more local newspapers and by posters. In such cases not less than six weeks' notice shall be given reckoned from the day on which the announcement appears in the Gazette.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See section 97.

² See sections 148 and 149 of the Courts of Justice Act.

³ The Ministry of Agriculture.

⁴ See Act No. 1 of 11 October 1946.

§ 14.¹ The land consolidation court shall sit at a fixed time and at a fixed place. The court will first decide whether the case shall be proceeded with, and reasons shall be given for this decision. The case may be proceeded with even if one party does not appear, but if lawful notice has not been given, no decision shall be made that in any way affects his interests.

A decision to proceed with land consolidation may be reversed if the land consolidation court is unanimously of the opinion that the necessary conditions for carrying out the consolidation no longer obtain.

The case shall, as far as possible, proceed without interruption. If the case must be postponed indefinitely, the form of summons to the next hearing shall be entered in the court records and shall be made known to the parties. Unless all the persons concerned consent thereto, the period of notice shall not be made shorter than one week.²

¹ See section 97.

² See sections 148 and 149 of the Courts of Justice Act.

§ 15.¹ As soon as the court gives the parties an opportunity to do so, they shall put forward and substantiate their claims, submit evidence, and provide such information as is required. The court may impose a time limit for the parties to put forward their final claims, cf. section 335 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases.

¹ See section 97.

§ 16.¹ The land consolidation court shall clarify the boundaries of the consolidation area. If boundaries with neighbouring property are ill arranged, the court will try to get these regulated through amicable exchange. If no such agreement is attainable, the land consolidation court may regulate the boundaries in the manner it considers most suitable for the properties concerned.

The court must make the boundaries between the properties mutually clear, and must clarify, as accurately as possible, the

circumstances of ownership and all rights and encumbrances that affect the area.

The land consolidation court may, if it is necessary for the purpose of land consolidation, determine such boundaries as are mentioned in sections 2, 3 and 4 of Act No. 3 of 15 March 1940 relating to Water Resources.

¹ See sections 4 and 97.

§ 17.¹ Any dispute concerning boundaries, right of ownership, right of user, or other matters within the consolidation area or with outsiders shall be decided by the judgment of the land consolidation court if this is necessary for the purpose of land consolidation. Reasons for the judgment shall be given in accordance with section 144 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases. The court shall state whether it is of the opinion that the dispute involves more than NOK 2000.

The court should first try mediation in the case and may raise the question whether the parties will submit the dispute to arbitration.

¹ See sections 61, 62, 70, 71, 73 and 97.

§ 18.¹ The parties and witnesses are bound to appear and testify in accordance with the rules applicable to main proceedings in district and city courts in terms of chapters 9 and 15 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases. The question of enforcing attendance or imposing a penalty is one for the ordinary courts.

¹ See section 97.

§ 19. A map shall be made of the consolidation area¹ if existing maps cannot be used. The consolidation may be done without maps if the land consolidation court unanimously decides that maps are unnecessary.

Anything that is the subject of exchange shall always be

valued.

The Ministry² shall prescribe detailed rules relating to valuation, surveying and mapping.

¹ See Act No. 1 of 9 July 1923.

² The Ministry of Agriculture.

§ 20.¹ When all preparatory work has been completed, the land consolidation court shall draw up a draft consolidation plan which shall be presented to the parties for discussion. The latter may request an interval of up to one week for submitting their comments. When the plan has been altered as the court thinks right and proper on the basis of the comments, the plan shall be adopted.

An explanation shall be given of the legal basis, the factual circumstances and other conditions that are of prime importance for the consolidation plan, the assessment and the valuations.

The land consolidation court shall consult with the public authorities if the consolidation plan is likely to affect matters within their jurisdiction. The same applies when matters that are subject to the decision of public authorities are likely to affect the consolidation plan. If both the land consolidation court and the public authority concerned can decide the matter, and they are not in agreement, the Ministry shall make the decision.

¹ See section 97.

§ 21.¹ A land consolidation may be concluded for part of the consolidation area if the land consolidation court unanimously finds that this will be appropriate. Each part of a consolidation that is concluded separately shall be regarded as a separate case as regards implementation, appeal, and new land consolidation proceedings.

¹ See section 97.

§ 22.¹ The parties shall be notified of decisions during the case in accordance with the provisions of chapter 12 of Act No. 6 of 13

August 1915 relating to Judicial Procedure in Civil Cases, in such a way that the first paragraph of section 154 applies to judgments, the second paragraph of section 164 to court orders, and the second paragraph of section 165 to other decisions.

As soon as the case is finished, the land consolidation shall be concluded in court. The time and place for the conclusion of the land consolidation shall be made known to the parties beforehand as far as it is possible to do so. If the land consolidation court finds it right and proper, the concluding session with the parties may be dispensed with. In many cases the parties shall, as soon as possible, be supplied with a transcript of the court records in the same way as for a judgment or court order in terms of the first paragraph.

As regards the court records and the keeping of such records, the provisions of chapter 11 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases apply. The Ministry² may prescribe detailed rules relating to the keeping of the court records. The parties should be supplied with a transcript of the court records after every hearing.³

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984), Act No. 56 of 7 June 1985 (in force from 1 January 1986). See section 97.

² The Ministry of Agriculture.

³ See section 87,

§ 23.¹ During the period the land consolidation lasts, the land consolidation court may prescribe rules for the use or impose such restrictions on the use of the consolidation area as the court finds necessary with regard to the land consolidation.

Compensation for any loss this may cause shall be determined by the land consolidation court by assessment and apportioned according to the provisions of chapter 8.

¹ See sections 24, 60, 95 and 97.

§ 24.¹ If in any case rules are prescribed in accordance with

sections 23 and 60 or decisions are made in accordance with the third paragraph of section 62 to introduce particular measures before the land consolidation is concluded, the president of the court shall as soon as possible ensure that a notice is registered on the properties concerned that a land consolidation is in progress. The same applies when a land consolidation has been concluded but does not come into force because of an appeal.

As soon as possible after final judgment has been pronounced, the president of the court shall obtain a certified extract of the court records and have it registered. Every matter of lasting importance shall be included in the extract. Before the extract is sent for registration, the president of the court must obtain the official property numbers from the survey authorities. After the registration one of the parties shall be given the extract together with a copy of the land consolidation map, which shall be available for the use of all concerned.

¹ See sections 87 and 97.

Chapter 4. Limitation of the consolidation area and how comprehensive the consolidation shall be

§ 25.¹ The consolidation area shall ordinarily be limited to correspond to the application for land consolidation.² An application may be made for an extension of the land consolidation area.

If the land consolidation court finds it necessary for the purpose of carrying out a proper land consolidation, it may decide to go beyond the application and to include in the consolidation remaining parts of the properties and also other properties.

¹ See section 4.

² See section 5.

§ 26. The land consolidation court shall alter the conditions of ownership and use by reallocation of the properties, joint undertakings, organization of use and joint use, and elimination or organization of rights of user, as far as the court thinks it is

necessary according to the application. An application may be made for a more comprehensive land consolidation.

Joint properties in mountain districts that mainly lie above the evergreen tree line can only be divided if the land consolidation court unanimously finds that such division is more appropriate than regulating the system of use.

Chapter 5. The basis of consolidation

§ 27. Joint property shall be reallocated according to the share ratio in the joint property. If no particular numerical ratio is known or some estate has special rights in the joint property, the reallocation shall be done according to the tax liability each of the estates had when the joint ownership relationship between them was first established. If that is unknown, the tax liability that applied until the Act of 17 December 1836 shall constitute the basis. No account shall be taken of any reduction in the tax liability.

§ 28. Apart from joint property the reallocation shall be done in such a way that each estate obtains total land value equal to that which it gives up. But if all the parties are so agreed, the reallocation can be done on the basis of the tax liability in such cases too.

Chapter 6. The consolidation plan and pertinent provisions

§ 29. Each property shall be set out as appropriately and compactly as possible.

In connection with any land consolidation the president of the land consolidation court may give such a certificate as is mentioned in section 4(3) of Act No. 70 of 23 June 1978 relating to the Surveying, Subdivision and Registration of Real Property.

§ 30. If any party needs land for special purposes such as roads etc., he may request that it be provided from his share.

If the future ratio of values between the properties will not definitely be altered on reallocation of forestry land, the value of the standing forest may be incorporated in the basis of consolidation when this is more appropriate than using only the land value.

If it is not possible to arrange the properties in an appropriate manner according to the consolidation plan, the land consolidation court may transfer land in exchange for payment in money or otherwise, but the transferring of land must not be used to such an extent as to have an adverse effect on the properties concerned.

§ 31. If the land consolidation court is of the opinion that land and rights in the consolidation area may be utilized in such a way as to produce a great increase in value, such land or rights should not change hands unless it is necessary for a proper consolidation. In every case the court shall emphasize the point that any potential future increase in the value of the properties shall be as equal as possible before and after the consolidation.

§ 32. If a land consolidation affects a tenant or any other person possessing similar rights, the land consolidation court shall settle the relationship between any such person and the owner if necessary.

In drawing up the reallocation plan the land consolidation court should take into consideration tenant relationships in the consolidation area. The court may also help to bring about tenancy agreements and agreements relating to purchase and sale.

§ 33.¹ The land consolidation court may settle matters between owners and holders of rights of user, and between such holders mutually. The court may, inter alia, restrict the area available for the exercising of a right of user, prescribe rules for the method of use, and shift the right of user from one place to another or from one property to another.

The land consolidation court may regulate grazing facilities in State or parish common-land if the board responsible for such land has already introduced a system of grazing there, and some holders of grazing rights to whom this system applies have asked for the case to

be referred to the land consolidation court within six months.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

§ 34. The land consolidation court may regulate use and joint use within the consolidation area as the court finds most appropriate.

If the court is of the opinion that as part of any such regulation it is necessary to have certain rules for use which can only be drawn up after further experience, or according to circumstances as they develop from time to time, the court may decide that such rules may be established by a majority decision. The court may also prescribe provisional rules that the parties may alter by a majority decision when the time is ripe. The land consolidation court shall in such a case declare what sort of rules for use are concerned and prescribe rules for how a majority decision shall be taken. If so requested, regulation proceedings may be restricted to determining the basis of division for different kinds of use, provided that the purpose of the use is clear.

§ 35.¹ Rules concerning use and joint use may, inter alia, provide for:

- (a) fixing boundaries between grazing areas, abolishing joint grazing between separate grazing areas, and arranging new areas. Decisions may be made concerning what kind and how many cattle each party may let loose to graze in an area or some part of the area, and concerning the grazing time.
- (b) setting out an area for enclosed pasture or feed cultivation with pertinent installations for the use of one or more persons in return for a reduction of grazing facilities in the rest of the area, or in return for payment in money or otherwise.
- (c) closing down summer farms for which there will be no use after the regulation and moving summer farms. Hayfields may be eliminated or moved if necessary in order to introduce a proper system and if the benefits are great compared with the disadvantages that will accrue to the hayfield owner.
- (d) restricting or entirely prohibiting grazing in certain areas

out of consideration for the forest.

- (e) regulating the operation of forests and peat bogs.²
- (f) determining times for fishing, catching methods, implements, etc. connected with fishing and prescribing rules concerning the use of shore rights.
- (g) laying down rules concerning hunting, trapping, and game-keeping.
- (h) laying down rules for the joint use of sand and gravel pits, water rights, and joint use in connection with recreation and tourist purposes as part of an agricultural programme.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

² See Act No. 5 of 18 March 1949.

§ 36.¹ The following perpetual rights of user may be eliminated: rights of way, grazing, hay-making, making wells and aqueducts, felling and all other production of timber in forests, taking peat for fuel, turf, heather, moss, humus, clay, sand and stones, seaweed, beaching of boats, mooring and landing places, sites for boathouses and boatsheds, drying and stocking places, places for laying out nets and seines, millraces and water-wheels with damming and aqueduct rights pertaining thereto, and fresh-water fishing with the exception of salmon and sea-trout fishing.

¹ See sections 2 and 39.

§ 37. The prerequisite for the elimination of such rights is usually that the holder of the right of user can be assigned a share of the property corresponding in value to the right of user, which also provides an approximately equally suitable opportunity for a user that fulfils the same needs as the right of user. The compensation must not be of greater value to the property subject to the right of user than the increase in value accruing to the property through being relieved of the right of user.

§ 38. If it is not possible to assign a share of the property in compensation for the lost right of user in accordance with section 37, and regulation is not effective either, an elimination may nevertheless be effected if it can be done in a suitable manner without inflicting loss on any party. Compensation will be determined by the land consolidation court in the form of land, money, or other valuable consideration.¹

¹ See section 90.

§ 39. Rights of user other than those mentioned in section 36 may be eliminated in the course of a land consolidation if such rights are an obstacle to a proper reallocation, provided that the proposed regulation has proved ineffective, and that elimination can be carried out in a suitable manner without inflicting loss on any party. The method of elimination will be determined by the court at its own discretion, with compensation taking the form of land, money, or other valuable consideration.¹

¹ See section 90.

§ 40. Joint compensation may be provided for rights of user of the same kind which are eliminated simultaneously if this is the most appropriate course. In such cases the land consolidation court will prescribe the necessary regulations concerning the joint use.

§ 41.¹ The land consolidation court shall pay heed to approved land use plans made for recreation and tourist purposes in the consolidation area. Within this area the land consolidation court may also take steps to have such plans drawn up or make plans on its own initiative. The matter shall be taken up with the building council before the work is commenced, and the plans shall be drawn up in consultation with the building council, which may also issue guidelines for the work. In order to be binding the plans must be approved by the building authorities.

The land consolidation court may devise such joint measures as are necessary in connection with plans made for recreation and

tourist purposes.

The land consolidation court will effect the necessary equalization of the developmental values. This can be done in the reallocation plan itself by the transfer of development rights or in money.

¹ See section 20, paragraph 3.

§ 42. The land consolidation court shall include the necessary investments in the reallocation plan.

In considering whether the investments shall be made, the land consolidation court shall attach importance to the future utilization of the properties, but the court may also take the financial position of the parties into account.

The court shall apportion the costs of each particular investment measure according to the benefit accruing from it to each particular party, and otherwise make such decisions as are necessary for its implementation and future use.

If it is impossible to obtain funds or the investments cannot for other reasons be carried out at the time of the land consolidation, the land consolidation court may nevertheless make the necessary arrangements for the measures to be carried out later.

§ 43.¹ Necessary roads shall be laid down, and a written explanation shall be given of where they lead. The court shall prescribe rules for the use and for the construction and maintenance of the roads.

If it is necessary with regard to the reallocation of land, the land consolidation court may make an assessment in terms of the Road Act, No. 23 of 21 June 1963, even though this concerns properties that are not included in the land consolidation.

Likewise the land consolidation court may, if necessary, make an assessment in terms of section 8 of the Act of 14 June 1912 relating to the construction of funicular railways and aerial transport cables.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See section 4.

§ 44.¹ If it is necessary with regard to the reallocation of land, the land consolidation court shall arrange for draining and prescribe rules concerning the construction and maintenance of different kinds of open and closed ditches and canals.

The land consolidation court shall also prescribe the necessary rules for the use of water and waterways and concerning aqueducts and sewers.

If measures taken in terms of the first and second paragraphs, and draining measures in terms of item e of section 2 can affect properties outside the consolidation area, the land consolidation court may make an assessment in terms of Act No. 3 of 15 March 1940 relating to Water Resources.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984).
See section 4

§ 45. The land consolidation court may order persons to move buildings if the court is of the opinion that this is a prerequisite for a good and beneficial land consolidation. Likewise the court may determine that summer farms shall be moved if it is of the opinion that this is necessary to ensure an efficient grazing system.

§ 46. When it is a question of who shall move, the land consolidation court shall, as far as it is compatible with an efficient land consolidation, pay heed to the agreement between the parties. The person who has the most and best cultivated land within the farmyard, or who has the best buildings or other installations should be allowed to remain. If there is no great difference in this respect, the costs of moving shall be decisive.

The court may prohibit the erection of houses within a fixed minimum distance from neighbouring property.

§ 47. The land consolidation court may order an exchange of buildings, installations for water supply, power transmission, and the like, if moving costs can to any degree thereby be saved.

An exchange order may apply only to buildings or installations which have the same purposes and are approximately equally large and

equally useful and must not entail any major disadvantage for any of the owners.

The owner may not be ordered to exchange a farmhouse that has a special personal value for the owner, for example, because of family pride, etc. If other houses in the farmyard that have such a value for the owner are concerned, the decision of the court ordering an exchange must be unanimous.

§ 48. The land consolidation court may decide that aqueducts, dams, power lines, etc. and small buildings such as, e.g., small barns may be transferred in exchange for money payments¹ if such transfers seem appropriate for the parties concerned.

¹ See section 90.

§ 49. The land consolidation court shall assess the costs of moving and determine the make-weight or compensation for making an exchange or transfer as mentioned in sections 47 and 48. Herein shall also be included any costs of obtaining for the person moving water supply, farm roads, power lines etc. approximately corresponding to what he had before, and compensation for being without a house during the period of moving. The costs shall be calculated in money, but if the court thinks it justified, they may instead be determined in the form of work, materials or other valuable consideration.¹

¹ See section 90.

§ 50. No party can be required to pay greater costs for moving and exchanging or for the transferring of houses or installations than the Ministry has determined.

If none of the parties is willing to assume such part of the costs of moving as is not obligatory and these costs cannot be covered in any other way, the court may not order a move.

§ 51. If cultivated land is exchanged for uncultivated land or land that is not so well cultivated, the make-weight may take the form of

money, land, or something else such as assistant labour or a temporary right of user to land. If the make-weight is determined as something other than land, its money value shall always be mentioned.¹

Land must not be used as compensation in such a way that the future prospects of any property are thereby considerably diminished.

¹ See section 90.

§ 52.¹ The land consolidation court will prescribe rules concerning the duty to fence and the division of the work of fencing within the consolidation area and bordering neighbouring property.

The duty to fence shall be determined in accordance with current legislation.²

The work of fencing shall be divided at the court's discretion, but as far as seems reasonable, on the basis that previously prevailed for the division of such work between the parties. As far as possible, each party shall erect a fence only for his own property and in a continuous line.

If anyone who relinquishes a fence to another party has a duty imposed on him to erect a fence where there is no fence or a worse fence than the one he has relinquished, he shall receive compensation to be determined by the land consolidation court.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See section 4.

² See Act of 5 May 1961.

§ 53. When land under joint ownership has been cleared and cultivated without authority for so doing, the land consolidation court may attach such land to the property concerned in return for the other parties getting uncultivated land from the outfields. When this cannot be done or when forest or pasture has been cultivated without authority, the court may award the owner compensation for the cultivation work that has been done.

§ 54.¹ If there is any danger of flood, landslide, sand drift, etc. the land consolidation court shall, if it is not possible to take this into account in the consolidation plan itself, determine the necessary precautionary measures or other safety measures to be taken and prescribe rules concerning how the costs of the work and the maintenance shall be distributed. If the danger has not been taken into consideration in the consolidation plan, the court shall prescribe regulations in the event that damage occurs, and primarily as to how the damage shall be apportioned.

When regulations in terms of the second sentence of the first paragraph have been prescribed, any person who suffers damage may apply to the land consolidation court for an apportionment of the damage if it has not been otherwise decided and the parties cannot agree. In such a case the same rules apply as for land consolidation in so far as they are appropriate.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

§ 55. The land consolidation court may determine the equalization procedure in connection with the transfer of standing forest.

If felling is to be done, the land consolidation court shall ensure a proper marking of trees to be felled or areas to be cleared if this is not sufficiently clear in some other way.

§ 56. The land consolidation court may determine the equalization procedure in connection with the transfer of peat for fuel and turf. The court cannot order anyone to give up more peat than he gets if the difference has any decisive effect on his property.

In connection with land consolidation the land consolidation court may give such consent as is mentioned in the last paragraph of section 1 of Act No. 5 of 18 March 1949 relating to the destruction of land.

§ 57. If land that is free from any right of user is exchanged for land that is subject to a right of user, the compensation should not be fixed in anything but land if the right of user is perpetual and

this method of compensation is appropriate in the circumstances.

§ 58.¹ All boundaries shall be marked in the fields and noted down. If a map is used,² the boundaries shall be marked on it.

The boundaries shall be marked with clear and permanent signs. The court may decide to postpone permanent boundary marking and pertinent boundary description until after the land consolidation is final when the court finds that there are special reasons to do so. In this case the court must decide how the costs of the postponed boundary marking are to be met.

As soon as possible after the land consolidation is final, the postponed work shall be carried out by the land consolidation court without summoning the lay judges.

The Ministry³ will prescribe rules concerning boundary marking.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

² See section 19.

³ The Ministry of Agriculture.

§ 59. The land consolidation court shall set time limits for the taking over of the properties and any other time limits needed for the implementation of the decisions.¹

Unless all persons participating in the land consolidation so consent, no time limit shorter than two months may be set, reckoned from the date of notice of the decision.

On application the land consolidation judge of appeal may grant a postponement of the effectuation of the move or other measures if it is proved that it is impossible to carry out such measures within the time fixed, and that the person concerned is not responsible for this and has no control over it. If the postponement will inflict loss on any of the other parties, the land consolidation judge of appeal shall determine the compensation for such loss.

¹ See the Civil Procedure Act, section 148, and the Act relating to Enforcement of Claims, sections 4 to 7. - See also sections 69, 91

and 97 of this Act.

§ 60.¹ From the date the land consolidation is concluded until it is brought into force, the land consolidation court may prescribe rules for the use and determine compensation for this in accordance with the provisions of section 23, and otherwise impose such restrictions on the parties and other persons as regards the use of the consolidation area as the court thinks is necessary to prevent the conditions stipulated for the consolidation being altered.

¹ See sections 24 and 95.

Chapter 7. Appeal and inspection¹

¹ See section 97.

§ 61.¹ An appeal may be lodged against any land consolidation and the individual decisions that are made in connection with such consolidation.

An appeal against a judgment in terms of section 17 will go to the High Court. The same applies to an appeal against a decision dismissing an application on other than factual grounds² and any other appeal on a point of law and matters of procedure. An appeal against a decision in an expropriation assessment in terms of section 6 concerning the right to, and the conditions for, an expropriation or what the expropriation involves, goes to the High Court. In all other cases an appeal goes to the land consolidation court of appeal.

An appeal against a judgment in terms of section 17 cannot be lodged if the amount involved does not exceed NOK 2000. The assessment made by the land consolidation court in accordance with section 17 of the amount involved in the case is binding on the High Court unless the said court is of the opinion that the assessment is obviously wrong.

The High Court may decide that an appeal against decisions other than a judgment in terms of section 17 shall be lodged according to the rules for appeals in Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases.

¹ See section 97.

² See section 3.

§ 62.¹ There is no right of appeal before the land consolidation is concluded.² This does not, however, apply to neighbours or any person who is not recognized as either an owner or a holder of rights of user in the consolidation area if they wish to appeal against a judgment in terms of section 17.

If the land consolidation court considers it appropriate, the court may decide that decisions which may be appealed against to the High Court in terms of the second paragraph of section 61 shall be made the subject of an appeal immediately. Such a decision must form part of the judgment or decision appealed against.

When the land consolidation court in special circumstances finds it appropriate, a decision to proceed with the land consolidation (cf. section 14, paragraph 1, the second sentence) may be made the subject of an appeal to the land consolidation court of appeal immediately.

If it is very important to proceed with a measure before the consolidation is concluded, the land consolidation court may decide that decisions to this effect may be made the subject of an appeal immediately.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See sections 24 and 97.

² See the Civil Procedure Act, section 355, third paragraph.

§ 63.¹ The time limit for an appeal is two months² reckoned from the date of notice of judgment. If there is a right of appeal in terms of section 62 before the land consolidation is concluded, the time limit will be reckoned from the date when the party concerned has received notice of the decision. If the appeal lies to the High Court, there will be a new time limit for any appeal to the land consolidation court. In such cases the High Court shall remit a transcript of the proceedings to the land consolidation court together with a notice of

its decision. The land consolidation judge shall as soon as possible give notice of the new time limit for appeal to the land consolidation court of appeal to all the parties in the land consolidation case, with the time limit for appeal reckoned from the date of this notice. The same applies to an appeal from the High Court to the Supreme Court.

An appeal shall be lodged with the land consolidation court that has made the decision that is being appealed against. The president of the court shall remit the case to the High Court³ and as soon as possible inform all interested parties that an appeal has been lodged. To an appeal to the High Court the provisions of chapter 25 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases apply in so far as they are appropriate. A registered letter may be used as a means of giving notice.

¹ See section 97.

² See the Courts of Justice Act, sections 148 and 149.

³ See section 61, second paragraph.

§ 64.¹ If an appeal is lodged in time, the completion or implementation of the land consolidation must be postponed. There can be no proceedings in the land consolidation court of appeal until the appeal to the High Court is finally decided.

¹ See section 97.

§ 65.¹ As soon as possible after the appeal case has finally been decided, the land consolidation court shall proceed with or again take up and revise the land consolidation to the degree required by the final decision.

When a land consolidation that has been concluded is taken up again, at least three weeks' notice shall be given in the summons.²

¹ See section 97.

² See the Courts of Justice Act, sections 148 and 149.

§ 66.¹ If it has not otherwise been decided in the decision ratifying a land consolidation, the time limits that have been fixed in the land consolidation shall be reckoned from the first anniversary of the completion of the land consolidation after notice of the decision has been given.

¹ See section 97.

§ 67.¹ In an appeal to the land consolidation court of appeal the grounds of appeal should appear from the statement of appeal itself. If the grounds of appeal are not clearly apparent from the statement of appeal, the land consolidation court of appeal shall, when the proceedings commence, order the appellant to state clearly his grounds of appeal.

The land consolidation court of appeal shall first simply examine the grounds of appeal put forward. If it appears that the appeal is groundless, or that it can only lead to a modification of comparatively little importance, the land consolidation shall be ratified. If it appears that the appeal must lead to a modification of the land consolidation, the court shall give the parties notice of this. If the modification will inflict loss on any party, he may request an interval of up to one week for submitting a claim that the investigation be extended as long as is necessary to decide whether the land consolidation should not be altered on other points to his advantage. In this case the land consolidation court of appeal shall investigate the land consolidation as far as the court finds necessary. Any alteration in the land consolidation that results from such investigation may be carried out even though the appellant is on the whole left in a less favourable position than he was in after the land consolidation.

¹ See section 97.

§ 68.¹ An appeal to the land consolidation court of appeal may be withdrawn as regards any ground of appeal that has not been decided. As regards any ground of appeal that has been decided, the appeal may be withdrawn if all persons concerned in the case so consent.

If the appeal is withdrawn before the time limit for the appeal

has elapsed, this has no effect on the rules relating to implementation and time limits in a land consolidation. If the appeal is withdrawn after the time limit for appeal has elapsed, the land consolidation court of appeal shall alter the time limits if necessary. If the court is not sitting, the land consolidation judge of appeal shall determine the new time limits.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984). See section 97.

§ 69.¹ For appellate land consolidation the rules relating to land consolidation shall apply as far as they are appropriate, but if the Act requires that a decision in the land consolidation court shall be unanimous, nevertheless only an ordinary majority is required in the land consolidation court of appeal for ratifying such a decision. For appellate land consolidation shorter time limits may be set than those laid down in section 59.

The land consolidation judge who has dealt with the land consolidation is bound to attend the appellate proceedings on receiving a summons from the land consolidation court of appeal. He shall be present and provide information as long as the appeal court finds it necessary.

¹ See section 97.

§ 70.¹ If a dispute arises about boundaries, right of ownership, right of user, or any other matter and the dispute was not proceeded with or decided at the land consolidation, the land consolidation court of appeal shall decide the dispute according to the provisions of section 17.

If the land consolidation court of appeal overrules a decision dismissing land consolidation proceedings, the case may be referred back to the land consolidation court for new proceedings if this seems most appropriate.

¹ See section 97.

§ 71.¹ An appellate land consolidation cannot be appealed against except as regards a decision in a dispute in terms of the first paragraph of section 70, cf. section 17, on a point of law and matters of procedure. In such cases an appeal lies to the High Court according to the rules applicable to an appeal against land consolidation.

¹ See section 97.

§ 72.¹ Any party who is of the opinion that in the course of the land consolidation errors have been made with regard to maps, calculations or survey work may apply for an inspection within two months from the date when the notice of the consolidation was given.

The application shall be made to the land consolidation judge of appeal, who shall see to it that the inspection is performed.

If the inspection reveals any error that in the opinion of the land consolidation judge of appeal has had a significant effect on the consolidation, the said judge shall order the land consolidation court to correct the error and to revise the consolidation as far as such rectification makes it necessary.²

If an appeal against the land consolidation has been brought before the land consolidation court of appeal, the said court shall make the alterations that a rectification of any technical errors entails. Any complaint against such errors may be made before the land consolidation court of appeal, and if the said court discovers such errors, the court shall rectify them if they have any significant effect.

If the inspection results in the land consolidation being altered, all the parties affected by any such alteration shall be given notice of the decision, and they shall be given an opportunity to appeal in so far as the alteration has any significant effect on the land consolidation. The time limit is two months³ from the date of notice.

¹ See section 97.

² See section 78.

³ See the Courts of Justice Act, sections 148 and 149.

§ 73.¹ Any decision in a dispute in terms of section 17 may be reviewed according to the general rules in chapter 27 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases.

The land consolidation court will effect such changes in the boundary delimitation cases and land consolidation cases as the review may entail. But if it is a matter of making changes in boundaries etc. of which the costs will not be in reasonable proportion to what will be achieved, the changes may wholly or partly be made the subject of a settlement in the form of money, forest, or other valuable consideration.

¹ See section 97.

Chapter 8. The costs of land consolidation

§ 74.¹ For a land consolidation case dealt with by a land consolidation court, twice the court fee shall be payable and twice the court fee per party.

For boundary delimitation cases dealt with by a land consolidation court, twice the court fee shall be payable and twice the court fees per kilometre or part kilometre of marked boundary.

For a case dealt with by a land consolidation court of appeal, four times the court fee shall be payable.

For ratification of a land consolidation on amicable terms, twice the court fee shall be payable.

If the case is withdrawn or dismissed, a single court fee shall be payable.

The land consolidation court may alter the additional fee if the amount of work to be done differs very much from the usual amount.

The parties shall pay the costs of the land consolidation with the exception of permanent office expenses, postage, telephone and wages, transport and board allowances for the officials.

¹ Amended by Acts No. 22 of 6 May 1983, and No. 100 of 21 December 1984.

§ 75. If an application for a land consolidation is quite groundless

or is withdrawn, or contains formal errors for which the applicant is responsible which lead to the case being dismissed, the applicant must bear the costs.

The person who lodges a land consolidation appeal must bear the costs of it if the said appeal does not lead to any considerable alteration of the land consolidation.

If an appeal to the land consolidation court of appeal is groundless, the court may require the appellant to pay the public costs of the case.

§ 76. Costs that the applicant is not required to bear alone in terms of § 75 shall be apportioned between the parties on the basis of the benefit accruing to each from the land consolidation.

Any expenditure that has been incurred out of consideration for only one of the properties or parties may be charged to the person concerned alone. The same applies to costs incurred because of an application or information that has been submitted too late.

§ 77. A tenant or other person possessing similar rights is bound to pay the owner compensation for land consolidation costs and other costs involved in the consolidation, e.g. cultivation costs, fencing costs, costs of moving, etc. The land consolidation court shall determine the amount for which the tenant shall be liable according to a rough estimate of all the costs that the consolidation will entail for the owner, and according to the benefit accruing to the tenant from the consolidation. Costs that the owner has incurred beyond what he is legally liable for, or through any action that he is responsible for in the consolidation, shall not be included.

§ 78. Any person who has applied for an inspection must pay the costs thereof if the inspection does not lead to any alteration of the land consolidation. If an application for inspection is quite groundless, the land consolidation judge of appeal may also require the applicant to pay the public costs of the proceedings.

If the inspection leads to an alteration of the consolidation in terms of the third paragraph of section 72, all costs shall be paid from public funds.

§ 79. Any person who applies for a land consolidation, a land consolidation appeal, or an inspection may be required to pay a sum in advance or give security for the costs that will according to a provisional estimate fall on the parties. The applicant may be allowed up to three weeks' grace for this purpose. If he does not comply with the time limit, this will be regarded as the equivalent of his withdrawing the application.

§ 80.¹ When a decision to proceed with the case has been entered in the court records, and the court has in the main ascertained what interests the parties have in the land consolidation, the court may order them to pay costs that will eventually be incurred according to a provisional apportionment.

Costs that have been so apportioned fall due for payment 15 days after the person concerned has been informed of the apportionment.

Interest may be calculated on any advance payment at a rate to be determined by the land consolidation court at its discretion. The court may also decide that interest shall be paid on other claims made in the consolidation.

If a land consolidation appeal leads to any alteration of the land consolidation costs and they have already been paid, the land consolidation court of appeal shall make the necessary provisions for repayment.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

§ 81. Recompense for costs of professional assistance in disputes shall be determined according to the provisions of chapter 13 of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases.

If a land consolidation has been applied for in connection with expropriation, the party seeking expropriation shall normally bear the costs of the land consolidation, but it is also admissible to impose such costs on the other parties to the consolidation if they acquire a net benefit in relation to the circumstances prevailing before the land consolidation. In such cases sections 54 and 58 of

Act No. 1 of 1 June 1917 relating to Assessment and Expropriation Cases apply.

Chapter 9. Land consolidation on amicable terms

§ 82. The owners may conduct a land consolidation on amicable terms when they are all so agreed and other persons concerned by the land consolidation so consent.

In the case of land consolidation on amicable terms, a written document shall be drawn up which shall give an accurate account of the properties included in the consolidation, specifying boundaries, rights of user, etc. Definitions of any boundary with neighbouring property must not be included in the document without the consent of the owner. The consolidation document shall be registered, but no document duty shall be payable.

If the reallocation is not done on an equal basis, but in such a way that some persons relinquish more property or rights than they receive over and above what a public land consolidation would entail, this shall be regarded as a transfer, and the statutory provisions relating to division of property shall apply.¹

¹ See Acts No. 11 of 20 August 1915 and No. 70 of 23 June 1978.

§ 83. A land consolidation on amicable terms has the same effect as a public one if the land consolidation court after the necessary investigation certifies that the consolidation fulfils the requirements of a public land consolidation.

The certificate shall be entered into the land consolidation court records, with the consolidation document attached, and registered.

If anything in the consolidation document is unclear or incomplete, the land consolidation judge shall help to rectify it.

An application for such a certificate shall be made in the same way as an application for public land consolidation. The provisions of chapter 8 relating to costs shall apply in a similar manner.

A decision in terms of this section may not be appealed against except in the case that a certificate is denied.

§ 84.¹ If no application for a certificate has been made in terms of section 83, an application may be made for a public land consolidation after two years have elapsed from the date when the land consolidation on amicable terms was concluded. If a certificate has been denied and this decision has not been appealed against on the spot, an application for a public land consolidation may be made immediately. If an application for a public land consolidation is made on the spot, the consolidation may be proceeded with immediately, with the land consolidation lay judges already appointed if all the parties have been informed that a public land consolidation may be instituted.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

§ 85. A land consolidation conducted by a land consolidation judge on the authority of an arbitration agreement has the same effect as a public land consolidation. No appeal can be brought against such a land consolidation. The costs incurred in such a case shall be settled and paid for as in a public land consolidation.

Chapter 10. Division of property

§ 86.¹ For an estate that is subject to a public land consolidation no authority other than the land consolidation court may effect a division of property without the consent of the court. The apportionment transactions that a public land consolidation case entails shall always be conducted by the land consolidation court.

¹ See section 87.

§ 87. To apportionment transactions conducted by the land consolidation court in terms of section 86, the provisions of Act No. 70 of 23 June 1978 relating to the Surveying, Subdivision and Registration of Real Property shall apply in a similar manner, as far as they are appropriate. To an appeal the same rules as for a land consolidation apply. To entry in the court records and registration

the provisions of the last paragraph of section 22 and section 24 apply.

Chapter 11. Delimitation of boundaries

§ 88.¹ An owner may request the land consolidation court in a special case to clarify, mark and describe the boundaries of his property and the boundaries for perpetual rights of user. This also applies to such boundaries as are mentioned in sections 2,3, and 4 of Act No. 3 of 15 March 1940 relating to Water Resources. As regards boundaries for perpetual rights of user, a holder of rights of user may also apply for a delimitation of boundaries. In the cases mentioned in the second paragraph of section 5, the Ministry may apply for a delimitation of boundaries. An application for a delimitation of boundaries may also be made in terms of the final paragraph of section 2(2) of Act No. 70 of 23 June 1978 relating to the Surveying, Subdivision and Registration of Real Property. In such cases the land consolidation court may determine boundaries for leased land when the duration of the lease is more than 10 years. The court will try to get inconvenient boundaries regulated through amicable exchange. If agreement cannot be achieved, the land consolidation court may regulate the boundaries in the manner the court thinks is most suitable for the properties concerned.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

§ 89.¹ The rules relating to land consolidation shall apply in like manner in boundary delimitation cases as far as they are appropriate. But item b of section 3 shall only apply when the boundaries are to be regulated. If in any area there is reason to expect alterations to be made in the prevailing boundaries through a land consolidation, the land consolidation court shall then as far as possible restrict the case to dealing with the clarification of disputed boundaries and to such demarcation and survey work as is strictly necessary. In the absence of any special reason boundary delimitation shall also not be performed over large adjacent areas thus giving the proceedings the character of systematic demarcation and survey work rather than just

a joint clarification of the boundaries.

If in a boundary delimitation case an application is made for a land consolidation and the court grants the application, such a case may be conducted by the land consolidation court judges who have been appointed in the boundary delimitation case. The same applies if an application is made on the spot for a boundary delimitation when an application for a land consolidation has been dismissed.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

Chapter 12. Miscellaneous provisions

§ 90. Compensation in money for any property or right that is subject to any encumbrance or that has been confiscated shall not be paid out without the consent of all concerned. The land consolidation court shall determine the procedure for the payment of compensation for a move in such cases.

Any person liable to pay money may pay it to the commissioner of police, who shall immediately and on the best possible terms place the money in an approved savings bank until it is decided who shall have it.

§ 91. Any decision made in a public land consolidation or in a boundary delimitation case is liable to enforcement. When the decision is final, it can be implemented according to the provisions for the execution of a court order.¹ Sections 53, 55 and 57 of Act No. 1 of 1 June 1917 relating to assessment and expropriation cases apply in like manner to an expropriation assessment that the land consolidation court has conducted in terms of section 6.

Any expenditure or contribution that has in such a case been charged to an owner or a holder of a right of user shall on registration be secured by a mortgage on the property or on the right of user.² The effect of the registration will lapse when 10 years have elapsed since the registration and no new registration has been effected before the time limit expired.³

¹ See the Enforcement of Claims Act, sections 3, No. 1, 8, 9, 27, and

the Civil Procedure Act, section 164, cf. section 148.

² See Act No. 3 of 3 July 1914.

³ See Act No. 2 of 7 June 1935, sections 28 ff.

§ 92. Any duty attached to a property for any work that has been done by public subsidy, such as planting forest, levelling, drainage, or conservation work, shall follow the piece of ground the duty is connected with if this can be done without any decisive impairment of the purpose of the land consolidation. The same shall apply to a duty to maintain other works such as a cemetery.

While the land consolidation is in progress, the land consolidation judge concerned is bound to notify in terms of Act No. 50 of 9 June 1978 relating to the Cultural Heritage,¹ besides owners and users.

¹ See section 25.

§ 93. As far as is necessary with regard to current proceedings, the land consolidation court may make decisions that in terms of the Act of 21 May 1965 relating to the production of timber and the protection of forests pertain to the inspection of forests. If it is a matter of major felling or felling in a forest reserve or exposed forest, the forest inspectorate shall be given notice and have an opportunity to state its opinion.

§ 94. The land consolidation court may employ expert assistance in special questions when the court finds this necessary.

§ 95.¹ Any person who wilfully or negligently violates the rules prescribed in terms of sections 23 and 60 of this Act will be liable to a fine.² There will be no public prosecution for such offences except at the request of the land consolidation judge concerned or any injured party.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

² See the Penal Code, section 27.

§ 96.¹ The Ministry² may make provisions for certain tasks etc. in the land consolidation service and lay down rules for the officials.

¹ See section 7.

² The Ministry of Agriculture.

§ 97.¹ The following provisions of Act No. 6 of 13 August 1915 relating to Judicial Procedure in Civil Cases apply in land consolidation and boundary delimitation cases, either

(a) in like manner as far as they are appropriate, in the case of section 22, chap. 3, chap. 4, section 64, section 70, sections 75-79, sections 85-88, section 91, sections 97-99, cf. sections 285-287, chap. 12, sections 169-170, the whole of part two, section 338, paragraph 2, section 361, section 369, sections 467-471, cf. section 472, or

(b) as referred to in various sections of this Act, as in the case of chap. 9, chap. 11, section 144, section 154 paragraph 1, section 164 paragraph 2, section 165 paragraph 2, chap. 13, chap. 15, section 301, section 335, chap. 25 and chap. 27. To a land consolidation case in terms of item h of section 2 and a boundary delimitation case in terms of chap. 11 section 63 also applies.

¹ Amended by Act No. 69 of 8 June 1984 (in force from 1 July 1984 pursuant to resolution No. 1173 of 8 June 1984).

§ 98. This Act shall come into force from the date fixed by the King.¹ Act No. 2 of 22 December 1950 relating to Land Consolidation etc. shall cease to apply from the same date. If proceedings have been instituted before this date, the provisions of the old Act shall

nevertheless apply to the procedure in the court concerned. The proceedings in the court of appeal will commence when the first statement of appeal is lodged with the land consolidation court.

From the date the Act comes into force, the following amendments will apply to other Acts:²

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¹ From 1 January 1980 pursuant to the resolution of 21 December 1979.

² Act No. 23 of 21 June 1963, section 60 second paragraph (repealed), Act No. 11 of 18 December 1959, section 51 (amended).