



# LOVDATA

## The Land Consolidation Act

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### Kapitteloversikt:

Chapter 1. Purpose, scope, definitions, types of case and standing

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Chapter 2. The land consolidation courts

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Chapter 4. Legal clarification, boundary determination, etc.

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Chapter 5. Appraisals and other rulings pursuant to other legislation

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Chapter 6. Procedural rules

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Chapter 9. Various provisions

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**Amendment acts incorporated in this text:** Act 13 December 2013 No. 131, Act 11 December 2015 No. 100, Act 11 May 2017 No. 26, Act 16 June 2017 No. 58, Act 24 May 2019 No. 18 (in force 1 July 2019).

**Amendment act *not* incorporated in this text:**  
Act 17 Juni 2022 No. 58 (amending sections 6-1, 6-7 and 6-12. In force 1 July 2022).

**This is an unofficial translation of the Norwegian version of the Act and is provided for information purposes only. Legal authenticity remains with the Norwegian version as published in Norsk Lovtidend. In the event of any inconsistency, the Norwegian version shall prevail.**

The translation is provided by the Norwegian University of Life Sciences and the Western Norway University of Applied Sciences.

## **Chapter 1. Purpose, scope, definitions, types of case and standing**

### **I. Purpose, scope and definitions**

#### **Section 1-1. Purpose of the Act**

The purpose of this Act is to facilitate the efficient and advantageous use of real property and resources for the benefit of owners, easement holders and wider society. This should be done by the land consolidation court remedying impractical property ownership arrangements and easements, clarifying and determining boundaries and rights, carrying out appraisals and issuing other rulings pursuant to this and other legislation.

The Act shall also facilitate fair, legally sound, quick, efficient and confidence-inspiring court proceedings through the justice system at independent and unbiased land consolidation courts.

#### **Section 1-2. Scope of the Act, etc.**

The Act applies to real property and easements relating to real property, watercourses and the sea throughout Norway, unless otherwise specified in this or other acts.

The King may decide that the Act wholly or partly shall apply to Svalbard or Jan Mayen, and may then stipulate specific adjustments in view of the conditions there.

The Act is subject to the limitations that follow from international law and agreements with foreign states.

#### **Section 1-3. Definitions**

In this law, the following terms are defined as follows

- a) *land consolidation area*: the geographic area covered by the land consolidation, cf. section § 6-9, paragraph one
- b) *project-related land consolidation*: land consolidation in conjunction with public and private projects, cf. section 3-2, paragraph one, sentence two
- c) *conservation-related land consolidation*: land consolidation as the result of the public authorities imposing constraints on the exercise of ownership rights, cf. section 3-2, paragraph one, sentence three.

### **II. Types of case and standing**

#### **Section 1-4. Cases that can be brought before the land consolidation court**

The land consolidation court is qualified to hear cases relating to:

- a) modifications to property ownership and easements in order to make them more advantageous, cf. Chapter 3
- b) determining property ownership and rights, cf. section 4-1
- c) determining boundaries, cf. sections 4-2 and 4-3
- d) appraisals and other rulings pursuant to other legislation, as set out in Chapter 5 and in accordance with the provisions of that legislation

## **Section 1-5. People entitled to bring a case before the court**

A hearing can be requested by owners of real property, easement holders and lessees.

In areas where reindeer are kept pursuant to the Norwegian reindeer herding act<sup>1</sup>, the reindeer herding district council, cf. section 43 of the act, council of herders, cf. section 52 of the act, and heads of herding families, cf. section 10 of the act, may request that land consolidation be effected in the circumstances set out in section 3-8, paragraph four and section 3-9, paragraph two. This also applies to requests for a legal assessment under section 4-1 and boundary determination under section 4-2.

Public bodies and other construction clients entitled to expropriate land for construction and infrastructure projects may request land consolidation pursuant to Chapter 3.

Public bodies entitled to regulate ownership rights may request land consolidation pursuant to Chapter 3 and boundary determination pursuant to section 4-2.

The right to request land consolidation cannot be waived.

<sup>1</sup> *Reindriftsloven*

# **Chapter 2. The land consolidation courts**

## **I. Organisation of the land consolidation courts**

### **Section 2-1. Land consolidation region (legal venue)**

The King divides the country into land consolidation regions for the land consolidation courts.

### **Section 2-2. Relationship to the Courts of Justice Act<sup>1</sup>**

The land consolidation courts are covered by the Courts of Justice Act unless otherwise stipulated, cf. Courts of Justice Act, section 2, paragraph two.

<sup>1</sup> *Domstolloven*

### **Section 2-3. Staff**

Land consolidation courts shall have one senior presiding judge who is also a land consolidation judge, and as many land consolidation judges as stipulated at any given time.

Land consolidation courts shall have the necessary technical staff. The provisions of Chapter 6 of the Courts of Justice Act apply to technical staff, where relevant. The Norwegian Courts Administration can establish specialist and technical support functions for the land consolidation courts. These functions may either be independent or be attached to a court.

The land consolidation court may have at least one assistant judge who can perform tasks on behalf of the land consolidation judge. The Norwegian Courts Administration may regulate the areas of authority of the assistant judge, and regulate who may delegate such authority to the assistant judge.

The summoning of land consolidation judges is governed by the Courts of Justice Act, section 19, paragraph two.

#### **Section 2-4. Necessary academic qualifications**

Land consolidation court of appeal judges, land consolidation judges and assistant judges must hold a Master's degree related to land consolidation, covering the subjects stipulated by the Ministry.

#### **Section 2-5. Panels of lay judges**

Each land consolidation region shall have a panel of lay judges. The members of the panel shall have expertise relevant to the kinds of cases normally heard by the land consolidation court in their land consolidation region. The senior presiding judge decides how many lay judges should be appointed, based on the principle that each lay judge should be expected to serve on one case during his or her time on the panel.

The panel shall be appointed in accordance with the provisions of the Courts of Justice Act on the selection of lay judges. The senior presiding judge decides how many people from each municipality shall be on the panel. All municipalities in the land consolidation region shall appoint at least one man and one woman to the panel, and always an equal number of men and women. Lay judges and appraisers are not exempt from being appointed to the land consolidation court's panel of lay judges.

## **II. Composition of the land consolidation court for different kinds of cases. Oaths by lay judges, etc.**

#### **Section 2-6. Composition of the land consolidation court**

The land consolidation court shall have one land consolidation judge.

If requested by one of the parties, or if deemed necessary by the land consolidation judge, the court shall have two lay judges.

In project-related and conservation-related land consolidation cases the court shall have two lay judges. If requested by one of the parties, or if deemed necessary by the land consolidation judge, the court shall have four lay judges.

In major cases the senior presiding judge may decide that one or two deputy lay judges and one deputy judge shall follow the proceedings in order to take over in the event of absences.

The decision on the composition of the court pursuant to paragraphs two to four cannot be appealed.

#### **Section 2-7. Appointment of lay judges**

Without consideration for the boundaries of land consolidation regions, the land consolidation judge shall appoint lay judges and deputy lay judges from the panel described in section 2-5. The land consolidation judge shall appoint lay judges with expertise in the main fields relevant to the case. The land consolidation judge may appoint lay judges who are not on the panel if this is needed in order to secure lay judges with specialist expertise in one or more fields.

If a lay judge who has been appointed fails to attend or is unable to serve, and none of the appointed deputy lay judges are able to attend within a reasonable length of time, the land consolidation judge may appoint another lay judge for the hearing. This lay judge does not need to be on the panel.

### **Section 2-8. Instruction and oath**

The first time that someone serves as a lay judge at a land consolidation court, the land consolidation judge at the court hearing shall instruct him or her of the duties of a lay judge. The lay judge shall promise to perform his or her duties conscientiously and to the best of his or her abilities, both in the case in question and in all future cases.

The Norwegian Courts Administration decides the wording of the oath.

## **Chapter 3. Land consolidation**

### **I. Impractical property arrangements and use of land consolidation measures**

#### **Section 3-1. Measures to remedy impractical property arrangements**

The land consolidation court may use the measures described in sections 3-4 to 3-10 to remedy impractical property arrangements as explained in section 3-2. A land consolidation case may involve one or more of these measures. If the land consolidation court uses measures pursuant to sections 3-4 to 3-10, it may also use the measures described in sections 3-11 and 3-12.

Land consolidation in community-owned commons (*bygdeallmenningar*) is regulated by Act of 19 June 1992 no. 59 relating to community-owned commons<sup>1</sup>, section 1-4. Land consolidation in state commons is regulated by section 16 of Act of 6 June 1975 no. 31 relating to the exploitation of rights and entitlements, etc. in state commons<sup>2</sup>, and section 4-2 of Act of 19 June 1992 no. 60 relating to forestry, etc. in state commons<sup>3</sup>.

1 *Bygdeallmenningsloven*

2 *Fjellova*

3 *Statsallmenningsloven*

#### **Section 3-2. Impractical property arrangements**

The land consolidation court may effect land consolidation pursuant to sections 3-4 to 3-10 if at least one property or easement in the land consolidation area is difficult to use gainfully at the current time and under the current circumstances. This also applies if there is reason to believe that at least one property or easement will become hard to use gainfully as a result of the actions of public or private entities. Actions of public entities shall also include constraints placed on the exercise of ownership rights or adopted zoning plans and their associated affected areas.

The land consolidation court may not make any other changes beyond those needed to remedy the impractical property arrangements raised by the parties during the land consolidation case.

#### **Section 3-3. Improving property arrangements in the land consolidation area**

The land consolidation court may only effect land consolidation pursuant to sections 3-4 to 3-10 in order to make the property arrangements in the land consolidation area more advantageous.

## II. Measures

### **Section 3-4. *Modifications to property and perpetual easements***

The land consolidation court may modify properties and perpetual easements. The easement must relate to real property.

The land consolidation court may require that water pipes, dams, power cables and other similar installations situated on land being exchanged under the first paragraph be transferred to the new owner. The same applies to buildings.

### **Section 3-5. *Establishing joint ownership***

The land consolidation court may establish joint ownership between properties if this remedies the impractical property arrangements more effectively than would be achieved by creating rules on joint use by the properties under section 3-8.

### **Section 3-6. *Dissolution of joint ownership and joint use***

The land consolidation court may dissolve joint ownership arrangements or joint use by properties. The dissolution may be partial or complete.

### **Section 3-7. *Division of property***

The land consolidation court may divide and allocate a property with its associated easements in accordance with the ownership shares established.

### **Section 3-8. *Rules on joint use (shared use arrangements)***

The land consolidation court may establish or modify rules for existing shared use arrangements. The land consolidation court may establish new shared use arrangements where there are no such existing arrangements and set rules on joint use if there are special grounds for doing so. The land consolidation court may clarify the arrangements between an owner and an easement holder and between easement holders. Amongst other things, the land consolidation court may delineate the area covered by an easement, and establish rules on how it is exercised.

The land consolidation court may set both permanent and temporary rules.

The land consolidation court may set rules on joint use of the outdoor areas of condominium units. Paragraphs one and two apply in the event of joint use being established for the outdoor areas of condominium units.

The land consolidation court may set rules on the use of the parts of the Sami reindeer grazing area where reindeer husbandry takes place. The court is not qualified to regulate relationships between the people involved in reindeer husbandry.

### **Section 3-9. *Orders to carry out joint measures and joint investments***

The land consolidation court may impose joint measures and joint investments in conjunction with the use of properties or easements.

The land consolidation court may also impose joint measures and joint investments on parties involved in reindeer husbandry, landowners or easement holders.

### **Section 3-10. *Creating owner associations and establishing articles of association. Operating companies***

The land consolidation court may create owner associations with responsibility for operation or maintenance if several parties will use a property or have an easement on it. The land consolidation court may also make changes to existing associations.

The land consolidation court shall establish the articles of association for any associations that it creates. The articles of association of existing associations shall be modified to the extent required by any changes to the rules of use or to the owner association.

Measures that involve high risk may only be implemented by an operating company. The association decides what measures to implement based on a majority vote. Each participant is entitled to take part in the operating company in proportion to his ownership share. If a party who did not vote in favour wishes to participate, notice of this should be given as soon as possible, and no later than three weeks after receiving written notice of the decision and of this deadline. The operating company shall pay for the association's exploitation rights, and allocate the cost to the participants based on their shares.

If the parties are in agreement, an operating company may implement other measures than those referred to in paragraph three, sentence one. In such cases, sentences three and five of paragraph three also apply.

### **Section 3-11. *Modifying and extinguishing temporary easements and perpetual easements that do not relate to real property***

The land consolidation court may modify a temporary easement or a perpetual easement that does not relate to real property, if the easement represents an impediment to an advantageous land consolidation. If it cannot be successfully modified, the land consolidation court may extinguish the easement.

The first paragraph does not apply to land or farm leases. Nor does it affect the entitlement of the Sami people to carry out reindeer husbandry in accordance with the Norwegian reindeer herding act.

### **Section 3-12. *Extinguishing a perpetual easement that relates to real property, and negative easements***

The land consolidation court may extinguish a perpetual easement that relates to real property, or a right to prohibit certain kinds of activity, use or conditions (negative easements), if it represents an impediment to an advantageous land consolidation.

## **III. Basis for land consolidation**

### **Section 3-13. *Ownership rights and easements***

The land consolidation court shall determine the existing ownership rights and easements.

If the parties are in agreement on some or all of the factual basis for the land consolidation case, the land consolidation court may take this into account.

#### **Section 3-14. *What shall be valued by the land consolidation court***

The land consolidation court shall value the things that are exchanged.

If the land consolidation results in compensation in cash or other assets, the land consolidation court shall set the compensation separately.

#### **Section 3-15. *How the land consolidation court shall perform its valuation***

The land consolidation court shall value anything that is exchanged, based on its probable use.

When valuing forest land, the value of the standing timber may be taken into account for the land consolidation.

### **IV. The land consolidation settlement**

#### **Section 3-16. *Area affected by the land consolidation settlement***

The land consolidation court shall do no more than is necessary to remedy the problems raised by the parties during the land consolidation case.

#### **Section 3-17. *Regulations and permits***

The land consolidation settlement shall not contravene binding zoning regulations.

The necessary official permits shall be in place when the land consolidation court issues its final ruling. The land consolidation court may apply for the permits required to effect the land consolidation.

#### **Section 3-18. *Protection against losses***

For any given property or easement, the land consolidation settlement shall not result in costs and other disbenefits that are greater than the benefits.

#### **Section 3-19. *How the land consolidation court shall allocate land and easements***

The land consolidation court shall allocate land and easements in accordance with sections 3-20 to 3-26 and in a way that is advantageous in view of the grounds for land consolidation.

Except in the case of paragraphs two and three of section 3-20, section 3-21, section 3-25 and 3-26, the land consolidation court shall allocate land and easements in the land consolidation area in such a way that each property receives benefits of an equivalent value to those that it loses.

#### **Section 3-20. *Allocation of land and easements***

The land consolidation settlement may involve exchanging land for land, easements for easements, land for easements and easements for land.

The land consolidation settlement may involve exchanging land or easements for cash or other assets, if it is not possible to allocate the properties or easements in accordance with the first paragraph.

The land consolidation court may use cash to compensate for differing extents of land improvement.

### ***Section 3-21. Compensation when transferring infrastructure for water supply, electricity transmission, etc.***

If the land consolidation court pursuant to paragraph two of section 3-4 orders that infrastructure or buildings be transferred, the land consolidation settlement may consist of compensation in cash or in other assets.

### ***Section 3-22. Allocation of land for special purposes***

If any party needs land for special purposes, he can request that this be allocated from his share.

### ***Section 3-23. Allocation of land and easements that may change in value***

If the land consolidation court believes that land and easements in the land consolidation area may in the future be used in a way that will result in a large change in value, the ownership of such land or easements should not be transferred unless required for an advantageous land consolidation. If the land or easement changes hands, the land consolidation court shall ensure that any change in value as described in the first paragraph is as similar as possible before and after land consolidation has been effected.

### ***Section 3-24. Leased parcels***

If land consolidation affects a lessee or any other person with similar rights, the land consolidation court shall resolve the relationship between him and the owner if necessary. The land consolidation court should take into account leasing arrangements in the land consolidation area.

### ***Section 3-25. Equalisation when transferring standing timber***

The land consolidation court decides the equalisation method to be used when transferring standing timber. Logging rights can be used to compensate for standing timber on a parcel that changes hands, if the trees or areas in question have been reliably identified.

### ***Section 3-26. Compensation for extinguished rights***

If an easement is extinguished in accordance with section 3-11, paragraph one, sentence two or section 3-12, the easement holder shall ordinarily receive land or easements as compensation for the extinguished easement. Compensation may be paid in cash or in other assets if this is more expedient.

If an easement is extinguished under section 3-11, paragraph one, sentence two or section 3-12, the compensation may not be set below the value of the easement to the holder.

**Section 3-27. Considerations when ordering joint investments in accordance with section 3-9**

When considering what investments may be ordered under section 3-9, the land consolidation court shall emphasise the future use of the properties, and take into account the financial capacity of the parties.

**Section 3-28. Allocation of costs**

The court shall allocate the cost of investments under section 3-9 based on the benefit that each party will obtain from the investment.

**Section 3-29. Liability for debts**

When the land consolidation court establishes associations in accordance with section 3-10, each participant in the association is liable to third parties in proportion to his participation in the association.

**V. Distribution of net added value from rezoning****Section 3-30. Competence of the land consolidation court**

The land consolidation court may distribute the net added value from rezoning between the properties that are covered by a zoning plan. This may be done if the planning authority – pursuant to the Planning and Building Act, section 12-7, no. 13 – has stipulated in the zoning plan that value added by rezoning shall be distributed in this way. In the zoning plan, the planning authority must have set the geographic boundary of the area in which the added value will be distributed.

**Section 3-31. How the land consolidation court shall perform its valuation**

The land consolidation court shall calculate the total net value generated in the area where the added value will be distributed. The land consolidation court shall value the shares that each party shall receive of the added value. The land consolidation court shall value of the properties based on their characteristics for development purposes, and independently of the zoning plan.

**Section 3-32. How the land consolidation court shall distribute net added value**

The land consolidation court shall distribute net added valued in such a way that each owner receives the share of the net added value from rezoning that follows from section 3-31, sentence two.

When distributing added value in accordance with the first paragraph, the land consolidation court shall, in so far as possible, allocate each party development rights on or adjacent to property owned by that party. When a party is allocated a development right that does not relate to the property owned by him, the ownership right follows the site to which the development right pertains.

If the added value from rezoning only constitutes part of a development right, the owner of the largest share of the development right is entitled to demand that the whole development right be allocated to him. If none of the joint owners demand that the development right be allocated to them, the site to which the

development right relates becomes a joint ownership between the parties. If one of the joint owners takes over pursuant to the first sentence, the other joint owners shall receive cash compensation for the net added value from rezoning.

## **VI. Risk of natural disasters**

### **Section 3-33. Risk of river flooding, landslides, avalanches, sand storms, etc.**

Where there is a risk of river flooding, landslides, avalanches, sand storms, etc., the land consolidation court shall, if these factors cannot be taken into account in the land consolidation settlement itself, specify the necessary preventive measures or other safety measures, and establish rules on how the costs of such measures and their maintenance shall be shared. If these risks have not been taken into account in the land consolidation settlement, the land consolidation court shall set rules on what happens in the event of a loss event, and above all about how its cost shall be shared.

When rules have been established under the first paragraph, parties who have suffered a loss may demand help from the land consolidation court with sharing out the cost of the loss, unless otherwise specified and if the parties are unable to reach agreement. These cases are governed by the provisions of Chapter 6, where applicable.

## **VII. Other rules relating to land consolidation**

### **Section 3-34. Rules of use for land consolidation areas**

The land consolidation court may establish rules of use for the properties in the land consolidation area, which shall apply from the moment at which, under the first paragraph of section 6-19, the case can no longer be withdrawn without the consent of the land consolidation court, until the land consolidation has been effected.

Any party who must desist from using his property in accordance with the first paragraph is entitled to compensation. The land consolidation court sets the amount of the compensation.

If the land consolidation court has set rules of use under the first paragraph, the parties that benefit from this shall bear the cost in proportion to the benefits derived.

### **Section 3-35. Establishing and measuring new cadastral units**

The land consolidation court may establish new cadastral units, and merge cadastral units, in accordance with the Cadastre Act, section 10, paragraph five, and merge cadastral units in accordance with the Cadastre Act, section 18, and with the regulations pursuant to the Cadastre Act.

The land consolidation court establishes and measures new cadastral units arising from cases heard by the land consolidation court, unless otherwise determined by the land consolidation court. The rules in the Cadastre Act apply in so far as they are relevant.

### **Section 3-36. Deadline for implementing rulings**

The land consolidation court shall, in accordance with section 6-27, set the necessary deadlines for implementing rulings under this chapter.

### **Section 3-37. Exclusion period for further land consolidation**

Any area that has previously been consolidated under sections 3-4 to 3-12, or under the previous Land Consolidation Act, cannot be considered for further land consolidation until ten years have passed since the previous land consolidation became binding and enforceable.

If a request for land consolidation has been rejected due to failure to meet the conditions in sections 3-2, 3-3 or 3-18, ten years must also pass before a new application may be considered. However, if the conditions have subsequently been met, a new application for land consolidation may be considered notwithstanding the ten-year rule.

The exclusion period specified in paragraph one shall not apply to areas that have previously been consolidated if they become incorporated into the land consolidation area of a new land consolidation case when the land consolidation court extends the case under section 6-9, paragraph four.

Paragraph one does not apply if e.g. landslides, avalanches, river flooding, the construction of public roads or the purchase of additional land mean that it is no longer natural to consider the area as having been previously consolidated.

## **Chapter 4. Legal clarification, boundary determination, etc.**

### **Section 4-1. Legal clarification cases**

The land consolidation court may establish the nature of rights and property arrangements as a separate case

- a) in joint ownerships
- b) in areas where there are areas jointly used by several properties or where it is unclear whether there is joint use
- c) in conjunction with the registration of unregistered farm commons
- d) in an area with reindeer husbandry within the Sami reindeer grazing area
- e) in areas where there is joint use of the outdoor areas of condominium units.

### **Section 4-2. Boundary determination cases**

The land consolidation court may determine the boundaries of real property and easements as a separate case, including in the case of boundaries of

- a) parcels, cf. the Cadastre Act, section 5, paragraph one (a)
- b) 3D parcels, cf. the Cadastre Act, section 5, paragraph one (b)
- c) outdoor areas belonging to condominium units, cf. the Cadastre Act, section 4, paragraph one, final sentence
- d) farm commons, cf. the Cadastre Act, section 5, paragraph one (d)
- e) leased land, cf. the Cadastre Act, section 5, paragraph one (e)
- f) constraints on the exercise of ownership rights imposed by the public authorities
- g) Sami reindeer husbandry areas.

The land consolidation court shall mark and establish the coordinates of boundaries in accordance with section 6-29.

### **Section 4-3. Other rules relating to boundary determination**

In cases under section 4-2, the land consolidation court may issue rulings on fence maintenance for the boundary section under consideration. When the court makes such a ruling, section 3-34 applies where relevant.

The land consolidation court may adjust boundaries in accordance with section 16 of the Cadastre Act.

Determination of the boundaries of community-owned commons and state commons is governed by Act of 19 June 1992 no. 59 relating to community-owned commons, section 1-4 and Act of 19 June 1992 no. 60 relating to forestry, etc. in state commons, section 4-2.

The land consolidation court may establish boundaries of the kind described in Act of 15 March 1940 no. 3 on watercourses, sections 2, 3 and 4.

The land consolidation court establishes boundary markers, determines boundary coordinates and surveys the boundary in accordance with the Finnmark Act, section 45.

If rulings under paragraphs one to four or under sections 4-1 and 4-2 make it necessary to register a new farm commons or to register unregistered parcels or leased land in the cadastre, section 3-25 applies.

#### **Section 4-4. *Disputes about the underlying legal relations***

If there is any dispute about boundaries, ownership rights, easements, etc. during a legal clarification or boundary determination case, the land consolidation court shall, if so requested by one party, resolve the dispute in so far as this is required to reach a decision in the case.

## **Chapter 5. Appraisals and other rulings pursuant to other legislation**

#### **Section 5-1. *Appraisals in conjunction with project-related and conservation-related land consolidation***

The land consolidation court performs appraisals in conjunction with project-related and conservation-related land consolidation. This does not apply to land consolidation cases of these kinds when they relate to watercourses.

#### **Section 5-2. *Appraisals in conjunction with land consolidation following measures specified by the land consolidation court in watercourses***

The land consolidation court performs an appraisal to determine the compensation due to properties outside the land consolidation area as a result of measures under section 3-9.

#### **Section 5-3. *Appraisals and other rulings pursuant to other legislation in conjunction with cases being heard by the land consolidation court***

The land consolidation court performs appraisals and issues other rulings in conjunction with cases being heard by the land consolidation court pursuant to

- a) ---
- b) Act of 28 June 1957 no. 16 relating to outdoor recreation, section 35 paragraph five, sentence three
- c) Act of 23 October 1959 no. 3 relating to expropriation of real property, sections 17, 19, 26 and 27
- d) Act of 5 May 1961 relating to boundary fences
- e) Act of 16 June 1961 no. 12 relating to various grazing issues, sections 7, 9 and 14
- f) Act of 21 June 1963 no. 23 relating to roads and highways, Chapter VII
- g) Act of 29 November 1968 relating to special rights of disposition over another person's property
- h) Act of 9 June 1978 no. 50 relating to the cultural heritage, section 11

- i) Act of 9 December 1994 no. 64 relating to the redemption of property, section 22
- j) Act of 24 November 2000 no. 82 relating to watercourses and groundwater, section 31, paragraph three (c)
- k) Act of 6 June 2003 no. 39 relating to housing cooperatives, section 4-18
- l) Act of 4 July 2003 no. 83 relating to electronic communication, section 12-3
- m) The Cadastre Act of 17 June 2005 no. 101, section 45
- n) Act of 15 June 2007 no. 40 relating to reindeer husbandry
- o) The Planning and Building Act of 27 June 2008 no. 71, section 16-12, and
- p) The Postal Services Act of 4 September 2015 no. 91, section 55

#### **Section 5-4. Appraisals and decisions pursuant to other legislation treated as separate cases**

The land consolidation court performs appraisals and issues other rulings as separate cases pursuant to the legislation referred to in section 5-3. The first sentence does not apply to cases heard under Act of 14 June 1912 no. 1 relating to the installation of cableways and aerial cables, etc., section 8.

#### **Section 5-5. Agreed appraisals as separate cases**

The land consolidation court may also perform appraisals in circumstances other than those referred to in sections 5-1 to 5-4 if agreed to by the parties.

#### **Section 5-6. Separation of appraisals and other rulings from cases being heard by the land consolidation court**

The land consolidation court may decide that appraisals and other rulings pursuant to sections 5-1 to 5-3 shall be heard separately. The first sentence does not apply to cases heard under Act of 14 June 1912 no. 1 relating to the installation of cableways and aerial cables, etc., section 8.

#### **Section 5-7. Procedure for cases under Chapter 5**

In so far as they are relevant, Chapters 1, 2, 6, and 8 apply to appraisals and other rulings by the land consolidation court pursuant to sections 5-1 to 5-3. Section 7-1, paragraph two and section 7-10 also apply. The rules on appraisal governed by the District Court established by Act of 1 June 1917 no. 1 relating to assessment and expropriation cases apply where chapters 1, 2, 6 and 8 do not contain relevant rules. The procedure is also governed by the provisions of the legislation referred to in section 5-3.

Decisions taken by the land consolidation court at separate hearings under sections 5-4 to 5-6 are covered by the rules on appraisal governed by the District Court set out in Act of 1 June 1917 no. 1 relating to assessment and expropriation cases. The procedure is also governed by the provisions of the legislation referred to in section 5-3.

#### **Section 5-8. Disputes**

During the court proceedings, the land consolidation court settles disputes over the right to bring an appraisal case or any other case under Chapter 5, the conditions for doing so and what shall be the subject of appraisal or other rulings.

During the court proceedings, the land consolidation court settles disputes over the right to expropriate property, the conditions for doing so and what shall be expropriated.

If, during an appraisal under section 5-1, sentence one, there is a dispute over the underlying legal relations with respect to boundaries, ownership rights and other matters within the land consolidation area that could affect the ruling in the case, the dispute shall be settled by the land consolidation court, if so requested by one of the parties. The land consolidation court may, in conjunction with conservation-related land consolidation under section 5-1, sentence one, decide whether compensation shall be paid for the loss of rights entailed by the public authorities imposing constraints on the exercise of ownership rights.

## **Chapter 6. Procedural rules**

### **I. Relationship to the Dispute Act and the Assessment and Expropriation Cases Act**

#### **Section 6-1. *Procedural rules and relationship to the Dispute Act and the Assessment and Expropriation Cases Act***

The procedural rules in this chapter apply to land consolidation cases under Chapter 3, legal clarification cases and boundary determination cases under Chapter 4, and appraisal and other rulings under sections 5-1 to 5-3 in conjunction with cases being heard by the land consolidation court.

The following parts, chapters and sections of the Dispute Act apply as specified in this Act, and elsewhere where relevant: Chapters 2, 3 and 8; section 9-6, paragraphs one and two, sentences one and two of paragraph three and paragraph four; sections 9-10 and 9-13 to 9-17; section 10-5, paragraphs one and two; Chapter 11; section 12-1, paragraphs one to three; section 13-1, paragraphs two and three, sections 13-3 and 13-4; Chapter 13 II; Chapter 14; section 15-2, paragraph one (b); sections 15-6 to 15-8; Chapter 16 I, II and III; section 16-18; Chapter 17; sections 18-1 and 18-2; Chapter 19; and Chapter 20, parts five and six.

Act of 1 June 1917 no. 1 relating to assessment and expropriation cases applies to appraisals and other rulings heard as separate cases under sections 5-4 to 5-6, cf. section 5-7, paragraph two.

### **II. Preparation of cases**

#### **Section 6-2. *Instituting proceedings***

Proceedings may be instituted by a written application to the land consolidation court. Proceedings may be instituted orally, and the claim may be made as a pleading in accordance with the Dispute Act, section 12-1, paragraph two. The claim shall be signed.

Where possible, claims shall state:

- a) the properties involved in the case
- b) the names and addresses of the parties, their representatives and their counsels
- c) whether lay judges are needed, and whether they should have specialist knowledge, cf. section 2-7
- d) what outcome the claimant wishes to achieve, and
- e) what evidence and other documentation will be submitted.

The claim shall be formulated in such a way that it facilitates a sound legal process. The contents of the claim must enable the other parties to assess the claim and prepare themselves for the case. The claim shall also provide the information needed for the court to assess whether it is competent to hear the case. If possible, the claim shall show the geographical area in question on a map. If the claim relates to land consolidation under Chapter 3, it shall specify the impractical property arrangements that the court is being requested to remedy.

**Section 6-3. Where proceedings shall be instituted (legal venue)**

Proceedings shall be instituted at the land consolidation court in the land consolidation region where the property is located. If the property is located in several regions, or if it is not known in which region it is located, proceedings shall be instituted at a land consolidation court in one of the regions.

If proceedings are instituted at a court that does not have territorial jurisdiction over the location of the property, the court shall transfer the case to a land consolidation court that does have such jurisdiction. If several land consolidation courts have territorial jurisdiction over the location, the person instituting proceedings may choose between them.

The transfer of a case to another land consolidation court at the request of one of the parties or at the instigation of the court itself is governed by the Courts of Justice Act, section 38.

**Section 6-4. Rulings on whether the conditions for bringing action have been met**

When proceedings are instituted at the land consolidation court, the court shall investigate whether the conditions for hearing the case have been met.

If the pleading suffers from deficiencies that can be rectified, the court shall provide guidance and set a deadline for rectification in accordance with section 6-16.

The land consolidation court shall rule on whether or not the conditions for bringing a case have been met as soon as it is in a position to do so.

The land consolidation court shall record in the court record that a land consolidation case has been initiated.

**Section 6-5. Comments on the pleading**

The land consolidation court shall serve the pleading on the other parties and invite their comments. The parties should present their views on the pleading, and provide any relevant information in their possession. They should state the evidence that they will present, and provide references to the relevant documentation. The comments do not need to go beyond what is required to allow preparations for the case to continue.

If any of the parties want lay judges to be present at the first hearing of the case, this must be stated in their comments.

Normally comments shall be made in writing, but oral comments can be put into writing by the court in accordance with the Dispute Act, section 12-1, paragraph two.

The deadline for comments shall normally be no shorter than three weeks.

**Section 6-6. Active management of a case and planning**

The land consolidation court shall actively and systematically manage the preparation of the case, in order to ensure a quick, cost-effective and sound process. In so far as it is relevant, section 11-6 of the Dispute Act governs the duties of the land consolidation court to actively manage the case.

After discussion with the parties, the court shall produce a plan for the court proceedings. The plan shall give the court and the parties an outline of how the case will progress, of when important decisions in the case must be taken, and of when the court believes that the case can be concluded. The court shall keep the parties informed of any changes to the plan.

### **Section 6-7. Preparatory court hearing**

The land consolidation court may summon the parties to a preparatory court hearing at all stages of the case. These hearings may be distance hearings, cf. the Dispute Act, section 13-1, paragraphs two and three.

The land consolidation judge may act as the sole judge at preparatory court hearings.

### **Section 6-8. Comments on rulings relating to procedural matters**

The parties shall be given the opportunity to comment on matters that affect rulings on procedural issues. A party must raise any objection to a procedural step as soon as he is able to.

All other questions relating to the rights of the parties to comment and raise objections, and to rulings by the land consolidation court on procedural issues, are governed by section 9-6 of the Dispute Act, where applicable. However, the Dispute Act, section 9-6, paragraph three, final sentence does not apply.

### **Section 6-9. Substantive and geographic limits to the case**

The land consolidation court shall establish substantive and geographic limits for the case, based on the claim or claims presented and on the issues that the parties have been given the opportunity to comment on.

The court may set a deadline for the parties to present claims in relation to the geographic limits of the case. Any claims submitted after this deadline shall be dismissed, unless the court finds good reasons to accept them. Consideration shall be given to issues such as the opinions of the other parties on the claims and whether they will cause undue delay.

The court shall reach a decision on the limits for the case as soon as it is in a position to do so.

If the court considers it necessary in order to remedy the impractical property arrangements in a land consolidation area, it may at its own initiative extend the geographic limits specified in the claims, and include the remaining parts of the properties covered by the land consolidation case. However, the land consolidation area may not be extended beyond what is necessary to resolve the case in accordance with the substantive limits established on the basis of the claims presented.

## **III. Hearings**

### **Section 6-10. Notice of hearing**

The land consolidation court decides when the case shall be heard. The court shall notify all of the parties affected by the case of the first ordinary hearing. The names of the members of the court shall be included in the notice of hearing. At least two weeks' notice shall be given.

For the remaining hearings, the court shall summons the parties that are required to attend in person, explaining under what circumstances failure to attend will be considered unlawful absence. Beyond this, the parties shall be notified as and when the court sees fit.

Parties who have a lawyer as their counsel shall be summonsed through the lawyer. A copy of the summons shall be sent to the party. If the land consolidation court orders one of the parties to attend court in person, the summons shall be served on the party himself, even if he has a lawyer.

If there is any doubt as to the identity of an owner or easement holder, or if the land consolidation court considers it necessary for other reasons, the notice of hearing may be published in one or more local newspapers or be posted on an official noticeboard. At least six weeks shall pass from the announcement to

the hearing at the land consolidation court.

The summons of witnesses and experts to court hearings is governed by section 13-3 of the Dispute Act.

### **Section 6-11. *Obligation to attend and testify***

Parties, witnesses and experts who are summonsed under section 6-10 have an obligation to attend and testify as set out in section 6-15.

Lawful absence from court hearings is governed by section 13-4 of the Dispute Act. In the event of unlawful absence from the hearing of a dispute, section 16-10 of the Dispute Act applies.

### **Section 6-12. *Procedure at court hearings***

The land consolidation court shall ensure that the court hearings are conducted efficiently. Hearings shall be scheduled close together and guarantee a fair process, and shall not waste the time of the court, parties, witnesses and experts. Hearings may be held as distance hearings, cf. the Dispute Act, section 13-1, paragraphs two and three.

Court hearings are conducted orally, and evidence shall be presented directly to the court.

Hearings of disputes about boundaries, ownership rights, easements, etc. are governed by the rules on main hearings set out in the Dispute Act, sections 9-13 to 9-17, where applicable.

### **Section 6-13. *Court record***

The land consolidation court shall keep a court record of proceedings. The rules in the Dispute Act, Chapter 13 II apply in so far as they are relevant.

The parties shall have access to the court record.

## **IV. General provisions**

### **Section 6-14. *Basis for court rulings***

The land consolidation court shall make decisions on the basis of the hearings, case documents, other evidence and comments from the parties in accordance with sections 6-21 and 6-22.

The court may not base its decisions on facts on which the parties have not had the opportunity to comment. If the court nevertheless wishes to do this, it must give the parties guidance in accordance with section 6-16, and if necessary continue the proceedings in accordance with the Dispute Act, section 9-17, paragraph two, in order to ensure a sound basis for its ruling.

### **Section 6-15. *Evidence***

The parties shall ensure that the factual basis of the case is properly and completely explained. They shall provide such accounts and present such evidence as they have. They have a duty to give testimony and provide access to evidence.

Each party shall also disclose the existence of important evidence that is not in his possession and which he has no reason to believe that the opposite party is aware of.

This applies irrespective of whether such evidence supports the case of the party himself or of the opposite party.

The land consolidation court shall present the evidence unless the parties object to this. The court is not bound by the arguments of the parties with respect to evidence.

The court may draw on expert help to clarify particular issues when it considers this necessary.

The submission of evidence at the land consolidation court is governed by the provisions of the fifth part of the Dispute Act (Chapters 21 to 28) where applicable.

### **Section 6-16. *Guidance and rectification***

The land consolidation court shall give the parties such guidance on procedural rules and routines and other formalities as is necessary to enable them to safeguard their interests in the case. The court shall seek to prevent errors, and shall give such guidance as is necessary to enable errors to be rectified.

The court shall provide guidance to the parties that contributes to a correct ruling in the case based on the facts and the applicable rules.

The court shall give particular consideration to the need for guidance of parties not represented by counsel.

The court shall provide its guidance in a manner that is not liable to impair confidence in its impartiality. The court may not advise the parties on the position they should take on disputed issues or on the procedural steps they should take.

All other questions relating to guidance for the parties shall be governed by the Dispute Act, section 11-5.

The Dispute Act, section 16-5 regulates the right to rectify errors. Amongst other things, the court may set deadlines for their rectification.

### **Section 6-17. *Amicable settlement and mediation of cases at the land consolidation court***

The land consolidation court shall at each stage of the case consider whether mediation could lead to an amicable settlement.

Mediation shall involve the court attempting to provide a basis for an amicable settlement, either at a court hearing or through other contact with the parties. During mediation, the court shall neither hold separate meetings with each party nor receive information that cannot be communicated to all of the parties. The court may not propose settlements, offer advice or express points of view that could impair confidence in the impartiality of the court.

### **Section 6-18. *Judicial mediation***

Judicial mediation of disputes about boundaries, ownership rights, easements, etc. heard by the land consolidation court is governed by the Dispute Act, Chapter 8 II, where applicable.

If the parties reach agreement, the result of the mediation may be confirmed as an in-court settlement pursuant to section 6-26.

Technical staff as referred to in section 2-3, paragraph two, sentence one may act as judicial mediators. If mediation is unsuccessful, they may continue to assist with subsequent technical work on the case, unless the parties demand that this work be taken over by other members of staff.

The court shall mark, establish coordinates for, report and register the outcome of the judicial mediation pursuant to sections 6-29, 6-30 and 6-31.

### **Section 6-19. *Withdrawal of a claim***

Once the court record states that a land consolidation case has been initiated, the claimant may only withdraw his request for land consolidation with the consent of the court.

Requests for boundary determination and legal clarification cases may be withdrawn until the moment at which the court issues a judgement pursuant to section 6-23. Section 18-4 of the Dispute Act does not apply.

### **Section 6-20. *Partial conclusion of cases***

The court may conclude parts of a case. Each part that is concluded individually, shall be treated as a separate case in terms of completion, appeals and holding a new hearing.

## **V. Proposals for land consolidation rulings and for boundary determination, easements, etc.**

### **Section 6-21. *Proposals for land consolidation rulings***

During the preparation of a land consolidation ruling pursuant to section 6-23, paragraph four, (b), (f) and (h), the court shall draw up a proposal showing the outcome of the ruling, and present the proposal in writing to the parties.

Before drawing up the proposal, the court shall give the parties the opportunity to express their views. The parties shall also have the opportunity to express their views on the comments that are made on the proposal.

The deadline for expressing opinions shall normally be no shorter than two weeks.

The proposal shall be considered at a court hearing. If the land consolidation court believes it to be adequate, and none of the parties object, the proposal may be considered in writing.

### **Section 6-22. *Proposals for boundary determination, easements, etc.***

If there is no dispute between the parties, the land consolidation court shall draw up a proposal showing the outcome of the ruling on boundary determination, ownership rights, easements, etc. and present the proposal in writing to the parties.

Before drawing up the proposal, the court shall give the parties the opportunity to express their views. The parties shall also have the opportunity to express their views on the comments that are made on the proposal.

The proposal shall build on the areas on which the parties agree.

The proposal shall be served on the parties.

The deadline for expressing opinions shall normally be no shorter than two weeks.

The proposal may be considered in writing, if neither the land consolidation court nor any of the parties believe that a court hearing is necessary.

## **VI. Judicial rulings and in-court settlements**

### **Section 6-23. Types of rulings**

Rulings on boundaries, ownership rights, easements, etc. shall be made by way of judgement.

Rulings in the following circumstances shall be made by interlocutory order:

- a) if a case is dismissed because the conditions for bringing it have not been met
- b) if a case is concluded for any other reason without being determined on its merits
- c) if there is a dispute relating to the evidence
- d) if statute requires that the ruling be made by interlocutory order

Rulings on procedural issues shall be made as decisions if they are not required by statute to be made by interlocutory order.

Land consolidation rulings shall be used to rule on:

- a) whether or not the conditions for land consolidation set out in sections 3-2, 3-3 and 3-18 are met, as well as the substantive and geographic limits of the case pursuant to section 6-9
- b) the value of the assets to be exchanged as part of the land consolidation, the route chosen for roads and other decisions taken during the land consolidation case that are not mentioned elsewhere in this paragraph
- c) marking and measurement, even if this work has been postponed until after the case has been concluded
- d) appraisals and other rulings pursuant to other legislation in conjunction with cases being heard by the land consolidation court, in accordance with Chapter 5
- e) rules that pursuant to section 3-34 shall remain in force for a certain time
- f) the distribution of the net added value from rezoning pursuant to section 3-30 g) legal costs pursuant to section 7-6, and
- h) the final land consolidation settlement.

If the wrong type of ruling has been made, this shall not affect the legal force of the ruling or any appeal against it. If any legal measures pursuant to Chapter 8 have been used, the rules for the type of ruling that should have been used by the court apply.

### **Section 6-24. Content of rulings**

Rulings shall state the following: the name of the court, the members of the court, the parties, the court reference number, the nature of the ruling, and the time when and the place where the ruling was pronounced.

Rulings shall be in writing and shall be signed by the members of the court.

In cases with more than one judge, the ruling shall state whether the decision was unanimous. If there are dissenting votes, the ruling shall explain the reasons for the dissent and state who is in dissent.

Grounds shall be given for judgements and interlocutory orders in accordance with the Dispute Act, section 19-6, paragraph four.

The grounds for land consolidation rulings shall include:

- a) the legal basis for the ruling
- b) a presentation of the nature of the ruling
- c) a presentation of the most important factors that influenced the ruling

- d) any prayers for relief made by the parties, including the grounds on which they were based, and
- e) the assessments on which the court based its ruling

Land consolidation rulings shall include a conclusion that shows exactly what the ruling entails. The conclusion of land consolidation rulings on the final land consolidation settlement shall include everything needed to implement the changes set out in the land consolidation settlement.

Rulings shall include an allocation of the legal costs in accordance with the provisions of Chapter 7, unless the court considers that the costs should be allocated in a separate ruling at a later stage of the case.

### **Section 6-25. Pronouncement of the ruling. Notice of the ruling**

The pronouncement of the ruling pursuant to section 6-23 is governed by the Dispute Act, section 19-4. Nevertheless, a land consolidation ruling made during the case can be reversed until the case is concluded, if there are special grounds why the ruling cannot stand.

The parties shall be notified of rulings made during the proceedings. Rulings that can be appealed shall be served. All questions relating to notice of a ruling are governed by the Dispute Act, section 19-5, where applicable.

### **Section 6-26. In-court settlements**

The parties can only reach an in-court settlement at the land consolidation court on such matters as could otherwise be decided by the court in a judgement pursuant to section 6-23, paragraph one.

In-court settlements shall be recorded in the court record. The in-court settlement shall be signed by the parties and by the land consolidation court.

The court shall ensure that the settlement states precisely what the parties have agreed. For the settlement to be enforceable, the court must fix a deadline for performance. Before entering into a settlement, the parties shall be informed of the effects of in-court settlements, cf. the Dispute Act, section 19-11, paragraph three.

If the settlement does not include provisions on the allocation of costs, the court shall allocate them if so requested by the parties.

Any other matters relating to in-court settlements are governed by the Dispute Act, sections 19-11 and 19-12, where applicable.

### **Section 6-27. Deadline for implementing a final land consolidation settlement**

A final land consolidation settlement pursuant to section 6-23, paragraph four, (h) shall include a deadline for transition to the new property arrangements, and any other deadlines needed to implement the changes stipulated by the settlement. Unless agreed to by all of the parties affected by the changes, the deadline shall be no less than one month after the date on which the ruling is served. The deadline shall be no longer than is needed to implement the ruling. Only in special cases may a deadline be set at longer than five years. The deadline shall never be longer than ten years.

If requested to do so, the land consolidation court may extend the deadline for implementing a measure if it is convinced that it would be impossible to implement it by the original deadline, and if this is neither the fault of, nor under the control of, the relevant party. If such an extension will harm any of the other parties, the land consolidation court shall set the compensation for the harm caused.

If requested to do so, the land consolidation court may extend the deadline for implementing a joint measure, even if the conditions in the first sentence of paragraph two have not been met.

### **Section 6-28. Enforceability and legal force**

The enforceability and legal force of rulings by the land consolidation court are governed by the provisions of the Dispute Act, sections 19-13 to 19-16, where applicable.

### **Section 6-29. Marking and establishing the coordinates of boundaries**

The land consolidation court shall, in so far as possible, mark and establish the coordinates of any boundaries determined by a land consolidation case. The same applies to boundaries determined by way of judgement.

The court may delay permanent marking until the case has been concluded and all relevant rulings have become binding and enforceable, if it considers that there are special grounds for doing so. The court determines how the cost of finally marking the boundary shall be borne.

The Ministry may issue regulations on the design of boundary markers.

## **VII. Reporting and registration**

### **Section 6-30. Reporting to the cadastral authority**

The land consolidation court shall inform the cadastral authority that a claim has been made, and report on the outcome of the case.

### **Section 6-31. Registration**

As soon as all rulings have become binding and enforceable, the land consolidation court shall ensure that an extract of the court record be registered. Everything of permanent value shall be included in the extract.

Before any ruling has become binding and enforceable, and if the land consolidation judge sees fit, notice of rules pursuant to section 3-34, rulings pursuant to section 8-2, paragraph three and rulings on other matters relating to the legal relations in the land consolidation area can be registered against the relevant properties. This also applies if a land consolidation ruling does not become binding and enforceable due to an appeal.

## **Chapter 7. Legal costs and fees**

### **I. Legal costs**

#### **Section 7-1. Legal costs**

For cases under Chapters 3 and 4, the parties shall cover:

- a) the fees set out in sections 7-2 to 7-5
- b) the allowances for lay judges in accordance with section 105 a of the Courts of Justice Act
- c) the cost of marking boundaries
- d) the cost of any extra help needed for valuations pursuant to section 3-14 and for measuring and marking boundaries pursuant to sections 4-2 and 6-29

- e) the fees paid to court interpreters and experts appointed by the court pursuant to Act of 21 July 1916 no. 2 relating to the remuneration of witnesses and experts<sup>1</sup>
- f) the cost of printouts or copies of registered documents or documents from the national archives obtained by the land consolidation court on behalf of the parties
- g) ancillary costs in accordance with Act of 17 December 1982 no. 86 relating to court fees<sup>2</sup>, section 2, paragraph two.

Appraisals and other rulings in conjunction with land consolidation are governed by the provisions on legal costs in Act of 1 June 1917 no. 1 relating to assessment and expropriation cases.

Act of 17 December 1982 no. 86 relating to court fees applies as set out in this Act, or where applicable.

1 *Lov om vidners og sakkyndiges godtgjørelse*

2 *Rettsgebyrloven*

## II. Fees

### Section 7-2. Filing fee

The claimant shall pay five times the basic court fee to institute proceedings pursuant to Chapter 3 or 4. This also applies to requests to extend the scope of a case after the land consolidation court has established substantive and geographic limits for it; cf. section 6-9.

If the request is dismissed or withdrawn before being assessed on its merits, the filing fee shall be reduced to twice the basic court fee.

### Section 7-3. Boundary length fee

The parties shall pay a fee for marking and establishing the coordinates of new boundaries and for establishing the coordinates of existing boundaries. The Ministry sets the fees through regulations.

### Section 7-4. Court fees

The parties shall pay twice the basic court fee for each party to the case pursuant to Chapters 3 and 4.

### Section 7-5. Total fees and hours of work

The land consolidation court may adjust the total fees payable under sections 7-2 to 7-4 if the number of hours of work involved in a case under Chapter 3 or 4 varies significantly from what is normal.

## III. Allocation of legal costs

### Section 7-6. Allocation of legal costs

In cases pursuant to Chapters 3 and 4, the land consolidation court allocates the costs between the parties in proportion to the benefit that they will derive from the case, subject to the exceptions in the second and third paragraphs below and in section 7-7.

The construction client shall pay the legal costs associated with project-related land consolidation. For conservation-related land consolidation, the conservation authority shall pay the legal costs. The land consolidation court may impose legal costs on parties that obtain a net benefit.

The conservation authority shall pay the legal costs arising from boundary determination cases under section 4-2, paragraph one, (f)

### ***Section 7-7. Legal costs arising from the withdrawal, dismissal, etc. of a case***

The legal costs associated with withdrawal of a case, dismissal of a case because the conditions for bringing it have not been met, and late submission of claims or information shall be imposed by the land consolidation court on the parties that have caused those costs.

Expenses arising from considerations relating to only certain properties or only one party, can be charged to the relevant party.

## **IV. Cost of legal assistance and other expert assistance**

### ***Section 7-8. Cost of legal assistance and other expert assistance***

Except in the cases set out in section 7-9, each party shall only bear the cost of his own legal assistance and other expert assistance for cases under Chapters 3 and 4.

### ***Section 7-9. Reimbursement of the cost of legal assistance and other expert assistance***

If a judgement has been passed in a dispute, the reimbursement of costs directly related to the hearing of the dispute is governed by Chapter 20 of the Dispute Act. If the amount in dispute is less than NOK 125,000, the Dispute Act, section 10-5, paragraphs one and two applies.

If a case is withdrawn or dismissed because the conditions for bringing the case have not been met, Chapter 20 of the Dispute Act applies. Chapter 20 of the Dispute Act also applies if a request to change the substantive or geographic limits of a case is withdrawn or dismissed.

## **V. Costs associated with appraisals and other rulings in conjunction with land consolidation, appeals, etc.**

### ***Section 7-10. Cost of appraisals and other rulings pursuant to sections 5-2 and 5-3***

Act of 1 June 1917 no. 1 relating to assessment and expropriation cases, section 54 applies to costs associated with appraisals and other rulings pursuant to sections 5-2 and 5-3 that affect property outside the land consolidation area.

Costs pursuant to the first paragraph above shall be allocated between the parties involved in the investment project in accordance with the provisions of section 3-28.

### ***Section 7-11. Cost of appealing land consolidation rulings***

Any party that appeals a land consolidation ruling shall pay a fee for a court of appeal hearing as set out in Act of 17 December 1982 no. 86 relating to court fees, section 8. The appellant shall bear the costs of the appeal hearing. If several rulings pursuant to section 6-23 have been appealed at the same time, and the senior presiding court of appeal judge decides that they shall be treated as a single case, only one fee shall be payable. In such cases the fee shall be split between the appellants in proportion to their ownership shares. If the appeal results in significant changes to the land consolidation settlement, the court of appeal shall allocate the costs of the appeal in proportion to the benefit that each party will derive from the new settlement.

If a land consolidation ruling is set aside pursuant to section 8-10, paragraph three, the appellant shall pay the costs of the appeal hearing in advance. The advance payment for the appeal hearing shall be considered part of the costs associated with the new land consolidation ruling.

If a land consolidation ruling is appealed, each party shall bear the cost of his own legal assistance and other expert assistance at the court of appeal. If the court of appeal passes judgement in a dispute that has not previously been heard by the land consolidation court, section 7-9, paragraph one applies. If an appeal of a land consolidation ruling is withdrawn or dismissed, section 7-9, paragraph two applies.

Appeals brought against land consolidation rulings relating to compensation in project-related and conservation-related land consolidation cases are governed by Act of 1 June 1917 no. 1 relating to assessment and expropriation cases, sections 54 a and 54 b.

### **Section 7-12. *Cost of reopening a case***

The provisions in this section apply to the reopening of cases except in the circumstances set out in the second and third paragraphs.

The petitioner shall pay six times the basic court fee. The fee shall be reduced to twice the basic court fee if the petition is dismissed or withdrawn before the case is assessed on its merits. The fee pursuant to the first sentence replaces the filing fee pursuant to section 7-2 if the petition to reopen the case is accepted.

If the petition is accepted, the land consolidation court shall allocate the legal costs between the parties in proportion to the benefit that they will derive from the whole case. The allocation of costs in the original case shall be taken into consideration.

## **VI. Other considerations**

### **Section 7-13. *Advance payments***

In cases under Chapters 3 and 4, the land consolidation court may demand an advance payment from the claimant towards the legal costs pursuant to section 7-1. Once the court record states that a land consolidation case has been initiated, the court may demand advance payments from all of the parties towards the legal costs pursuant to section 7-1. Advance payments pursuant to the first and second sentence are governed by Act of 17 December 1982 no. 86 relating to court fees, section 3.

The land consolidation court may decide that interest shall be payable on advance payments made.

### **Section 7-14. *Payment deadlines***

Advance payments and legal costs must be paid within 14 days of the party from whom payment is demanded being informed of the demand. The land consolidation court may set an alternative deadline.

Failure by the claimant to meet the payment deadline for the filing fee under section 7-2, fees under section 7-12, paragraph two, sentence one or advance payments under section 7-13, paragraph one, sentence one shall be considered equivalent to withdrawal of the claim.

### **Section 7-15. *The State's liability for costs***

A party who has incurred costs as a result of an error by the land consolidation court in its hearing of the case may claim compensation from the State pursuant to section 20-12 of the Dispute Act.

### **Section 7-16. *Liens to secure costs or payments***

When an extract of the court record is registered in accordance with section 6-31, paragraph one in cases being heard pursuant to Chapter 3 or 4, the costs or payments imposed on a party by the land consolidation court are secured by a lien on that party's cadastral unit. The lien expires after 10 years.

## **Chapter 8. Legal measures, etc.**

### **Section 8-1. *Legal measures and the procedural rules that apply to their use***

Rulings issued by the land consolidation court can be appealed to the court of appeal.

Appeals against judgements, interlocutory orders and decisions are governed by the provisions of the Dispute Act.

Appeals against land consolidation rulings under section 6-23 are governed by the provisions of Chapter 6, where applicable. The Dispute Act also applies as set out in this Chapter.

The provisions of paragraph three also apply to appeals brought against appraisals or other decisions taken pursuant to sections 5-1 to 5-3.

Appraisals or other decisions taken by the land consolidation court in a separate case pursuant to sections 5-4 to 5-6 can be appealed by requesting that the court of appeal review the appraisal in accordance with Act of 1 June 1917 no. 1 relating to assessment and expropriation cases.

If several rulings pursuant to section 6-23 in the same case have been appealed at the same time, the appeals may be treated as a single case by the court of appeal. The senior presiding court of appeal judge decides whether they shall be treated as a single case. His decision cannot be appealed.

Rulings under this act may be reopened in accordance with section 8-14.

### **Section 8-2. *Circumstances in which rulings may be appealed, and deferred implementation of land consolidation settlements***

Except in the circumstances referred to in this section, an appeal may only be lodged when the land consolidation court has reached a decision on the whole case.

An interlocutory order may be appealed once it has been issued.

The land consolidation court may decide that an appeal may be lodged before the whole case has been decided. When a judgement relates to the property or easement of a party who is not approved as an owner or easement holder in the land consolidation area, it shall be possible to appeal the ruling before the whole case has been decided. The same applies to neighbours of the land consolidation area. Any decision to allow an appeal before the whole case has been decided is governed by the Dispute Act, section 29-3, paragraph three.

If legal measures have been initiated against a ruling, the implementation of the land consolidation must be deferred until the ruling becomes binding and enforceable.

### **Section 8-3. *Deadline for appeals***

The deadline for lodging an appeal is usually one month, and is in all other aspects governed by section 29-5 of the Dispute Act.

### **Section 8-4. *Waiver of the right of appeal***

The right of appeal may be waived in accordance with section 29-6 of the Dispute Act. This applies to all rulings pursuant to the provisions of this Act.

### **Section 8-5. *Notice of appeal***

When appealing a judgement, interlocutory order or decision, the notice of appeal shall satisfy the requirements in section 29-9 of the Dispute Act.

Appeals of land consolidation rulings shall be presented to the land consolidation court that has heard the case either in writing or orally pursuant to the provisions of section 12-1 of the Dispute Act. The appeal shall state

- a) the name of the appellate court
- b) the court reference number and the ruling being appealed
- c) whether the appeal relates to the ruling in its entirety or only parts of it, and
- d) the grounds of appeal, including the reason for the appeal and the outcome sought.

If the appeal relates to a land consolidation ruling and there are no special circumstances, all of the parties to the land consolidation case shall become parties to the appeal case.

### **Section 8-6. *Preparation of the case at the land consolidation court***

If a judgement, interlocutory order or decision is appealed, the land consolidation court shall prepare the case in accordance with section 29-10 of the Dispute Act.

If a land consolidation ruling is appealed, and the land consolidation court finds that the appeal is deficient or the deadline may have expired, it shall give the appellant the opportunity to rectify the deficiency pursuant to sections 16-5 and 16-6 of the Dispute Act. The decision on whether to dismiss the appeal or grant reinstatement shall be made by the court of appeal pursuant to section 29-10 of the Dispute Act.

Notice of any appeal brought against a land consolidation ruling shall be served on the affected parties as soon as possible, with a deadline for commenting on the appeal. After the deadline has expired, the case shall be transferred to the court of appeal without delay.

### **Section 8-7. *Composition of the court of appeal***

When reviewing judgements, interlocutory orders and decisions, the court of appeal shall be constituted in accordance with section 12 of the Courts of Justice Act.

When reviewing land consolidation rulings, the court of appeal sits with one land consolidation court of appeal judge and two lay judges from the panel described in section 2-5. The parties may request that the court of appeal sit with four lay judges, in which case the senior presiding court of appeal judge decides whether to grant the request. Alternatively, the senior presiding judge may decide that the court of appeal shall sit with one land consolidation court of appeal judge, one court of appeal judge and one or three appointed lay judges. The appointment of lay judges is governed by section 2-7.

If several rulings in the same case have been appealed, and the appeals are being treated as a single case by the court of appeal pursuant to section 8-1, paragraph six, the senior presiding judge decides the composition of the court. If one of the appealed rulings is a land consolidation ruling, the senior presiding judge shall always participate in the proceedings.

The senior presiding judge decides which judge shall prepare the case and act as the presiding judge.

The decision taken by the senior presiding judge under this section cannot be appealed.

### **Section 8-8. *Rejection and dismissal of appeals***

During the preparation of the case at the court of appeal, the court may dismiss the appeal, quash the appeal case or set aside the appealed ruling pursuant to the Dispute Act, section 29-12, paragraph one.

Appeals against judgements are governed by section 29-13 of the Dispute Act.

When a land consolidation ruling is appealed, the court of appeal may refuse to hear the appeal if it considers it clear that the appeal will not succeed. In such cases, the Dispute Act, section 29-13, paragraph two applies.

The judge preparing the case may make decisions as a sole judge in accordance with the third paragraph of this section, after the parties have been given the opportunity to express their views.

Decisions pursuant to the third and fourth paragraphs are governed by the Dispute Act, section 29-13, paragraph five, where applicable.

### **Section 8-9. *Withdrawal of appeals, new deadlines***

If an appeal is withdrawn, section 29-19 of the Dispute Act applies.

If an appeal is withdrawn, the court of appeal shall alter the deadlines for implementation pursuant to sections 3-36 and 6-27 if necessary.

### **Section 8-10. *Review of land consolidation rulings***

The court of appeal shall review all aspects of the land consolidation ruling.

If an appeal brought against a land consolidation ruling fails, the appeal shall be dismissed pursuant to the Dispute Act, section 29-23, paragraph two.

If an appeal against a land consolidation ruling succeeds, the court of appeal shall issue a new land consolidation ruling or set aside the ruling pursuant to the Dispute Act, section 29-23, paragraphs three and four and section 29-24.

When the court of appeal issues a new land consolidation ruling, it may also alter the other parts of the ruling by the land consolidation court that have not been appealed, and go as far as is necessary to satisfy the conditions in sections 3-2, 3-3 and 3-18.

If a dispute arises with respect to boundaries, property rights or other matters on which the land consolidation court has not issued a final ruling, the court of appeal may resolve the dispute if this is necessary for the purposes of the land consolidation settlement.

Any decision to transfer a case back to the land consolidation court is governed by the Dispute Act, section 29-3, paragraph two.

### **Section 8-11. *Technical assistance***

The land consolidation court shall provide technical assistance when requested to do so by the court of appeal in relation to cases pursuant to this Act.

The court of appeal may decide that the land consolidation court shall mark the new boundaries resulting from the appeal hearing.

### **Section 8-12. *Implementation deadline for land consolidation***

The court of appeal shall set a new deadline for implementing the land consolidation settlement. If the court of appeal ruling does not set a new deadline, the senior presiding court of appeal judge may set one if requested to do so by one of the parties.

### **Section 8-13. *Appeals to the Supreme Court***

The Supreme Court is the appellate court for rulings taken by the court of appeal pursuant to the provisions of this Act. Appeals are governed by the Dispute Act, Chapter 30. Rulings of the kind described in section 8-1, paragraphs three and four, may only be appealed on the grounds of an error in the application of law or in the proceedings on which the ruling is based.

### **Section 8-14. *Reopening***

A case that has been decided by the land consolidation court or the court of appeal in accordance with the provisions of this Act may be reopened pursuant to Chapter 31 of the Dispute Act.

### **Section 8-15. *Special conditions for the reopening of land consolidation rulings***

After a land consolidation ruling has been issued, a case may be reopened subject to the conditions set out in Chapter 31 of the Dispute Act, provided that the conditions on which the ruling was based have also changed in such a way that essential aspects of the land consolidation settlement cannot be implemented, and the conditions in sections 3-2, 3-3 and 3-18 have clearly not been met for at least one party.

A case may not be reopened in this manner if the deadline pursuant to sections 3-36 and 6-27 for implementing the measure has expired.

### **Section 8-16. *Further details of procedures for reopening a case***

A request to reopen a case that has been decided by the land consolidation court shall be made to a land consolidation court responsible for a land consolidation region bordering the region of the court that took the decision.

The court that reopens the case shall make the necessary changes to rectify the situation. If the change relates to boundaries or similar issues where the costs would be disproportionate to the potential benefits, compensation in cash, forest or other assets may wholly or partly substitute the change.

Any other matters relating to reopening are governed by Chapter 31 of the Dispute Act, where applicable.

## **Chapter 9. Various provisions**

### **Section 9-1. Cash payments**

Cash payments relating to property or easements that are encumbered by a lien, or that have been seized, must not be paid to the owner or the easement holder without the consent of the holder of the lien or the party that has seized the asset.

Cash payments that cannot be paid out pursuant to the first paragraph are regulated by Act of 17 February 1939 no. 2 relating to deposits in escrow accounts to cover debts.

### **Section 9-2. Encumbrances on properties involved in land consolidation cases**

An encumbrance on a property arising from investments that have been made with the help of public grants, such as tree planting, water table control, drainage or preventive work, shall follow the piece of land that the encumbrance relates to, if this can be done without significantly impeding the aims of the land consolidation. The same applies to maintenance responsibilities for other facilities such as cemeteries.

### **Section 9-3. Notification duty pursuant to the Cultural Heritage Act**

While the land consolidation case is being heard, the land consolidation judge is covered by the notification duty set out in Act of 9 June 1978 no. 50 relating to Cultural Heritage, in addition to the owner and user.

### **Section 9-4. Allocation of the forest trust fund**

The land consolidation court may allocate available forest trust funds when modifying a property under section 3-4, when dissolving a joint ownership under section 3-6 and when dividing property under section 3-7. The allocation shall be presented to the forestry authority for comment.

The forestry authority shall provide the land consolidation court with access to the balances of the relevant parties in the forest trust fund.

### **Section 9-5. Entry into force**

This Act shall come into force on the date determined by the King.<sup>1</sup> On that same date, Act of 21 December 1979 no. 77 relating to land consolidation shall be repealed.

<sup>1</sup> 1 January 2016 according to res. 21 June 2013 no. 736.

### **Section 9-6. Transition rules**

Cases that are being heard by the land consolidation courts when this Act comes into force shall be concluded under Act of 21 December 1979 no. 77 relating to land consolidation.

Appeals that have been lodged before this Act comes into force, but that have not yet been finally resolved, shall be heard by the court of appeal, which shall be composed in accordance with section 8-7. The court of appeal shall base its review of the procedure and material facts on Act of 21 December 1979 no. 77 relating to land consolidation.