

**Act of 17 June 2005 No. 85 relating to legal relations and management of land and natural resources in the county of Finnmark (Finnmark Act)**

**Chapter 1 General provisions**

*Section 1 The purpose of the Act*

The purpose of the Act is to facilitate the management of land and natural resources in the county of Finnmark in a balanced and ecologically sustainable manner for the benefit of the residents of the county and particularly as a basis for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.

*Section 2 Scope*

The Act shall apply to real property and watercourses with natural resources in the county of Finnmark. On the shoreline, the Act shall apply as far out to sea as private right of ownership extends.

*Section 3 Relationship to international law*

The Act shall apply with the limitations that follow from ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Act shall be applied in compliance with the provisions of international law concerning indigenous peoples and minorities and with the provisions of agreements with foreign states concerning fishing in transboundary watercourses.

*Section 4 The guidelines of the Sami Parliament regarding changes in the use of uncultivated land*

The Sami Parliament may issue guidelines for assessing the effect of changes in the use of uncultivated land on Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines shall be approved by the Ministry. The Ministry shall examine whether the guidelines lie within the framework laid down in the first sentence and whether they have been drawn up in an appropriate manner.

In matters concerning changes in the use of uncultivated land, state, county and municipal authorities shall assess the significance such changes will have for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines of the Sami Parliament shall be followed in the assessment of Sami interests pursuant to the first sentence.

*Section 5 Relationship to established rights*

Through prolonged use of land and water areas, the Sami have collectively and individually acquired rights to land in Finnmark.

This Act does not interfere with collective and individual rights acquired by Sami and other people through prescription or immemorial usage. This also applies to the rights held by reindeer herders on such a basis or pursuant to the Reindeer Herding Act.

In order to establish the scope and content of the rights held by Sami and other people on the basis of prescription or immemorial usage or on some other basis, a commission shall be established to investigate rights to land and water in Finnmark and a special court to settle disputes concerning such rights, cf. chapter 5.

## **Chapter 2 Finnmarkseiendommen (“the Finnmark Estate”)**

### *Section 6 The legal position of Finnmarkseiendommen*

*Finnmarkseiendommen (Finnmárkkuopmodat)* (“the Finnmark Estate”) is an independent legal entity with its seat in Finnmark which shall administer the land and natural resources, etc. that it owns in compliance with the purpose and other provisions of this Act.

### *Section 7 The board of Finnmarkseiendommen*

Finnmarkseiendommen shall be governed by a board consisting of six persons.

Finnmark County Council and the Sami Parliament shall each elect three members, each with a personal deputy. The members and deputies shall be resident in Finnmark. Among the members elected by the Sami Parliament at least one board member and that person’s deputy shall be representatives for reindeer husbandry. Both as members and as deputies, both bodies shall elect both women and men. The body shall elect members and deputies collectively. Employees of Finnmarkseiendommen, Finnmarkseiendommen’s auditor and members and deputies of the Control Committee may not be elected as board members or deputies.

The board members and deputies are elected for a term of up to four years at a time. No-one may be a board member for longer than ten years consecutively.

Board members and deputies may be removed by the body that elected them. The body shall in such a case elect new members and deputies collectively.

Board members and deputies have a right to withdraw before their period of service expires if there are special reasons for so doing. The board and the body that has elected the member concerned shall be given reasonable notice. The fourth paragraph, second sentence, shall apply accordingly.

The board shall itself elect a chairman and vice-chairman from among its members. If no-one obtains a majority of votes, which of the six members shall be chairman and vice-chairman shall be decided by Finnmark County Council in years ending on an odd number and by the Sami Parliament in years ending on an even number.

### *Section 8 Proportionally representative elections*

Elections of board members and deputies shall be held as proportionally representative elections as mentioned in section 37 of the Local Government Act if so required by at least one member of the body.

If in connection with proportionally representative elections it is necessary in order to fulfil the requirement that among the members and deputies there shall be both women and men, candidates of the under-represented sex shall move up on the list with fewest votes of the lists that shall be represented. In the event of tied votes, the list on which candidates of the under-represented sex are to move up shall be decided by drawing lots.

If in connection with proportionally representative elections in the Sami Parliament it is necessary in order to fulfil the requirement that one of the board members and that member's deputy shall be representatives for reindeer husbandry, representatives for reindeer husbandry shall move up on the list that has received fewest votes of the lists that shall be represented and that have such candidates. If there is no such list, the last place on the board shall be given to the representatives for reindeer husbandry on the list that has received most votes of the lists that have such candidates. In the event of tied votes, the list that shall be regarded as having received most or fewest votes shall be decided by drawing lots.

#### Section 9 *The duties and procedures of the board*

The board is responsible for management of Finnmarkseiendommen. The board shall ensure that the body is satisfactorily organized. The board shall to the extent necessary provide plans, budget, guidelines and instructions for the body. The board shall implement the investigations it finds necessary for performance of its duties. The board shall implement such investigations if so required by a board member.

The chairman of the board shall ensure that appropriate matters are dealt with by the board and that board meetings are convened in an appropriate manner and with reasonable notice. A board member may require that specific matters be dealt with by the board.

The board shall deal with matters in meetings unless the chairman finds that a matter may be submitted to the board in writing or be dealt with in another satisfactory manner. A board member may require that a matter be dealt with at a meeting of the board.

The board may make decisions when at least five members are present. Such decisions are made by simple majority unless otherwise provided by section 10. In the event of tied votes, the chairman shall have the casting vote.

The board shall submit an annual report to the Control Committee concerning Finnmarkseiendommen's activities. This annual report shall include a particular account of changes in the use of uncultivated land and an assessment of the significance of these changes for the natural resource base for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.

The board shall fix its own fees. Such fees are to be covered by Finnmarkseiendommen.

#### Section 10 *Matters concerning changes in the use of uncultivated land and transfer of real property, etc.*

In matters concerning changes in the use of uncultivated land, Finnmarkseiendommen shall assess the significance a change will have for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines of the Sami Parliament pursuant to section 4 shall be followed in the assessment of Sami interests pursuant to the first sentence.

Decisions concerning changes in the use of uncultivated land require the support of at least four board members if the whole minority bases its opinion on consideration for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life assessed on the basis of the guidelines of the Sami Parliament. If the

majority consists of four or less, a collective minority may during the board meeting demand that the matter be placed before the Sami Parliament. If the Sami Parliament does not ratify the decision of the majority or does not consider the matter within a reasonable time, a collective majority of the board may demand that Finnmarkseiendommen place the matter before the King, who shall then decide whether the decision shall be approved. Such approval of the decision has the same effect as such a decision by the board.

If a proposal concerning changes in the use of uncultivated land that either applies only to Karasjok, Kautokeino, Nesseby, Porsanger and Tana municipalities or only to the remainder of Finnmark is supported by three and only three members of the board, three members of the board may collectively demand that the matter be reconsidered by the board. The last member elected by Finnmark County Council shall not take part in this reconsideration if the matter concerns changes in the use of uncultivated land in Karasjok, Kautokeino, Nesseby, Porsanger or Tana municipalities. If the matter concerns changes in the use of uncultivated land in the remainder of Finnmark, the last board member elected by the Sami Parliament who does not represent reindeer husbandry shall not take part. The matter shall be decided by a simple majority. If changes in the use of uncultivated land are decided with the support of three and only three members of the board and the whole minority bases its opinion on consideration for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life assessed on the basis of the guidelines of the Sami Parliament, a collective minority may during the board meeting demand that the matter be placed before the Sami Parliament. The second paragraph, third and fourth sentence, shall apply correspondingly.

The second and third paragraphs shall apply correspondingly for authorization of employees and other persons to make decisions concerning changes in the use of uncultivated land.

The first to fourth paragraphs shall apply correspondingly in respect of matters concerning transfer and leasing of uncultivated land or rights to uncultivated land. The provisions of this section shall not apply to matters pursuant to chapter 3.

Decisions concerning transfer of real property adopted with the support of less than four members of the board are subject to the approval of the Sami Parliament and Finnmark County Council. The first sentence shall not apply to transfer of properties that have been partitioned by public division proceedings and that have been designated for development in plans pursuant to the Planning and Building Act or sites that have been parcelled out and developed.

#### Section 11 *Matters concerning the employees' working conditions and legal position*

A representative shall be elected by and from the employees of Finnmarkseiendommen, who shall attend meetings of Finnmarkseiendommen's board when considering matters concerning the employees' working conditions or legal position. The employees' representative shall be entitled to speak and to submit proposals, but not to vote.

The employees' representative shall not be entitled to take part in the consideration of matters concerning the employer's preparations for negotiations with employees, labour disputes, legal disputes with employee organizations or termination of collective pay agreements.

## Section 12 *Representation*

The board represents Finnmarkseiendommen externally and signs on its behalf.

The board may assign to one or more board members or other named persons the right to sign on behalf of Finnmarkseiendommen. The right to sign on behalf of Finnmarkseiendommen may be withdrawn at any time.

If any person who represents Finnmarkseiendommen externally pursuant to this provision has exceeded his or her authority, the transaction shall not be binding for Finnmarkseiendommen when Finnmarkseiendommen establishes that the contracting party understood or should have understood that the authority was exceeded and that it would be contrary to fair practice to uphold the transaction.

## Section 13 *Accounts, audit and registration*

Finnmarkseiendommen shall keep accounts in compliance with the provisions of the Accounting Act.

The accounts shall be audited by a state authorized public accountant. The auditor shall for each accounting year submit an auditor's report to the board of Finnmarkseiendommen.

Finnmarkseiendommen shall be registered in the Register of Business Enterprises.

## Section 14 *Mortgage and debt proceedings*

Real property owned by Finnmarkseiendommen and limited rights held by Finnmarkseiendommen in real property owned by others may not be offered as security for debt or other commitments and may not be subject to attachment by creditors. This shall not however apply to properties and limited rights to properties that have been partitioned by public division proceedings and that have been designated for development in plans pursuant to the Planning and Building Act or sites that have been parcelled out and developed.

Bankruptcy or debt settlement proceedings may not be instituted regarding Finnmarkseiendommen.

## Section 15 *Distribution of surplus assets*

If Finnmarkseiendommen in bank deposits, cash and the like holds assets which, less any liabilities, exceed reserves necessary for ensuring continued operations, the board may decide that such a surplus shall wholly or partly be paid to the county of Finnmark or the Sami Parliament or used for the common good of the county's inhabitants.

## Section 16 *The Control Committee*

Supervision of the board's activities is conducted by a Control Committee consisting of three members. Finnmark County Council, the Sami Parliament and the King shall each appoint a member and a personal deputy. As member and deputy, each body shall appoint a man and a woman. The member and deputy appointed by the state shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court judges. The members and deputies shall be appointed for a period of four years at a

time. No-one may be a member for longer than ten years consecutively. The member appointed by the state shall chair the Committee.

The Control Committee shall:

- a) control that the activities of Finnmarkseiendommen are carried out in compliance with the Finnmark Act and other legislation,
- b) select one or more state authorized public accountants to audit Finnmarkseiendommen's accounts,
- c) approve Finnmarkseiendommen's annual accounts, annual report and auditor's report,
- d) approve the fees payable to the board,
- e) approve loans and guarantees and
- f) approve distribution of surplus assets.

In the event of disagreement, decisions shall be made by the majority. Decisions concerning (e) and (f) in the second paragraph require unanimity.

The Control Committee shall have access to all available information held by Finnmarkseiendommen that it needs in order to perform its duties pursuant to this section.

The Control Committee shall submit an annual report to Finnmark County Council, the Sami Parliament and the Ministry. In the report, the Control Committee shall provide an account of its control activities, an assessment of the board's annual report and the matters dealt with there and an assessment of how the present Act functions and whether any amendments to the Act are desired.

The expenses of the Control Committee are to be covered by Finnmarkseiendommen. The fees of members and deputies are to be covered by the body that appointed them.

#### *Section 17 Criminal liability and liability for compensation of board members and others*

Members of the board, persons authorized to sign on behalf of Finnmarkseiendommen, auditors, senior employees authorized to make decisions on behalf of Finnmarkseiendommen within restricted areas of responsibility or members of the Control Committee who show gross lack of judgment in the execution of their responsibilities in respect of Finnmarkseiendommen shall be liable to fines or under aggravating circumstances to imprisonment for a term not exceeding one year.

Members of the board who wilfully or negligently have inflicted a loss on Finnmarkseiendommen during the performance of their duties are obliged to compensate the loss. The Control Committee shall decide whether a claim for compensation shall be made.

#### *Section 18 Relationship to the Freedom of Information Act and the Public Administration Act*

To Finnmarkseiendommen, chapter II of the Public Administration Act concerning disqualification, section 11 concerning duty to provide guidance, section 11a concerning time spent on dealing with a case and provisional replies and sections 13 to 13f concerning duty of secrecy shall apply correspondingly.

Finnmarkseiendommen shall give the right holders in an area prior notification and the opportunity to express their opinions pursuant to the provisions of section 16 of the Public Administration Act before Finnmarkseiendommen makes a decision that may have legal or actual consequences for them.

Finnmarkseiendommen's case documents are public pursuant to the provisions of the Freedom of Information Act. In the event of a rejection of a request for access to a document, an appeal on the question of the power to exempt the document from public disclosure lies to the County Governor of Finnmark.

#### *Section 19 National parks on Finnmarkseiendommen's land*

Land owned by Finnmarkseiendommen may be designated as national parks pursuant to the provisions of the Nature Conservation Act. When drafting rules of use, emphasis shall be placed on the possibility of continuing traditional use.

Finnmarkseiendommen and affected holders of rights of use may demand compensation for financial loss pursuant to the provisions of section 20b of the Nature Conservation Act.

#### *Section 20 Relationship to future legislation*

Finnmarkseiendommen has no protection against change, reduction or revocation of its legal position or rights by statute.

### **Chapter 3 Renewable resources on Finnmarkseiendommen's land**

#### *Section 21 Main principles for management*

Finnmarkseiendommen shall manage the renewable resources on its land in compliance with the purpose of this Act and within the frameworks provided by the Wildlife Act, the Act relating to salmonids and fresh-water fish and other legislation. The diversity and productivity of nature shall be preserved.

The provisions of this chapter shall not apply in so far as otherwise established by special legal relations.

#### *Section 22 Rights of the persons resident in municipalities*

Pursuant to the provisions of this chapter and within the frameworks provided by other legislation, residents of a municipality in the county of Finnmark have on Finnmarkseiendommen's land in the municipality the right to:

- a) fish for freshwater fish with nets,
- b) fish for anadromous salmonids with fixed gear in the sea,
- c) gather eggs and down,
- d) fell deciduous trees for domestic fuel,

- e) cut peat for fuel and other domestic purposes and
- f) remove deciduous trees for use as fence posts and poles for hay-drying racks in the reindeer husbandry and agriculture industries.

Reindeer herders have the same right as the persons resident in the municipality for the period during which reindeer husbandry takes place there.

#### *Section 23 Rights of persons resident in Finnmark*

In compliance with the provisions of this chapter and within the framework provided by other legislation, persons residing in the county of Finnmark have on Finnmarkseiendommen's land the right to:

- a) hunt big game,
- b) hunt and trap small game,
- c) fish in watercourses with a rod and line,
- d) pick cloudberries and
- e) remove timber for home crafts.

Agricultural holdings shall have grazing rights for as large a herd as can be winter-fed on the holding.

#### *Section 24 Special rights to local utilization*

Individuals or groups of persons who are associated with a rural district and whose livelihood is wholly or partly associated with the utilization of renewable resources in the vicinity of the rural district may for up to ten years at a time be assigned special rights by the municipality to utilize renewable resources as mentioned in sections 22 and 23 in specified areas of the municipality. When establishing the area and the specific conditions, the use traditionally made of the area by people associated with the rural district shall be taken into consideration. The area shall preferably constitute a uninterrupted area in the vicinity of the rural district.

Finnmarkseiendommen may issue general rules concerning the procedures and assessment of matters pursuant to this section. Finnmarkseiendommen shall be the appeal body for decisions made by the municipality. The procedures followed by the municipalities and Finnmarkseiendommen are subject to the Public Administration Act.

This section does not apply to hunting of large and small game, fishing in watercourses with a rod and line and fishing with fixed gear in the sea for anadromous salmonids.

#### *Section 25 Access for other persons*

In compliance with the provisions of this chapter and within the frameworks provided by other legislation, all persons have the access to hunt and trap small game and to fish with a rod and line in watercourses on Finnmarkseiendommen's land and to pick cloudberries for their own domestic use.



Finnmarkseiendommen may grant other persons than those resident in the municipality or county further access to renewable resources as referred to in sections 22 and 23.

#### *Section 26 Local management of hunting and fishing*

For up to ten years at a time, Finnmarkseiendommen may grant special rights to administer hunting, trapping and fishing in specific areas of Finnmarkseiendommen's land to local organizations and associations whose purpose lies in the general promotion of hunting, trapping and fishing.

#### *Section 27 Further conditions for utilization of renewable resources and restrictions on such utilization*

Finnmarkseiendommen may issue further rules for utilization of renewable resources as mentioned in section 22 (a) to (f) and section 23 (a) to (e). Finnmarkseiendommen may stipulate that utilization is subject to issue of a permit. Conditions may be provided in the permits.

For hunting, trapping and fishing, permission is always required. Persons who are granted permission shall be issued cards or the like indicating that they have permission. With the consent of the Ministry, Finnmarkseiendommen may make exceptions to the provisions of this paragraph.

For permission to hunt, trap and fish, Finnmarkseiendommen may claim a fee. The fee for persons resident in Finnmark shall not exceed double the fee charged to the persons resident in a municipality. Fees may not be charged in connection with assignment of special rights pursuant to section 24.

Fishing for anadromous salmonids in the sea with fixed gear may only be carried out at places indicated by Finnmarkseiendommen.

For specified areas, Finnmarkseiendommen may lay down restrictions on access to exploitation of renewable resources as referred to in the first paragraph if due consideration for any such resource so indicates. Municipalities, authorities with responsibility for wildlife, fisheries, etc. and organizations for the affected users shall be consulted in advance.

In connection with restrictions on the exploitation of renewable resources as referred to in the first paragraph, due consideration shall be taken as regards the use of the resource by the various user groups.

Finnmarkseiendommen's decisions concerning restrictions as referred to in the fifth and sixth paragraphs may be appealed to the Ministry pursuant to the provisions of the Public Administration Act chapter VI. The decision of the Ministry may not be appealed.

### **Chapter 4 Tana and Neiden**

#### *Section 28 Fishing in the Tana and Neiden watercourses*

In the Tana and Neiden watercourses, the local population holds special rights to fishing on the basis of statutes, immemorial usage and local customs.

The King may issue regulations prescribing further rules concerning administration and exercise of the fishing. Such regulations shall make provision for a local, rights-based administration of fishing resources consistent with agreements with Finland concerning fishing in the Tana and Neiden watercourses.

The preparation of regulations and negotiations with Finland concerning fishing in the Tana and Neiden watercourses shall be conducted in consultation with the Sami Parliament, affected municipalities and holders of special rights to fishing in these watercourses.

## **Chapter 5 Survey and recognition of existing rights**

### **I The Finnmark Commission**

#### *Section 29 The Finnmark Commission*

A commission (the Finnmark Commission) shall be established, which, on the basis of current national law, shall investigate rights of use and ownership to the land to be taken over by Finnmarkseiendommen pursuant to section 49.

The King shall appoint the members of the Finnmark Commission. The Finnmark Commission shall consist of a chairman and four other members. The chairman shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court judges. Two of the other members shall fulfil the requirements regarding district court judges. At least two members shall be resident in or otherwise have a strong affiliation to the county of Finnmark.

#### *Section 30 Delimitation of fields of investigation, etc.*

The Finnmark Commission shall establish the fields for investigation and decide the order of investigation. When so deciding, emphasis shall, inter alia, be placed on due regard for a natural and appropriate delimitation of the field as regards extent and legal and historical contexts and the need to clarify the legal relations.

The Finnmark Commission may restrict or extend a field after initiating the investigation if this is necessary for the creation of a natural and appropriate delimitation.

The Finnmark Commission may omit to investigate rights that are clearly inappropriate for investigation by the Commission. When so deciding, emphasis shall, inter alia, be placed on the nature of the right and the basis on which it is founded.

#### *Section 31 Notification of potential right holders*

Investigation in respect of a field shall be announced with a request to potential right holders to make themselves known. Such announcement shall be made in the Norwegian Gazette, in a newspaper that is generally read at the place concerned and locally in any other appropriate manner.

Reindeer husbandry organizations and other representatives for user interests in the field concerned as well as the Sami Parliament, Finnmark County Council, Finnmarkseiendommen and affected municipalities shall be notified separately.

#### *Section 32 Responsibility for obtaining information concerning a matter*

The Finnmark Commission is itself responsible for obtaining sufficient information concerning a matter. The Commission may in the manner it finds appropriate obtain statements, documents and other material and conduct surveys and investigations, etc. concerning actual and legal circumstances that may be significant for the Commission's conclusions.

The parties have the right to give an account of the actual circumstances and provide evidence significant for the Commission's conclusions. The parties may request the implementation of measures pursuant to the first paragraph. The Finnmark Commission may refuse such a request if it finds it to be unfounded or that it would involve excessive delays or costs to comply with it.

In order to safeguard the interests of the parties, the Finnmark Commission may appoint representatives from various interest groups to monitor the work of the Commission. The costs shall be covered by the state.

### Section 33 *The Finnmark Commission's report*

After investigating a field, the Commission shall issue a report containing information concerning:

- a) who, in the view of the Commission, are owners of the land
- b) what rights of use exist in the Commission's view
- c) the circumstances on which the Commission bases its conclusions

The report shall state whether the conclusions are unanimous. If this is not the case, it shall be stated who disagrees and which points the disagreement concerns. Grounds shall be given for the conclusions of both the majority and the minority.

Following submission of the report, it shall be announced in the manner described in section 31. It is sufficient that an announcement pursuant to section 31, first paragraph contains a brief summary of the conclusions and information concerning where interested persons can obtain the report in its entirety. In such an announcement notification shall be given of the final date for bringing disputes before the Uncultivated Land Tribunal.

### Section 34 *Consideration by Finnmarkseiendommen*

Finnmarkseiendommen shall without undue delay assess the Commission's conclusions. In the case of decisions to accept the conclusions of the Commission that other parties hold rights, section 10, sixth paragraph shall apply correspondingly.

To the extent that Finnmarkseiendommen agrees with the Commission that other parties hold rights, Finnmarkseiendommen is obliged to state this in writing, and without undue delay ensure that the right is officially registered or, if appropriate, bring the matter before the Land Consolidation Court pursuant to section 45.

### Section 35 *Negotiations*

Parties that are not in agreement with the Commission's conclusions, or that need assistance in ensuring that the conclusions are laid down in a binding agreement may request the Finnmark Commission to mediate. The Commission's obligation to

mediate ceases to apply when the time limit for bringing the dispute before the Uncultivated Land Tribunal has expired.

## **II The Uncultivated Land Tribunal for Finnmark**

### *Section 36 The Uncultivated Land Tribunal for Finnmark*

A special court (the Uncultivated Land Tribunal for Finnmark) shall be established, which shall consider disputes concerning rights that arise after the Finnmark Commission has investigated a field.

The members of the Uncultivated Land Tribunals shall be appointed by the King. The Uncultivated Land Tribunal shall consist of a chairman, a vice-chairman, three permanent members and two deputy members. The chairman, the vice-chairman and one of the other members shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court judges. The same applies to one of the deputy members, who shall function as a deputy for these three members.

Matters pertaining to the jurisdiction of the Uncultivated Land Tribunal, may not be brought before the ordinary courts or the Land Consolidation Court unless the Uncultivated Land Tribunal has rejected a case pursuant to section 40 or the limit for instituting legal proceedings pursuant to section 38, first paragraph, has expired and the Uncultivated Land Tribunal shall not consider the case pursuant to section 38, second paragraph.

### *Section 37 Absence*

If any of the permanent members is absent, one of the deputy members is summoned to serve instead of the permanent member who is absent. If the chairman is absent, the vice-chairman shall serve as chairman.

If any of the members of the Uncultivated Land Tribunal is absent after consideration of a case has commenced, proceedings may continue without summoning a deputy member provided that four members are present during the proceedings. In the event of a tied vote, the chairman shall have the casting vote.

### *Section 38 Summonses*

Disputes may be brought before the Uncultivated Land Tribunal by means of written summonses at the latest one year and six months following submission of the report of the Finnmark Commission. The summons shall be signed and shall contain:

- a) the full name and address of the party
- b) a list of the claims made by the party and the circumstances on which they are based
- c) the claim for judgment submitted by the party
- d) the opposite party against whom the claim is made

Even if the time limit pursuant to the first paragraph has expired, the Uncultivated Land Tribunal shall nevertheless deal with cases brought before it before all cases from the same field have been brought to conclusion if it finds such cases appropriate for such consideration and that they can be considered without considerable delay to

the court's proceedings. Decisions made pursuant to this paragraph may not be challenged by way of an interlocutory appeal or an appeal proper.

#### Section 39 *Dismissal of cases*

Cases found inappropriate for consideration by the Uncultivated Land Tribunal may be wholly or partly dismissed by the court. When so deciding, consideration shall be paid, inter alia, to the nature of the claim and to the basis on which it is made.

Before dismissing a case, the plaintiff shall be given the opportunity to make a statement. The case may be dismissed without summoning the parties to a sitting of the Tribunal. Dismissal pursuant to this section may not be challenged by way of an interlocutory appeal or an appeal proper.

#### Section 40 *Consolidation of cases, separation, etc.*

The Uncultivated Land Tribunal may:

- a) consolidate two or more cases for joint consideration and, in such case, joint decision
- b) separate the proceedings and judgment of one or more claims that are consolidated in a single case or individual issues in dispute concerning the same claim
- c) decide the order in which cases brought will be heard

When making decisions pursuant to the first paragraph, emphasis shall be placed, inter alia, on paying due consideration to a natural and appropriate delimitation of the areas of dispute as regards extent, legal and historical context and the need to clarify the legal relations.

Before making decisions pursuant to the first paragraph, the parties shall be given the opportunity to express their views unless this is found to be unnecessary or would result in disproportionate delay or expense.

Decisions pursuant to this section may not be challenged by way of an interlocutory appeal or an appeal proper.

#### Section 41 *Responsibility for obtaining information concerning a case, etc.*

The parties are responsible for giving an account of the actual circumstances and evidence significant for deciding the case. The Uncultivated Land Tribunal shall of its own motion obtain the report of the Finnmark Commission and use this as a basis for its consideration of the case. The parties may in addition produce as evidence documents received by, submitted to or issued by the Finnmark Commission.

The Uncultivated Land Tribunal may not receive testimony from the members of the Finnmark Commission or from persons who have carried out work for the Commission in connection with the case.

Court sittings for examination of parties and witnesses outside the main hearing may be held by two members of the Uncultivated Land Tribunal, of which at least one must hold the qualifications required of Supreme Court judges. The Uncultivated Land Tribunal may request that the examination be made by the appropriate district court.

### Section 42 *Appeals and interlocutory appeals*

Decisions of the Uncultivated Land Tribunal may be appealed to the Supreme Court. Section 357 of the Civil Procedure Act shall not apply.

Decisions that, pursuant to the provisions of the Civil Procedure Act, are subject to interlocutory appeal may in a corresponding manner be lodged with the Appeals Committee of the Supreme Court except in cases where an appeal is excluded pursuant to the present Act.

### Section 43 *Costs of the case*

The state shall cover the costs of the Uncultivated Land Tribunal's own activities. The state shall also cover the necessary costs of the parties in cases concerning claims for rights opposed by Finnmarkseiendommen.

When deciding the question of whether the costs were necessary, the Uncultivated Land Tribunal shall, inter alia, bear in mind that parties with similar interests that are not in conflict with each other should use the same legal and technical assistance. The court shall as early as possible, of its own motion, raise the question where appropriate.

When special grounds so indicate, the Uncultivated Land Tribunal may order a party wholly or partly to carry his costs in conjunction with the case himself. Section 177 of the Civil Procedure Act shall otherwise apply correspondingly.

No fee shall be paid for consideration of cases by the Uncultivated Land Tribunal. Section 8 of Act of 17 December 1982 No. 86 concerning court fees shall apply to appeals and interlocutory appeals against decisions of the Uncultivated Land Tribunal.

## **III Joint provisions**

### Section 44 *Sami language*

Chapter 3 of the Sami Act shall apply to use of the Sami language. Section 3-4, first paragraph, of the Sami Act shall also apply to the Finnmark Commission.

### Section 45 *Delineation of boundaries and official registration*

Legally enforceable judgments by the Uncultivated Land Tribunal and declarations and agreements issued or entered into in accordance with the conclusions of the Finnmark Commission may be brought before the Land Consolidation Court pursuant to section 88 of the Land Consolidation Act. The Land Consolidation Court carries out boundary marking on the ground, fixing of coordinates and survey of the boundaries in accordance with the judgment, declaration or agreement. The provisions concerning land consolidation shall apply correspondingly in so far as they are applicable. The Land Consolidation Court shall sit without lay land consolidation judges. Section 88, fifth paragraph, and section 89, second paragraph, of the Land Consolidation Act shall not apply. In the event of appeal, section 72 shall apply. The court fee pursuant to section 74, first paragraph, shall not be paid. Nor shall the parties pay for the costs of boundary marking, fixing of coordinates and survey of the

boundaries. Section 24 of the Land Consolidation Act shall apply to official registration as far as it is applicable.

In respect of rights established by a legally enforceable judgment of the Uncultivated Land Tribunal or by a declaration or agreement in accordance with the conclusions of the Finnmark Commission, the limitations of public law as regards the right to establish or transfer such rights shall not preclude their being officially registered. No fee or document duty shall be paid in connection with the official registration.

#### *Section 46 Relation to other legislation*

Chapter 6 of the Courts of Justice Act concerning disqualification and the Freedom of Information Act shall apply to the activities of the Finnmark Commission in so far as they are applicable. In the event of a rejection of a request for access to a document, an appeal on the question of the power to exempt the document from public disclosure lies to the County Governor of Finnmark. The Public Administration Act does not apply to the activities of the Finnmark Commission.

Unless otherwise provided by the present Act, the Courts of Justice Act and the Civil Procedure Act shall apply in so far as they are applicable to the activities of the Uncultivated Land Tribunals.

#### *Section 47 Authority to issue further provisions*

The King may issue further provisions concerning the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark, including provisions concerning organization and financial matters, etc.

### **Chapter 6 Final provisions**

#### *Section 48 Entry into force*

The Act shall enter into force on the date decided by the King. The King may bring into force the various provisions on different dates.

#### *Section 49 Transitional provisions*

The real property in the county of Finnmark to which Statskog SF holds the registered title or which it owns without holding the registered title shall be transferred to Finnmarkseiendommen as soon as chapter 2 of the Act comes into force. This applies correspondingly to restricted rights to real property. Re-registration in the real property register shall be effectuated by means of a change of name. Fiscal continuity shall be maintained in connection with the transfer and the transfer shall entail no tax liability for Statskog SF pursuant to section 5-2 of the Taxation Act.

Finnmarkseiendommen shall take over the personal responsibility from Statskog SF for mortgages and other encumbrances for monetary claims on the properties or rights taken over by Finnmarkseiendommen. Finnmarkseiendommen shall also take over the responsibility for agreements concerning rights of use, leases and the like in respect of the transferred properties and rights. Finnmarkseiendommen will take over concessions and licences etc. held by Statskog SF in connection with the properties and rights taken over.

By agreement with Statskog SF, Finnmarkseiendommen has the right to take over agreements entered into by Statskog SF concerning activities in Finnmark.

Persons who, on the entry into force of chapter 2, are employees of Statskog SF with their place of work in the county of Finnmark, with the exception of employees attached to Statskog SF's Mountain Service, will be regarded as employees of Finnmarkseiendommen from the date of entry into force with the same pay and working conditions as they had in Statskog SF unless the employee concerned has notified that he or she does not so wish. From the date of entry into force, employees of Statskog SF with their place of work in Finnmark are no longer employees of Statskog SF unless by special agreement.

The Ministry shall convene the first board meeting of Finnmarkseiendommen. The board shall ensure that Finnmarkseiendommen is registered in the Register of Business Enterprises not later than six months after the entry into force.

Persons who, on the entry into force of chapter 2, are employees of Statskog SF with their place of work in the county of Finnmark and are attached to Statskog SF's Mountain Service will be regarded as employees of the Norwegian Nature Inspectorate from the date of entry into force. The fourth paragraph shall otherwise apply correspondingly.

The King may provide that property other than real property associated with activities in Finnmark shall be transferred from Statskog SF to Finnmarkseiendommen and the Norwegian Nature Inspectorate. The King may also provide that agreements as referred to in the third paragraph may be taken over by the Norwegian Nature Inspectorate.

The King may issue further transitional provisions.

#### *Section 50 Amendments to other legislation*

From the date decided by the King, the following amendments shall be made to other legislation:

1. The Act of 12 March 1965 relating to the state's unregistered land in the county of Finnmark is repealed.
2. In the Act of 30 June 1972 No. 70 relating to mining, the following amendments shall be made:

In chapter 2, a new section 7a shall read as follows:

#### *Special provisions concerning preliminary examination of minerals in Finnmark*

In connection with preliminary examination of minerals in the county of Finnmark, a person wishing to conduct such preliminary examination of minerals shall not later than one week prior to the commencement of such preliminary examination provide written notification to the Sami Parliament, the landowner and the appropriate area and district boards for reindeer husbandry. If the person wishing to conduct such preliminary examination intends to make an impact on the land, the location of such impact shall be indicated.

In chapter 3, a new section 22a shall read as follows:

#### *Special provisions concerning licensed prospecting in Finnmark*



Applications for licensed prospecting in the county of Finnmark may be rejected if general considerations contraindicate granting of the application. When considering such applications, significant emphasis shall be placed on due consideration of Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. If the application is granted, conditions may be stipulated in order to safeguard such considerations.

When considering the application the Commissioner of Mines shall give the landowner, the Sami Parliament, the County Governor, the county authority, the municipality and the appropriate area and district boards for reindeer husbandry an opportunity to comment.

If the Sami Parliament or Finnmarkseiendommen as landowner oppose granting of the application, the application shall be decided by the Ministry.

If the Ministry grants the application in cases mentioned in the third paragraph, an appeal to the King from the Sami Parliament or from Finnmarkseiendommen as landowner will have suspensive effect.

In chapter 4, a new section 39b shall read as follows:

*Special provisions concerning patenting of claims in Finnmark*

In connection with applications for patenting of claims in the county of Finnmark, the provisions of section 22a shall apply correspondingly. In cases mentioned in section 22a, third paragraph, the Ministry shall decide whether patenting of claim proceedings shall be held before or after the Ministry considers the application.

Section 42, first paragraph, new second sentence shall read as follows:

In the case of mines on Finnmarkseiendommen's land, the King may by regulations stipulate a larger fee.

3. In the Act of 9 June 1978 No. 49 relating to reindeer husbandry, the following amendments shall be made:

Section 13, third paragraph, new fourth sentence shall read as follows:

Finnmarkseiendommen may not claim payment pursuant to the provisions of this paragraph.

Section 14, first paragraph, first sentence shall read as follows:

In connection with the lawful practice of reindeer husbandry in reindeer herding areas, the right to hunt, trap and fish covers hunting, trapping and fishing on state-owned common land, on state-owned land that is not specifically registered *and on Finnmarkseiendommen's land* in the reindeer herding district where reindeer husbandry is practised on the same conditions as apply for persons who are permanent residents of the municipality, rural district or neighbourhood where the common land, state-owned land or *relevant part of Finnmarkseiendommen's land* is situated.

4. In the Act of 29 May 1981 No. 38 relating to wildlife and wildlife habitats, section 44, second paragraph, is repealed.

5. In the Act of 15 May 1992 No. 47 relating to salmonids and freshwater fish, etc. the following amendments shall be made:

Section 19, third paragraph, shall read as follows:

When *real property in the county of Finnmark* is sold by the state or by *Finnmarkseiendommen*, the fishing rights may be withheld for the benefit of the general public.

Section 22, fourth and fifth paragraph, are repealed.

6. In the Act of 21 June 1996 No. 38 relating to a government nature inspectorate, section 2, new fourth paragraph, shall read as follows:

On Finnmarkseiendommen's land, the Inspectorate shall conduct further control as agreed between the Ministry and Finnmarkseiendommen.