

NB: Unofficial translation; legally binding texts are those in Finnish and Swedish

Ministry of the Environment, Finland

**Government Decree**  
**on the Remediation of Certain Environmental Damages**  
**713/2009**

Issued in Helsinki on 24 September, 2009

In accordance with the government decision made based on the presentation by the Ministry of the Environment, the following is prescribed concerning remediation of certain environmental damages on the basis of section 16 of the Act issued on 29 May, 2009 (383/2009); section 5 a, subsection 3 of the Nature Conservation Act issued on 20 December, 1996 (1096/1996); section 84 b of the Environmental Protection Act issued on 4 February, 2000 (86/2000); Chapter 21, section 3 c, subsection 4 of the Water Act issued on 19 May, 1961 (264/1961); as per section 5 a, subsection 3 of the Nature Conservation Act as it is stated in Act 384/2009, section 84 b of the Environmental Protection Act as it is stated in Act 385/2009 and Chapter 21, section 3 c, subsection 4 of the Water Act as it is stated in Act 386/2009.

*Section 1*  
*Purpose*

This decree regulates matters that shall be considered:

- 1) in assessing the significance of the harmful effect caused to a protected species and natural habitat referred to in section 5 a, subsection 1 of the Nature Conservation Act (1096/1996);
- 2) in assessing the significance of the pollution of the waterbody referred to in section 84 a of the Environmental Protection Act (86/2000), and the harmful change in the waterbody and ground water referred to in Chapter 21, section 3 c of the Water Act (264/1961);
- 3) with regard to the remedial measures referred to in section 5 of the Act on the Remediation of Certain Environmental Damages (383/2009) and in selecting the measures referred to in section 6; and
- 4) in determining the costs incurred by the authorities referred to in section 10, subsection 1, point 2 of the Act on the Remediation of Certain Environmental Damages.

*Section 2*  
*Assessing the significance of the harmful effect caused to a species or natural habitat*

In addition to what is prescribed in section 5 a of the Nature Conservation Act, the following shall be considered in assessing the significance of the harmful effect caused to the favourable conservation status of a species or natural habitat:

- 1) the number of individuals in a species, their frequency or locality;
- 2) the significance of the damaged individuals or damaged area to the level of the conservation status of the species or natural habitat, taking into consideration the viability of the species or the inherent range of the natural habitat and their customary natural variance;
- 3) the dispersal ability of the species or the inherent regeneration ability of the natural habitat;
- 4) the inherent ability of the species or natural habitat to be restored, at a minimum, to the condition that prevailed when the damage occurred; and
- 5) the effects on human health.

Significant harmful effects do not include effects arising from managing the area in accordance with the nature conservation objective.

### *Section 3* *Assessment of the significance of the damage caused to waters*

In addition to what is prescribed in section 84 a of the Environmental Protection Act and in Chapter 21, section 3 c of the Water Act, the following shall be considered in assessing the degree of pollution and other harmful change in the waterbody and the degree of harmful change in groundwater:

- 1) the concentration of a substance dangerous or harmful to the aquatic environment referred to in section 3 of the Government Decree on Substances Dangerous and Harmful to the Aquatic Environment (1022/2006);
- 2) considerable decrease in the factor that depicts the ecological status of surface water mentioned in section 9 of the Government Decree on Water Resources Management (1040/2006);
- 3) concentration in the ground water of the polluting substance mentioned in point A of Appendix 7 to the Government Decree on Water Resources Management; concentration of the substance harmful to groundwater referred to in section 3 of the Government Decree on Substances Dangerous and Harmful to the Aquatic Environment; salinification of groundwater or considerable reduction in the groundwater surface level, and their effects on the ground- or surface-water ecosystems or the current or future use of groundwater.
- 4) effects on natural resource services referred to in section 4, point 2 of the Act on the Remediation of Certain Environmental Damages.

The extent, duration and scope of the effect or change caused to the waterbody or groundwater referred to in subsection 1 shall be taken into account in the assessment.

### *Section 4* *Complementary and compensatory remediation*

Complementary and compensatory remediation that complies with section 5 of the Act on the Remediation of Certain Environmental Damages is focused primarily on the natural resource or natural resource service, which in type, quality and quantity matches the damaged natural resource

or natural resource service to the greatest degree possible. If this is not possible, remediation shall be focused on alternative natural resources and natural resource services.

The extent of the complementary and compensatory measures shall be determined taking into consideration the value of the natural resource or natural resource service lost through damage. If the extent of the complementary and compensatory measures cannot be specifically determined within a reasonable time or at reasonable cost, the extent of the measures can be determined at discretion. Even then, the costs arising from the measures shall correspond to the value of the lost natural resource or natural resource service.

The complementary and compensatory measures shall be selected so that they increase the natural resources or natural resource services on the damage site or elsewhere. When measures are selected, their order of priority in terms of time, and the time required to implement them, shall be taken into account. If complementary measures are performed outside the damage site, the area should, whenever possible, be geographically connected to the damage site.

#### *Section 5 Assessment of alternative remedial measures*

In determining remedial measures, the authority must assess possible alternative measures.

In addition to what is prescribed in section 6 of the Act on the Remediation of Certain Environmental Damages, the following shall be taken into account in assessing alternative measures:

- 1) effects on public health and safety;
- 2) costs arising from implementation;
- 3) probability of success;
- 4) opportunity to prevent future damage and avoid causing damage to other sites;
- 5) benefits to damaged natural resources and natural resource services;
- 6) social and economic considerations, cultural aspects and particular factors concerning location;
- 7) damage remediation implementation schedule;
- 8) probability of restoration to pre-damage status; and
- 9) geographical connection to the damaged area, if measures are carried out elsewhere.

#### *Section 6 Selection of remedial measures*

From among the primary measures, a measure that does not fully restore the damaged natural resource or natural resource service to baseline condition – or the restoration takes longer than usual – can be selected if, in addition, such complementary and compensatory measures are selected as will restore a level of natural resources and natural resource services that equals the baseline condition. Selection of complementary and compensatory measures are regulated under sections 4 and 5.

*Section 7*  
*Costs incurred by the authority*

In determining the costs incurred by the authority referred to in section 10, subsection 1, point 2 of the Act on the Remediation of Certain Environmental Damages, costs pertaining to the following can be taken into account:

- 1) clarifications necessary to determine the damage and its immediate threat;
- 2) clarifications necessary to assess alternative remedial measures;
- 3) clarifications necessary to assess alternative remedial measures;
- 4) necessary follow-up to remedial measures implemented.

*Section 8*  
*Entry into force*

This decree shall take effect on 1 October, 2009; it shall, however, apply as of 1 July, 2009.

Directive of the European Parliament and of the Council of Europe 35/2004/EC (32004L0035);  
Journal of the European Communities No. L 143, 30 April, .2004, p. 56

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