

## Appendix 5 – The Danish Forest Act

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Act. no. 453 of 9 June, 2004

In force from 1 October 2004

### The Forest Act

BE IT KNOWN that the Folketing has enacted and We, Margrethe the Second, by the grace of God, Queen of Denmark, have given Our Assent to affirm the following Act:

#### **Part 1<sup>i</sup>**

##### ***Objectives***

**1.-(1)** The purpose of this Act shall be to conserve and protect the Danish forests and to increase the forest area.

**(2)** The purpose of this Act shall also be to promote sustainable forest management. Sustainable management shall entail the inclusion of economic as well as ecological and social values.

**(3)** Sustainable management shall entail that the management of the individual areas designated as forest reserve land and the administration of this Act take a holistic approach to

- 1) promote the establishment of robust forests,
- 2) ensure the production of the forests,
- 3) conserve and increase the biological diversity of the forests, and
- 4) ensure that proper attention be given to landscape, natural history, cultural history, environmental protection and outdoor recreation.

**(4)** The administration of this Act shall endeavour to strengthen advisory services and information on sustainable forest management.

**2.-(1)** In publicly owned forests, special emphasis shall be placed on the considerations mentioned in section 1(3), nos. 3 and 4.

**(2)** In state-owned forests under the jurisdiction of the Ministry of the Environment, special emphasis shall also be placed on the promotion of research and development activities.

## **Part 2**

### ***Scope of designated forest reserve land***

**3.-(1)** Areas designated as forest reserve land shall include:

- 1) Areas designated by the Minister for the Environment as forest reserve land.
- 2) Areas which are recorded in the Danish Land Register or the Cadastral Register as majorat forests.
- 3) Areas with forest owned or acquired by the Danish state, municipalities or the Evangelical Lutheran Church in Denmark; areas owned by said bodies and where forest is established or emerges; and associated unstocked areas.

**(2)** The Minister for the Environment shall decide whether an area is to be covered by subsection (1), no. 3.

**(3)** Forests which are temporarily owned by the Danish state, municipalities or the Evangelical Lutheran Church in Denmark in connection with land consolidation or expropriation of cut-off areas, and which are not designated as forest reserve land at the time of acquisition, shall not be covered by subsection (1), no. 3.

**(4)** When an area with forest which is not designated as forest reserve land is acquired by the Danish state, municipalities or the Evangelical Lutheran Church in Denmark, or when forest is established or emerges on an area owned by said bodies, after the area has been designated for other purposes than forest in a fully adopted local plan, such area shall only be designated as forest reserve land under subsection (1), no. 3, if said area has not been taken into use for the designated purpose within 20 years of full adoption of said local plan.

**(5)** When an area with forest which is not designated as forest reserve land is acquired by the Danish state, municipalities or the Evangelical Lutheran Church in Denmark, or when forest is established or emerges on an area owned by said bodies, after the area has been expropriated for other purposes than forest, such area shall only be designated as forest reserve land under subsection (1), no. 3, if said area has not been taken into use for the designated purpose within 20 years of the expropriation.

**(6)** The Danish state, municipalities and the Evangelical Lutheran Church in Denmark shall notify the Minister for the Environment when forest is acquired, established or has emerged on areas owned by said bodies.

**4.** The Minister for the Environment may, based upon an application to this effect, decide that an area suitable for sustainable forest management be designated as forest reserve land.

**5.** Designation as forest reserve land shall be binding on owners of and holders of titles to the property, irrespective of when such title was established.

**6.-(1)** If special circumstances are in favour of such action, the Minister for the Environment may revoke the designation as forest reserve land in an area required for other purposes.

**(2)** The Minister shall, upon receiving an application from a municipality, revoke the designation as forest reserve land as regards a municipal forest area without making this subject to provisions regarding replacement forest, cf. 39(1), no. 5, when the following conditions are met:

- 1) The area must be reserved for another purpose than forest in a municipal plan or in an enforcement notice reserving it for road construction.
- 2) The municipal plan or the enforcement notice reserving it for road construction must be adopted before said area became designated as forest reserve land under section 3(1), no. 3.
- 3) The area must be taken into use for the designated purpose before 20 years after said area became designated as forest reserve land.

**(3)** If the conditions in subsection (2) have not been met, an application regarding revocation of the designation as forest reserve land shall be processed in accordance with subsection (1).

### ***Majorat forests***

**7.-(1)** An area which is recorded in the Danish Land Register or the Cadastral Register as a majorat forest shall continue under the same title.

**(2)** The Minister for the Environment may revoke the majorat restrictions of an area, whereafter said area is to be registered in the Cadastral Register as designated as forest reserve land. Concurrently, the Minister may decide that adjoining areas are to constitute one single real property in accordance with section 2(1) of "lov om udstykning og anden registrering i matriklen" (Act on land parcelling and other registrations in the Cadastral Register).

## **Part 3**

### ***The use of areas designated as forest reserve land***

**8.** The following shall apply to the individual area designated as forest reserve land:

- 1) The area must be stocked with trees, which form or will come to form, a closed canopy forest of high-boled trees within a reasonable period of time.
- 2) Logging, except thinning, may not be carried out before the stand or the individual tree has reached the rotation age.
- 3) No later than 10 years after such logging of a stand, the area must meet the requirement of no. 1.
- 4) Livestock farming is prohibited. This prohibition does not, however, apply to areas that may be legally kept without trees, cf. section 10.

**9.** Irrespective of section 8, the individual area designated as forest reserve land may be used in the following manners:

- 1) Coppice forest management and forest grazing covering a total of up to 10 per cent of the area. Fencing for forest grazing must not limit the opportunities of the general public to use the area.
- 2) Areas with Christmas trees and decorative greenery in short rotation covering a total of up to 10 per cent of the area.
- 3) Other special management regimes, when these are prescribed in accordance with a listing under the Protection of Nature Act or the Consolidated Listed Buildings and Preservation of Buildings and Urban Environments Act.

**10.** Irrespective of section 8, no. 8, the individual area designated as forest reserve land may be kept unstocked in the following circumstances:

- 1) When this is necessary for forest management.
- 2) When this is prescribed in accordance with a listing under the Protection of Nature Act or the Consolidated Listed Buildings and Preservation of Buildings and Urban Environments Act.
- 3) Fields and sand dunes as long as their use remains unaltered.
- 4) Open nature areas may be established covering up to 10 per cent of the area. Said 10 per cent may be established in addition to the areas legally unstocked at the time of entry into force of this Act.

**11.-(1)** On areas designated as forest reserve land it is not allowed to erect buildings, establish installations, or alter the ground surface or deposit waste.

**(2)** However, subsection (1) shall not apply to

- 1) buildings, workmen's sheds of up to 10 m<sup>2</sup>, installations or alterations of the ground surface necessary for forest management, and
- 2) scout cabins, skovbørnehaver (forest daycare facilities), and similar buildings that particularly accommodate outdoor recreation for children and young people.

**(3)** The Minister for the Environment shall approve the appearance and location of workmen's sheds mentioned in subsection (2), no. 1.

**(4)** The Minister shall lay down regulations regarding the construction of buildings mentioned in subsection (2), no. 2, including regulations stipulating that the location is subject to approval.

**12.** Adjoining areas which are designated as forest reserve land may not be parcelled or reduced by transferral of areas.

**13.-(1)** The Minister for the Environment may decide or lay down regulations stipulating that, for the first 10 years after a change of ownership of designated forest reserve land counting from the date transfer of ownership takes effect, commercial logging in the forest may only

take place subject to specified terms. The regulations may be limited to apply only to specific areas.

(2) With regard to designated forest reserve land owned by a limited company, a limited liability company, a cooperative society or similar organisation, the Minister may decide or lay down regulations stipulating that for a period of up to 10 years, commercial logging may only take place subject to specified terms.

## **Part 4**

### ***Protection of natural habitats and habitats for species, etc.***

**14.-(1)** The Minister for the Environment shall prepare a Natura 2000 forest plan for forest stocked areas which are designated as forest reserve land and located in international nature protection areas.

(2) The Natura 2000 forest plan shall also apply to the areas mentioned in section 28 when they include natural habitats or species covered by directives mentioned in section 15(2).

(3) Central government authorities, county councils, the Greater Copenhagen Authority and municipal councils shall be committed by any adopted Natura 2000 forest plan in their exercise of powers vested in them under legislation.

**15.-(1)** As a basis for the plan under section 14, the Minister for the Environment shall map the location and conservation status of the natural habitats and habitats of species mentioned in subsection (2).

(2) In this plan, the Minister shall lay down the objectives necessary to ensure or restore a favourable conservation status for the natural habitats and species listed in Annexes I and II of the EEC Habitats Directive and in Annex I of the EEC Birds Directive as well as the measures necessary to meet said objectives.

**16.-(1)** The Minister for the Environment shall lay down specific regulations for the procedure for providing the plans mentioned in section 14, regarding the contents of the plans and regarding appeals to the Nature Protection Board of Appeal.

(2) The plan shall be revised every 12 years.

(3) The Minister shall amend a plan prepared in accordance with section 14, if this is required to meet the commitments under the EEC Habitats Directive.

(4) The Minister may lay down regulations stipulating that a plan under section 14 with similar plans drawn up in accordance with other legislation and management for publicly owned areas or similar may be included in a summary Natura 2000 plan for an international nature conservation area with a view to meeting the conservation objective for said area.

**17.-(1)** With regard to areas covered by section 14(1), the Minister for the Environment shall, prior to commencement of activities mentioned in Annex 1 to this Act, be notified in writing

with a view to an assessment of the impacts on the area, taking into consideration the conservation objectives of the area.

**(2)** An activity covered by the prohibitions in section 28 of this Act or in section 3, 8, 15 or 18 of the Protection of Nature Act shall not be covered by subsection (1). This shall also apply to activities generally requiring approval under legislation on nature conservation, the environment or spatial planning, or if the consequences of the activities have been assessed or are subject to assessment prior to commencement in accordance with said legislation.

**(3)** Such activity may commence, if the Minister has not, before 4 weeks after receipt of the notification, decided to carry out a more detailed assessment of said activity. Such decision shall apply for no more than 6 months, but may, under special circumstances, be extended. When a decision under the 1st clause is appealed within the required time limit, the time limit in the 2nd clause shall count from the time of the decision by the Nature Protection Board of Appeal.

**(4)** If said activity has not been commenced before 3 years after notification, a new notification shall be given under subsection (1) if commencement is still desired.

**(5)** The Minister may lay down more detailed regulations on assessments of notifications under subsection (1).

**18.-(1)** The Minister for the Environment may enter into an agreement with the owner or user of a property in an international nature conservation area regarding the management or other measures with a view to realising the conservation objectives of the Natura 2000 forest plan.

**(2)** An agreement under subsection (1) may be amended if the parties so agree and if said amendment is not inconsistent with the conservation objectives of the plan.

**(3)** An agreement under subsection (1) may cover other areas, if their management may contribute to the implementation of the plan.

**19.** The Minister for the Environment shall order the owner of a property in or outside international nature conservation areas to undertake such management or other measures required to realise the Natura 2000 forest plan, if an agreement cannot be achieved under section 18 on reasonable terms, or if an agreement already entered into is not being complied with.

**20.-(1)** In special circumstances, the Minister for the Environment shall order the owner of a property in or outside international nature conservation areas to perform such management or other measures, which, taking into consideration the conservation objectives of the Natura 2000 forest plan, are required to avoid the permanent deterioration of natural habitats or the habitats of species, as well as significant disturbance of the species for which the areas have been designated, provided such disturbance cannot be prevented using measures on the basis of the plan.

(2) A decision under subsection (1) shall apply until it is replaced by an agreement under section 18 or a decision under section 19, subject however to a time limit of 6 months. In special circumstances, said time limit may be extended.

**21.-(1)** Until a Natura 2000 forest plan is available, the Minister for the Environment shall order the owner of a property in or outside the international nature conservation areas to perform such management or measures required to avoid deterioration of natural habitats or habitats of species or significant disturbance of species for which the area has been designated, provided this cannot await adoption of a Natura 2000 forest plan, and if such deterioration or disturbance cannot be avoided through agreements or in any other manner.

(2) A decision under subsection (1) shall apply until it is replaced by an agreement under section 18 or a decision under section 19, subject however to a limit of 1 year after adoption of the Natura 2000 forest plan.

**22.** The Minister for the Environment may lay down regulations regarding the management of areas for which a decision has been made under section 19, 20 or 21.

**23.-(1)** The Minister for the Environment may expropriate a property when control of said property is of significant importance to realise the Natura 2000 forest plan.

(2) In carrying out expropriation, the regulations in section 39(1), (2) and (4); section 43; section 44(1), (3) and (4); and sections 45, 47 and 49(2) of the Danish Protection of Nature Act shall apply correspondingly with the necessary adjustments, and with the Minister for the Environment replacing the nature conservancy board.

**24.-(1)** Losses incurred by an owner or holder of title to the property due to decisions under sections 17 and 19-21 shall be compensated.

(2) The question regarding possible compensation following a decision under section 20 shall be determined in connection with an agreement under section 18 or final decision under section 19.

(3) In decisions regarding compensation, the provisions in section 39(1), (2) and (4); section 43; section 44(1), (3) and (4); and sections 45, 47 and 49(2) of the Danish Protection of Nature Act shall apply correspondingly with the necessary adjustments, and with the Minister for the Environment replacing the nature conservancy board.

**25.-(1)** The Minister for the Environment may register other forests of particular nature value than those mapped in accordance with section 15.

(2) On the basis of the registration under subsection (1) or the mapping under section 15, the Minister may enter into agreements with the owners to ensure forest management supporting and promoting biological diversity.

**26.** Oak thickets of high conservation value shall be conserved as oak thickets. The Minister for the Environment shall register oak thickets of high conservation value and on this basis enter into agreements with the owners in order to ensure such conservation.

**27.** Outer forest edges of deciduous trees and bushes in areas designated as forest reserve land shall be conserved.

**28.-(1)** Lakes, bogs, heaths, salt meadows or salt marshes, meadows and biological dry grasslands which are part of a designated forest reserve and which are not covered by section 3 of the Protection of Nature Act, because their area is below the size limits stated therein, may not be cultivated, drained, afforested or altered in any other way.

**(2)** The prohibition in subsection (1) shall also apply to watercourses not covered by section 3 of the Protection of Nature Act, because they have not been designated as being protected by the Minister for the Environment upon submission by the county council. Said prohibition shall not, however, apply to ordinary maintenance work in watercourses.

## **Part 5**

### ***Subsidies and production levies***

**29.-(1)** The Minister for the Environment may grant subsidies for:

- 1) The promotion of sustainable forest management in existing forests.
- 2) Afforestation of agricultural land, tending of these new stands and compensation for loss of income, provided the areas are designated as forest reserve land in accordance with section 4.
- 3) Development of products from the forest and wood processing industry.
- 4) Forestry advisory services.
- 5) Information, advisory and study activities concerning nos. 1-4, including advising private forest owners in association with mapping and conservation of natural habitats and habitats of species under sections 14-25.

**(2)** The Minister may lay down more detailed regulations on administration of subsidies. In this context regulations may be laid down on the form and content of applications, time limits, terms of subsidies, changes and lapses of subsidy pledges, financial statements and audits, and stipulating that subsidies be primarily granted for areas designated as forest reserve land. Furthermore, regulations may be laid down stipulating that the subsidies for advisory services as referred to in subsection (1), no. 5 may be granted to a sector organisation for a given period.

**(3)** The Minister may pledge subsidies beyond the current budget year. Subject to decision by the Minister, subsidies may be paid in advance or on account. The Minister may lay down regulations stipulating that subsidies under this Act are to be paid into an account in a financial undertaking.

**30.** The Minister for the Environment may lay down provisions on

- 1) payment of production levies on Christmas trees and decorative greenery grown in Denmark,



- 2) collection of the production levies mentioned in no. 1, including payment of interest and fees, when such payment is effected too late, and stipulating that the collection and administration in this respect be delegated to a sector organisation, and
- 3) the use of the fund for the purposes listed in section 31(1) and the proportion of actual costs that the subsidy is permitted to cover.

**31.-(1)** Production levies shall be part of a fund (Produktionsafgiftsfonden - the production levy fund). The resources of the fund shall be used as subsidies for measures associated with sales promotion, research and testing, product development, information, advisory services, training and other measures within the Christmas tree and decorative greenery sector. The resources of the fund may also be used to cover costs incurred through supervising the correct use of said resources.

**(2)** Part of the levy paid to the Treasury in pursuance of Consolidated Act no. 798 of 9 November 1998 regarding taxes on pesticides and which is transferred to the agricultural tax redistribution funds (promillefonde) may also be part of the fund.

**(3)** The Minister for the Environment may grant subsidies to the fund within limits provided in the Finance Act.

**32.-(1)** The Minister for the Environment shall appoint a board of trustees of the Produktionsafgiftsfonden (the production levy fund) upon recommendations from representative sector organisations.

**(2)** The task of the board of trustees shall be to allocate the resources of the fund and to ensure that the management of said resources be carried out in accordance with section 31(1), and with regulations laid down in pursuance of sections 30 and 33 and with legislation in general.

**(3)** The Minister may order the board of trustees to rectify conditions contravening section 31(1) or regulations laid down in pursuance of sections 30 and 33.

**(4)** The Minister may remove a trustee who has acted in contravention of provisions laid down under sections 30 and 33.

**(5)** Trustees, who in exercising their duty have deliberately or negligently inflicted a loss on the fund, shall be held liable in damages.

**(6)** The provision in subsection (5) shall also apply to auditors. If a firm of auditors has been appointed for the audit, both the firm of auditors and the auditor entrusted with the audit shall be held liable in damages.

**(7)** Any decision to bring an action, including on the amount of the claim for damages, against the trustees, firm of auditors or individual auditors shall be made by the board of trustees or by the Minister.

**33.-(1)** The Minister for the Environment shall lay down provisions for administration and audit of the Produktionsafgiftsfonden (the production levy fund) and for preparation of the

budgets and financial statements of the fund, including provisions stipulating that budgets and financial statements are subject to approval by the Minister.

(2) Moreover, the Minister shall lay down provisions for the work of the board of trustees, including

- 1) rules of procedure,
- 2) provisions stipulating that a sector organisation may function as the secretariat for the board of trustees,
- 3) provisions stipulating that the board of trustees is to prepare guidelines for applications for and granting of subsidies, including guidelines for the presentation of accounts and audit of the recipients of subsidies,
- 4) provisions stipulating that the board of trustees may make decisions on the allocation of the resources of the fund, and
- 5) provisions stipulating that decisions made by the board of trustees may not be appealed against to the Minister.

**34.** If the fund holds assets which have been transferred from the agricultural tax redistribution funds (promilleafgiftsfonde), the Minister for the Environment shall, at the end of each budget year, inform a committee set up by the Folketing (the Danish Parliament) about the assets transferred into the produktionsafgiftsfonden (the production levy fund) and the use of these assets.

## **Part 6**

### ***Monitoring, professional assistance, etc.***

**35.-(1)** The Minister for the Environment shall monitor the state of the forests and the development of forestry in cooperation with other national and international authorities and institutions.

(2) The Minister shall ensure that national statistical data be recorded on an ongoing basis and that reports on the state and development of Danish forests be prepared.

(3) The Minister may lay down more detailed provisions stipulating how monitoring and data collection are to be carried out.

**36.-(1)** The Minister for the Environment shall provide expert assistance to other authorities on forest issues and other issues significant to the administration of this Act.

(2) The Minister shall guide and inform other authorities and private individuals on forests and forestry.

(3) The Minister may launch research and development on forest issues and other issues significant to the administration of this Act.

## **Part 7**

*Administration*

*Exemptions etc.*

**37.** The Minister for the Environment may adjust the boundaries of areas which are designated as forest reserve land under section 7 of the previous Forest Act, cf. section 4 of this Act, and section 41 of the previous Forest Act, cf. section 3(1), no. 3 of this Act.

**38.** If special circumstances are in favour of such action, the Minister for the Environment may grant exemptions from the provisions in sections 8 and 9, nos. 1 and 2; section 10, no. 4; section 11(1); and sections 12 and 26-28.

**39.-(1)** The Minister for the Environment may lay down the terms of decisions under sections 4 and 6; section 7(2); and sections 19-21, 29 and 38, including terms

- 1) regarding afforestation plans and time limits for decisions under section 4,
- 2) stipulating that the designation as forest reserve land will be restored when the use giving rise to the revocation of said designation under section 6 is terminated,
- 3) stipulating that subsidies under section 29 may be made conditional upon the area being designated as forest reserve land under section 4 or upon an agreement being made under section 18 or sections 25 and 26,
- 4) regarding time limits for decisions under section 38, and
- 5) stipulating that another area will be designated as forest reserve land (replacement forest) in decisions under section 6(1) and section 38, cf. section 11(1).

**(2)** The Minister may lay down more detailed provisions regarding replacement forests, including

- 1) the size of the replacement forest,
- 2) security for its establishment,
- 3) provisions stipulating that an area being designated as forest reserve land under section 4 may, for a period, be used to meet future requirements for replacement forests under subsection (1), no. 5, and
- 4) provisions stipulating that the obligation to designate replacement forest may be met by paying for forest establishment in an area covered by no. 3 or a publicly or privately owned area that, at the same time, is designated as forest reserve land.

**40.-(1)** The terms under section 39(1) shall be binding on owners of and holders of other titles to the real property, irrespective of when such titles were established. The Minister for the Environment may have terms of a permanent character registered on the property at the owner's expense. There shall be a lien on the amount paid in this connection.

**(2)** Agreements entered into under sections 18, 25 and 26 shall be binding on owners and holders of other titles to the real property, irrespective of when such titles were established.

**(3)** The Minister may have agreements entered into under sections 18, 25 and 26 and decisions made under sections 19-21 registered on the property.

**41.-(1)** The Minister for the Environment shall ensure that designation as forest reserve land and amendments to such designations be registered in the Cadastral Register for the relevant properties.

**(2)** Based on information from the Cadastral Register, registration shall be made in the Land Register for the properties that are fully or partially designated as forest reserve land under section 3.

**42.** Unless otherwise provided in the decision, a decision under section 4, section 29(1) or section 38 or under provisions laid down in accordance with this Act shall lapse if, after three years after being granted, it still has not been exercised.

#### ***Other administrative provisions***

**43.** The Minister for the Environment may authorise an agency under the ministry or another public authority or institution to exercise the power vested in the Minister under this Act.

**44.** The Minister for the Environment may procure information from public registers on changes of ownership of forests and areas designated as forest reserve land with a view to informing new owners of the regulations etc. of this Act. This shall also apply to digital information.

**45.** The Minister for the Environment may lay down regulations regarding

- 1) fees for full or partial coverage of the costs incurred by authorities in the administration of this Act,
- 2) the scope for using digital communication within the context of this Act and the more detailed terms of such use, and
- 3) the conditions to be complied with for forest products to be labelled as being produced legally, sustainably or ecologically.

#### ***International Obligations***

**46.-(1)** The Danish government may enter into agreements with foreign states on common measures for compliance with the objectives of this Act and for pursuing interests associated with forests outside of Denmark.

**(2)** The Minister for the Environment may lay down regulations for compliance with international agreements entered into in accordance with subsection (1).

**(3)** The Minister may lay down regulations necessary for the application in Denmark of the European Communities' regulations regarding issues covered by this Act.

#### ***The National Forest Council***

**47.-(1)** The Minister for the Environment shall set up a consultative committee (the National Forest Council) which is to perform the following tasks

- 1) advise the Minister on forest issues,
- 2) submit opinions to the Minister at its own initiative on issues important for the forests or the administration of this Act, and
- 3) follow developments in the forests and in the administration of this Act.

(2) The chairman shall be appointed by the Minister. In addition to the chairman, the Council shall comprise members appointed by the Minister upon submission by authorities, associations and organisations with interests within the scope of this Act.

## ***Part 8***

### ***Supervision, inspection and enforcement notices, etc.***

**48.** The Minister for the Environment shall carry out supervision to ensure

- 1) compliance with this Act and with regulations issued in pursuance of this Act,
- 2) compliance with terms laid down in authorisations, and
- 3) compliance with enforcement notices.

**49.-(1)** Without a court order, but against proper identification, the Minister for the Environment shall have access to the land of private and public properties in order to perform his authorities and tasks under this Act or regulations issued in pursuance of this Act. In this connection, the Minister may carry out inquiries significant to the objectives of this Act. The owner or user of such property shall, as far as possible, be notified in advance.

(2) The Minister shall also have access to buildings that are used fully or partially for commercial purposes in order to perform supervision in accordance with sections 56-59 on properties for which subsidies have been granted.

(3) The right of access mentioned in subsection (1) shall also apply to persons authorised in this respect by the Minister.

(4) The police shall provide any assistance necessary to obtain access in pursuance of subsections (1) and (2).

**50.** The owner or user of a property including forest or designated forest reserve land, and enterprises receiving subsidies under section 31(1) shall, upon request,

- 1) provide information on conditions on the property significant to the administration of this Act, including information on financial and accounting matters, and
- 2) provide the assistance and guidance necessary during supervision under section 49. Employees shall also provide assistance and guidance upon request.

**51.-(1)** The Minister for the Environment shall ensure that a matter illegal under this Act or regulations laid down in pursuance of this Act be rectified. However, this shall not apply if said matter is insignificant.

(2) The Minister may serve an enforcement notice to the owner or user to rectify a legal irregularity. A time limit may be set for such rectification.

(3) If the owner or user violates the provisions in sections 8-10, the Minister may serve an enforcement notice stipulating how to carry out the work. Inter alia it may be indicated which tree species and silvicultural methods to use. The enforcement notice may also include a time limit and order for the performance of the work.

(4) The Minister may register an enforcement notice at the expense of the owner. On compliance with the enforcement notice, the Minister shall have it cancelled in the Land Register.

**52.-(1)** If the owner or user does not comply with an enforcement notice under section 51(2) or (3), the said person may be ordered by the courts to rectify the legal irregularity within a specified period, subject to the enforcement of consecutive fines.

(2) If an enforcement notice issued by the courts is not complied with in due time, and default fines are not expected to lead to compliance with the enforcement notice, the Minister for the Environment may take the necessary action at the expense of the owner.

**53.** If a legal irregularity endangers the maintenance of the status of an area or the protection of flora and fauna protected under this Act and if an enforcement notice to rectify said irregularity is not complied with in due time, the Minister for the Environment may immediately take the necessary action at the expense of the owner. The police shall provide the assistance necessary in this respect.

**54.** Should the failure to comply with an enforcement notice under section 51(2) or (3) be of a particularly serious nature, the courts may rule that,

- 1) within a specified time limit logging may only take place after the Minister for the Environment has designated the actual trees to be felled, or
- 2) at the expense of the owner, the forest is managed by the Minister for a specified period of time.

(2) To cover the costs of the measures stated in subsection (1), no. 2, mortgages and preferential rights equivalent to those existing for property taxes, shall apply to the property.

**55.** The owner of an area designated as forest reserve land shall be obliged to rectify any legal irregularities on the area. If the irregularity is illegal use of the area, this obligation shall also rest with the user.

#### ***Supervision in relation to subsidies***

**56.-(1)** For supervision of measures for which subsidies have been paid, the following shall apply particularly:

- 1) The Minister for the Environment or any person authorised in this respect by the Minister shall, in supervising under section 49, also have access to financial statements, accounting records, papers, etc. This shall also apply to digital materials.
- 2) The materials mentioned in no. 1 shall be surrendered to the person conducting the supervision upon request.
- 3) For the purpose of supervision, the Minister may obtain the necessary information from the taxation authorities and other public authorities.

(2) The recipient of subsidies shall, during the entire subsidy period, notify the Minister if the conditions for receiving subsidies are no longer being met.

**57.** The Minister for the Environment may decide that pledges for subsidies granted under section 29(1), are to be fully or partially withdrawn and that funds disbursed under section 29(1) or in accordance with regulations issued under section 29(2) or section 30, shall be fully or partially refunded, if

- 1) the recipients of subsidies have given incorrect or misleading information, or omitted to give information of significance to the decision,
- 2) the conditions for receiving subsidies are no longer met,
- 3) the recipients of subsidies ignore their obligations under section 50, no.1 or section 56(2) or obligations under regulations laid down in pursuance of section 59, or
- 4) in the opinion of the Minister, the preconditions for the subsidies have materially changed.

(2) Up to 20 per cent of the funds disbursed under section 29(1), no. 1 for agreements, cf. sections 18, 25 and 26; under section 29(1), no. 3; or regulations laid down in pursuance of section 29(2) may be used to offset any arrears of the recipient to public authorities. With regard to other subsidies under section 29(1) and section 31(1), or regulations laid down in pursuance of section 29(2) and section 30, the whole amount of the subsidy may be offset.

**58.-(1)** The Central Customs and Tax Administration (Told og Skat) may collect funds due to the Treasury under section 57 plus interests and costs, cf. section 59, no. 2. Funds due may be collected by deducting the funds from the personal income etc. of the subsidy recipient. Collection shall be carried out in accordance with the regulations of the "Kildeskatteloven" (taxation at source act) regarding collection of personal income taxes.

(2) The Central Customs and Tax Administration may procure from custom and taxation authorities and other public authorities such information on the subsidy recipient as is necessary to collect the funds mentioned in subsection (1). The Central Customs and Tax Administration may, inter alia, procure information about income and financial circumstances.

(3) Appeals may be filed with the Minister for Taxation in respect of decisions made by the Central Customs and Tax Administration under subsection (1).

**59.** The Minister for the Environment may lay down regulations regarding

- 1) supervision of measures for which subsidies have been granted,

- 2) calculation of interest on funds to be refunded under section 57(1),
- 3) the procedure to be followed when deducting funds from personal income under section 58(1), and
- 4) access to appeal under section 58(3), including time limits for lodging appeals.

### ***Part 9***

#### ***Appeals and legal actions***

**60.-(1)** Appeals against decisions made under sections 4 and 6; section 7(2); section 13 and 15(2); section 17(3); sections 19-21, 38 and 39; and section 51(2) and (3) made by the Minister for the Environment or upon authorisation by the Minister, cf. section 43, may be lodged to the Nature Protection Board of Appeal.

(2) The chairman of the Board may make decisions on behalf of the Board in cases within the context of this Act, when the appeal is deemed not to include matters of essential interest to the objectives of this Act.

(3) The decisions of the Board cannot be appealed to other administrative authorities.

**61.-(1)** The Minister for the Environment may lay down regulations regarding appeals against decisions made upon authorisation by the Minister, cf. section 43, including regulations stipulating that such decisions cannot be brought before the Minister.

(2) The Minister may lay down regulations regarding appeals against decisions made under regulations issued in pursuance of this Act, including regulations stipulating that such decisions cannot be appealed.

**62.-(1)** Decisions that can be appealed under this Act, or regulations issued pursuant to this Act, may be appealed against by

- 1) the recipient of the decision and
- 2) any person who has an individual, significant interest in the case.

(2) Decisions made under sections 4 and 6; section 15(2); section 17(3); sections 19-21; and section 38 of this Act, cf. section 11(1), and conditions for such decisions laid down under section 39 may also be appealed against by

- 1) national associations and organisations, the main purpose of which is to protect nature and the environment,
- 2) national associations and organisations which, according to their objects, are occupied with important recreational interests when the decision affects such interests, and
- 3) local associations and organisations which have a significant interest in the decision.

(3) In respect of appeals under subsection (2), nos. 1 and 2, the Nature Protection Board of Appeal may require the associations or organisations to document their entitlement to appeal by submitting their statutes or in other ways.



(4) The associations and organisations mentioned in subsection (2) shall receive written notification about the decisions mentioned in subsection (2) if they request such notification.

**63.-(1)** The closing date for appeals shall be 4 weeks from the date on which the decision was notified to the person in question.

(2) Appeals shall be submitted in writing to the authority that made the decision. Said authority shall forward the appeal to the Nature Protection Board of Appeal together with the decision appealed against and the material included in the consideration of the case.

(3) A decision under section 6 or section 38 may not be utilised before expiry of the due date of appeal.

(4) An appeal against a decision under section 6 or section 38 shall act as a stay of proceedings until the appeals authority has reached a decision, or provided otherwise.

(5) An appeal against a decision under sections 19-21 or an enforcement notice under section 51(2) or (3) to implement measures shall act as a stay of proceedings until the appeals authority has reached a decision, or provided otherwise.

(6) If an appeal is lodged against a decision under sections 19-21 or an enforcement notice under section 51(2) or (3) to implement measures, the Minister for the Environment may, irrespective of subsection (4), decide that such an appeal is not to act as stay of proceedings, if there is otherwise a threat of significant deterioration or destruction of a natural habitat or of disturbance with significant consequences for the species for which the area has been designated.

(7) An appeal against a decision under sections 19-21 or an enforcement notice under section 51(2) or (3) to cease or omit measures shall not act as a stay of proceedings unless the appeals authority provides otherwise.

**64.** Actions for trial of decisions under this Act or regulations issued in pursuance of this Act must be brought within six months of the date on which the person in question was notified of the decision.

## ***Part 10***

### ***Penalties and confiscation of property***

**65.** Unless a more severe penalty is due under other legislation, fines shall be imposed for any person who

- 1) violates sections 8 and 9; section 10, no. 4; section 11(1); section 26, 1st clause; section 27; or section 28;
- 2) omits to comply with a decision under section 13 or sections 19-21,
- 3) provides false or misleading information or conceals information of significance to decisions made under section 29(1) or section 31(1) or regulations issued in pursuance of section 29(2), section 30 or section 33,

- 4) ignores conditions related to a decision under section 4; section 6; section 29(1); section 31(1); or section 38 or conditions related to decisions made under regulations issued in pursuance of section 29(2); section 30 or section 33,
- 5) omits to give notification as mentioned in section 17(1),
- 6) omits to provide information in accordance with section 50, no. 1, or
- 7) omits to comply with an enforcement notice under section 51(2) or (3).

(2) The penalty may increase to imprisonment for up to one year if the violation was committed intentionally or through gross negligence and if said violation

- 1) caused damage to the interest this Act is intended to protect, cf. section 1; or if said violation provoked a danger of such damage, or
- 2) resulted in or aimed at a financial benefit, including through financial savings, for the person committing the violation or for others.

(3) In regulations issued in pursuance of this Act, a penalty of a fine may be stipulated for violation of provisions laid down in said regulations or for violation of provisions in the regulations covered by section 46(3). Moreover, such regulations may stipulate that the penalty may be increased to imprisonment of up to one year under similar circumstances as mentioned in subsection (2).

(4) The period of limitation for criminal liability under subsections (1) and (3) shall be 5 years.

(5) If the benefit obtained through violation of this Act is not confiscated, the size of such financial benefit obtained or intended to be obtained shall be taken into account when determining the fine.

**66.** Companies etc. (legal persons) may be subject to criminal liability in pursuance of the regulations in Chapter 5 of the Danish Criminal Code.

## ***Part 11***

### ***Entry into force and transitional provisions***

**67.-(1)** This Act shall enter into force on 1 October 2004.

(2) The following statutory provisions shall be repealed:

- 1) the Danish Forest Act, cf. Consolidated Act no. 959 of 2 November 1996.
- 2) Section 5(1), (3), (4) and (6)-(8) and sections 5a-5c in the "lov om lens, stamhuses og fideikommissgodsers, samt de herhen hørende fideikommisskapitalers overgang til fri ejendom" (act on transfer of entailed estates and associated funds to free property), cf. Consolidated Act no. 638 of 16 September 1986.

**68.** In the Danish Planning Act, cf. Consolidated Act no. 763 of 11 September 2002 as amended by Act no. 440 of 10 June 2003 and section 4 of Act no. 1151 of 17 December 2003, the following amendments shall be made:

**1.** In section 6(2), the following shall be inserted after "subsection 3": ", or a Natura 2000 forest plan, cf. part 4 of the Danish Forest Act".

**2.** In section 6(6), the following shall be inserted in the 2nd clause after "nature protection areas,": "and in the Natura 2000 forest plan, cf. part 4 of the Danish Forest Act".

**3.** In section 11(2), the following shall be inserted after "subsection (3)": ", or a Natura 2000 forest plan, cf. part 4 of the Danish Forest Act".

**4.** In section 13(1), 2nd clause, the following shall be inserted after "subsection (3)": ", or a Natura 2000 forest plan, cf. part 4 of the Danish Forest Act".

**69.** Regulations issued in pursuance of the previous Forest Act, cf. section 67(2), no. 1, shall apply until they are repealed or replaced by regulations issued in pursuance of this Act.

**70.-(1)** Decisions and conditions for decisions, including conditions for lapse, that have been granted in accordance with previous legislation shall retain their validity.

**(2)** Buildings, installations, forest parks, deer parks and other sites from before 14 May 1935, which do not comply with the regulations of this Act may be preserved for as long as their utilisation is not altered.

**(3)** Declarations recorded in the Land Register which have been established by the owner in order to preserve individual trees or sections of a forest, in order to preserve their natural beauty, shall retain their validity, unless otherwise provided by the Minister for the Environment.

**71.** Subsidy pledges granted in pursuance of the regulations of the previous Danish Forest Act, cf. section 67(2), no.1, shall be subject to final consideration under the regulations hitherto in force.

**72.-(1)** Oak thickets which existed on 1 July 1989 shall be designated as forest reserve land.

**(2)** The Minister for the Environment may decide whether an area is to be covered by subsection (1).

**(3)** Subsections (1) and (2) shall be repealed by the Minister when the registration of oak thickets, cf. section 26, has been completed.

**73.** This Act shall not extend to the Faeroe Islands and Greenland.

*Christiansborg Slot, 9 June 2004*

*Under Our Royal Hand and Seal*

*Margrethe R.*

/Hans Christian Schmidt

## **Annex 1**

Activities subject to notification in accordance with section 17

- 1) Clearcutting of deciduous forest.
- 2) Planting in deciduous forest.
- 3) Promotion of conifers in deciduous forest.
- 4) New establishment of intensive production of decorative greenery, Christmas trees, etc. which requires ancillary materials (fertiliser and pesticides).
- 5) Establishment of installations necessary for forest management, eg. operational buildings (including housing, forest roads, storage sites, etc.)

Changes in drainage conditions

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<sup>i</sup> This Act contains provisions implementing parts of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (EEC Birds Directive) (Official Journal 1979 L 103, page 1), as amended by Council Regulation (EC) 807/2003 of 14 April 2003 (Official Journal 2003 L 122, page 36) and parts of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (EEC Habitats Directive) (Official Journal 1992 L 206, page 7), as amended most recently by European Parliament and Council Regulation (EC) 1882/2003 of 29 September 2003 (Official Journal 2003 L 284, page 1)

Links to EEC directives, cf. note 1

[Directive 1979/409/EEC](#) Celex no. 31979L0409

[Directive 1992/43/EEC](#) Celex no. 31992L0043