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durch die Deutsche Gesellschaft für Agrarrecht

### **Commission/Kommission III**

**Rapport national pour/National report/Landesbericht Norway  
(état/country/Land)**

**Rapporteur/Berichterstatter Marianne Barstad, Norwegian  
Agriculture Agency**

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# What are the main developments in rural law since the last Congress? (September 2013)

## 1. Introduction

Norway is not a part of the European Union, and agriculture is exempt from the EEA agreement. The main developments in Norwegian rural law will therefore take place on the national level. International sources will be noted when relevant, but will mostly be integrated through national legislation.

## 2. Economic and structural measures

### *2.1 Annual Agreement for Agriculture*

The annual negotiations between the government and the two farmers' organisations<sup>1</sup> conclude in a final agreement approved (or rejected or revised) by the Parliament. This final agreement is the main source of changes to the economic and structural framework of Norwegian agricultural law.

The Main Agreement for Agriculture<sup>2</sup> between the government and the farmers' organisations was signed in 1950, and has since been renewed through the annual negotiations. The Agreement was revised in 1992. The annual agreement changes agricultural subsidies, target prices and other measures not sufficiently regulated by law elsewhere.

In 2014 the farmers' organisations broke off the negotiations and did not reach an agreement with the government. In the Parliament the governments' last offer was amended with 250 million Norwegian Kroner and passed. In 2015 the government and The Norwegian Farmers' Union reached an agreement at 400 million Norwegian Kroner, giving farmers a potential for an annual income raise of 3,75 % from 2015 to 2016.

The last two Agreements have seen a shift in production grants from the small and medium sized farms to the larger farms.

Negotiations the last two years have been difficult. The Norwegian Small Holders Association has broken off negotiations both years. The Norwegian Farmers' Union did reach an agreement in 2015, but faced debate among its members concerning some proposed changes to production grants. Even so, the

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<sup>1</sup> Norges bondelag (The Norwegian Farmers' Union) and Norsk Bonde- og Småbrukarlag (The Norwegian Small Holders Association)

<sup>2</sup> Hovedavtalen for jordbruket.

framework of the Annual Agreement still has strong support among farmers and politicians.

### *2.2 New Regulation on production grants and grants for substitute<sup>3</sup>*

Decisions made in the Annual Agreement are codified through various regulations. Following the annual agriculture agreement of 2014, a new Regulation on production grants and grants for substitute entered into force on 1<sup>st</sup> January 2015. This regulation is the main regulation for production grants in Norway. The new regulation contains the requirements to be eligible to receive production grants. Environmental requirements from various sources were also merged into the regulation.

### *2.3 White Paper on innovation and entrepreneurship*

On 5<sup>th</sup> June 2015 the government presented a white paper<sup>4</sup> on The Farm as Resource – The Marked as Goal - Growth and Entrepreneurship in Agriculturally Based Industries. The paper presents the policy for farm-based industries beyond traditional agriculture and forestry, such as tourism, bioenergy, Christmas tree production and production of local food/drink. The paper does not contain binding legal measures, but aims to find measures to increase the use and potential of a farm's resources.

### *2.4 Official Norwegian Report on the fur industry*

A government committee presented a report on the future of the fur industry<sup>5</sup> on 15<sup>th</sup> December 2014. The paper considered two main options; either measures to ensure a sustainable future development of the industry, or a controlled shut-down. The report has been submitted to a public consultation.

Opinions are divided over the future of the fur industry. Both of the farmers' organisations in Norway support a sustainable future industry, but stress that animal welfare issues can and must be solved.

## **3. Rural land use legislation**

### *3.1 Changes to the Land Registry Act - Preparing for a fully digital land registry*

As of 7<sup>th</sup> February 2014 digital communication is the main channel of communication between government and citizens. Taxes, social security and

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<sup>3</sup>The farmer receives a grant to pay a substitute to look after the farm during holidays.

<sup>4</sup> Meld. St. 31 (2014-2015)

<sup>5</sup> NOU 2014:15

every other branch of government shall be available in a simple, digital manner. This includes the Land register.

All Norwegian properties are registered in the Land register. The Norwegian Mapping Authority is responsible for the administration of the register, and is now preparing the register for digital communication and automatic controls, available on computers, tablets and smartphones. The new digital system will be launched in 2016. The necessary changes were made to the Land Registry Act on 20<sup>th</sup> June 2014. The changes have not yet entered into force.

Digitalisation of the Land Register will simplify the registration process for banks, real estate agents and sellers and buyers of property. A beta version has been under trial by banks and has been well received.

### *3.2 The Ground Lease Act*

The Ground Lease Act was passed in 1996 and entered into force in 2002. On 12<sup>th</sup> June 2012 the European Court of Human Rights decided that § 33 of the Ground Lease Act was contrary to Protocol 1 Art. 1 to the European Convention on Human Rights (Lindheim case).

A temporary Act of 14<sup>th</sup> December 2012 was entered into force to limit uncertainty for the private parties, till a government committee had looked into which changes were made necessary by the Lindheim case.

An Official Norwegian Report<sup>6</sup> on Ground Lease Contracts and International Law was presented on 1<sup>st</sup> October 2013. The report suggested several alternatives for changes to § 33 and other articles of the Ground Lease Act. A proposition to amend the law was sanctioned in June 2015 and will enter into force on 1<sup>st</sup> July 2015.

The changes to the law maintains that the leaseholders still have the right to demand an extension of the lease on the same terms, but the land owners can demand a regulation of the yearly rent. The one-time increase in rent is calculated from 2 % of the value of the land deducted by the increase of value added by the leaseholder. The cap for the rent increase is 9 000 Norwegian Kroner.

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<sup>6</sup> NOU 2013:11

The changes have not been well received by the Alliance of Leaseholders<sup>7</sup>, who believes that the rent increase cap is too high. The Norwegian Union of Forest Owners<sup>8</sup>, who organises several land owners, is more positive.

### *3.3 Proposition to repeal the Concession Act*

The Concession Act regulates the transfer of real property. Many types of property are exempt from concession, but concession is normally needed to purchase agricultural property. The municipality decides the case. For agricultural properties, the municipality must consider several factors, including the purpose and the price of the purchase. If the price is considered too high than guidelines allow, concession can be denied (popular name: price control). Some acquisitions of property also come with an obligation for the new owner to reside on the property for a set time.

On 20<sup>th</sup> June 2014 the government proposed to change the Concession Act so that it is no longer necessary for the municipality to consider the price of the property when deciding an application for concession.

Before the Parliament had concluded on this proposal, the government proposed to repeal the Concession Act in full. The obligation to reside on the property was highlighted as one of the reasons to repeal the Act. The proposal was sent on public consultation. The Parliament decided to delay its vote on the price control proposal, and process both proposals together.

The proposal to repeal the Concession Act has sparked debate throughout the agricultural community. A high number of organisations, municipalities and county governors, farmers' organisations and private persons have replied to the public consultation. An informal count shows that a very high percentage of the replicants are against repealing the Act.

The proposal to remove the price control has not been supported by the farmers' organisations. Both organisations fear that the removal of price as a factor in concession cases will make it difficult for young farmers to enter the market, while those who give up farming will receive all the financial benefit of the suggestion.

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<sup>7</sup> Tomtefestealliansen.

<sup>8</sup> Norges Skogeierforbund.

The Norwegian Farmers' Union suggest to appoint a committee to consider the measures in both the Concession Act and the Land Act in light of the agricultural policy of the Parliament.

#### **4. Environmental law**

##### *4.1 Natural Damage Compensation Act*

A new Natural Damage Compensation Act was sanctioned on 15<sup>th</sup> August 2014. The Act will enter into force on 1<sup>st</sup> July 2017. There have been several large incidents of damages due to natural disasters in Norway. Both the hurricane in 1992/93<sup>9</sup> and floods in 2011 and 2013 entailed a large number of cases being processed, which led to delays in case processing.

The aim of this revision is to establish a modern system for case processing that is more efficient and is divided between the regulation of damage compensation and measures and the regulation of grants for preventing damage due to natural disasters. By streamlining the case processing, it will be easier to use additional resources during natural disasters. The Norwegian Agriculture Agency has suggested that the changes may shorten the current case processing time by up to 50%.

##### *4.2 Report on environmental measures in agricultural policy*

In accordance with the 2014 Agriculture Agreement, a committee presented a report on the environmental measures in agricultural policy on 23<sup>rd</sup> February 2015. Both The Norwegian Farmers' Union and The Norwegian Small Holders Association were represented on the committee.

The report recommended several short-term revisions of existing environmental measures. Several alternatives for long-term revisions were also presented. No decision has yet been made on the long-term suggestions.

##### *4.3 Changes to the Nature Diversity Act*

The Nature Diversity Act shall protect biological, geological and landscape diversity and ecological processes through conservation and sustainable use, and in such a way that the environment provides a basis for human activity, culture, health and well-being, now and in the future, including a basis for Sami culture.

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<sup>9</sup> The New Years Hurricane.

Changes to the Nature Diversity Act were sanctioned on 4<sup>th</sup> April 2014, and aimed to provide simpler and more targeted regulation on alien species. The changes were widely supported in the public consultation.

## **5. Protection of agricultural land**

### *5.1 New national strategy for protection of agricultural land*

Only about 3 % of Norway is agricultural land. The Land Act and the Building and Planning Act are the two main laws that protect agricultural land. The Land Act regulates the use of cultivated soil, while the Building and Planning Act regulates planning and physical development of rural areas. Special zones for agriculture can be planned through the Building and Planning Act, with related regulation in the Land Act and the Concession Act.

The Land Act allows for exemption for cultivated land to be used for other purposes. Applications for exemptions are decided by the municipalities. The national goal has been not to allow more than 6 000 000 m<sup>2</sup> of cultivated land to be disposed for other purposes than agriculture per year. Statistics show that there are exemptions granted for fewer m<sup>2</sup> of cultivated soil in the last years. The goal was first met in 2013.

While there is support for the protection of agricultural land, this often comes into conflict with the need for physical development of local communities. Norway has a challenging topography for planning, and there are seldom many alternatives for paths for roads and railways.

The Parliament requested in April 2014 that the government present a strategy for protection of agricultural land. The report “Measures to strengthen the protection of agricultural land” was presented to The Ministry of Agriculture and Food on 2<sup>nd</sup> March 2015. A conference on the topic was held on 5<sup>th</sup> March.

The government presented its National strategy for protection of agricultural land on 29<sup>th</sup> May 2015. The current annual goal of less than 6 000 000 m<sup>2</sup> of cultivated land to be disposed for other purposes than agriculture per year is kept. This is a challenging goal, considering that cultivated soil is under threat of re-purposing from both transportation planners (roads and railways) and physical development of commercial and residential areas.

## **6. Food security**

### *6.1 Changes to organisation of the Norwegian Food Safety Authority*

The Food Protection and Food Safety Act was changed to allow a new organisation of the Norwegian Food Safety Authority. The Authority has by law

been organised with three levels and eight regions. A simpler organisation was adopted to ensure that more of the Authority's resources could be used for guidance and control. The new organisation has two levels and five regions. The Authority aims to increase surveillance and controls over the next four years.

### *6.2 Report on market balancing*

The agriculture market in Norway is regulated by law and through agreements between the government and the farmers' organisations. Three private companies serve as market regulators to help ensure a balanced market and prevent shortages. The legislation and agreements governing marked regulation in Norway has been evaluated by a government committee. The Marked Balancing Committee presented a report evaluating the market balancing in agriculture on 24<sup>th</sup> June 2015. It contained three alternative solutions for changes to the market regulation system; a slight revision of the existing system, mostly removing regulation or altering the existing system to shift power to Omsetningsrådet. The committee also advised an evaluation of the legal framework of marked regulation. The report will be sent on public consultation.

The representatives of the farmers' organisations support the alternative of a revision of the existing market regulation.

## **7. Climate change**

### *7.1 Government committee on Climate Challenges to Agriculture*

Following the 2014 Agriculture Agreement, a government committee has been appointed to consider the opportunities and challenges of climate change for agriculture in Norway. The committee will also consider carbon (and other gasses) storage in forest and soils. A report will be ready in December 2015.

### *7.2 New Climate Act*

The Parliament voted on 24<sup>th</sup> March 2015 to request that the government present a legislative proposal for a Climate Act where national emissions goals for 2030 and 2050 are determined. The government should also review existing legislation that concerns the climate and, if necessary, suggest changes to clarify and coordinate climate regulation.

The review of existing legislation will include regulations on environmental and climate change related questions found throughout the agricultural regulations.

## 8. Summary

This report has aspired to sum up the main developments in agricultural/rural law the last two years. National legislation is still the main source of changes, although there is a growing influence from international law.

These years have marked a change in policy in Norway. While the main framework for Norwegian agriculture for the next decade was set in a white paper released in December 2011<sup>10</sup>, the change in government in October 2013 also signaled a change in agricultural policy.

The annual negotiations between the farmers' organisations and the government still constitute the most important changes to ongoing policy, and has seen a shift of production grants toward the larger farms.

While there have been few large revisions of law in 2013-2015, the government has initialised reports and committees to evaluate the larger legal framework of agriculture in Norway. The report on market balancing and the proposal to repeal the Concession Act both concern main pillars of agricultural law.

Climate change is an important factor for agriculture in Norway, and work on a proposal for a new Climate Act, as well as a report on climate change and agriculture has started.

Existing legislation will be modernised, with the new Nature Damage Act and the preparation for digitalisation of the Land register as the main examples in agricultural law.

Changes to the Ground Lease Act following a ruling of the European Court of Human Rights will enter into force on 1<sup>st</sup> July 2015.

Protection of agricultural land remains a main concern. The government's new strategy to protect cultivated soil will be an important factor beside existing legislation in the Land Act and the Building and Planning Act.

The future of the fur industry in Norway may be decided following a report on possible alternatives. In contrast, the government is examining new measures to encourage agricultural entrepreneurship and the use of a farms resources in farm-based industries in addition to traditional agriculture and forestry.

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<sup>10</sup> Meld. St. 9 (2011-2012)