



→ Norwegian version

## Act on compensation for natural damage (Natural Damage Compensation Act)

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Abbreviated title	Natural Damage Compensation Act
Original title	Lov om erstatning for naturskader (naturskadeerstatningsloven)

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### Kapitteleversikt:

Chapter 1. Introductory provisions

Chapter 2. Conditions for and assessment of compensation

Chapter 3. Deciding authority, application requirements, case handling, etc.

Chapter 4. Appeal and recourse to the courts

Chapter 5. Entry into force, transitional provisions and amendments to other acts

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Amendment act incorporated in this text: L24.05.2019 No. 18 (in force 1 July 2019).

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

The translation is provided by the Norwegian Agriculture Agency (*Landbruksdirektoratet*).

## Chapter 1. Introductory provisions

### Section 1. *Purpose*

The purpose of the State natural damage compensation scheme is to provide compensation following a natural disaster so that those affected can carry on their activities.

## **Section 2. *Application of the Act***

Compensation pursuant to this Act is provided for natural damage to real and movable property in Norway. For Svalbard, Jan Mayen and the Norwegian dependencies the act applies to the extent and with such local adjustments as the King determines.

Compensation will not be provided if it is possible to take out insurance against the damage through an ordinary insurance scheme, or if the claimant actually receives an insurance payment for the damage.

This Act does not cover damage to standing crops.

This Act does not cover storm damage to forests. The King may issue regulations determining that such damage shall nevertheless be covered.

This Act does not cover the petroleum sector.

## **Section 3. *Persons entitled to compensation***

Owners of real and movable property are entitled to compensation pursuant to this Act.

Ground lease holders and other rights holders may also claim compensation if they can prove that they hold the economic interest in and right to make use of the damaged object. This also applies in those cases where the damage has been caused to property listed in the third subsection.

Damage to property belonging to the State, a municipality or a county authority is not subject to compensation. The same applies to property belonging to a company, enterprise or foundation etc. which has been created by transferring assets from the State, a municipality or a county authority, or in which any of these hold a conspicuous financial interest.

# **Chapter 2. Conditions for and assessment of compensation**

## **Section 4. *Conditions for compensation***

Compensation is provided for natural damage directly caused by a natural disaster, such as a landslide/avalanche, storm, flood, storm surge, earthquake or volcanic eruption.

In special cases full or partial compensation may be provided for damage which is an obvious consequence of the natural disaster, even if the causality requirement in the first subsection has not been met.

Full or partial compensation may also be provided for damage directly caused by precipitation or ice drift when special circumstances so indicate.

## **Section 5. *Basis for assessing compensation***

Compensation shall be determined based on the cost of necessary measures to return the damaged object to the same condition as immediately prior to the time of damage.

If the restoration cost significantly exceeds the value in use or restoration cannot be carried out for other reasons, the loss of value the damage has caused shall be compensated.

Lost moveable property shall be compensated with the replacement value at the time of loss.

The cost assessment shall be based on the price conditions at the time of damage.

Costs for protective measures shall not be compensated unless otherwise stated in this Act.

### **Section 6. *Reduction of claim***

Compensation pursuant to section 5 may be reduced or, depending on the circumstances, refused entirely when:

- a) the damage has affected property whose restoration cost exceeds its value in use,
- b) the occurrence or extent of the damage is entirely or partly due to weak construction relative to the strains the property may be expected to be exposed to, poor maintenance or lack of attention,
- c) the claimant may be blamed for not preventing the damage or limiting the extent of the damage,
- d) restoration leads to an increase in the value of the damaged object.

When making a decision pursuant to alternatives b or c of the first subsection, weight shall be given to the claimant's ability to understand what requirements apply, the claimant's possibility of repairing the defect, and the circumstances in general. A reduction shall not be made if the claimant bears only slight blame.

### **Section 7. *Coverage of additional costs***

Upon application by the claimant, a grant may be provided to cover additional costs when the damage is repaired in such a manner that the risk of natural damage is decreased.

The King may issue regulations setting conditions and more detailed rules for covering additional costs.

### **Section 8. *Salvage costs***

Compensation may be provided for reasonable and necessary expenses the claimant has incurred to avert the natural damage or limit the extent of the damage.

The King may issue regulations setting conditions and more detailed rules for covering salvage costs.

### **Section 9. *Deductible and minimum payment***

Compensation for natural damage pursuant to this Act shall be reduced by a deductible set by the King. The King may issue regulations providing rules concerning the deductible.

The King may issue regulations providing rules to the effect that if the compensation does not exceed a specified sum, no compensation shall be paid.

### **Section 10. *Reduction of compensations in cases of major natural disasters***

If, following a major natural disaster, insufficient funds are allocated to cover the claims of the claimants pursuant to the provisions of this Act, the compensation may be reduced. Already determined and unpaid compensation for damage that occurred prior to the disaster may be reduced to the same degree. Regard shall nevertheless be had to whether this would be unreasonable towards a claimant who has incurred obligations to restore the damage. Equivalent reductions may be made to compensations for damage occurring later in the current and upcoming budget year. The decision is not subject to appeal.

## **Chapter 3. Deciding authority, application requirements, case handling, etc.**

### **Section 11. *Responsible authority***

The Norwegian Agriculture Agency shall decide applications for natural damage compensation pursuant to this Act.

### **Section 12. *Submitting an application and deadline for application***

Applications for compensation shall be directed to the Norwegian Agriculture Agency by use of a predetermined form no later than three months after the damage occurred. If the deadline for application has passed, the application may be taken under consideration if special reasons so indicate.

### **Section 13. *Documentation and appraisal***

Through the application, the claimant shall document that natural damage has occurred and the necessary costs to restore the damage.

The Norwegian Agriculture Agency may commission an appraisal when this is deemed necessary for clarification of the case.

The King may issue regulations providing detailed rules on the contents of the application and appraisal.

### **Section 14. *Payment and use of the compensation***

Compensation for restoration of damage shall be paid when the claimant can document that restoration is finished. If special reasons exist, the claimant may upon application be paid the compensation to use freely. The compensation shall lapse if restoration has not taken place within three years of final determination of the compensation. The Norwegian Agriculture Agency may upon application from the claimant extend the deadline.

An advance on the compensation may be paid upon application from the claimant. The payment may be made conditional on the claimant documenting that the advance will be used in accordance with the compensation decision. Decisions regarding advances are not subject to appeal.

Payment of freely usable compensation and compensation pursuant to section 5, second and third subsections, shall take place as soon as the decision has been made.

The King may issue regulations providing more detailed provisions on conditions, documentation and supervision in connection with payment of the compensation.

### **Section 15. *Disputes regarding who is entitled to compensation***

In cases of disputes regarding who is entitled to natural damage compensation, the owner takes precedence over a ground lease holder and other rights holders. This does not apply if the ground lease holder or other rights holders are entitled to restore the damage pursuant to an agreement or a final and binding judicial decision.

If both the owner and a ground lease holder or other rights holder are entitled to compensation, the rights holders cannot oppose it if the entire compensation is paid to the one who restored the damage.

### **Section 16. *Recourse***

If third party actions or omissions have contributed to the scope of the damage becoming more extensive than it would otherwise have been, any claim for damages the claimant may have against the third party shall pass to the State to the extent compensation is paid pursuant to this Act.

The King may issue regulations providing more detailed provisions on handling claims pursuant to the first subsection, including provisions on advance notice.

### **Section 17. *Repayment***

If a claimant has received compensation in contravention of honesty and good faith, repayment of the sum may be required.

Repayment may also be required for compensation paid in error if the claimant or someone acting on behalf of the claimant has submitted incorrect or incomplete information, or when the claimant has received coverage for the damage by other means. The same applies if the payment is due to an error by the Norwegian Agriculture Agency or another body that makes payment on behalf of the Norwegian Agriculture Agency.

### **Section 18. *Assignment and transfer of compensation***

Claims for compensation pursuant to this Act may not be assigned without the consent of the Norwegian Agriculture Agency. Claims for compensation may not be subject to distraint or seizure, or be seized by a bankrupt estate or the insolvent estate of a deceased person.

The compensation sum may be transferred to the one who will carry out restoration of the damage.

### **Section 19. *Simplified case handling in cases of major natural disasters***

The King may issue regulations determining that the rules in sections 13 and 14, and regulations issued pursuant to these, may be derogated from in cases of major natural disasters that have affected a large area and a large number of people.

## **Chapter 4. Appeal and recourse to the courts**

### **Section 20. *Appeal***

The claimant may direct an appeal against decisions pursuant to this Act to the Natural Damage Claim Appeals Board. The deadline for an appeal is three weeks after receipt of the compensation decision. The provisions of chapter VI of the Public Administration Act shall apply unless otherwise stated in this Act.

Claims for legal costs pursuant to section 36 shall be decided by the Norwegian Agriculture Agency. The decision may be appealed to the Natural Damage Claim Appeals Board.

The King acts as appeal body for decisions made by the Norwegian Agriculture Agency regarding parties' right to acquaint themselves with the documents of the case pursuant to chapter V of the Public Administration Act relating to cases pursuant to this Act. The same applies to decisions made by the Norwegian Agriculture Agency pursuant to the Freedom of Information Act, if the freedom of information request is related to a case pursuant to this Act.

### **Section 21. *The Natural Damage Claim Appeals Board***

The Natural Damage Claim Appeals Board shall consist of five members with personal substitutes. The Appeals Board is appointed by the King for five years at a time. The Appeals Board shall consist of two legal practitioners and three experts in relevant fields. The leader of the Appeals Board must be a legal practitioner.

The Appeals Board is an independent administrative body, administratively subordinate to the King and the ministry. Neither the King nor the ministry may give instructions for or reverse the Appeals Board's exercise of its authority in individual cases.

The King may issue regulations providing more detailed provisions on the composition and organisation of the Appeals Board.

## **Section 22. *Recourse to the courts***

Legal proceedings may not be instituted unless the claimant has exercised the right to appeal to the Natural Damage Claim Appeals Board. Legal proceedings must be instituted no later than three months after the claimant received the Appeals Board's decision.

# **Chapter 5. Entry into force, transitional provisions and amendments to other acts**

## **Section 23. *Entry into force***

This Act applies as of the date decided by the King.<sup>1</sup>

<sup>1</sup> From 1 January 2017.

## **Section 24. *Transitional provisions***

Natural damage reported to the district police officer (*lensmann*), the execution and enforcement authority (*namsfogd*) or a police station with civil justice administration responsibilities before this Act entered into force, shall be forwarded to the Norwegian Agriculture Agency for further handling. The compensation decision shall be based on the provisions of Act of 25 March 1994 no. 7 relating to protection against and compensation for natural damage as far as they are suitable. If a final and legally binding judicial assessment administered by a district police officer (*lensmannsskjønn*) exists, the compensation decision shall be based on this.

Complaints that have not been heard before this Act entered into force, will be heard by the Natural Damage Claim Appeals Board. The decision of the Appeals Board shall be based on the provisions of Act of 25 March 1994 no. 7 relating to protection against and compensation for natural damage as far as they are suitable.

## **Section 25. *Amendments to other acts***

As of the date the Act enters into force, the following amendments will be made to other acts: – – –