

Act relating to concession in the acquisition of real property (Concession Act)

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Proposition No. 79 (2002-2003) to the Odelsting, Recommendation No. 11 to the Odelsting and Decision No. 8 (2003-2004) of the Odelsting, Decisions of the Odelsting and Lagting respectively 13 and 20 November 2003. Submitted by the Ministry of Agriculture.

The following Act is repealed: The Act of 31 May 1974 No. 19 relating to concession in the acquisition of real property (Concession Act).

Chapter 1. Purpose and instruments

Section 1. (*Purpose of the Act*)

The purpose of this Act is to regulate and control the sale of real property in order to achieve an effective protection of agricultural production areas and such conditions of ownership and utilization as are most beneficial to society, inter alia, in order to provide for:

1. the needs of future generations
2. agricultural industry
3. the need for development sites
4. consideration for the environment, general interests of nature conservation and outdoor recreation.
5. consideration for settlements.

Section 2. (*Instruments*)

With the exceptions ensuing from this Act, real property may not be acquired without the permission of the King (concession). The authority of the King may be delegated to the municipalities.

This Act shall not apply to acquisition that is subject to concession pursuant to:

1. The Act of 3 July 1914 No. 5 relating to acquisition of limestone reserves
2. Chapter I or II of the Act of 14 December 1917 No. 16 relating to acquisition of waterfalls, mines and other real estate
3. The Act of 17 June 1949 No. 3 relating to acquisition of quartz reserves
4. Chapter 3 of the Act of 29 June 1990 No. 50 relating to the production, conversion, transmission and distribution of energy, etc.

The King may in regulations make exceptions from the concession requirement beyond what follows from sections 4, 5 and 7. When special considerations so indicate, the King may also make exceptions from the concession requirement in individual cases.

Chapter 2. Dispositions regarded as equivalent to acquisition of real property

Section 3. (*Special rights covered by this Act*)

The provisions of this Act concerning concession shall also apply to establishment and transfer of leases and other similar right to use of real property unless the right is established for a period of a maximum of 10 years without the user holding the right to demand extension of the contractual term in excess of this period. The same shall apply to other rights to real property entailing a substantial reduction of the owner's right to dispose of the property or to receive the financial yield deriving from it. Establishment and transfer of development contracts of any kind including contracts for development options entail a concession requirement regardless of duration.

Real property may not be subjected to possession by a mortgagee (*antichresis*) for a period exceeding three years without a concession.

Chapter 3. Transfers that do not require a concession; reduced concession limit, etc.

Section 4. (*Exceptions based on the character of the property*)

A concession is not necessary for the acquisition of:

1. individual undeveloped sites for a dwelling or holiday home if the size of the site does not exceed two decares and partition has been approved pursuant to the Planning and Building Act and the Land Act.
2. Individual undeveloped sites for dwellings or holiday homes in an area designated for development in the land-use part of the municipal master plan or building development plan laid down pursuant to the Planning and Building Act, and where parcelling out of sites has been undertaken or approved by the building authorities.
3. other undeveloped land areas if they are located in an area that is regulated by a local development plan for other than agricultural use or that is designated as a development area by the land-use part of the municipal master plan.
4. built-on property not exceeding 100 decares, where not more than 20 decares of the area are fully cultivated.

Dispensation from the concession requirement pursuant to the first paragraph (1) and (2) is conditional upon development of the site within five years.

Dispensation from the concession requirement pursuant to the first paragraph (3) is conditional upon there being no change of use by the acquirer in contravention of the plan.

In areas regulated by local development plans, dispensation from the concession requirement pursuant to the first paragraph (4) is conditional upon there being no change of use by the acquirer in contravention of the plan. The same applies when the property included in the land-use part of the municipal master plan is designated as a development area or an agricultural, nature conservation or outdoor recreation area. Dispensation from the concession requirement pursuant to the first paragraph (4) may be set aside by regulations pursuant to section 7, first paragraph.

Section 5. (*Exceptions based on the status of the acquirer*)

Concession is not necessary when the acquirer is:

1. the owner's spouse or is related by blood to the owner or the owner's spouse in a direct line of ascent or descent or in the first collateral line of the owner or owner's spouse including children of siblings, or is related by marriage to the owner in a direct line of ascent, provided that the owner's concession is in order. The concession requirement may nevertheless ensue from section 7, second paragraph.
2. has an allodial entitlement to the property
3. the state
4. the county or municipal authority where the property lies, provided that the acquisition concerns a property in an area covered by a municipal master plan, local development plan or building development plan pursuant to the Planning and Building Act and the property is designated by the plan for use other than agricultural use or the acquisition takes place by means of expropriation. A municipal real estate company where the municipality concerned holds at least half of the capital and has a majority on the board of directors shall be equivalent to the municipality as regards dispensation from the concession requirement pursuant to this subsection.
5. a bank or other institution that the King has approved in this connection when the acquisition takes place by means of a compulsory purchase for the purpose of securing a claim in respect of which the acquirer holds a mortgage on the property. The property must be resold within two years. This time limit shall run from acceptance of the auction bid and may be extended by the Ministry.

In the acquisition of agricultural and forest properties with a total area in excess of 100 decares, or where more than 20 decares are fully cultivated, dispensation from the concession requirement pursuant to the first paragraph (1) is conditional upon the acquirer taking up residence on the property within one year and operating it himself for a minimum of five years. The acquirer may fulfil the operation obligation by renting out the farmland as additional land to another agricultural property for a minimum of 10 years. Such fulfilment of the operation obligation is conditional upon the existence of a written tenancy agreement and that the arrangement results in operationally satisfactory solutions. Agreements that result in operationally unsatisfactory solutions may be responded to as breaches of the requirements for dispensation from the concession requirement, cf. section 17.

The King may relax or completely exempt from the residence and operation obligation pursuant to the second paragraph.

Section 6. *(Content of the residence obligation)*

An acquirer who, pursuant to section 5, second paragraph, is obliged to reside on a property shall take up genuine residence on the property. Genuine residence is taken up on a property when the owner is registered as resident on the property pursuant to provisions laid down in or pursuant to the Act of 16 January 1970 No. 1 relating to population registration.

An owner who over time stays the night on the property for at least 50 per cent of the nights, but who fails to fulfil the conditions for registration in the Population Register, cf. the first paragraph, because the remainder of the owner's household is resident elsewhere must notify the municipality of how his residence will be arranged. Such notification must be sent in writing within one year. The Ministry will decide whether the residence obligation may be regarded as fulfilled by the arrangements described by the owner.

Section 7. *(Reduced concession limit for built-on property)*

The King may in regulations set aside dispensation from the concession requirement pursuant to section 4, first paragraph (4) in respect of:

1. built-on property that is or has been in use as a year-round residence.
2. property with buildings not utilized as a year-round residence, including property with buildings under construction, in areas regulated for dwelling purposes in a local development plan pursuant to the Planning and Building Act.

In areas covered by regulations pursuant to the first paragraph, dispensation from the concession requirement shall apply to close relatives, pursuant to section 5, first paragraph (1), only if the owner has held registered title to the property for the five years immediately prior to the transfer. This period of ownership shall also include any period during which the property has been owned by other persons in relation to the acquirer who fall under section 5, first paragraph (1). If the owner dies before the end of the five-year period, dispensation from the concession requirement pursuant to section 5, first paragraph (1), shall apply fully.

The concession requirement pursuant to regulations issued pursuant to the first paragraph shall not apply when the acquirer commits himself to using the property as a year-round residence for himself or others during the period he owns the property.

A property is in use as a year-round residence pursuant to the third paragraph when genuine residence has been taken up on the property by the acquirer or others, cf. section 6.

The time limit for taking up residence pursuant to the third paragraph is one year calculated from the date of acquisition. The Ministry may on application extend this time limit when special grounds so indicate.

Regulations pursuant to the first paragraph may only be issued at the request of the municipality and when regarded necessary in order to prevent properties that should be used for year-round residence from being used for recreational purposes.