

## Act no 71/2008 on Fish Farming - Article 10 and Article 21

Article 10. Content and issue of operating license.

If the Food and Veterinary Authority considers that the application for an operating license meets the requirements of this Act, and after the announcement of a proposal for an operating license pursuant to Article 10 a, the Authority shall issue an operating license, which shall be valid for 16 years. The Food and Veterinary Authority must review the operating license regularly. The operating license holder shall submit to the license provider all data and information necessary to review the conditions of the operating license, if the license provider so requests. The Minister shall, in a regulation, stipulate in more detail about the review, i.a. about its conditions and frequency.

The operating license must contain provisions on the size of the fish farm measured in permitted biomass and whether it is smolt farming, grow-out, coast fish farming, land-based fish farming or marine aquaculture. In the case of marine aquaculture, it must also be stated whether the farming is intergenerational or non-intergenerational. In addition, the operating license shall stipulate the permitted species and the permitted breeding stock. In the operating license for salmon farming it shall i.a. be stipulated whether fertile or sterile salmon are farmed and the obligation to keep a record of the origin of farmed salmon, which is based on the genetic material database of the roe producer. If the license holder intends to farm both fertile and sterile salmon, the Food and Veterinary Authority must issue a separate license. The farming of sterile salmon must be kept separate from the farming of fertile salmon. The minister shall issue a more detailed regulation on the methods that must be used to trace the origin of farmed salmon to certain marine pen fish farm and on their implementation.

A requirement for the issuance of an operating license is that the planned operation complies with the planning of the area according to the Planning Act or the Act on the Planning of Sea and Coastal Areas.

The Minister is authorized to prescribe more detailed conditions for the operating license in a regulation.

When issuing an operating licence, it must always be ensured that the provisions of the Act on environmental assessment of projects and plans and the Act on hygiene and pollution prevention are met.

The Food and Veterinary Authority shall reject the issuance of an operating license for marine aquaculture that involves more production than the relevant area can withstand according to the estimation of the carrying capacity. The bearing capacity assessment shall be carried out by the Marine and Freshwater Research Institute or a party approved by the Ministry after receiving a binding opinion from the Marine and Freshwater Research Institute.

The Food and Veterinary Authority shall reject an application for an operating license if the applicant does not meet the requirements according to 2nd sentence Paragraph 2 Article 7.

The Food and Veterinary Authority shall reject an application if the applicant does not submit the documents stipulated in Article 8, provided that the applicant has been given a reasonable deadline to submit the documents.

The Food and Veterinary Authority shall reject an application if an assessment according to 3. paragraph Article 9 indicates that the proposed fish farming poses a significant risk of disease spread or significant adverse ecosystem effects.

Article 21. Authorized regulations, etc.

The Minister prescribes detailed rules for the implementation of this Act in a regulation. The regulation shall i.a. stipulate the issuing of operating licenses, tagging of smolts in fish farms, feeding, renewal of farming equipment, inspection of fisheries, monitoring of fish farm operations, transfer of farm species between fish farms, transfer of fish and fertilized roe between unconnected water areas, etc.

The Food and Veterinary Authority is authorized, as necessary, to establish regional or temporary rules based on such regulations.

The minister is authorized to prescribe in a regulation the obligation to use sterile stock in marine aquaculture.

Article 21 a. Periodic penalty payments per day.

If an operating license holder or a person required to register does not comply with the instructions of The Food and Veterinary Authority according to this Act, regulations established pursuant to them or conditions in an operating license within a certain period, the authority may decide that the license holder or a person required to register will pay periodic penalty payments per daly until the situation is rectified. The decision on periodic penalty payments per day shall be notified to the operator of the fish farm.

Daily penalty payments may amount to up to ISK 500,000 per day. When deciding on the amount of daily penalty payments, it shall i.a. be considered how urgent the improvements are and how large and active the business in question is.

Daily penalty payments must go to the treasury.

A party may appeal the decision of the Food and Veterinary Authority on the application of daily penalty payments to the Ministry within fourteen days of being notified of the decision. The Ministry shall issue a ruling as soon as possible and normally within a month of receiving the complaint.

The Food and Veterinary Authority's decisions on daily penalty payments are enforceable. An appeal to the ministry postpones enforcement.

Article 21 b. Improvements at the expense of the license holder.

The Food and Veterinary Authority is authorized, at the expense of the license holder, to have the equipment of a fish farm that has ceased operations removed, to repair the equipment and clean the breeding area, and to take other necessary measures due to the risk of disease, if the license holder does not follow the instructions of The Food and Veterinary Authority according to this Act, the regulations established pursuant to them or the conditions in the operating license. In the same way, The Food and Veterinary Authority

can have farmed fish slaughtered and farming areas cleaned at the expense of the operating license holder when he has not complied with the provisions of laws and regulations regarding the permitted biomass of fertile salmon or the biomass of farmed animals under the operating license. The Minister shall lay down more detailed rules for the implementation by means of a regulation. The costs shall then be temporarily paid by the Food and Veterinary Authority, but collected later from the operator's license holder or from his liability insurance. Costs can be collected through confiscation.

Article 21. c. Activity without an operating license or confirmed registration.

If a fish farm is operated without an operating license or without a confirmed registration according to Article 5 being in force, the Food and Veterinary Authority shall stop the activity. As necessary, the police must provide the Food and Veterinary Authority with assistance for that purpose. The Food and Veterinary Authority is authorized to slaughter or dispose of aquacultural animals, remove equipment that has been used for the activity and take other necessary measures according to Article 21 b at the expense of the party who has operated fish farming activities without a license. Aquacultural animals suitable for human consumption must be sold and the proceeds, minus the costs of the Food and Veterinary Authority of the sale, shall go to the treasury if the party has started operations without an operating permit or confirmed registration but otherwise to the former operator.

If an operating license is revoked, the Food and Veterinary Authority may, under exceptional circumstances, if there are good reasons for doing so, issue a temporary operating license for up to one year, if an application to that effect is received from the holder of the license that was revoked within three weeks of the license was revoked. The application for a temporary operating license shall be processed as soon as possible and no later than four weeks after the application is received. The application must clearly state the purpose of the temporary operating license, the reasons for it and the planned actions during the period of validity of the temporary license. Notwithstanding the provisions of paragraph 1 The Food and Veterinary Authority shall not stop the operation of a fish farm until it is known whether an application for a temporary operating license will be made. If an application for a temporary operating license is received, operations shall not be suspended while the application is being processed. The temporary operating license shall be within the frame of the license that was previously in force. A decision on a temporary operating license shall be based on data that has been obtained during the preparation of the revoked operating license. The Food and Veterinary Authority can temporarily impose the necessary conditions on the operating license so that the purpose of the license is achieved, such as the reduction of the activity that already exists, the time limit for rectification or the time limit for lawsuits or other actions in court that are available to the party. If an operating license is revoked due to deficiencies in the environmental assessment according to the Act on environmental assessment of projects and plans, the Food and Veterinary Authority shall, in addition to the above-mentioned conditions, ensure that the temporary operating license is subject to the conditions stipulated in paragraph 2. Article 25 Act on environmental assessment of projects and plans, no. 111/2021. Temporary operating license according to this paragraph may be reissued once. The Food and Veterinary Authority shall process application for temporary operating licenses and publicly advertise their content and where they can be seen. Anyone can make written comments

on the Food and Veterinary Authority's proposals within a week of the announcement. The Food and Veterinary Authority shall notify the Environmental Agency, the applicant for a temporary operating license and those who have commented on the proposal for the processing of a temporary operating license. The Food and Veterinary Authority shall advertise on its website the issuance and entry into force of a temporary operating license. Publication on the Food Agency's website is considered public publication. In the advertisement, it must be specified where the report on the processing of the permit is available, and the appeal authority and the appeal deadline must be specified. The Food and Veterinary Authority's decision to grant a temporary operating license can be appealed to the Environmental and Natural Resources Board of Appeal within one month of the decision being made public. The minister is authorized to stipulate in a regulation in more detail the application, procedure and conditions that must be met for the granting of a temporary operating license according to this article.

#### Article 21 d. Administrative fines.

The Food and Veterinary Authority can impose administrative fines on a person who violates any of the following provisions of this Act regarding:

1. maximum biomass in a fish farm at any time according to Article 5, Article 6 a and Article 6. b,
2. ban on transporting farmed fish or smolts to a fish farm without an operating license according to Paragraph 2 Article 11 or confirmed registration according to Article 5,
3. obligation to report on escaped fish and to engage in fishing for escaped fish according to Paragraphs 1 and 2 Article 13,
4. prohibition of transfer, lease and mortgaging of an operating license without the written consent of the Food and Veterinary Authority according to Article 17,
5. ban on the release of genetically improved farmed fish in fish farming or ocean ranching according to Paragraph 1 Article 19,
6. ban on the transport and release of farmed fish and live fish according to Paragraph 2 Article 19,
7. ban on the import of used farming equipment without the permission of The Food and Veterinary Authority according to Article 20

Fines can range from ISK 100,000. to ISK 150,000,000. When determining fines, the seriousness of the offence shall i.a. be considered, how long it has lasted, the interests at stake, the value of illegal production, the willingness of the offending party to cooperate and whether there has been a repeated offence in the last three years. At the same time, consideration must be given to whether it can be assumed that the offence was committed in the interest of the legal entity, whether it has or could have benefited from the offence and whether it was possible to prevent the offence through management and supervision.

The Food and Veterinary Authority may drop a case instead of imposing administrative fines if:

- a. it was impossible for an operating license holder or a person subject to registration according to Article 5 to prevent infringement,
- b. his offense is minor,
- c. there are special circumstances and the imposition of administrative fines is not considered urgent for general justice reasons.

Administrative fines shall be applied regardless of whether the offense is committed intentionally or negligently. The due date of an administrative fine is 30 days after the decision on the fine is made. If an administrative fine has not been paid within 15 days from its due date, penal interest shall be paid on the amount of the fine from its due date. The Food and Veterinary Authority's decision on the imposition of an administrative fine is enforceable and the fines go to the treasury minus the costs of imposition and collection. The determination and calculation of penal interest depends on the Act on interest and indexation.

A party to a case can appeal the Food and Veterinary Authority's decision on administrative fines to the minister within three months from when the party was notified of the decision. An appeal to the minister postpones enforcement. Minister's rulings on administrative fines are enforceable.

The authorization of The Food and Veterinary Authority's authority to impose administrative fines pursuant to this Act expires when five years have passed since the conduct ended. Deadline according to 1st sentence breaks when the The Food and Veterinary Authority notifies the parties of the start of an investigation into an alleged violation. The breaking of the deadline has a legal effect on everyone who has committed a violation.

Article 21 e. The right of individuals.

In a case that is directed at an individual and can end with the imposition of administrative fines or a complaint to the police, a person who is reasonably suspected of having committed a violation has the right to refuse to answer questions or hand over documents or items unless it can be ruled out that may have significance for the decision of his offense. The Food and Veterinary Authority shall instruct the suspect about this right.