

(Only the Danish text is authentic)

Consolidated Act on Livestock Farming Environmental Approvals¹

Act no. 1572 of 20 December 2006 on Livestock Farming Environmental Approvals, as amended by Section 5 of Act no. 507 of 17 June 2008, Section 9 of Act no. 508 of 17 June 2008, Section 28 of Act no. 1336 of 19 December 2008 and Section 11 of Act no. 514 of 12 June 2009, is hereby consolidated.

Chapter 1

Purpose and scope

Section 1. This Act shall help to protect nature, the environment and the landscape, so that livestock production can be effected sustainably with respect for people's living conditions and for the protection of flora and fauna.

Subsection 2. This Act is specifically aimed at

- 1) preventing and limiting the pollution of air, water, soil and subsoil and limiting nuisances caused by odour, light, noise, dirt and flies from livestock farms, including from the production, storage and use of livestock manure etc.,
- 2) producing decisions relating to hygiene matters that are important to the environment and to people,
- 3) limiting the use and waste of raw materials and other resources,
- 4) promoting the use of the best available techniques, including cleaner technology,
- 5) promoting recycling and limiting problems associated with waste disposal,
- 6) protecting nature and its populations of wild flora, wildlife and habitats,
- 7) creating and retaining valuable built-up areas, cultural and urban environments as well as landscapes,
- 8) ensuring that exposed coastal areas continue to represent an important nature and landscape resource, and
- 9) involving the general public in cases in accordance with the law.

Section 2. This Act shall apply to livestock farms.

Subsection 2. The Act also applies to other livestock farms that are part of an agreement regarding the spreading of livestock manure from livestock farms covered in subsection 1.

Section 3. The following definitions shall apply in this Act:

- 1) Livestock farm: Property on which more than 3 livestock units are kept, the animal stock, adjacent animal housing etc., manure and silage storage facilities and other fixed structures and appurtenant areas.
- 2) Facility: The animal stock, appurtenant animal housing etc., and the manure and silage storage facilities for the livestock farm.
- 3) Areas: Owned and leased fields that are part of the property.

Section 4. Section 14, subsections 3 and 4 of the Danish Environmental Protection Act, and regulations issued pursuant to Sections 13 and 14, subsections 1 and 2 of the Danish Environmental Protection Act, apply similarly to decisions made in accordance with this Act or regulations issued pursuant to this Act.

Subsection 2. Conditions established in permits pursuant to Section 10 or approvals pursuant to Sections 11, 12 or 16 do not apply to the extent that they conflict with the Danish Ministry of Family and Consumer Affairs regulations regarding the prevention and control of communicable diseases.

¹ This Act contains provisions that implement parts of Council Directive 85/337/EEC of 27 June 1985 concerning the assessment of the effects of certain public and private projects on the environment (the EIA Directive), Official Journal of the EU 1985, no L 175, page 40, as last amended by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, Official Journal of the EU 2003, no L 156, page 17, parts of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated prevention pollution prevention and control, Official Journal of the EU 2008, no L 24, page 8, parts of Council Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds (the Birds Directive), Official Journal of the EU 2010, no L 20, page 7, parts of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive), Official Journal of the EU 1992, no L 206, page 7, as last amended by Council Directive 2006/105/EC of 20 November 2006, Official Journal of the EU 2006, no L 363, page 368, parts of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (the Water Framework Directive), Official Journal of the EU 2000, no L 327, page 1, parts of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, Official Journal of the EU 1991, no L 375, page 1, as amended by Regulation 1882/2003/EC of the European Parliament and of the Council of 29 September 2003, Official Journal of the EU 2003, no L 284, page 1, and parts of Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, Official Journal of the EU 2004, no L 143, page 56.

Section 5. The Minister for the Environment may make rules to the effect that certain animal species are not covered by the Act.

Subsection 2. The Minister for the Environment may make rules concerning the conversion factors that are to be applied when calculating livestock units.

Subsection 3. The Minister for the Environment may make rules regarding reporting obligations for livestock farms of more than 3 livestock units.

Chapter 2

Prohibition against the establishment of livestock farms etc. and the siting of animal housing

Section 6. The establishment of facilities and expansions and modifications of existing livestock farms of more than 3 livestock units which involves increased pollution is not permitted

- 1) in an existing or, according to a municipal plan framework, future urban zone or summer house area,
- 2) in an area in a rural zone that is allocated under a local plan to housing, mixed housing and commercial purposes or for public use with a view to providing dwellings, institutions, buildings for recreational purposes, and so on,
- 3) at a distance of less than 50 m from the areas mentioned in nos 1 and 2, or
- 4) at a distance of less than 50 m from a neighbouring dwelling.

Subsection 2. The Minister for the Environment may set distance requirements other than those in subsection 1, no 1-4 for specified animal species, and additional types of distance requirements within which establishment, expansion or modification may not take place.

Subsection 3. The Minister for the Environment shall set specific distance requirement rules for the establishment of pens for free-range pigs where the pens have no fixed base and drainage.

"Section 7. The establishment, expansion and modification of a facility on a livestock farm that is or thereby becomes larger than 15 livestock units is not permitted if animal housing or manure storage facilities are situated at a distance of less than 10 m from or fully or partly within

- 1) specific natural habitats that are vulnerable to ammonia, cf. subsection 2, and which are situated within international nature protection areas, or
- 2) specific natural habitats that are vulnerable to ammonia, cf. subsection 2, which are situated outside international nature protection areas.

Subsection 2. The Minister for the Environment sets rules regarding the natural habitats that are covered by subsection 1, nos 1 and 2.

Subsection 3. At the request of public authorities and affected owners or users, the municipal authority provides information regarding the position and extent of the areas that are covered by subsection 1.

Subsection 4. The Minister may set a minimum limit for specific animal species that is lower than the limit for livestock units stated in subsection 1.

Section 8. Animal housing and manure storage facilities for livestock farms of more than three livestock units may not be established within the following distances:

- 1) 25 m to non-public water supply facilities.
- 2) 50 m to public water supply facilities.
- 3) 15 m to water courses (including drains) and lakes; however, cf. subsection 2.
- 4) 15 m to public paths and private rights of way.
- 5) 25 m to a food-production enterprise.
- 6) 15 m to dwellings on the same property.
- 7) 30 m to neighbouring boundaries.

Subsection 2. Furthermore, containers for storage of liquid livestock manure may not be set up within a distance of 100 m from open water courses and lakes with an area that is greater than 100 m².

Subsection 3. Silage storage facilities may not be established within the distances specified in subsection 1, nos. 1-5 and no. 7.

Subsection 4. The Minister for the Environment may set other distance requirements for specified animal species within which establishment, expansion or modification may not take place.

Tightening of rules and exemptions

Section 9. The municipal authority may grant exemption from the distance requirements, cf. Section 6 to riding schools and livery stables of more than 3 livestock units. Exemption may be granted conditionally with specific requirements for the management of the property, organisation of animal housing, manure heaps etc.

Subsection 2. If compliance with the distance requirements specified in Section 8 will not protect adequately against substantial nuisances or pollution, the municipal authority may order the facility to be sited more appropriately and establish conditions for organisation and management. The municipal authority sets conditions for siting, organisation and management in connection with permits pursuant to Section 10 or approvals pursuant to Sections 11 and 12.

Subsection 3. If compliance with the distance requirements specified in Section 8 is not possible for a livestock farm, the municipal authority may grant exemption from this and set conditions for organisation and management. The municipal authority sets conditions for organisation and management in connection with permits or approvals pursuant to Sections 10-12. The municipal authority shall set conditions which ensure that pollution or substantial nuisances do not occur.

Subsection 4. The Minister for the Environment may set rules to the effect that exceptions may be made to the distance requirement in section 7 in special cases.

Chapter 3

Permits and approvals

Section 10. The municipal authority may grant permission for the establishment, expansion or modification of livestock farms of more than 15 and up to 75 livestock units.

Subsection 2. Livestock farms covered by subsection 1 may not be established without prior permission from the municipal authority. Similarly, no expansion or modification of a livestock farm by which the livestock farm increases to more than 15 livestock units may be started without prior permission from the municipal authority.

Subsection 3. Livestock farms covered in subsection 1 may not be expanded or modified in such a way that may involve increased pollution or other impacts on the environment without obtaining prior permission for the expansion or modification from the municipal authority.

Section 11. The municipal authority may approve the establishment, expansion or modification of a livestock farm of more than 75 livestock units that is not covered by Section 12.

Subsection 2. Livestock farms covered by subsection 1 may not be established without a prior approval from the municipal authority. Similarly, no expansion or modification of a livestock farm by which the limit set in subsection 1 is exceeded may be started without a prior approval from the municipal authority for the livestock farm as a whole.

Subsection 3. Livestock farms covered in subsection 1 may not be expanded or modified in such a way that may involve increased pollution or environmental impact without a prior approval from the municipal authority for the expansion or modification.

Section 12. The municipal authority may approve the establishment, expansion or modification of livestock farms of more than 250 livestock units; however

- 1) 270 livestock units if at least 90% of the livestock units originate from sows with their piglets of up to 30 kg, or 750 sow stalls,
- 2) 100 livestock units if these are slaughter chickens, or 40,000 perch spaces for slaughter chickens,
- 3) 230 livestock units if these are laying hens, or 40,000 perch spaces for laying hens, or
- 4) 210 livestock units if these are pigs for slaughter (over 30 kg), or 2,000 stalls for pigs for slaughter (over 30 kg).

Subsection 2. Livestock farms covered by subsection 1 may not be established without the prior approval of the municipal authority. Similarly, no expansion or modification of livestock farms by which the limits set in subsection 1 are exceeded may be started without the prior approval of the municipal authority for the livestock farm as a whole.

Subsection 3. Livestock farms covered in subsection 1 may not be expanded or modified in such a way that may involve increased pollution or other environmental impact without a prior approval from the municipal authority for the expansion or modification.

Section 13. If the holding covers multiple properties with appurtenant facilities, and if the property facility that is the object of an application to establish, expand or modify is linked with another property's facilities technically or from the point of view of pollution, the relevant facilities must be granted permits or approval jointly.

Section 14. Approval pursuant to Sections 11, 12 or 16 may cover further planned expansions or modifications provided that

- 1) the application provides adequate details of the planned expansions or modifications to enable the municipal authority to assess the conditions and establish the necessary terms, and
- 2) the expansions or modifications are intended to be carried out within a short timeframe.

Section 15. Approval of livestock farms pursuant to Sections 11 or 12 for which the applicant has owned or leased areas that are operated under the same Company Registration Number (CVR) also entail approval of the farm's areas.

Section 16. The municipal authority may approve areas that are not covered by a permit pursuant to Section 10 or by an approval pursuant to Sections 11 and 12, and that are used for spreading of livestock manure from livestock farms covered by a permit or approval pursuant to this Act.

Subsection 2. Spreading of livestock manure on third-party areas fields in connection with the establishment, expansion or modification of a livestock farm which the municipal authority deems will substantially affect the environment may not be included in permits pursuant to Section 10 or approvals pursuant to Sections 11 and 12, unless the area has been approved pursuant to subsection 1.

Section 17. The Minister for the Environment may set rules regarding what should be taken into consideration in decisions about permits for livestock farms pursuant to Section 10, approval of livestock farms pursuant to Sections 11 and 12 and approval of areas pursuant to Section 16.

Subsection 2. The Minister for the Environment may set rules for specific animal species to the effect that the requirement for prior permission pursuant to Section 10 and approval pursuant to Sections 11 or 12 applies to limits that are lower than the minimum of 15 livestock units which is set in Section 10, subsection 1.

Subsection 3. The Minister for the Environment may set rules to the effect that a permit or approval is not required in certain cases. In connection with this, the Minister may set rules to the effect that a reporting scheme applies instead of a permit or approval.

Application for permit or approval

Section 18. Applications for the establishment, expansion or modification of livestock farms covered by Sections 10-12 or rules pursuant to Section 17, subsection 2, and applications for approval pursuant to Section 16, must be submitted to the municipal authority.

Subsection 2. The Minister for the Environment may make rules concerning submission, content and requisite information with regard to applications as well as the municipal authority's processing thereof etc. The Minister for the Environment may also make rules regarding the applicant's obligation to provide further information.

Subsection 3. The Minister for the Environment may set rules regarding the format in which the application is to be submitted, and produce a specific form for use with applications for permits pursuant to Section 10.

Assessment of application for permit or approval

Section 19. When assessing an application for a permit pursuant to Section 10 or approval pursuant to Sections 11, 12 or 16, the municipal authority must be satisfied that

- 1) the applicant has taken the necessary measures to prevent and limit pollution by using the best available techniques and
- 2) the livestock farm can generally be operated at the site without affecting the surroundings in any way that is incompatible with the surroundings.

Section 20. When assessing an application for a permit pursuant to Section 10 or an approval pursuant to Sections 11 or 12, the municipal authority must be satisfied that the risk of pollution or substantial nuisance caused to the surroundings is limited, if the facility is situated less than 300 m from

- 1) a residential building on a property with no agricultural obligations that is situated in a conglomeration in a rural area that is owned by someone other than the farmer,
- 2) an existing or, according to a municipal plan framework, future urban zone or summer house area, or
- 3) an area in a rural area that is assigned in a local plan for housing, mixed housing and commerce or for public use with a view to providing dwellings, institutions, buildings for recreational purposes, and so on.

Section 21. When assessing an application for a permit pursuant to Section 10 or approval pursuant to Sections 11 or 12, the municipal authority shall assess the total deposition of ammonia from the overall facility in relation to the natural habitats that are covered by Section 7, subsection 1.

Section 22. With regard to the construction of new buildings at a livestock farm with no link to the property's existing building areas, and to construction of new buildings that are not commercially necessary to the operation of the relevant property as an agricultural property, the municipal authority must be satisfied that the landscape interests are not disregarded when assessing an application for a permit pursuant to Section 10 or an approval pursuant to Sections 11 or 12.

Subsection 2. In the case of construction that is commercially necessary, and that is constructed with no link to the property's existing building areas, the municipal authority must assess the desired location and layout.

Section 23. When assessing an application for approval pursuant to Sections 11 or 12, the municipal authority must consider the following:

- 1) Use of the best available techniques.
- 2) Protection of soil, ground water, surface water and nature and its populations of wild flora, fauna and their habitats, including areas that are protected from status changes or are listed as protected, listed as international nature protection areas or listed as particularly vulnerable to nutrient impact.
- 3) Limitation of any nuisances caused to neighbours (odour, noise, dirt, fly and light nuisances, waste production etc.).
- 4) Consideration for landscape interests.

Section 24. When assessing an application for approval pursuant to Section 12, subsection 2, the municipal authority must assess the main alternatives.

Subsection 2. When an application is made for expansion or modification that is covered by Sections 11 or 12, subsection 3, the municipal authority must undertake an assessment as described in subsection 1 if the application could have a substantial impact on the environment.

Section 25 is deleted.

Section 26. When assessing an application for establishment, expansion or modification, the municipal authority must take into consideration all areas that are farmed under the same CVR number.

Subsection 2. The municipal authority must undertake a complete assessment of all establishments, expansions or modifications undertaken since 1 January 2007 at the livestock farm, including the farm areas, but for no more than an 8-year period.

Subsection 3. If an application for the establishment, expansion or modification of a livestock farm includes spreading of livestock manure on third-party farms, the areas of land of these farms must be assessed separately.

Subsection 4. If the municipal authority deems that spreading of livestock manure in third-party areas of land, cf. assessment according to subsection 3, could substantially affect the environment, spreading in these enterprises may not be included in permits pursuant to Section 10 or approvals pursuant to Sections 11 and 12; however, cf. Section 16.

Decisions of the municipal authority

Section 27. A permit pursuant to Section 10 and an approval pursuant to Sections 11, 12 or 16 shall include conditions ensuring that the livestock farm is organised and operated in such a way that the requirements in Section 19 are met. The municipal authority must take into consideration the location of the livestock farm and set conditions that ensure

- 1) that any nuisances caused to neighbours (odour, noise, dirt, fly and light nuisances, waste production etc.), cf. Section 20, are limited, and
- 2) that the establishment for which an application is made is effected with consideration for landscape interests; cf. Section 22.

Subsection 2. With regard to containers for liquid livestock manure, the municipal authority must permit or approve siting with consideration for the cultivation of fields, unless important considerations for the landscape, nature, the environment and neighbours make the siting inappropriate. A permit pursuant to Section 10 or approval pursuant to Sections 11 or 12 shall include conditions to the effect that the container is screened by planting and removed when it is no longer necessary to operation.

Section 28. If the municipal authority decides, based on an application for approval pursuant to Section 10, that the application will otherwise substantially affect the environment, the municipal authority must set conditions to counter the increased pollution and other substantial effects on the environment.

Section 29. In addition to the conditions specified in section 27, approval pursuant to Sections 11 or 12 must include conditions that ensure that the requirements made by the Minister for the Environment (cf. Section 34, subsection 3), including conditions relating to self-monitoring and reduction of ammonia, are satisfied.

Subsection 2. In an approval pursuant to Sections 11 or 12, the municipal authority may set additional conditions that are necessary to ensure that the considerations stated in Section 23 are satisfied.

Section 30. If an application for establishment, expansion or modification of a livestock farm involves the spreading of livestock manure in third-party areas, conditions may be only set for these fields with regard to the total volume of livestock manure that is spread in each farm, and with regard to the specific fields on which the livestock manure may be spread.

Section 31. The municipal authority must reject an application for a permit pursuant to Section 10, or approval pursuant to Sections 11, 12 or 16, if Section 19 is not complied with.

Section 32. The municipal authority must reject an application for a permit pursuant to Section 10, if the subject of the application may have substantial effects on the environment that cannot be mitigated by conditions, and must find that if the applicant wishes to continue with this case, the application must be treated as an application for approval pursuant to Section 11.

Section 33. A deadline for use must be set for permits pursuant to Section 10 and approvals pursuant to Sections 11 and 12. The permit or approval lapses if it is not used by this deadline. The deadline should not normally be set for a date later than two years after the date on which the decision is issued.

Subsection 2. If an approval covers planned expansions or modifications, cf. Section 14, the deadline for using this part of the approval should not be set at more than 5 years after the date on which the decision is issued.

Subsection 3. If a permit or approval issued pursuant to this Act has not been used fully or partly in three consecutive years, the part of the approval that has not been used in the past three years lapses; however, cf. subsection 2.

Section 34. The Minister for the Environment may set rules regarding the processing of cases involving permits or approvals by municipal authorities, including considerations for compliance with international obligations. In connection with this, the Minister may set requirements regarding the assessment criteria that the municipal authority must use when processing and passing decisions on cases, and in which cases and on what conditions permits or approvals may be issued. The Minister may also decide that special requirements must apply to certain livestock farms.

Subsection 2. The Minister for the Environment may set rules regarding protection levels to be used in decisions pursuant to this Act, including what constitutes a substantial effect on the environment.

Subsection 3. The Minister for the Environment may set rules regarding approval of livestock farms, including the issues that the municipal authority must take into consideration when setting conditions for approval, and rules regarding conditions for self-monitoring and the reduction of ammonia from animal housing and stores.

Section 35. The Minister for the Environment may set rules to the effect that the municipal authority's decisions as to whether an application for establishment, expansion or modification of a livestock farm has substantial effects on the environment may not be reached without the consent of the Minister for the Environment, and that the municipal authority's decisions on permits and approvals should be submitted to the Minister for the Environment.

Setting special conditions, rejecting and revoking approvals

Section 36. The municipal authority may reject an application for approval pursuant to Sections 11, 12 or 16 if the applicant, members of the applicant's management or board of directors, or other parties who may exercise decision-making power over the management of the livestock farm, comprise:

- 1) Persons who have been suspended from operating livestock farms pursuant to Section 95 of this Act, Section 110b of the Danish Environmental Protection Act or in accordance with Section 79 of the Danish Criminal Code.
- 2) Persons who have been convicted under Section 196 of the Danish Criminal Code.
- 3) Persons and companies etc. that have been penalised pursuant to Section 91, subsection 2 of this Act, Section 110, subsection 2 of the Danish Environmental Protection Act or corresponding provisions set out in orders issued in accordance with this Act or the Danish Environmental Protection Act, if a custodial sentence or fine of DKK 10,000 or more was handed down, and if it is less than 10 years since the penalised action.
- 4) Persons and companies etc. with debts of DKK 100,000 or more to the authorities for "self-help" acts undertaken by the supervising authority pursuant to Sections 48 and 49 of this Act, if this debt was accepted or established via the court. A further condition is that the debt be due but unpaid and not covered by an agreement that has been complied with regarding a deferment or payments on instalment, and two reminder letters must have been sent to the debtor.

Section 37. The municipal authority may furthermore set specific conditions in an approval pursuant to Sections 11, 12 or 16, including stipulating requirements regarding the establishment of a guarantee if the owner or management is covered by Section 36.

Subsection 2. The municipal authority may adjust the size of the guarantee in the event of substantial changes in the grounds for calculating it.

Section 38. The municipal authority may revoke an approval pursuant to Sections 11, 12 or 16, or set specific conditions for an existing approval, including conditions regarding a guarantee, cf. Section 37, provided that

- 1) the holder, members of the holder's management or board of directors, or other parties who may exercise decision-making power over the management of the livestock farms, are covered by Section 36,
- 2) persons or companies etc. covered by Section 36 become owners or co-owners of the livestock farms, or
- 3) persons covered by Section 36 join the board of directors or management of a business etc. that operates livestock farms for which approval has been obtained.

Subsection 2. A decision pursuant to subsection 1 may be brought before the court. Requests to this effect must be submitted to the municipality that issued the approval no later than four weeks after the decision is communicated to the person or company in question. The municipality brings a case against the person or company in question via a civil judicial proceeding.

Subsection 3. A request for legal proceedings, cf. subsection 2, has a delaying effect, but the court may rule that the person or company in question may not conduct the activity relating to the approval while the case is being processed. If revocation of the approval is found to be lawful by the court, this may also entail that any appeal will not have a delaying effect.

Chapter 4

Orders, prohibitions and reassessment

Chapter 5

Supervision

Chapter 5a

Environmental damage

Chapter 6

Administration

Chapter 7

Complaints and legal proceedings

Chapter 8

Penalties

Chapter 9

Amendments to the Binding Municipal Cooperation Act, the Environmental Protection Act, the Act on a quality control system for municipal case processing of cases relating to nature and the environment, and the Planning Act

(Omitted)

Chapter 10

Implementation and transitional provisions

Section 102. This Act shall enter into force on 1 January 2007².

Sections 103 – 112 (omitted)

²Sections 7 - 9, 17, 21, 25, 27, 29, 55, 75 and 81 however are amended with effect from 15 March 2011. Applications received before 15 March 2011 will be processed in accordance with the rules previously in force.