

Fishery Conservation Areas Act (SFS 1981:533)

(with amendments up to and including SFS 1997:270)

General provisions

Section 1. Under this Act, two or more property units may be merged into a fishery conservation area and fishing rights proprietors within this area may form a fishery conservation association, for the purpose of co-ordinating fishing and fishery conservation and promoting the common interests of the fishing rights proprietors. The association's activities may not include fishing which, under the Fisheries Act (1993:787), may be conducted in private water without support of private fishing rights.

Where there are special reasons for so doing, a fishery conservation area may be formed from a fishery belonging to one property unit only, if the property unit has more than one owner. The aforesaid shall also apply to a fishery constituting a real property unit.

Section 2. A fishery conservation area may not include fisheries in areas where the Sami are entitled to fish under the Reindeer Husbandry Act (1971:437), in the case of Crown land above the cultivation limit over which the State has an immediate right of disposal, or in reindeer-grazing mountains.

As regards fisheries in other areas where the Sami are entitled to fish under the Reindeer Husbandry Act, the formation of fishery conservation areas shall in no wise detract from those rights.

Section 3. The owner of a fishery included in a fishery conservation area is a member of the fishery conservation area association.

If the fishery pertaining to a property unit has been granted in its entirety for a period exceeding one year, the user instead of the grantor shall be a member of the association for the duration of the grant, unless otherwise agreed between the grantor and the user. In matters where the final decision rests with the County Administrative Board, however, the user may only speak for the fishery with the owner's consent.

If a fishery has been granted by easement, then in the case of the fishery granted the provisions of this Act concerning fishery owners shall instead apply to the owner of the dominant property unit for the easement.

Section 4. A decision for the formation of a fishery conservation area is made by the County Administrative Board, which in this connection shall adopt articles for the fishery conservation area association in the respects indicated in Section 18.

Section 5. A decision under this Act shall also apply to new members.

Conditions of formation

Section 6. A fishery conservation area may not be formed if the owners of the fishery concerned more generally oppose the formation and have notable reasons for

so doing. In this assessment consideration shall primarily be had to the opinion of those whose fishing is affected most by the formation.

The foregoing shall not apply if the need for forming the fishery conservation area is exceptionally urgent.

Section 7. In order for the formation of a fishery conservation area to be permissible, the formation must be appropriate having regard to the nature and extent of the water area and the fishery and conditions generally.

Activities

Section 8. A fishery conservation area association may resolve on the grant of a fishery within the fishery conservation area.

A decision concerning the grant of an entire fishery or part thereof in which a member has exclusive title is subject to his consent unless the fishery is of no importance for his livelihood.

Section 9. A fishery conservation area association may decide that contributions towards the association's activities are to be levied from the members, always provided that prescriptions concerning such levy are included in the articles.

Formation procedure

Section 10. Application for the formation of a fishery conservation area can be made by a party owning a fishery intended for inclusion in the area or by the municipality. The application shall be made to the County Administrative Board.

Section 11. The application documents shall include particulars of the fishery intended for inclusion in the fishery conservation area and draft articles for the fishery conservation area association.

Section 12. The question of forming a fishery conservation area shall be investigated in an executory procedure directed by an executory officer, unless it is clear that the prerequisites for the formation are lacking.

The County Administrative Board may, however, without any prior executory procedure, decide to form a fishery conservation area if all the fishery owners are agreed on this or if an executory procedure is otherwise considered unnecessary.

Section 13. On the basis of the application documents and matters otherwise emerging, the executory officer shall draw up a proposal concerning the fishery which should be included in the fishery conservation area and the articles which should apply to the fishery conservation area association. He shall furthermore, to the extent necessary for assessment as provided in Section 6, ascertain which parties are owners of the fishery and draw up a list of the owners (fishing rights list).

The proposal shall be discussed at a meeting in the presence of the executory officer.

Section 14. The executory officer shall give the fishery owners notice of the meeting. The notice shall contain a brief description of the intended area formation and particulars of the time and place when and where the application documents and

the fishing rights list are available. The notice shall indicate the fishery owners, at the latest during the meeting, should tender their viewpoints on area formation and fishing rights list, by word of mouth or in writing and present a written report adduced in support of objections to the fishing rights list. If the fishing rights list cannot be presumed complete, notice of the meeting shall also be given to unknown fishery owners. The fishery owners shall be served with the notice well in advance of the meeting. Such service shall not be subject to the provisions of Section 10 (1) and Section 16 (2) paragraph 2 of the Service of Documents Act (1970:420).

The executory officer shall always inform the municipality of the content of the notice.

The provisions of subsections one and two shall also apply, *mutatis mutandis*, when a new meeting is scheduled. If the time and place of the next meeting have been announced at a meeting, notice need not be given to a party who had been duly notified of the meeting at which the announcement was made.

Section 15. In the executory procedure, an assessment shall be made of the feasibility of forming the fishery conservation area.

The fishing rights owners shall be given the opportunity of a hearing and of submitting evidence in matters material to the formation.

Section 16. The executory officer shall make a statement as to whether the fishery conservation area should be formed. If the executory officer finds that it should be formed, his statement shall include a proposal concerning the fishery to be included in the fishery conservation area and draft articles for the fishery conservation area association. The statement shall always indicate how the costs of the executory procedure are to be met.

The executory procedure ends with the statement and other executory documents being presented to the owners of the fishery at a time and place determined at a meeting. The documents shall then be kept available for inspection for one month.

Following the expiry of this period, the executory officer shall transmit the executory documents to the County Administrative Board, together with any objections which may have been raised.

Section 17. If a decision is made for the formation of a fishery conservation area, the cost of formation, insofar as no grant is paid out of public funds, shall be apportioned between the owners of the fishery according to what is reasonable. If no fishery conservation area is formed, the cost shall be paid by the applicant or apportioned between the applicants, unless special circumstances occasion the apportioning of the liability between the fishery owners or certain of them.

Articles

Section 18.

The articles of a fishery conservation area association shall set forth

1. the basis of fishery utilisation and conservation, including the question of whether the association's activities shall be confined to fishing with certain types of tackle or to fishing of certain species,
2. the grounds for levying charges from the members, if such charges are to be levied,
3. the other guidelines applying to the association's activities.

Section 19. Questions concerning amendment of the articles in the respects indicated in Section 18 shall be assessed by the County Administrative Board on application being made by the fishery conservation area association. The provisions concerning the conditions and procedure for the formation of a fishery conservation area shall apply, *mutatis mutandis*, to this assessment.

Organisation

Section 20. The fishery conservation area association shall have a governing body. The governing body represents the association vis-à-vis third parties. Failing the appointment of a governing body by the members, the County Administrative Board may appoint a governing body on application being made by a party whose rights are contingent thereon.

The association may not acquire rights or enter into liabilities before articles have been adopted and a governing body appointed.

Section 21. The right of the members to participate in the management of the fishery conservation area association's affairs is exercised at the association meeting of the fishery conservation area association.

Section 22. For voting at the association of the fishery conservation area association, each member shall have one vote unless otherwise indicated by the articles.

No person may on their own behalf vote for more than one-fifth of the total number of votes represented at the association meeting.

Section 23. The opinion gaining the highest number of votes shall count as the meeting's decision. Elections shall, in the event of a tied vote, be decided by the drawing of lots. In other matters the opinion shared by the largest number of voters or, if votes are equally divided, by the chairman of the meeting shall prevail.

Continuance of the fishery conservation area

Section 24. The County Administrative Board may resolve on the dissolution of a fishery conservation area association.

Such a decision may be made if the fishery owners are more generally opposed to continued co-operation or if circumstances have changed in a way which substantially affects the association's activities.

A decision to dissolve the association on the first ground mentioned may not be made before ten years have passed since the decision to form the fishery conservation area acquired force of law.

Section 25. On application being made by the fishery conservation area associations concerned, the County Administrative Board may resolve to

1. merge several fishery conservation areas into a single fishery conservation area,
2. divide a fishery conservation area into several fishery conservation areas.

For assessment of the question of such re-formation, the provisions on the conditions and procedure for the formation of a fishery conservation area shall

apply, *mutatis mutandis*.

Section 26. On application being made by the fishery conservation area association, the County Administrative Board may decide the affiliation of a fishery to the fishery conservation area. Such affiliation requires the consent of the fishery owner and, if the fishery is included in a fishery conservation area, the fishery conservation area association for that area.

Section 27. The County Administrative Board may decide that a fishery shall be excluded from a fishery conservation area. Application for exclusion shall be made by the fishery conservation area association or the owner of the fishery.

Section 28. The County Administrative Board may order questions referred to in Section 24, 26 or 27 to be investigated by executory procedure before it makes a decision.

Sections 13-16 shall apply, *mutatis mutandis*, concerning the conduct of such an executory procedure. The expenses of the executory procedure shall be borne by the fishery conservation area association unless special circumstances occasion the defrayment of them, partly or wholly, by another party.

Section 29. At the dissolution of a fishery conservation area association, the provisions of Section 62 of the Joint Property Units (Management) Act (1973:1150) shall apply.

If a fishery conservation area association is declared bankrupt and wound up without a surplus, it shall, in derogation of subsection 1, be dissolved when the bankruptcy is concluded.

Liabilities etc.

Section 30. If the party entitled to fish in a fishery conservation area infringes the rules which, under the articles or by resolution of the association meeting of the fishery conservation area association, apply to fishing within the area, a fine shall be imposed unless the offence carries a penalty under some other statute or statutory instrument.

An offence as aforesaid may be indicted by a prosecutor only after a charge has been preferred by a complainant. The fishery conservation area association and a member of the same shall also be regarded as complainants.

Section 31. If a member whose right is affected by a decision at the association meeting of the fishery conservation area association or by a decision by the governing body of the fishery conservation area association considers that the decision was not made in due order or that it is contrary to this Act or some other statutory instrument or the articles or violates his individual right, that member may contest the decision by limited appeal to the County Administrative Board.

The petition of appeal shall reach the County Administrative Board within four weeks of the decision date. In the case of limited appeal against decisions by the governing body, however, the appeal period shall be counted from the day on which the appellant was apprised of the decision.

A decision by the association meeting or governing body of the fishery conservation area association shall apply any appeal notwithstanding, unless

otherwise ordained by the County Administrative Board.

Section 32. A decision by the County Administrative Board under this Act may be appealed to a general administrative court. Leave to appeal is required for appeal to the administrative court of appeal.

When a decision by the County Administrative Board, the county administrative court or the administrative court of appeal under this Act affects such a large number of persons that copies of the decision cannot conveniently be supplied to each of them, an announcement concerning the decision shall be published in a local newspaper. The time for appeal shall be counted from the day on which the announcement was made.

A decision by the County Administrative Board shall apply any appeal notwithstanding, unless otherwise ordered by a court of law.