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NB: Unofficial translation

Legally binding texts are those in Finnish and Swedish

Ministry of the Environment, Finland

**Government Decree
on the Remediation of Certain Environmental Damages
(713/2009)**

In accordance with the government decision that was made based on the presentation by the Ministry of the Environment, the following provisions are issued concerning remediation of certain environmental damages on the basis of section 16 of the Act issued on 29 May 2009 (383/2009); section 5 a(3) of the Nature Conservation Act (*Luonnonsuojelulaki* 1096/1996), issued on 20 December 1996; section 84 b of the Environmental Protection Act (*Ympäristönsuojelulaki* 86/2000), issued on 4 February 2000; chapter 21, section 3 c(4), of the Water Act (*Vesilaki* 264/1961), issued on 19 May 1961; as per section 5 a(3) of the Nature Conservation Act, as it is stated in Act 384/2009; per section 84 b of the Environmental Protection Act, as it is stated in Act 385/2009; and per chapter 21, section 3 c(4), of the Water Act, as it is stated in Act 386/2009.

***Section 1
Purpose***

(1) This decree lays down provisions on:

- 1) assessing the significance of an adverse effect on a protected species and natural habitat referred to in section 5 a(1) of the Nature Conservation Act (1096/1996);
- 2) assessing the significance of the pollution of a water body referred to in section 84 a of the Environmental Protection Act (86/2000), and a harmful change in a water body and groundwater referred to in chapter 21, section 3 c, of the Water Act (264/1961);
- 3) the remedial measures referred to in section 5 of the Act on the Remediation of Certain Environmental Damages (*Laki eräiden ympäristölle aiheutuneiden vahinkojen korjaamisesta* 383/2009) and on selecting the measures referred to in section 6; and
- 4) determining the costs incurred by the authorities referred to in section 10(1)(2) of the Act on the Remediation of Certain Environmental Damages.

***Section 2
Assessing the significance of damage to species or natural habitats***

(1) In addition to what is provided in section 5 a of the Nature Conservation Act, the following shall be taken into account in assessing the significance of the adverse effect on the favourable conservation status of a species or natural habitat:

- 1) the number of individuals of a species, their frequency or locality;
 - 2) the significance of the damaged individuals or damaged area to the level of the conservation status of the species or natural habitat, taking into account the viability of the species or the inherent range of the natural habitat and their customary natural variance;
 - 3) the dispersal capacity of the species or the regenerative capacity of the natural habitat;
 - 4) the capacity of the species or natural habitat to recover naturally, at a minimum, to the condition that prevailed when the damage occurred; and
 - 5) the effects on human health.
- (2) Significant adverse effects do not include effects arising from management of the area in accordance with the nature conservation objectives.

Section 3 ***Assessing the significance of damage to waters***

- (1) In addition to what is provided in section 84 a of the Environmental Protection Act and in chapter 21, section 3 c, of the Water Act, the following shall be taken into account in assessing the degree of pollution and other harmful changes in a water body and the degree of harmful change in groundwater:
- 1) the concentration of the dangerous or harmful substance in the water body referred to in section 3 of the Government Decree on Substances Dangerous and Harmful to the Aquatic Environment (*Valtioneuvoston asetus vesiympäristölle vaarallisista ja haitallisista aineista* 1022/2006);
 - 2) considerable deterioration of a factor that depicts the ecological status of surface water mentioned in section 9 of the Government Decree on Water Resources Management (*Valtioneuvoston asetus vesienhoidon järjestämisestä* 1040/2006);
 - 3) concentration of a pollutant or indicator of pollution in the groundwater, mentioned in point A of Annex 7 to the Government Decree on Water Resources Management; concentration of a substance harmful to groundwater referred to in section 3 of the Government Decree on Substances Dangerous and Harmful to the Aquatic Environment; salinification of groundwater or considerable reduction in the groundwater surface level, and the effects of these on the groundwater or surface water ecosystems or on the current or future use of groundwater.
 - 4) effects on natural resource services referred to in section 4(2) of the Act on the Remediation of Certain Environmental Damages.
- (2) The extent, duration and scope of the effect or change caused to the water body or groundwater referred to in subsection 1 shall be taken into account in the assessment.

Section 4
Complementary and compensatory remediation

(1) Complementary and compensatory remediation that is in compliance with section 5 of the Act on the Remediation of Certain Environmental Damages is focused primarily on a natural resource or natural resource service, which in type, quality and quantity matches the damaged natural resource or natural resource service to the greatest degree possible. If this is not possible, remediation shall be focused on alternative natural resources and natural resource services.

(2) The scale of the complementary and compensatory measures shall be determined by taking into account the value of the natural resource or natural resource service lost through damage. If the scale of the complementary and compensatory measures cannot be specifically determined within a reasonable amount of time or at a reasonable cost, discretion can be used to determine the scale of the measures. Even then, the costs arising from the measures shall correspond to the value of the lost natural resource or natural resource service.

(3) The complementary and compensatory measures shall be selected so that they provide additional natural resources or natural resource services at the damaged site or elsewhere. When measures are selected, their order of priority in terms of time, and the time required to implement them, shall be taken into account. If complementary measures are performed outside the damaged site, the area should, whenever possible, be geographically connected to the damaged site.

Section 5
Assessment of alternative remedial measures

(1) In determining remedial measures, the authority must assess possible alternative measures.

(2) In addition to what is provided in section 6 of the Act on the Remediation of Certain Environmental Damages, the following shall be taken into account in assessing alternative measures:

- 1) effects on public health and safety;
- 2) costs arising from implementation;
- 3) probability of success;
- 4) opportunity to prevent future damage and avoid causing damage to other sites;
- 5) benefits to damaged natural resources and natural resource services;
- 6) social and economic considerations, cultural aspects and particular factors concerning location;
- 7) implementation schedule for remediation of damage;
- 8) probability of restoration to pre-damage status; and
- 9) geographical connection to the damaged area, if measures are carried out elsewhere.

Section 6
Selection of remedial measures

(1) From among the primary remedial measures, a measure can be selected that does not fully restore the damaged natural resource or natural resource service to the baseline condition or that restores it more slowly, if additional complementary and compensatory measures are selected which restore the natural resources and natural resource services to a level equivalent to the baseline condition. The selection of complementary and compensatory measures is regulated under sections 4 and 5.

Section 7
Costs incurred by the authority

(1) In determining the costs incurred by the authority referred to in section 10(1)(2) of the Act on the Remediation of Certain Environmental Damages, costs pertaining to the following can be taken into account:

- 1) to provide clarification necessary for determining the damage and its immediate threat;
- 2) to provide clarification necessary for assessing alternative remedial measures;
- 3) to provide clarification necessary for selecting remedial measures;
- 4) necessary follow-up to the remedial measures that have been implemented.

Section 8
Entry into force

(1) This decree shall enter into force on 1 October 2009; it shall, however, become effective as of 1 July 2009.

Directive of the European Parliament and of the Council of Europe 35/2004/EC (32004L0035);
Journal of the European Communities No. L 143, 30 April, .2004, p. 56

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