

**Parliamentary Act No. 56 dated May 19, 2015, on Pilot Whales and Other Small Whales
as Amended by Parliamentary Act No. 44 dated May 6, 2016**

**Parliamentary Act on Pilot Whales and Other Small Whales most recently amended by
Parliamentary Act. No. 44, dated May 6, 2016
(the Pilot Whaling Act)**

Scope and definitions

1.-(1) This Act adopted by the Parliament applies to all phases associated with pilot whaling or other lawful activity to catch small whales. The Act lays down powers, rights and obligations conferred on those who have authority based on legislation and established custom to take charge of a pilot whale drive and the rights and obligations of those who take part in the pilot whale drive at sea and on shore.

(2) In addition, this Act applies to others who carry out acts or interference with the aim or consequence of disturbing, obstructing or preventing pilot whaling or by failure to act are the cause of such consequences.

(3) ¹ The provisions in Subsections 1(1) and 1(2) also apply when pilot whales are being tagged for scientific purposes and are not to be killed.

(4) ¹ This Parliamentary Act stipulates the powers of the police and other persons duly authorised to take measures against persons and the objects under their control, which are used to disturb, obstruct or prevent pilot whaling.

2.-(1) ¹ Under the provisions of this Parliamentary Act it is permitted to catch or drive pilot whales and the following species of small whales:

- 1) Long-finned pilot whale, *Globicephala melas*
- 2) Atlantic white-sided dolphin, *Lagenorhynchus acutus*
- 3) White-beaked dolphin, *Lagenorhynchus albirostris*
- 4) Common bottlenose dolphin, *Tursiops truncatus*

(2) ¹ It is permitted to shoot harbour porpoise, *Phocoena phocoena*.

(3) ¹ For the purposes of this Act, the pilot whale drive and pilot whaling means the activities that takes place pursuant to the legislation in force and established custom when a school of pilot whales is sighted, driven, killed, marked, cut up, distributed and the bones disposed of. For the purposes of this Act, the concept also comprises the lawful driving and catching of the species of small whales referred to in Subsection 2(1).

(4) ¹ The Faroese Minister responsible may issue executive orders laying down specific rules on catching, catch methods, catch assessment, restrictions on allowable catch volume, conservation periods, etc. in respect of the species of small whales referred to in Subsections 2(1) and 2(2).

Pilot whale sighting notification, communication during drive, etc.

3.-(1) ¹ When pilot whales or other small whales, except harbour porpoise, *Phocoena phocoena*, that may be killed lawfully are found in Faroese waters or closer to shore, a notification that whales have been sighted must immediately be communicated to the district administrator (*sysseľmand*), irrespective of whether the pilot whales have been observed by persons on board a boat or a ship, a helicopter or an aircraft or persons on shore.

(2) ¹ The sea area around the school of pilot whales is considered a whaling area for one nautical mile in all directions and subject to the jurisdiction of the district administrator and the whaling foremen. In addition, the district administrator is authorised to declare the area on land and the airspace above a whaling area.

(3) The district administrator may declare a wider whaling area, if he deems it necessary.

(4) ¹ It is prohibited to drive or influence the direction of travel of pilot whales or other small whales in order to obstruct whaling or tagging for scientific purposes, this also applies when the decision to start the pilot whale drive has not yet been made and when the district administrator has decided that the whales should not be caught. It is prohibited to set up systems on land, at sea and in airspace that may change the behaviour of whales without the express prior consent of the Faroese Minister in charge.

(5) ¹ The district administrator, in consultation with the whaling foremen, designates the authorised whaling bay the whales should be driven into. If there is disagreement regarding the choice of whaling bay, the district administrator makes the final decision. It is prohibited to drive pilot whales into any other whaling bay than the one designated by the district administrator.

4.-(1) The district administrator and the whaling foremen must make sure that suitable communication equipment is used, ensuring that messages may be given easily to all boats that take part in driving the pilot whales.

(2) The district administrator and the whaling foremen must also have communication equipment that allows them to communicate with the ships and boats in the area that do not take part in driving the pilot whales.

(3) ¹ If it is not possible to complete the catch the whales or groups of whales, the district administrator may decide that a school of pilot whales or parts of it should be driven back to sea. The district administrator may also decide to stop a whaling operation when space in the whaling bay becomes too cramped or if the killing comes to a halt. The remainder of the school of whales must then be driven back to sea. It is prohibited to continue a whaling operation, which the district administrator has ordered to stop.

(4) The Minister may issue an executive order, laying down specific provisions on the message to call a whale drive, approved whaling bays and the powers and duties of the district administrator, the whaling foremen and the boat that sighted the pilot whales, including powers to impose restrictions and obstacles to irrelevant persons who do not take an active part in the pilot whaling.

5.-(1) Persons who are 16 years old or older and have participated in a pilot whaling course and received information about whaling legislation, use of whaling equipment, killing methods, criteria for establishing death and been issued with a course certificate are entitled to kill whales.

(2) The Minister may issue an executive order to lay down more specific provisions on whaling equipment, approved killing methods, whaling courses, teaching material, course certificates, etc.

Marking, sharing, clearing, etc.

6.-(1) Immediately after a pilot whale has died, the district administrator must on his own or along with the whaling foremen organise the following:

- 1) Teams of watchmen at sea and on shore, where they must receive guidance on their tasks, duties and powers,
- 2) The hoisting and hauling and arranging for the placement of the whales on the quay or at another suitable location,
- 3) Appointment of an independent appraiser who determines the size of each particular whale and marks all the whales of the catch.

(2) The Minister may issue an executive order to lay down provisions on teams of watchmen, the hoisting out of the sea, appraisal and marking of the whales.

7.-(1) The district administrator must decide on the sharing of the whales and their distribution according to the established custom and current regulations. The same provision applies when the whales are not shared among the residents of the area where the whaling took place, and the district administrator has taken account of the retention of whales for switching to replace unfit whales and for the clearing and disposal of whalebones as well as compensation and damages. The Minister may issue an executive order to lay down provisions on whaling districts, shares to be taken by those who have taken part in killing the whales, shares to be taken by those who took part in driving the whales from boats and those who live in the area where the whales were caught and those who live in the whaling district, etc.

(2) The Minister may issue an executive order to lay down provisions on remuneration by way of whaling shares to the person(s) who sighted the whales, persons who have kept watch, appraisers, persons who have assessed damage, whaling foremen, helpers at the sharing and district administrators.

(3) The district administrator has powers to give appointed helpers remuneration by way of shares in the catch based on the nature of their work and their responsibility.

(4) The Minister may lay down provisions in an executive order on the handling of the remaining parts after the catch has been distributed, including rules whereby parts of the catch may be donated or sold off. The executive order may, for instance, specify rules concerning the groups of persons, institutions, associations or similar to whom parts of the catch may be donated, concerning approved selling methods, minimum and maximum prices, the persons to whom parts may be sold or not and the purposes for which the revenues may be applied.

8.-(1) Local authorities that have filed an application for approval to the Government and been granted approval of a bay for whaling are obliged to take out insurance covering personal injury that may arise in connection with whaling activity. The Minister may lay

down provisions concerned with approval, the local authorities' obligation to take out insurance, assessments, etc.

(2) The district administrator has powers to make agreements with a local authority in advance concerning the payment of compensation for whaling injury and damage, lost equipment and clearing. Whaling injury or damage must be reported to the district administrator no later than 24 hours after the catch. The district administrator must prepare a statement of the whaling injury and damage and file a statement of the injury and damage to the local authority or the insurers.

(3) The local authority may dispose of whalebones etc. in the sea in an area that will cause the least possible impact on nature and the natural environment, where the sea is deep, the water exchange is good and there is only a slight risk that the bones may disturb other activity in the area.

Public order provisions

9.-(1) Everyone who takes part in whaling at sea or on shore have a duty to obey requests, directions, orders and prohibitions from a district administrator, a whaling foreman or another authorised person with powers conferred by this Parliamentary Act or an executive order issued under the authority of this Parliamentary Act or another Act to organise whaling and establish rules on public order in this connection.

(2) The provision set out in Subsection 9(1) moreover applies to persons who do not take part in the whaling as such but by their acts or failure to act disturb, obstruct or prevent that the whaling may proceed as usual.

Measures of intervention

10.-(1) The police are responsible for preventing any obstruction of whaling, no matter what phase of the whaling it is targeting.

(2) In order to avert obstruction as referred to in Subsection 10(1), the police may intervene against the person(s) who are suspected with reasonable cause to intend to obstruct the whaling. In this connection, the police may:

- 1) issue orders,
- 2) inspect a person's body and search clothing and objects in the person's possession when the person is assumed to be in possession of objects intended for disturbing the whaling,
- 3) check out any means of transport that is in the person's possession or custody or has been used as a means of transport for the person in connection with the whaling which the person seeks to obstruct; and
- 4) take equipment from persons, including all means of transport in the person's possession or custody, in connection with the whaling which the person seeks to obstruct.

(3) If less intrusive measures than those referred to in Subsection 10(2) are not found sufficient to avert the obstruction of the whaling, the police may if necessary detain the person(s) who seek to obstruct the whaling. The detention must be as short and lenient as possible and may as far as possible not extend beyond a period of 12 hours.

(4) The police may secure access to a not freely accessible location without any warrant from the court whenever it is necessary in order to prevent obstruction of whaling as referred to in Subsection 10(1).

11.-(1) ² Any equipment, auxiliary instruments or means of transport that are being used to disrupt, obstruct or prevent whaling according to Section 9 herein must be confiscated, regardless of who owns said property, where

- 1) the user had the right of disposal of the equipment, auxiliary instruments or means of transport, and
- 2) their use contravenes Section 9 of this Parliamentary Act or regulations issued under the authority of this Parliamentary Act.

(2) ² In all other respects the rules on confiscation stipulated in the Civil Criminal Code apply.

Complaints

12. It shall not be possible to file a complaint to a superior administrative authority against requests, directions, orders and prohibitions from a district administrator or another person authorised under the provisions of this Parliamentary Act or regulations issued under the authority of this Parliamentary Act.

Penalties

13.-(1) ^{3 1} Unless a more severe penalty is prescribed by other legislation, a fine shall be imposed on any person who contravenes the provisions in any of the following: Subsections 3(4) and 3(5)(3); Subsection 4(3)(4); Subsection 5(1); Subsection 8(1) and 8(3); and Section 9 contained in this Act.

(2) The penalty may be raised to imprisonment for a term of up to two years in case the contravention was committed with intent or gross negligence, and if the contravention involved injury to persons or whales or damage to the environment or tangible property, or where an imminent risk of such injury or damage has been involved. The penalty may moreover be raised to imprisonment for a term of up to two years when the person to be punished has previously been convicted of contravention of the Pilot Whaling Act, or in the same process, the person has been charged with several cases of contravention of the Pilot Whaling Act or regulations laid down in pursuance of the Pilot Whaling Act even if each case of contravention would otherwise be punished according to Subsection 13(1). In addition, the penalty may be raised to imprisonment for up to two years in cases where the person concerned has encouraged or organised participation by a big group of persons in mass contravention of pilot whaling legislation.

(3) ¹ When a penalty is handed down pursuant to Subsections 13(1) and 13(2) it shall be considered an aggravating circumstance, if Subsection 3(1) on the notification duty has also been violated.

(4) ¹ Provisions stipulating punishment with a fine may be laid down in provisions established under the authority of Subsection 2(4), Subsection 4(4), Subsection 5(2), Subsection 6(2), Subsection 7(1), (2) and (4) and Subsection 8(1). Provisions may moreover prescribe that the penalty may be raised to imprisonment for a term of up to two years in circumstances similar to those referred to in Subsection 13(2).

(5) ¹ Legal persons are subject to criminal liability according to the provisions in Chapter 5 of the Criminal Code.

(6) ^{2 1} Cases that are dealt with according to these provisions or provisions laid down by an executive order under the authority of these provisions shall be treated as summary offences (*politisag*). The legal remedies referred to in the Administration of Justice Act in Chapter 68 (interrogation), Chapter 69 (arrest), Chapter 70 (remand), Chapter 72 (confiscation) and Chapter 73 (searches) shall apply to the same extent as in cases conducted by the Public Prosecutor.

Entry into force and transitional provisions

14.-(1) This Parliamentary Act shall enter into force on the day following its promulgation.

(2) At the same time, Subsection 3(10) of Parliamentary Act No. 9, dated March 14, 1985, on Animal Welfare as amended most recently by Parliamentary Act No. 60 dated May 30, 1990, shall be repealed and the word 'and' shall be inserted after Subsection 3(8) and before Subsection 3(9) and the last 'and' in Subsection 3(9) shall be repealed as well.

(3) Executive Order No. 100, dated July 5, 2013, on Pilot Whaling as amended by Executive Order No. 78, dated June 10, 2014, shall however remain in force until replaced by provisions to be laid down under the authority of this Parliamentary Act. Executive Order No. 19, dated March 1, 1996, on Exemptions from the Protection of Whales shall be repealed.

Tinganes, 19 May 2015

Kaj Leo Holm Johannesen (sign.)
Prime Minister

Parliamentary case no. 153/2014

¹ Amended by Parliamentary Act No. 44 dated May 6, 2016.

² Amended by Parliamentary Act No. 93 dated May 22, 2015.

³ Amended by Parliamentary Act No. 73 dated May 22, 2015.