

Water Act

Passed 11 May 1994

(RT¹ I 1996, 40, 655; consolidated text RT I 1998, 13, 241),

entered into force 16 June 1994,

amended by the following Acts:

14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190;

11.06.2003 entered into force 01.09.2003 - RT I 2003, 51, 352;

12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156;

15.01.2003 entered into force 01.07.2003 - RT I 2003, 13, 64;

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1;

14.11.2001 entered into force 20.12.2001 - RT I 2001, 94, 577;

09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283;

10.04.2001 entered into force 08.05.2001 - RT I 2001, 42, 234;

20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19;

08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843;

16.06.99 entered into force 23.06.99 - RT I 1999, 54, 583;

20.01.1999 entered into force 01.01.2000 - RT I 1999, 10, 155;

16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987;

17.12.97 entered into force 01.01.98 - RT I 1998, 2, 47.

Chapter 1

General Provisions

§ 1. Purpose of Act

(1) The purpose of the Water Act is to guarantee the purity of inland and transboundary water bodies and groundwater, and ecological balance in water bodies.

(2) The Water Act regulates the use and protection of water, and relations between landowners and water users.

(3) Insofar as the protection of water is concerned, the provisions of this Act also apply to the exclusive economic zone.

§ 1¹. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 2. Terms used in this Act

In this Act, the following terms are used:

- 1) “non-point pollution” means the pollution of a water body or aquifer through the soil and air;
- 2) “effluent” means used water that is discharged back into the environment or rain water discharged into a sewerage system;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

- 3) “transboundary water body” means a body of water through which the state border runs;
- 4) “surface water” means stagnant or running water, other than seawater, which is permanently or temporarily stored in a body of water, or water contained in a snow or ice field;
- 5) “aquifer” means part of the earth’s crust which contains and provides sub-surface water;
- 6) “groundwater” means sub-surface water; mineral water is a subcategory of groundwater;
- 7) “source of pollution” means a source that causes a deterioration in water quality due to pollutants or contaminants or to organisms, heat or radioactivity;
- 8) “waste water” means water which is damaged beyond the level of harmlessness and which requires purification, or effluent or contaminated rain water;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

- 9) “inland water body” means a body of water through which the state border does not pass;
- 10) “recipient” means a body of water or part of the earth’s crust into which effluent runs;
- 11) “catchment area” means the area which feeds a water body or a part thereof;
- 12) “water accident” means a flood which causes substantial damage, or the destruction of a dam or other protective construction;

13) “permit for the special use of water” means a document permitting specified activities, in which conditions for the volume of abstracted water, the recipient, and the obligations and restrictions concerning water use are designated;

14) “water intake” means a construction for the abstraction of water from a water body or aquifer;

15) “water discharge” means the discharge of effluent into a recipient;

16) “impounding reservoir” means an artificial water body in a natural dip, in an excavation or between dams, which is made by barring a watercourse, pumping water, or in some other way;

17) “water body” means a permanent or temporary surface form which is filled with flowing water (a watercourse – river, stream, etc.) or slowly moving (standing) water (a body of standing water – sea, lake, impounding reservoir, etc.);

18) “littering of a water body” means the release or disposal of any objects, waste, soil, etc. into a water body, causing the state of the water body to deteriorate or its use to be impaired;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

19) “water depletion” means an unpermitted activity resulting in a permanent and substantial decrease in the flow rates, water level or volume of water of a surface water body, a permanent decrease in the level or pressure of groundwater, or a decrease in the flow rate of a spring;

20) “water pollution” means a reduction in water quality which is due to a source of pollution and which leads to water usage being restricted;

21) “water pollution accident” means the sudden discharge of any pollutant into the sea, surface water or groundwater that may have a negative effect on human health, economic activities or the environment;

22) “waste water collection area” means an area with enough residents and economic activity for waste water to be collected in a waste water treatment plant or a sewerage system or for effluent to be discharged to a recipient;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

23) “agricultural land” means areas under cultivation and natural grasslands;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

24) “area under cultivation” means arable land and fruit and berry gardens;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

25) “sewerage” means a system of construction works and equipment for the collection or discharge to a recipient of effluent and waste water;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

26) “body of groundwater” means a distinct volume of groundwater within an aquifer or aquifers which is determined by a water management plan and used as a reporting unit in water management plans;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

27) “groundwater deposit” means a part of the earth's crust containing an approved resource of groundwater which is designated for the abstraction of groundwater;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

28) “karst area” means a terrain where karst features (karst sinkholes, hollows, lakes, caves and rivers) are present and where the drainage of rain water from the surface to a watercourse is temporarily or permanently impeded.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 3. Organisation of water use

(1) The use and protection of water at state level shall be organised by the Government of the Republic.

(2) Within its administrative jurisdiction, a local government has the authority to:

- 1) grant permission for special use of water;
- 2) organise administration of the water bodies belonging to the local government;
- 3) organise elimination of the consequences of water accidents and sudden water pollution;
- 4) establish temporary restrictions concerning public water bodies pursuant to subsection 7 (4) of this Act.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(3) The use and protection of transboundary water bodies of the Republic are regulated by international treaties of the Republic of Estonia.

Chapter 2

Ownership of Water Bodies and Groundwater, and Use of Water and Water Bodies

§ 4. Ownership of water bodies

- (1) A water body situated on an immovable belongs to the owner of the immovable, unless otherwise provided by law.
- (2) Phytobenthos is an essential part of an immovable.

§ 5. State ownership of water bodies

(15.01.2003 entered into force 01.07.2003 - RT I 2003, 13, 64)

(1) (Repealed - 15.01.2003 entered into force 01.07.2003 - RT I 2003, 13, 64)

(2) The state owns:

1) the inland sea, the territorial sea and the parts of transboundary water bodies located in Estonia;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

2) navigable water bodies: Lake Võrtsjärv, the River Emajõgi, the River Väike-Emajõgi from Lake Võrtsjärv to Pikasilla Bridge, and the River Narva;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

3) water bodies of fishery importance: the River Nasva and Kasari from the mouth to the mouth of the River Vigala, Mullutu Bay and the Gulf of Suurlaht;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

4) water bodies which remain in the possession of the state pursuant to the procedure provided by law.

§ 6. Use of water and water bodies

(1) The use of water and water bodies is either public or special.

(2) Public use of a water bodies is the use of a water body by anyone without any constructions or technical equipment which could affect the condition of the water body, in accordance with § 7 of this Act.

(3) Special use of water is the use of water with technical equipment, constructions or substances which could affect the condition of a water body or aquifer, in accordance with § 8 of this Act.

§ 7. Public use of water bodies

(1) The public uses of a water body are water abstraction, bathing, water sports, moving on water or ice and fishing to the extent provided by law. The provisions of law regulating staying on the land of another shall not be violated by the public use of a water body.

(2) The list of water bodies for public use shall be approved by the Government of the Republic on the proposal of the Minister of the Environment. The list shall not include:

1) bodies of standing water without any outflow which belong to a person in private law and are located within the boundaries of one immovable;

2) bodies of standing water without any outflow and with an area of less than 5 hectares which belong to a person in private law and are located within the boundaries of several immovables;

3) watercourses with a catchment area of less than 25 km² and reservoirs located thereon.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(2¹) The Government of the Republic may delete, with the written consent of the local government, a body of standing water with an outflow which belongs to a person in private law and is located within the boundaries of one immovable, or a part of a watercourse which is located within the boundaries of one immovable from the list of public water bodies at a reasoned request of the owner of the immovable.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(3) In the event of a natural disaster, the public use of water bodies shall be permitted in the disaster area.

(4) With the prior written approval of the county environmental service of the location of a public water body, a local government may temporarily restrict the public use of the public water body or a part thereof in order to ensure public health and security.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5) A local government shall publish the notice concerning temporary restriction of use of a public water body in the local or county newspaper and, if possible, in other local media at least one week before establishment of the temporary restriction.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(6) The notice shall set out at least the name and location of the water body the public use of which is to be restricted, the period during which the restriction is in force and the reason for establishing the restriction. If the public use of a part of a water body is subject to restriction then,

in addition to the information mentioned above, the notice shall set out the size of the restricted area and, where possible, the exact boundaries thereof or, at least, the size and location of the restricted area, and the place where the map which sets out the boundaries of the restricted area or a specific description of the boundaries is available for examination.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 8. Special use of water

(1) For the special use of water, a user shall hold a permit with a specified term and, in the case of using the land of another, also the permission of the landowner.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(2) A permit for the special use of water is necessary if:

1) water is abstracted from a surface water body, including if ice is abstracted in a volume of more than 30 m³ per day;

2) is abstracted more than 5 m³ of groundwater is abstracted per one twenty-four hour period;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

3) mineral water is abstracted;

4) effluent or other water pollutants are discharged to a recipient;

5) a water body is barred or dammed or the water level thereof is lowered, or hydro-electric energy is used;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

6) a water body is dredged or soil is disposed of on the bottom of the water body;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

7) solid substances are sunk into a water body;

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

8) groundwater is amended, lowered or redirected;

9) the physical or chemical characteristics of water or the biological characteristics of a water body change upon water use.

(3) A person need not hold a permit for the special use of water to discharge effluent from a personal household into the soil within the boundaries of the land in the possession of the person,

but this activity shall comply with the requirements for the discharge of effluent into soil established on the basis of § 24 of this Act.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(4) Measures taken for the maintenance of surface water bodies are not deemed to be special use of water if chemicals are not used.

§ 9. Permit for special use of water and temporary permit for special use of water

(1) The right to the special use of water arises on the basis of a permit for the special use of water which is issued for a specified term.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(1¹) The provisions concerning open proceedings apply to proceedings of application for and issue of permits for the special use of water, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(2) Depending on the special use of water provided for in subsection 8 (2) of this Act, the following shall be entered on a permit for the special use of water:

1) the allowable amounts and time for abstraction of water by water intakes and aquifers;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

2) the requirements for determination of the amount of water abstracted from a body of water, quality control of water and maintaining records of the abstracted water;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

3) the requirements for the quality control of groundwater and measurement of the level of groundwater;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

4) the maximum allowable volume of pollutants in effluent directed into a water body;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

5) the allowable amounts and time for discharge of pollutants into a recipient by outlets and pollutants, taking into consideration the best available technology;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

6) the requirements for the monitoring of recipients of pollutants;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

7) the requirements for the monitoring of pollutants;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

8) the quality requirements for recipients;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

9) the measures reducing the effect of special use of water on aquifers, water bodies and recipients and the terms for application of the measures;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

10) the requirements for the submission of information to the issuer of permits for the special use of water;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

11) the best available technology for the use of water and the treatment of waste water, taking into consideration the up-to-dateness and efficiency, the availability of water to special users and the financial and technical acceptability;

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

12) information which must be entered on the permit for the special use of water arising from the procedure established pursuant to subsection (14) of this section.

(14.11.2001 entered into force 20.12.2001 - RT I 2001, 94, 577)

(3) An applicant for a permit for the special use of water shall obtain the consent of the owner of the water body if the special use of water takes place on the water body of another. The specified consent is not required in the case provided for in § 13 of this Act.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(4) An applicant for a permit for the special use of water shall submit, together with the materials submitted in the application for a permit for the special use of water, an environmental memorandum pursuant to which the issuer of permits for the special use of water shall decide the initiation of an environmental impact assessment.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(5) An environmental authority of the location of special use of water shall issue a permit for the special use of water. The Minister of the Environment shall issue permits for the special use of water at sea, except in the cases where effluent or other water pollutants are discharged into the sea.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(6) Upon issue of permits for the special use of water, the possibility of water being used via the public water supply and the possibility of waste water being treated and effluent being discharged through the public sewerage system shall be taken into consideration. If the supply of water being used is not sufficient, the demands of residents and health care, social welfare, educational and child care institutions and food industry for drinking water shall be guaranteed first and foremost.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(7) An applicant shall submit a written application for a permit for the special use of water to the issuer of permits for the special use of water. A permit for the special use of water shall be issued for a period of up to five years. An applicant for a permit for the special use of water shall be notified of the decision to issue a permit for the special use of water or to refuse the issue thereof by post or using electronic means within three months as of the acceptance of the application for processing. An applicant shall prepare materials submitted in the application for a permit for the special use of water at own expense.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19; 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(8) If prevention of pollution or damage which is greater than the existing one is impossible pursuant to a given permit for the special use of water, a temporary permit for the special use of water may be issued to a person holding the permit for the special use of water if the special use of water permitted in the temporary permit does not damage human health or cause the deterioration of the state of a recipient or aquifer to an extent which makes them unusable.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(9) A temporary permit for the special use of water shall be issued for a period which is necessary for the prevention of greater pollution or damage. The conditions specified in subsection (2) of this section shall be entered on a temporary permit for the special use of water.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(10) The issue of a permit for the special use of water shall be refused if:

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

- 1) the supply of water is not sufficient or the special use of water directly endangers human health or the environment;
- 2) the state of a recipient or aquifer is deteriorated to an extent which makes them unusable;

- 3) the activities applied for are not in accordance with legislation;
- 4) inaccurate information was submitted upon application for the permit;
- 5) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(10¹) A permit for the special use of water is amended, if:

- 1) the name or business name, personal identification code or, in case of an undertaking, the registry code, the address or contact details of a special user of water or a representative thereof has changed;
- 2) the legislation which constituted the basis for the requirements set by the permit for the special use of water have been amended, and the public interest that the permit for the special use of water be amended outweighs the person's certainty that the permit remains in valid in its current form;
- 3) a significant environmental impact arising from an activity determined by the permit for the special use of water creates objectionable changes in the environment due to which the requirements established by the permit must be changed;
- 4) in order to prevent accidents, techniques different from those determined by the permit for the special use of water are required;
- 5) the holder of the permit for the special use of water has submitted a reasoned request to this effect.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(11) The issuer of permits for the special use of water shall revoke a permit for the special use of water if:

- 1) the person who received the permit fails to comply with the requirements entered on the permit for the special use of water;
- 2) facts specified in subsection (10) of this section become evident in the activities of the person who received the permit.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(12) If circumstances specified in subsection (11) of this section become evident, the issuer of permits for the special use of water shall have a notice delivered, by post or using electronic means, to the special user of water concerning the measures for a specified term and that non-application of the measures brings about revocation of the permit for the special use of water.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(13) Upon failure to comply with the requirements of legislation upon issue of a permit for the special use of water or a temporary permit for the special use of water, the Minister of the Environment may revoke such permit.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(14) The Minister of the Environment shall, by a regulation, establish the procedure for the issue, amendment and revocation of permits for the special use of water or temporary permits for the special use of water, the list of documents required for application for permits and the format of permits.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(15) The issuer of permits for the special use of water shall organise the collection and verification of information concerning permits for the special use of water and the forwarding of such information to the database.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 9¹. Open proceedings upon issue of permits for special use of water and making issue of temporary permits for special use of water public

(1) The issuer of permits for the special use of water shall publish a notice concerning acceptance of an application for a permit for the special use of water for processing in the official publication *Ametlikud Teadaanded*² within twenty-one days after the date of receipt of the application for the permit for the special use of water. The notice shall set out at least the following:

- 1) the name or business name, the registry code, upon existence thereof, and the seat of the applicant for the permit for the special use of water;
- 2) the location of the activities for which the permit for the special use of water is applied for;
- 3) a short description of the activities for which the permit for the special use of water is applied for;
- 4) information as to where the application and the draft permit for the special use of water can be examined.

(2) Information concerning the raw material for the activities planned pursuant to a permit for the special use of water, the chemicals, other material and technology or the composition and

use of products are confidential if the information is submitted as a separate part of the application for a permit for the special use of water and the word “*Ärisaladus*” [Business secret] is clearly indicated thereon. The issuer of the permit for the special use of water shall decide on the confidentiality of information, taking into account the requirements of legislation regulating data protection.

(3) Every person has the right to submit written proposals and objections concerning applications for permits for the special use of water to the issuer of permits for the special use of water within the period specified in subsection 9 (7) of this Act. Written proposals and objections shall include the reasons for the submitted proposals and objections.

(4) If this is necessary for the just adjudication of the matter or balancing of contradicting interests, the issuer of permits for the special use of water shall hold a public session at the request of a participant in the proceedings or on its own initiative.

(5) The issuer of permits for the special use of water shall make the issue of a permit for the special use of water public in the official publication *Ametlikud Teadaanded* within seven days after the issue of the permit for the special use of water.

(6) A decision to issue a temporary permit for the special use of water shall be made public in the official publication *Ametlikud Teadaanded*.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(7) The provisions concerning open proceedings do not apply to proceedings of amendment of permits for the special use of water instigated pursuant to clause 9 (10¹) 1) of this Act and to proceedings of revocation of permits for the special use of water.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 10. Shore paths

(1) A shore path is a strip of the shore of a public water body or a water body designated for public use and is located in the riparian zone. The width of a shore path on a flat shore shall be determined from the average water level line and a steep shore from the upper edge of the slope, in the latter case also including the area between the water level and the upper edge of the slope.

(2) The width of a shore path shall be:

- 1) 10m for navigable water bodies;
- 2) 4m for other water bodies;

3) at times of high water when the shore path is under water, a 2m wide strip of shore which can be used freely and without obstruction.

(3) The user of a shore path shall not damage the property of the shore owner when using the shore path.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(4) Public water bodies have no shore path within:

1) ports;

2) the minimum possible service area of a water intake of production water;

3) construction works lawfully constructed on shore paths before the entry into force of the Law of Property Act (RT I 1993, 39, 590; 1999, 44, 509; 2001, 34, 185; 93, 565; 2002, 47, 297; 53, 336; 99, 579; 2003, 13, 64; 17, 95; 78, 523; 2004, 20, 141);

4) construction works in connection with hydrographical services and monitoring stations;

5) construction works in connection with fish farming;

6) the minimum service area of hydroelectric stations.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5) In the cases specified in subsection (4) of this section, the person who closes a shore path shall mark the territory which is closed, and enable passing by such territory.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(6) The minimum service area shall be determined by detailed planning approved by the county environmental service of the location of the water body.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 11. Fee for use of water and water body

(1) The public use of a water body is free of charge.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(2) A fee shall be charged for the special use of water, except for:

1) abstraction of water for agricultural irrigation;

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

2) abstraction of water for pond fish breeding;

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

3) the barring of a watercourse with an impediment construction;

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

4) abstraction of water for a personal household from groundwater or from a water body belonging to the owner of the water body. Water abstracted for a personal household shall not be resold without paying the fee for the special use of water;

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

5) generation of hydro energy.

(14.11.2001 entered into force 20.12.2001 - RT I 2001, 94, 577)

§ 11¹. Procedure for payment for special use of water

(1) Of the fee for the special use of water, 50% shall be paid into the state budget and 50% into the budget of the rural municipality or city in which the place of special use is located, except in the case provided for in subsection (8) of this section. In the case of transboundary water bodies, the fee for special use shall be paid into the state budget.

(16.06.99 entered into force 23.06.99 - RT I 1999, 54, 583)

(2) A local government council may reduce the fee or exempt a holder of a permit for the special use of water from the fee to the extent to be paid into the city or rural municipality budget.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(3) The fee for the special use of water without a permit for special use shall be five times the fee for the special use of water. The fivefold fee for special use shall also be paid if more water has been used than permitted in a permit for the special use of water.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(4) Payment for the special use of water shall be made four times a year by the 25th day of the month following each quarter.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(5) The issuer of a permit for the special use of water shall collect the fee for the special use of water and divide it between the local governments budgets and the state budget.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(6) If a person does not pay the fee for the special use of water is not paid during the designated term, the person is required to pay a fine for delay of 0.15 per cent of the amount payable per day.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(7) If a user fails to pay for the special use of water during the designated term, the issuer of the permit shall exact the sum owed and the fine for delay by a court proceeding when three months have passed since the end of the term for payment.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(8) If pollutants are discharged into a water body, the soil or groundwater, the pollution charge shall be paid in accordance with the Pollution Charge Act (RT I 1999, 24, 361; 54, 583; 95, 843; 2001, 102, 667; 2002, 61, 375).

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(9) The rates of the fee for the special use of water to abstract water from a water body or aquifer shall be established by the Government of the Republic. The procedure for calculating and paying the charge for the special use of water and for dividing it between local budgets shall be established by the Minister of the Environment.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240; 20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 12. Evaluation of groundwater resources

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(1) Studies shall be performed in order to evaluate groundwater resources.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(2) Preliminary studies of a groundwater intake shall be organised by the Ministry of the Environment.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(3) The procedure for the evaluation of groundwater resources shall be established by a regulation of the Minister of the Environment.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(4) Prior to constructing a groundwater intake with a productivity of more than 500m³ per day, studies shall be performed to determine the groundwater resources.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(5) A licence for performance of hydrogeological work is required for performance of hydrogeological work.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(6) A Groundwater Commission shall be established in order to determine groundwater resources, including mineral water resources, and to organise studies and expertise. The statutes and staff of the Groundwater Commission shall be approved by the Minister of the Environment. The groundwater resources shall be entered in a state register on the basis of a decision of the Minister of the Environment.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(6¹) The Groundwater Commission has the following functions:

- 1) organisation of determination, research and expert assessment of groundwater resources, including mineral water resources;
- 2) review of research reports concerning groundwater resources and making of proposals to the Minister of the Environment for entry of groundwater resources in the corresponding national register;
- 3) evaluation of the situation in the research, use and protection of groundwater, and determination of research needs and directions;
- 4) advising the Ministry of the Environment and environmental services on activities related to use of groundwater;
- 5) provision of opinions on results of research pertaining to groundwater, and on draft legislation concerning issues related to groundwater.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(7) Studies of groundwater resources shall be financed by a special user of groundwater or by an applicant for a permit for the special use of groundwater.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 12¹. Water studies

- (1) A water study is the taking of a sample from water, aquatic biota, soil or waste water sediment, the testing or analysis of the sample, and the making of conclusions for the purpose of calculating the pollution charge, monitoring, and checking the materials submitted in an application for a permit for the special use of water.
- (2) The owner or possessor of a plot of land or a structure shall not prohibit samples being taken from a water body, soil, groundwater or a structure for the purpose of performing water

studies. If it is necessary to build a bore well to take the water samples, the bore well shall be built only with the consent of the possessor or owner of the plot of land.

(3) Samples necessary for performing water studies shall be analysed by testing laboratories. The requirements for testing laboratories and the sampling methods and analysis reference methods for waste water, effluent, waste water sediment, groundwater, surface water and seawater shall be established by a regulation of the Minister of the Environment.

(4) A comparative test is the organisation, performance and evaluation of tests of samples of the same kind with the participation of several laboratories with the objective to attest the competence of a testing laboratory and verification of the correctness of test results.

(5) Participation in comparative tests by accredited laboratories and laboratories applying for accreditation is advised.

(6) Test laboratories which conduct analyses within the framework of water studies or carry out the National Environmental Monitoring Programme shall be duly accredited and shall participate in the comparative tests at least once a year.

(7) Comparative tests shall be organised by reference laboratories which are selected from among the testing laboratories and authorised therefor by the Minister of the Environment and which are responsible for the accuracy of the analyses of samples taken from waste water, effluent, waste water sediment, groundwater, surface water and seawater, and where necessary, hazardous substances.

(8) The right to act as a reference laboratory shall be granted by the minister of the Environment on the basis of a written application of a testing laboratory.

(9) The Minister of the Environment shall grant the right to operate as a reference laboratory to one testing laboratory from each of the fields specified in subsection (7) of this section. A reference laboratory shall:

- 1) perform international comparative tests in its area of testing;
- 2) provide testing laboratories with methodological guidance;
- 3) evaluate the compliance of the analysis methods used by the testing laboratories with the analysis reference methods established on the basis of subsection (3) of this section;
- 4) perform comparative tests of testing laboratories and evaluate their results;
- 5) provide in-service training.

(10) The Minister of the Environment has the right to suspend, in part or in full, the directive which is the basis for the right to operate as a reference laboratory if the reference laboratory fails to perform the reference functions specified in subsection (9) of this section.

(11) The procedure for conduct of comparative tests shall be established by a regulation of the Minister of the Environment.

(12) A reference laboratory shall perform the reference functions specified in clauses (9) 1)–5) of this section based on government orders submitted by the Minister of the Environment.

(13) Water studies which become necessary as a result of water or soil pollution shall be financed by the polluter. Where the polluter cannot be identified, the studies of the pollutant content in water, soil or waste water sediment shall be financed from the state budget.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 12². Requirements for persons responsible for taking samples who perform water studies

(1) A person responsible for taking a sample who is performing a water study shall use appropriate measuring and sampling equipment and shall be attested.

(2) The attestation of a person responsible for taking a sample is the evaluation of the technical knowledge, training and experience of such person who is performing a water study, proceeding from the requirements presented in the attestation procedure established on the basis of subsection (3) of this section.

(3) The attestation of a person responsible for taking a sample who is performing a water study shall be organised by the Ministry of the Environment. Persons responsible for taking samples who are performing water studies shall be attested once in every four years in adherence to the attestation procedure established by a regulation of the Minister of the Environment.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 12³. Licence for performance of hydrogeological work

(1) The licence for performance of hydrogeological work (hereinafter licence) is an activity licence which grants the right to perform the following hydrogeological work:

- 1) hydrogeological research;
- 2) hydrogeological mapping;
- 3) designing of bore holes and bore wells;

- 4) drilling and liquidation of bore holes.
- (2) Licences are granted by the licence committee which is established by the Minister of the Environment for a period of five years and consists of five members, including a representative of the Technical Inspectorate
- (3) Licences are granted for two years, or for the performance of a specific hydrogeological operation.
- (4) A licence for the activities specified in clauses (1) 1)–3) of this section shall be granted to a person who has:
 - 1) completed higher education in the field of geology or environmental technology, or who employs a person with such education;
 - 2) at least one year experience in the performance of hydrogeological work.
- (5) A licence for the activity specified in clauses (1) 4) of this section shall be granted to a person who has at least two years experience in drilling and liquidating bore wells and bore holes.
- (6) The issue of a licence shall be refused if:
 - 1) the applicant for the licence has submitted incorrect information or a falsified document;
 - 2) the applicant for the licence does not conform to the requirements provided in subsection (4) or (5) of this section;
 - 3) it becomes known that the applicant for the licence does not perform hydrogeological work in compliance with the requirements provided by legislation.
- (7) The issuer of the licence shall revoke a licence if at least one of the following circumstances exists:
 - 1) it becomes evident that false information was submitted upon application for the licence;
 - 2) contravention with the requirements of legislation becomes evident.
- (8) The procedure for the grant, issue, amendment and revocation of licences and the standard format for licences shall be established by a regulation of the Government of the Republic.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

Chapter 3

Classes of Use of Water and Water Bodies

§ 13. Domestic water use

(1) Drinking water is water used for drinking, preparing food and other domestic needs.

Local governments may limit the use of drinking water if there is an insufficient supply to meet the needs of people and medical and educational institutions for water to drink or prepare food.

(2) The quality and control requirements and analysis methods for drinking water shall be established by a regulation of the Minister of Social Affairs.

(3) In order to satisfy the needs for water to drink or prepare food and for other domestic consumption, every person has the right to use surface water, seawater or groundwater pursuant to the procedure for public use of a water body or special use of water.

(4) The quality and control requirements for groundwater and surface water used or intended to be used as drinking water shall be established by a regulation of the Minister of Social Affairs, taking into account the water treatment methods used to produce drinking water.

(5) A special user of water who abstracts water for drinking shall, at the user's own expense, check that the quality requirements established on the basis of subsections (2) and (4) of this section are met.

(6) A special user of water has the right to treat water to produce drinking water and to sell such water.

(7) A local government which owns or possesses an operational drinking water intake on a watercourse or a body of standing water during the period when this Act is in force need not obtain the consent of the owner of the water body or conclude a contract with such owner. A usufruct to the right to the special use of water, which is limited to the abstraction of drinking water and maintenance of a water body, shall be established for the benefit of such local government.

(8) A person appointed by a local government which owns or possesses a water intake shall exercise the rights and perform the obligations resulting from a usufruct specified in subsection (7) of this section. The owner of a water body shall not charge a fee for the establishment of a usufruct and shall not prevent such rights from being exercised.

(9) The Minister of the Environment shall approve the list of water bodies belonging to a drinking water intake by water intake.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 13¹. Sales permit for drinking water which does not comply with quality requirements but is safe for health

(1) A special user of water who abstracts water shall hold a permit for selling drinking water which does not comply with the quality requirements but is safe for health.

(2) The following shall be entered on a permit:

1) the reasons for non-compliance with the quality requirements for drinking water;

2) the region where drinking water which does not comply with the quality requirements for drinking water is sold;

3) the quality indicators of drinking water which do not comply with the quality requirements for drinking water;

4) the estimated amount of consumption of drinking water which does not comply with the quality requirements for each year separately and the number of persons who consume the drinking water;

5) a list of enterprises handling food or raw material for food which are supplied with drinking water which does not comply with the quality requirements for drinking water;

6) a programme of measures for elimination of the non-compliance of the quality indicators of drinking water;

7) the period during which drinking water has not complied with the quality requirements for drinking water;

8) the requirements for the monitoring of drinking water.

(3) A health protection office of the Health Protection Inspectorate of the location of special use shall issue a permit to a special user who abstracts water.

(4) A permit shall be issued to a special user of water who abstracts water on the basis of the materials submitted in the application for up to three years.

(5) The issue of a permit shall be refused if:

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

1) drinking water which does not comply with the quality requirements for drinking water has a direct or indirect negative effect on human health;

2) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

3) the applicant for the permit has submitted inaccurate information upon application for the permit.

(6) A health protection office of the Health Protection Inspectorate shall suspend or revoke a permit and shall notify the holder of the permit thereof beforehand if:

1) the holder of the permit does not comply with the obligations and requirements arising from receipt of the permit;

2) the facts specified in subsection (5) of this section become evident in the activities of the holder of the permit.

(7) The procedure for the issue, amendment, suspension and revocation of permits, the list of documents required for application for a permit and the format of permits shall be established by a regulation of the Minister of Social Affairs.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 14. Industrial water use

(1) Industrial water is water which meets processing requirements.

(2) Every person has the right to the special use of surface water, groundwater and seawater to meet industrial needs.

(3) Water which meets the standards established for drinking water, including groundwater, may be used in industry if so required by production technology or if the use of other water is not economically feasible.

(4) A water user has the right to treat water to produce industrial water and to sell such water.

(5) (Repealed - 24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(6) In extraordinary circumstances (natural disasters, water accidents), local governments have the right to restrict industrial use of water of drinking water quality in order to satisfy the domestic needs of the population.

§ 15. Use of water bodies as effluent recipients

(1) (Repealed - 14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(2) Effluent may be discharged into a water body pursuant to the procedure established by the Government of the Republic, which shall contain the requirements for discharging effluent into water bodies and the measures for checking that these requirements are met.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(2¹) Special users of water shall implement the measures specified in subsection (2) of this section at their own expense.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(3) A supervisory institution or a local government shall suspend the discharge of effluent into a water body if public health is or may be endangered or if the environment is damaged.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(4) The list of water bodies or parts thereof used as effluent recipients shall be approved by the Minister of the Environment according to their sensitivity to pollution.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

§ 16. Generation of hydro energy

(1) (Repealed - 14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(2) A permit for the special use of water to generate hydro energy shall not be issued if the restriction of the rights of landowners and other water users and the changes in the condition of a water body are ecologically or economically unjustified.

(3) Upon the generation of hydro energy by barring a watercourse, the requirements of § 17 of this Act shall be applied.

§ 17. Barring of watercourse

(1) (Repealed - 14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(2) In order to build a watercourse impediment structure (the construction of a reservoir, dam or water diversion), permission shall be obtained from the landowner on whose territory the impediment structure is planned.

(3) Upon the barring of a watercourse, the requirements established by the Government of the Republic shall be met.

(4) Damage caused to a landowner or the owner of an engineering structure or a land improvement system by the barring of a watercourse shall be compensated for by the owner of the impediment structure.

(24.01.96 entered into force 29.02.96 - RT I 1999, 13, 240; 08.12.1999 entered into force 01.01.2000 - RT I 2001, 95, 843)

§ 18. Water traffic

(1) The use of a public or publicly used water body for navigation is permitted unless it is limited by law or other legislation.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(2) If a water body owned by a person in private law is not designated for public use, navigation on the water body is subject to the permission of the owner.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(3) A navigator on a water body shall not violate the rights of the landowners and other users of the water body and the water or cause damage to aquatic biota, the bed or banks of the water body, the water structures and utility networks, and shall meet the requirements established to prevent the spread of any adverse effects.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(4) The navigation of water craft is prohibited on water bodies or parts thereof designated as swimming areas, except for water craft being used to perform duties.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(5) A county governor has the right, with his or her order, to prohibit the navigation of water craft on public and publicly used water bodies, establish a speed limit and prohibit traffic on ice covering a water body if the navigation, the high speed of the water craft or the traffic on ice:

- 1) endangers water traffic;
- 2) damages or may damage the condition and banks of the water body;
- 3) damages or may damage fish resources or the condition of spawning places;
- 4) disturbs other users of the water body;
- 5) endangers persons on the ice.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(6) Orders of a county governor issued pursuant to subsection (5) of this section are made public and enter into force on the date following the date of their publication in the official publication *Ametlikud Teadaanded*.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(7) No-one shall endanger water traffic. Up to one-third of the width of the part of a water body which is used for navigation may be barred by boat landings and marked fishing gear.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(8) The requirements for the keeping and use of water craft in inland water bodies not specified in clause 5 (2) 2) of this Act shall be established by the Minister of the Environment.

(12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1)

(9) The use of water bodies for aviation purposes shall be regulated by the Aviation Act (RT I 1999, 26, 376; 2001, 87, 525; 2002, 47, 297; 61, 375; 63, 387).

(14.11.2001 entered into force 20.12.2001 - RT I 2001, 94, 577)

§ 18¹. Water traffic on ship canals and use of ship canals

(1) Water traffic in a shipping lane which is constructed on a legal basis by dredging the bottom of a water body for public use and which is located outside the boundaries of a port basin (a ship canal) shall be organised by the administrator of the ship canal. The administrator of a ship canal is the owner of the water body or the person to whom the right to administer the ship canal has been granted in a contract pursuant to the procedure prescribed by legislation.

(2) The use of a ship canal is deemed to mean the navigation along a ship canal by a ship which, due to its depth, is unable to navigate on the body of water without using the ship canal.

(3) The administrator of a ship canal has the right to charge a fee for the use of the ship canal. The fee shall cover the necessary expenditure for the construction and maintenance of the ship canal and for ensuring safe shipping traffic in the ship canal.

(10.04.2001 entered into force 08.05.2001 - RT I 2001, 42, 234)

§ 19. Use of water for fire fighting purposes

(1) Water abstraction for fire fighting purposes is not a special use of water.

(2) The owner of a water body shall not prohibit water abstraction for fire fighting purposes.

Chapter 4

Rights and Obligations of Water Users

§ 20. Rights of water users and protection of such rights

(1) A water user is a person who abstracts water from a water body or aquifer, discharges effluent into a recipient or uses a water body in some other way.

(2) Water users have the right, in accordance with this Act and other legislation resulting therefrom, to use water and water bodies and to construct any necessary structures therefor.

§ 21. Obligations of water users

Water users are required:

- 1) to use water efficiently and economically and to comply with the requirements established for water use;
- 2) to avoid violating the rights of other water users and landowners and to avoid causing damage to public health, nature and industrial facilities as a result of water use;
- 3) in the case of the special use of water, to estimate the amount and characteristics of the water used and the effluent;
- 4) to organise monitoring of the effluent under the conditions and pursuant to the procedure determined in the permit for the special use of water;
- 5) to follow the sanitary protection requirements for water intakes;
- 6) to submit, at least once a year, a report on the amount of used water and effluent, and on the amount of pollutants directed to a recipient to the issuer of the permit for the special use of water. The standard format for the report, the extent of requested information and the procedure for submission of the report shall be established by a regulation of the Minister of the Environment.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 22. Restriction of rights of water user in interests of other water users

The rights of a water user may be restricted by law in the interests of another water user if this does not cause the conditions for the use of drinking water to deteriorate.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

Chapter 5

Protection of Water Bodies and Groundwater against Pollution, Littering and Depletion

§ 23. Obligations concerning water protection

(1) Every person is required to avoid polluting and depleting water, littering water bodies and wells, and damaging aquatic biota.

(2) When using water, persons are required to implement technological, land improvement, agrotechnical, hydrotechnical and sanitary measures to protect water against pollution and depletion or a water body against littering.

(3) The owner of a water body designated for public use is required to carry out maintenance work to prevent littering and bank erosion.

(4) Water protection requirements for the selection, construction and operation of land improvement systems shall be established by the Minister of the Environment.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(5) A person who arranges an activity which adversely affects water quality is required to observe the water status in the area affected by the activity.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

§ 24. Protection of groundwater against effluent pollution

(1) The discharge of waste water into groundwater and the discharge of effluent onto frozen soil is prohibited.

(2) Effluent may be discharged into soil pursuant to the procedure established by the Government of the Republic if this does not have an unreasonable adverse effect on the natural characteristics of groundwater. This procedure shall contain the requirements for discharging effluent into soil and the measures to be taken to check that the requirements are met.

(3) Special users of water discharging effluent into soil shall implement the measures specified in subsection (2) of this section at their own expense.

(4) In order to protect groundwater, a local government shall ensure that there is a sewerage system in a waste water collection area to discharge waste water into a waste water treatment plant and effluent to a recipient.

(5) The criteria for designating waste water collection areas shall be established by a regulation of the Minister of the Environment, taking into account the natural conditions of the soil. The boundaries of waste water collection areas shall be determined in a comprehensive plan.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 25. Sinking of waste in water body or disposal of waste in water

(1) Waste may be sunk in a water body or disposed of in groundwater only if the changes which occur in the waste or the effect which water has on the waste do not increase environmental pollution or the damage to health.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(2) Permission to sink waste in a water body or aquifer is granted by the Minister of the Environment, or a person authorised by him or her, with the agreement of the relevant local government and, if the water body is private property, also with the agreement of the owner of the water body.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 26. Protection of catchment areas against water pollution

(1) It is prohibited to overload a catchment area with pollutants to such an extent that the water becomes polluted.

(2) Sources of pollution located in a catchment area shall not be maintained in a dangerous condition which, if it continues to deteriorate, will or may cause pollution of a water body or aquifer.

(3) In order to avoid a source of pollution falling into a dangerous condition and to prevent water pollution, water protection requirements for groups of potentially dangerous sources of pollution shall be established by regulations of the Government of the Republic. For the purposes of this Act, water protection requirements are building, planning and operational requirements for potentially dangerous sources of pollution, which contribute to preventing the sources of pollution from falling into a dangerous condition and to minimising the impact of the pollution.

(4) The groups of potentially dangerous sources of pollution are as follows:

- 1) sewerage facilities;
- 2) storage facilities for oil products;
- 3) storage facilities for silage;
- 4) storage facilities for manure;
- 5) storage facilities for fertilisers.

(5) If a source of pollution which is not listed in subsection (4) of this section causes a danger to public health, the Minister of the Environment has the right to designate the source of pollution as potentially dangerous and to establish water protection requirements therefor.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 26¹. Protection of catchment areas against pollution arising from agricultural production

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(1) In order to protect groundwater and surface water by preventing or restricting pollution arising from agricultural production (hereinafter agricultural pollution), requirements for the storage and use of manure, silage and other fertilizers shall be established by the Government of the Republic. The requirements for the composition of fertilizers shall be established by a regulation of the Minister of Agriculture.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(1¹) For the purposes of this Act, a fertilizer is a substance or preparation used to provide growing plants with nutrients. Manure and silage are also deemed to be fertilizers.

(11.06.2003 entered into force 01.09.2003 - RT I 2003, 51, 352)

(2) Requirements for the use of waste water sediment in agriculture, green area creation and recultivation shall be established by a regulation of the Minister of the Environment. For the purposes of this Act, waste water sediment is a suspension separated from waste water by using physical, biological or chemical methods.

(3) Agricultural producers are recommended to follow good agricultural practice. For the purposes of this Act, good agricultural practice means commonly accepted production techniques and methods which, when followed correctly, do not endanger the environment.

(4) It is permitted to spread an average of 170kg of nitrogen with manure per year per one hectare of land under cultivation. It is permitted to spread an average of 30 kg of phosphorus with mineral fertilisers per year per one hectare of land under cultivation, and such amount of nitrogen as is needed for agricultural crops to grow and as is in compliance with the requirements established by a regulation of the Government of Republic on the basis of subsection (1) of this section. Amounts of mineral nitrogen exceeding 100 kg per hectare shall be spread in parts.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(4¹) In areas under cultivation, fertilizers shall not be spread on the ground if the inclination of the ground is more than 10 per cent. If the ground has an inclination of 5–10 per cent, spreading of fertilizers on the surface is prohibited from 1 November to 15 April.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(4²) Organic and mineral fertilizers shall not be spread from 1 November to 31 March, and during any time when the ground is covered with snow, is frozen or flooded, or saturated with water. For the purpose of this Act, the ground is deemed to be covered with snow if, for the duration of at least 24 hours, the thickness of the snow covering the ground is at least 10 cm. For the purpose of this Act, “frozen ground” means ground which has been frozen to a depth of at least 5 cm for a period longer than 24 hours.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(4³) Manure which is spread on a field where currently no crops grow should be incorporated into the soil within 48 hours.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5) In areas surrounding springs and sinkholes and in a range of 10m from the boundary of the water or from the edge of a sinkhole, it is prohibited to use fertilisers and plant protection products and to engage in any other activities endangering water quality.

(6) It is permitted to keep, as an annual average, livestock in numbers corresponding to up to two livestock units per hectare of agricultural land. It is permitted to keep livestock in numbers corresponding to more than two livestock units per hectare if there are storage facilities for manure or for manure and liquid manure with the necessary capacity or if a manure spreading or manure sales contract has been entered into. One livestock unit is deemed to be equal to one farm animal which excretes, in the form of liquid and solid manure, 70 kg of basic nitrogen per year. The coefficients needed for the calculation which enables the number of farm animals to be expressed in the form of livestock units shall be established by a regulation of the Minister of Agriculture.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(7) An agricultural producer shall keep a field record in which information is entered concerning the area of land under cultivation, the characteristics of the soil, yields, the types and volumes of fertilisers and plant protection products used, and the times of fertilisation. The

format of field records and the procedure for keeping field records shall be established by a regulation of the Minister of Agriculture.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 26². Requirements for storage of manure and liquid manure

(1) All livestock buildings where more than ten livestock units of livestock are kept shall have storage facilities for manure or for manure and liquid manure, depending on the type of manure.

(2) Upon keeping farm animals, the facilities prescribed for the storage of solid manure only, or for both liquid and solid manure must enable the storage of liquid and solid manure excreted by the animals during a period with a duration of at least eight months.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(3) In livestock housing where livestock is kept on deep litter and on the condition that the housing enables one year of manure load to be stored, storage facilities for manure and liquid manure are not necessary. However, constructions with which manure comes into contact shall meet the requirements for storage facilities for manure.

(4) (Repealed - 14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5) Storage of manure in stacks in land under cultivation is permitted until 1 January 2005 only in a volume which does not exceed the amount used during one vegetation period and only dry manure shall be stored. A manure stack is a volume of manure stored in a field according to the requirements established on the basis of subsection 26¹ (1) of this Act.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 26³. Protection of catchment areas against agricultural pollution in nitrate sensitive areas

(1) In order to protect groundwater and surface water, nitrate sensitive areas shall be designated in areas of agricultural production. An area where agricultural activities have caused or may cause the concentration of nitrate ions in groundwater to be greater than 50 mg/l or where surface water bodies are eutrophic or in danger of becoming eutrophic due to agricultural activities is deemed to be a nitrate sensitive area.

(2) Nitrate sensitive areas and limestone and karst areas which are located therein and which have unprotected groundwater and a soil depth of less than 2m shall be designated and the extent

of restrictions which apply in such areas pursuant to subsections (5) and (6) of this section shall be established by the protection rules which are provided in a regulation of the Government of the Republic.

(3) In a nitrate sensitive area, it is permitted to spread an average of up to 170kg of nitrogen with manure and mineral fertilisers per year per one hectare of land under cultivation. Amounts of mineral nitrogen exceeding 100 kg per hectare shall be spread in parts.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(4) In a nitrate sensitive area, it is not permitted to spread an average of more than 140 kg of the total volume of nitrogen with mineral fertilisers per year per hectare of land under cultivation. Amounts of mineral nitrogen exceeding 100 kg per hectare shall be spread in parts.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5) In nitrate sensitive areas with unprotected groundwater and a soil depth of up to 2 m, and in karst areas, it is permitted to restrict the following on the basis of the protection rules:

- 1) nitrogen spread with mineral fertilisers during one year to an average of 100 kg per hectare of land under cultivation;
- 2) the keeping of livestock to 1.5 livestock unit per one hectare of land under cultivation;
- 3) the use of waste water sediment.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(6) In areas surrounding springs and sinkholes and in a range of up to 50m from the boundary of the water or from the edge of the sinkhole, it is prohibited to use fertilisers and plant protection products, to keep manure in a manure stack and to engage in other activities which endanger water quality and are specified in the protection rules.

(7) From 1 November until 31 March, at least 50 % of the land under cultivation situated in a nitrate sensitive area and used by an agricultural producer shall be under plant cover. One third of the above percentage may be substituted by ploughing in ground of the straw of cereals, oil rape or turnip rape. For the purposes of this Act, "plant cover" means winter crops such as winter cereals, winter oil rape, winter turnip rape, herbaceous grasses, leguminous crops, and culinary and medicinal plants.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(8) (Repealed - 14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(9) In order to evaluate the efficiency of water protection measures implemented in a nitrate sensitive area, a monitoring program shall be approved by the Minister of Environment.

(10) Restrictions and obligations established in the nitrate sensitive area shall be revised every four years on the basis of monitoring results.

(11) (Repealed - 14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(12) In order to reduce the effect of pollution arising from agricultural production to surface and ground water, an action plan for a nitrate sensitive area containing appropriate measures shall be prepared. The Ministry of the Environment shall arrange the preparation of the action plan out of funds allocated for such purpose from the state budget and the action plan shall be approved by the Government of the Republic. If necessary, the action plan for a nitrate sensitive area shall be revised every four years on the basis of monitoring results concerning the state of surface and ground water.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 26⁴. Administrator and administration of nitrate sensitive area, protection obligation notice and validity of restrictions

(1) The administrator of a nitrate sensitive area is the environmental authority appointed by the Minister of the Environment, which has been authorised to administer a nitrate sensitive area to the extent and pursuant to the procedure prescribed in this Act.

(2) The administration of a nitrate sensitive area is the co-ordination of the implementation of protection measures provided for in the protection rules.

(3) The administration of a nitrate sensitive area shall prepare a protection obligation notice.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(4) A protection obligation notice is a written informative document which contains:

1) information on the boundaries of a nitrate sensitive area, limestone and karst areas with unprotected groundwater, and areas surrounding springs and sinkholes in the possession of the possessor of the immovable, and on the time of designating an area as nitrate sensitive;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

2) a list of restrictions and obligations provided for in this Act or in legislation passed on the basis of this Act.

(5) The administrator of a nitrate sensitive area shall have a protection obligation notice delivered, by post or using electronic means, to the owner of an immovable located in the nitrate sensitive area or to the usufructuary entered in the land register.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(6) Upon the transfer of an immovable, the transferor is required to hand over the protection obligation notice to the new owner against a signature.

(7) The owner of an immovable shall submit an application to the land registry for the termination of or changes to lawful restrictions and obligations to be entered in the register.

(8) Upon transfer of the possession of an immovable, the contract between the owner and the possessor shall contain the restrictions and obligations resulting from the protection rules.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 26⁵. Protection of catchment areas against pollution with hazardous substances

(1) For the purposes of this Act, a hazardous substance is an element or a compound which due to toxicity, stability or bioaccumulation causes or may cause danger to human health or damages or may damage other living organisms or ecosystems.

(2) Hazardous substances shall be divided into two lists according to their hazardousness. Substances whose water discharge or disposal into water in any other manner must be avoided shall be entered in list 1, and substances whose water discharge or disposal into water in any other manner must be restricted shall be entered in list 2. Lists 1 and 2 of hazardous substances shall be approved by a regulation of the Minister of the Environment.

(3) Direct emission into the environment of hazardous substances entered in list 1 is prohibited. The discharge of hazardous substances directly into the groundwater or an area with unprotected groundwater is deemed to be direct emission. Any other type of emission is deemed to be indirect.

(4) Water discharge which contains hazardous substances may be permitted by a permit for the special use of water which takes the results of a water study into consideration. In addition to the provisions of § 121 of this Act, a water study shall also include the forecast effect of emission on the state of a recipient.

(5) A water study is mandatory upon:

1) emission of hazardous substances entered in list 1;

2) direct emission of hazardous substances entered in list 2.

(6) In the case of water discharge which contains hazardous substances, the following shall be entered on a permit for the special use of water:

1) the maximum allowable volume of hazardous substances in effluent i.e. the emission limit value;

2) the allowable amount of hazardous substances during a period determined in the permit for the special use of water;

3) the allowable amount of hazardous substances per raw material or production unit, taking into consideration the best available technology;

4) the requirements for the monitoring of emission of hazardous substances;

5) the requirements for the monitoring of the recipient of hazardous substances;

6) the limit value of hazardous substances in the recipient;

7) the measures which reduce the effect of emission of hazardous substances on the recipient.

(7) The conditions for conducting hazardous substances from industrial undertakings or other enterprises using hazardous substances to the public sewerage system shall comply with the provisions of subsection (6) of this section and the conditions shall be determined in a contract between a water undertaking and a client (hereinafter contract) according to the Public Water Supply and Sewerage Act (RT I 1999, 25, 363; 2000, 39, 238; 102, 670; 2001, 102, 668; 2002, 41, 251; 61, 375; 63, 387; 2003, 13, 64).

(8) A special user of water shall give notification of contract conditions specified in subsection (7) of this section and the results of monitoring to the issuer of permits for the special use of water who shall forward the information concerning the discharges of hazardous substances to the database.

(9) The maximum allowable amounts of emission of hazardous substances per raw material or production unit shall be established by a regulation of the Minister of the Environment.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(10) The maximum allowable amounts and conditions of emission of hazardous substances determined on the basis of subsection (9) of this section shall be provided for undertakings engaged in the handling of hazardous substances by the permit for the special use of water

pursuant to subsection (6) of this section, unless the emissions are directed into the public sewerage system.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 27. Protection of ice cover of water body

(1) The ice cover of a water body shall not be polluted or littered by oil products, chemicals, waste or other pollutants.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(2) The abstraction of ice shall not cause water pollution or depletion or littering of a water body.

§ 28. Sanitary protection zones of water intakes

(1) The sanitary protection zone of a water intake is an area of land and water surrounding a place where drinking water is abstracted in which activities and movement are restricted to prevent the deterioration of water quality and protect the water intake constructions.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(2) The extent of a sanitary protection zone of a water intake, except the cases provided for in subsections (3), (4) and (5) of this section, is:

- 1) 50m from a bore well if water is abstracted from an aquifer using one bore well;
- 2) 50m to either side of the axis of a row of bore wells, 50m from the outermost bore wells of the row, and the area between bore wells in a row of bore wells, if water is abstracted from an aquifer using two or more bore wells;
- 3) 200m upstream from the water abstraction point, 50m downstream, and 50m to either side of the water abstraction point along a line drawn across the banks of the water body and passing through the water abstraction point, if water is abstracted from a watercourse;
- 4) the water area of a water body with a 90m wide riparian zone, if water is abstracted from a body of standing water.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(3) A sanitary protection zone shall not be formed if less than 10 m³ of water is abstracted from an aquifer per day for the needs of one immovable. The maintenance requirements for such a water abstraction point shall be established by the Minister of the Environment.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(4) The Minister of the Environment may decrease the sanitary protection zone of a water intake:

- 1) to 10m if less than 10 m³ of water is abstracted per day and the water is used for the needs of public water supply;
- 2) to 30m if more than 10 m³ of water is abstracted per day and if the aquifer is well protected.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(5) A sanitary protection zone may extend up to 200m from the water abstraction point if more than 500 m³ of water is abstracted from the aquifer per day. The boundaries for such a sanitary protection zone shall be established by the Minister of the Environment on the basis of a water intake project.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(6) The procedure for the formation and design of sanitary protection zones of water intakes shall be established by the Minister of the Environment. The procedure shall also provide for local governments to be informed of the formation of a sanitary protection zone of a water intake.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

§ 28¹. Restrictions in sanitary protection zones of water intakes

(1) Economic activity is prohibited in the sanitary protection zone of a groundwater intake with a width of either 30m or 50m, except:

- 1) servicing of water intake constructions;
- 2) forest maintenance;
- 3) mowing of grasses;
- 4) water monitoring.

(2) In the sanitary protection zone of a groundwater intake with a width of either more than 30m or more than 50m, the restrictions on shore and bank use provided by the Shores and Banks Protection Act (RT I 1995, 31, 382; 1999, 95, 843; 2001, 50, 290; 2002, 61, 375; 63, 387; 99, 579; 2003, 15, 84) apply.

(3) In the sanitary protection zone of a water intake on a watercourse and body of standing water, the following apply:

1) the restrictions provided for in subsection (1) of this section to water intakes in North-eastern Estonia and the city of Narva on the River Narva, and, to the extent of the water intake of the city of Tallinn, to lake Ülemiste with a 90 m wide riparian zone;

2) the restrictions provided by the Shores and Banks Protection Act on shore and bank use to other water bodies and to water bodies of the water intake of the city of Tallinn not specified in clause 1) of this subsection.

(4) The owner or possessor of a water intake may prohibit the presence of persons not connected with the servicing of the water intake construction on equipment of the water intake construction and in that part of the water area of a water body which is in the sanitary protection zone of the water intake.

(5) There shall not be a shore path in the sanitary protection zone of a water intake which has the restrictions provided for in subsection (1) of this section. Only people who perform duties related to environmental supervision, health protection, the servicing of water intake constructions, forest maintenance, mowing of grasses and water monitoring may be present in a sanitary protection zone.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(6) If it is necessary to carry out work not specified in subsection (1) of this section in the sanitary protection zone of a water body to maintain water intake constructions, the water body or the sanitary protection area itself, permission therefor shall be granted by the relevant local government in agreement with the Minister of the Environment.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

§ 29. Water protection zones

(1) In order to protect water against non-point pollution and to avoid the erosion of the banks of a water body, a water protection zone shall be formed in the area of the banks of the water body.

(2) The extent of water protection zones from the usual boundary of the water shall be:

1) 20 m on the Baltic Sea, Lake Peipus, Lake Lämmijärv, Lake Pskov and Lake Võrtsjärv;

2) 10 m on other lakes, reservoirs, rivers, brooks, springs, main ditches and channels, and artificial recipients of land improvement systems;

3) 1 m in artificial recipients of land improvement systems with a catchment area of less than 10 km²;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(3) For the purposes of this Act, “usual boundary of the water” means the boundary of the water body as set out in the cadastral map.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(4) The following is prohibited within a water protection zone:

1) the mining of mineral resources and earth substances, and conduct of geological explorations;

2) cutting of layers of trees and shrubs without the consent of the county environmental service, except cutting carried out in artificial recipients of land improvement systems for the performance of work to manage land improvement systems;

3) economic activity, except for mowing of grass and cutting of reed;

4) use of fertilizers, chemical plant protection products and waste water sediment, and placing of manure storage facilities and manure stacks. The use of plant protection products is permitted only for the purpose of clearing the outbreak site in the event of a plant disease or pest outbreak, and the permission of the environmental service shall be obtained for each separate occasion.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 30. Construction, conservation and liquidation of bore wells and boreholes in water intake

The procedure for the construction, conservation and liquidation of bore wells and boreholes in a water intake shall be established by the Minister of the Environment.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

§ 31. Water protection upon use of bed of water body and earth's crust

(1) The mining of mineral resources and earth substances at the bottom of a water body or the construction of structures supported on the bottom of a water body shall not cause damage to the water, aquatic biota or banks of the water body.

(2) If the earth's crust is used for purposes other than groundwater abstraction, measures shall be taken to protect groundwater.

(3) The mining of mineral resources in the sanitary protection zone of a water intake is prohibited.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

§ 32. Choice of location for structure affecting state of water body and aquifer, and construction procedure

(1) When the location of a new or reconstructed structure which affects the state of a water body or aquifer is being chosen or such structure is undergoing design, construction or liquidation, and when new technology which affects the state of a water body or aquifer is being developed, water shall be protected against pollution and depletion, the water body shall be protected against littering, the interests of other landowners and water users shall be taken into consideration, and the supply of drinking water shall be guaranteed.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

(2) Permission to perform work affecting a water body or aquifer in a water protection zone shall be granted by the relevant local government in agreement with the landowner and water user.

(3) If the work described in subsection (2) of this section is performed in the sanitary protection zone of a water intake, permission is required from the owner of the water intake.

§ 33. Termination of work and water use affecting water status and condition of water body

(1) If water or a water body is used without the relevant permission or agreement or if environmental protection requirements are violated when work is carried out which affects the water status, such activities may be terminated pursuant to the procedure provided by law.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(2) Disputes concerning the termination of activities shall be settled by a court.

§ 34. Obligations to avoid damage caused by water

Landowners (possessors) and water users shall not cause:

- 1) floods;
- 2) a dam, bank or other structure to break up;
- 3) the paludification of land;

4) soil erosion or landslips.

§ 35. Elimination of consequences of natural disaster caused by water

The elimination of the consequences of a natural disaster caused by water shall be organised by the Government of the Republic.

Chapter 6

Water Resource Records, Water Monitoring and Water Management Plan of River Basin

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 36. Water resource records

Water resource records shall be kept concerning the volume, level, characteristics, use and users of water, and concerning bore holes, water intakes and groundwater deposits in compliance with the requirements established by the Environmental Register Act (RT I 2002, 58, 361) or legislation established on the basis thereof.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

§ 37. State water monitoring

(1) State water monitoring is a system of measures taken in order to collect data on the volume, level and quality of surface water, groundwater, effluent and seawater as well as on the ice conditions of water bodies.

(2) Data collected during water monitoring shall be submitted to the state water cadastre in the year following the reporting year.

(3) The person who carries out water monitoring is responsible for the accuracy of the data.

(4) The water monitoring system shall function in the public interest. The list of observation points, the procedure for informing the owner of the immovable and the monitoring programme shall be approved by the Minister of the Environment.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(5) The owner of an immovable shall not damage an observation point, render it unusable or prohibit observers from having access to the observation point from sunrise until sunset even if the observation point is situated on land bounded and marked by the owner.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(6) The owner of an immovable has the right to obtain information on the results of observations made on the immovable.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

(7) The issuer of a permit for the special use of water shall, at the state's expense, exercise or organise surveillance monitoring of monitoring carried out by a special user of water.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 38. Planning of water protection and use

(1) Measures for water protection and use shall be planned in the water management plan of a river basin or sub-river basin (hereinafter water management plan), which shall be taken into consideration in the compilation, review or revision of the public water supply and sewerage development plan, comprehensive plan and detailed plan of the local government.

(2) For the purpose of this Act, a river basin or a sub-river basin is an area of land or water in a circular boundary which is made up of one or more catchment areas together with groundwater or coastal waters and which is designated as the main unit for the management of catchment areas. River basins and sub-river basins to be covered by a water management plan shall be designated and their water management plans shall be approved by the Government of the Republic. Water management plans for sub-river basins shall be approved by the Minister of the Environment.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(3) The objective of a water management plan is to ensure sustainable development and a class of water which is as natural as possible, and to maintain the quality, quantity and water flows of seawater, surface water and groundwater (hereinafter water status) in a condition on which human impact is the minimum possible by complying with the quality requirements resulting from the peculiarities of water use and protection.

(4) In order to specify the objective provided for in subsection (3) of this section, the Minister of the Environment shall establish the classes of water for aquifer water and water bodies, the values of the quality indicators corresponding to the classes of water and the procedure for designating classes of water.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5) Based on its ecological status, aquifer waters are divided into two classes of water:

- 1) good – natural water and close to natural water;
- 2) poor – polluted or strongly polluted water.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(5¹) Based on its ecological status, water in water bodies are divided into five classes of water:

- 1) high – natural water;
- 2) good – close to natural water;
- 3) moderate – water on which human activity has had a moderate impact;
- 4) poor – polluted water;
- 5) bad – strongly polluted water.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(6) The status of polluted, or poor or bad, water shall be remedied by the polluter or, if it is not possible to determine the polluter, by the owner of the water body or, in the case of an aquifer, by the state.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(7) In order to specify the objective provided for in subsection (3) of this section, the Minister of the Environment shall establish a list of the water bodies to be protected as habitats for salmonids and cyprinids, and the requirements for the quality and monitoring of such water bodies.

(8) A water management plan shall include:

- 1) the indicators to show when the objective provided for in subsection (3) of this section has been achieved;
- 2) an overview of the impact of sources of pollution on the water status and an analysis of water use;
- 3) an overview of the classes of water of aquifer and water bodies and of their compliance with the water quality requirements resulting from the peculiarities of water use and protection;
- 4) an action plan for keeping the water status as pure as possible by preventing and restricting pollution, including reducing discharges of hazardous substances belonging to list 2;
- 5) an overview of the areas where water use must be restricted or further water use prevented;
- 6) a feasibility study regarding the action plan specified in clause 4) of this subsection.

(9) A water management plan shall be reviewed at least every six years.

(20.12.2000 entered into force 01.04.2001 - RT I 2001, 7, 19)

§ 38¹. Preparation of water management plans

(1) Supervision of the preparation and implementation of a water management plan shall be organised by the Ministry of the Environment.

(2) The preparation of a water management plan shall be financed from funds allocated therefor from the state budget to the Ministry of the Environment. A special user of water shall ensure that a water management plan is implemented.

(2¹) The provisions concerning open proceedings apply to the processing of water management plans, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(3) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(4) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(5) Persons who possess information which is necessary for the preparation of a water management plan are required to provide such information to the Ministry of the Environment free of charge.

(6) The Ministry of the Environment shall ensure that information and material collected in the course of preparing a water management plan is preserved.

(7) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 38². Open proceedings in preparation of water management plans

(1) The Ministry of the Environment shall publish a notice concerning the proceedings of initiation of a water management plan in the official publication *Ametlikud Teadaanded* at least two months before preparation of the plan commences.

(2) The Ministry of the Environment shall communicate the objectives of a water management plan initiated by the Ministry in a national daily newspaper within one month after the decision is taken to initiate the water management plan.

(3) The county governments, local governments and residents of and other interested parties from the territory of the relevant river basin or sub-river basin shall be involved in the preparation

of a water management plan. In order to publicise the initial outline and draft of a water management plan, the Ministry of the Environment shall organise public meetings.

(4) Before the public display of a water management plan, the plan shall be approved by the ministries whose area of administration the plan concerns and by the county governments and local governments situated in the territory of the relevant river basin or sub-river basin.

(5) The Ministry of the Environment shall organise the public display of and public meetings concerning a water management plan in county centres situated in the territory of the relevant river basin or sub-river basin.

(6) The duration of the public display of a water management plan shall be six months. The duration of the public display of a water management plan of a sub-river basin shall be three months.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(7) Within two months after the public display of a water management plan has ended The Ministry of the Environment shall respond in writing to written proposals and objections submitted in the course of the display.

(8) Based on the results of the public display of and public meeting concerning a water management plan, the Ministry of the Environment shall make the necessary amendments to the water management plan.

(9) A decision to approve the water management plan shall be made public together with the water management plan in the official publication *Ametlikud Teadaanded*.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

Chapter 6¹

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

Liability

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 38³. Causing of flood or prohibited reduction of amount of water in water body

(1) Causing a flood, paludification or prohibited reduction of the amount of water in a water body or the aquifer is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 38⁴. Violation of requirements for use of water

(1) Abstraction of water without a permit for the special use of water, where such permit is required, or violation of the requirements of a permit for the special use of water is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 38⁵. Violation of procedure for water protection and use

(1) Violation of the procedure for water protection and use is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 38⁶. (Repealed - 12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156)

§ 38⁷. Violation of quality and control requirements for drinking water

(1) Violation of the quality and control requirements for drinking water established on the basis of subsections 13 (2) and (4) of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156)

§ 38⁸. Sale of drinking water without corresponding permit

(1) The sale, without a corresponding permit, of drinking water which does not comply with the quality requirements provided for in § 13¹ of this Act but is safe for health is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156)

§ 38⁹. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 82, 480; 86, 504; 105, 612; 2003, 4, 22) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156) apply to the misdemeanours provided in §§ 38³–38⁵ and 38⁷–38⁸ of this Act.

(2) The Environmental Inspectorate is the extra-judicial body which conducts proceedings in matters of misdemeanours provided in §§ 38³–38⁵ of this Act.

(3) The Health Protection Inspectorate is the extra-judicial body which conducts proceedings in matters of misdemeanours provided in §§ 38⁷–38⁸ of this Act.

(12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156)

Chapter 7

Compensation for Damage and Supervision

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 39. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 39¹. Compensation for damage caused by violation of Water Act

(1) If legal or natural persons damage an aquifer or water body, such persons are required to eliminate the damage caused or the danger of such damage being caused again and to inform the local environmental authority and the enforcement authority of the local government thereof promptly. The expenses arising in connection with assessing the extent of the damage shall be borne by the person who caused the damage.

(2) If the offender does not promptly start to eliminate the damage or does not comply with the relevant precept issued by a supervisory agency, the state environmental authority may appoint a third party to eliminate the damage and collect the expenses related to the elimination thereof from the offender.

(3) If water becomes unusable, the offender shall compensate for the volume of water damaged by paying a five-fold charge for the special use of water.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

§ 39². (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 39³. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 40. State supervision of use and protection of water

(1) Supervision over compliance with the requirements of this Act and legislation established on the basis thereof shall be exercised pursuant to the procedure provided by law.

(16.06.98 entered into force 16.07.98 - RT I 1998, 61, 987)

(2) The Health Protection Inspectorate shall exercise supervision over compliance with the requirements set forth in subsections 13 (2) and (4) and § 13¹ of the Water Act, and over the safety of drinking water pursuant to the Public Health Act (RT I 1995, 57, 978; 1996, 3, 56; 49, 953; 1997, 37/38, 569; 1999, 30, 415; 88, 804; 2001, 23, 128; 2002, 32, 187; 53, 336; 61, 375; 63, 387; 90, 521; 2003, 26, 156 and 160) and the Food Act (RT I 1999, 30, 415; 2002, 13, 81; 61, 375; 63, 387; 102, 603). The Veterinary and Food Board shall exercise supervision over the safety of water pursuant to the Food Act.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(2¹) Upon exercise of the supervision provided in subsection (2) of this section, officials of the Health Protection Inspectorate have the rights and obligations provided in § 16 of the Public Health Act.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

(3) State environmental protection inspectors have the right to issue the following mandatory precepts in order to ensure the use and protection of water:

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

- 1) to demand compliance with the requirements for the use and protection of water,
- 2) to terminate the violation of law;
- 3) to eliminate damage caused to an aquifer or water body.
- (4) A precept shall not be changed by way of supervisory control.

(24.01.96 entered into force 29.02.96 - RT I 1996, 13, 240)

- (5) If the obligated person fails to comply with a precept to remedy the effects of damage caused to groundwater and the water body, the authority exercising state supervision may apply substitutive enforcement pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283)

§ 40¹. Implementation of Act

- (1) Testing laboratories holding certificates of approval shall be accredited not later than by 1 April 2004.
- (2) The requirement provided for in subsection 24 (4) of this Act shall be complied with not later than by 1 April 2011.
- (3) The requirement provided for in subsection 26³ (7) of this Act shall be complied with as of 1 April 2002.
- (4) Water management plans in accordance with subsection 38 (1) of this Act shall be prepared not later than by 1 April 2008.
- (5) Sections 9¹, 13¹ and 26⁵ of this Act enter into force on 1 April 2002.
- (6) Until 1 April 2002, issue, amendment and revocation of permits for the special use of water may be based on the provisions of § 9 in force before 1 April 2001.
- (7) A permit for the special use of water issued before the entry into force of this Act shall be valid until the date of expiry provided therein, unless, arising from law, there is a basis for revocation of the permit earlier, except in the case provided for in subsection (8) of this section.
- (8) The issuer of permits for the special use of water has the right to amend a permit for the special use of water issued before 1 April 2002 during the term of the permit, if this is necessary in order to implement the requirements provided for in §§ 15 and 24 of this Act regarding sources of pollution with a pollution load exceeding 2000 population equivalent.

(14.11.2001 entered into force 20.12.2001 - RT I 2001, 94, 577)

(9) A certificate of attestation of a person responsible for taking samples who is performing a water study which is issued prior to 1 May 2004 may be extended by the issuer of the certificate for a period of up to two years.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

Chapter 8

Final Provisions

§ 41. Water Code

The Estonian SSR Water Code (*ENSV Teataja*³ 1972, 28, 276; 1980, 23, 367; 1984, 45, 537) is repealed.

2000/60/EEC (OJ No. L 327, 22.12.00, p. 1); 91/676/EEC (OJ No. L 375, 31.12.91, p. 1).

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 28, 190)

¹ RT = *Riigi Teataja* = *State Gazette*

² *Ametlikud Teadaanded* = *Official Notices*

³ *ENSV Teataja* = *ESSR Gazette*