

Unofficial translation.

## **Act 20, 2006 on Water.**

### Chapter I. **Objective and scope**

#### **Article 1** *Objective*

The objective of this Act is clear ownership of water, sound utilisation of water and efficient and sustainable utilisation of water.

In any utilisation of water rights pursuant to this Act, care shall be taken not to disrupt water, its course, biosphere, ecology or landscape beyond what is necessary.

#### **Article 2** *Scope*

This Act covers all running water or static water on the surface of the earth and underground, in solid, liquid or vaporous form, to the extent that other legislation does not apply.

#### **Article 3** *Definitions*

For the purposes of this Act the following definitions shall apply:

1. *Commons*: The part of water lying outside the netting limits of a property.
2. *Irrigation system*: A structure used to irrigate land with water.
3. *Agricultural needs*: Agricultural needs for livestock breeding.
4. *Private land*: an area of land, including areas within netting limits in lakes and the sea, which is subject to private property rights, i.e. the owner exercises all normal ownership control within the limits of current law;
5. *Course*: A waterbed in which a stream flows, whether artificial or natural.
6. *Property*: A delimited piece of land, together with its normal parts, organic and non-organic, and structures permanently attached to the land.
7. *Groundwater*: All water beneath the ground in a contiguous water body in saturated strata, static or flowing, which is in direct contact with the strata.

8. *High water:* The maximum flow or rise of a water surface that occurs normally more than every other year in unfrozen water and on snow-free land.
9. *Household needs:* The needs of a normal household.
10. *Geothermal energy:* A reservoir of geothermal energy in strata, a stream of heat from underneath the surface of the earth and hot groundwater that transmits geothermal energy.
11. *Low water:* The minimum flow or fall of a water surface that occurs normally more than every other year in unfrozen water and snow-free land.
12. *Structure:* Any man-made facilities, e.g. a house, bridge or power development.
13. *Boundary water:* Water that governs the boundaries of lands.
14. *Netting limits:* The water bottom 115 metres from the shore of a lake or stream adjacent to a property.
15. *Energy use:* Any utilisation of energy resources that involves the transformation of one type of energy into another.
16. *Power development:* Land or a site, building and other structures for the purpose of power development or the transformation of one type of energy into another.
17. *Flow:* The movement of water, whether caused by man or nature.
18. *Lake:* Water which appears still in calm weather and non-flowing, even though water may flow through it.
19. *Water supply source:* A structure, e.g. wells, boreholes or developed springs or natural waterbeds where water is abstracted or used *in situ*.
20. *Stream:* Flowing water in a delimited course, even if variable by time or location, which flows downwards under the force of gravity.
21. *Water flow:* The streaming of water measured as quantity of water per unit of time in l/sec. or m<sup>3</sup>/sek.
22. *Waterbed:* A basin in land containing water, whether in the form of a stream or a lake, together with the attached bottom and banks, up to the level of the water surface at high water. Land which is flooded above high water does not constitute a waterbed.
23. *Reservoir:* Preservation of water for the purpose of changing the natural water quantity of flowing water (stream) or to control the flow of water.

24. *Water utilisation:* Abstracting water, diverting water or developing water for household and agricultural needs, for profit or to protect property from damage.
25. *Water supply:* A structure to transport water to users.
26. *Water structure:* A structure around water , in or over water or by water.
27. *Public land:* An area of land not privately owned, even though private or legal persons may enjoy limited ownership rights.

## Chapter II **Ownership of water**

### **Article 4** *Property rights to water*

Any property, including public land, includes property rights to the water on or under the property or flowing through the property.

### **Article 5** *Joint ownership of water*

Property owners having access to the same water have the same right to the water in proportion to the utilisation which is feasible on or before their land. If no agreement can be reached on the utilisation, a decision shall be reached by the assessment of court-appointed assessors.

In the event of a dispute between right holders concerning the utilisation of water, which cannot be settled, e.g. if the boundaries of the properties of two or more right holders are situated so that the utilisation of water cannot be kept separate, an assessment shall be obtained from court-appointed assessors as to the most efficient means of utilising the water and the proportional rights of each party to the utilisation.

### **Article 6** *If properties are separated by boundary water.*

Where properties are separated by boundary waters, each property is entitled to use the water equally as needed. If water is dispersed in a course, each property shall have equal rights to the water even if it is not divided in halves by a centre line. If there is so little water that it is insufficient for both or all parties, the division and use shall be decided by the assessment of court-appointed assessors.

### **Article 7** *Permission to separate water rights from a property*

Water rights for household or agricultural use cannot be separated from a property except with the permission of the Minister.

### **Article 8** *Separation of water from a property and division of water rights*

If water rights are transferred without the concurrent transfer of title to a property the legal protection of such rights shall be subject to the provisions of the Act on public registration of title relating to real property.

If part of a property adjacent to a lake or river is transferred, the water rights shall be included in the transaction unless otherwise provided. However, the remaining part of the property shall retain sufficient water rights to meet needs pursuant to Article 15.

If jointly owned property is divided each part of the property shall, to the extent possible, retain sufficient water rights to meet needs pursuant to Article 15.

**Article 9** *Obligation to participate in water supply, irrigation, reservoirs or defences against water encroachment*

If persons own property in association and some of the owners want to establish a water supply for household and agricultural use on the property, set up a joint water supply, establish a reservoir or take protective action against water encroachment, the owner or owners of the majority share of the property may decide to undertake the work, in which case the others are then required to participate proportionally in all the cost of the work, provided that it is understood that the increase in efficiency for the property will exceed the cost.

If no agreement is reached on the undertaking or supervision of the work, or on the division of costs, a settlement shall be reached by the assessment of court-appointed assessors.

**Chapter III Boundaries in waters**

**Article 10** *Boundaries in streams*

If properties are separated by a stream, each property shall own land up to the middle of the course, unless other lawful arrangements are made.

Boundaries shall not change even if a course changes.

**Article 11** *Boundaries in lakes*

If a property is adjacent to a lake, the bottom of the lake shall attach to the shore to which it is contiguous 115 metres into the lake.

If a lake constitutes boundary water and is not 230 metres in width, the centre line of the lake shall determine the boundary unless other lawful arrangements have been made.

If grass grows from a lake at low water, the bottom of the lake shall attach to the land as if it were dry land.

If there are islands, islets or reefs in a lake, they shall have netting limits as provided above. If a person owns islands, islets or reefs in front of the land of another person, and if the sound is less than 230 metres in width, the centre line of the sound constitutes the boundary.

Measurements shall normally be based on low water.

In the event of any change in the bottom of a lake, the netting limits shall remain as they were.

**Article 12** *Boundaries between properties adjacent to a lake or stream on the same side.*

If two or more properties are adjacent to a lake or stream on the same side, the netting limits shall attach to the closest shore at any time.

#### Chapter IV **Course**

**Article 13** *Established course*

All waters shall flow as they have flowed in earlier times.

A property owner or other person shall not, unless permitted by law:

1. change a water bottom, direction of stream or water flow, permanently or temporarily, or raise or lower a water surface;
2. totally dam a stream or create a structure in or over water;
3. divert water from his or her property to another property if this causes damage or danger.

**Article 14** *Permission to divert a stream into an established course or put it in its proper order*

If a course changes for natural reasons, any property owner disadvantaged by the change is entitled to divert a stream into its established course or put it in its proper order. If this requires the use of another property, such use is permitted with the authorisation of the Minister; however, the owner of that property may then claim compensation for any damage or inconvenience that this may cause. In the event of any dispute, such dispute shall be settled by expropriation valuation.

If the same situation has remained for 20 years or longer, this shall be regarded as having been the situation from earlier times.

#### Chapter V **Priority of access to water**

**Article 15** *Priority to water*

Abstraction of water for household and agricultural needs takes precedence over other utilisation of water. Household needs take precedence over agricultural needs.

A property owner is permitted to abstract water for household and agricultural needs from another property if the owner of that property is not unreasonably burdened, provided that such abstraction of water on the property owner's own property is impossible or significantly more difficult. In such circumstances, the owner of the property from which the water is abstracted may claim compensation, including compensation for any damage and inconvenience caused by the undertaking. In the event that no agreement is reached between the parties on compensation, the compensation shall be decided by an expropriation valuation.

A municipality shall take precedence in any abstraction of water for water supply after the household and agricultural needs of the property owner. Municipality water supplies are subject to the Act on municipal water supplies.

If a municipality cannot reach an agreement with a property owner on the abstraction of water from the property for water supply, or on other necessary matters, the Minister of Industry may authorise expropriation of the necessary land, structures and facilities for the utilisation and abstraction of the water and installation of a pipeline, as well as any other rights of the property owner.

**Article 16** *If there is insufficient water to meet needs under Article 15*

In the event that there is insufficient water to meet the needs provided for in Article 15, any property having a claim on the water shall have the same claim to the water as needed.

In the event of any dispute as to the quantity of water needed by each, the dispute shall be settled by the assessment of court-appointed assessors.

**Article 17** *Water supply sources*

If a property owner installs a water supply source on his or her property, the property owner shall ensure that this does not reduce or restrict access to the water supply sources of other property owners. In the event of any dispute concerning the use of water such dispute shall be subject to paragraph 2 of Article 5.

**Chapter VI Utilisation of hydropower**

**Article 18** *Restrictions on the right to utilise hydropower*

The right of a property owner to utilise hydropower is restricted by the condition that no one should be deprived of the use of water pursuant to Article 15, nor should anyone be subjected to unreasonable difficulty in such use, nor should the water that so needs to be utilised be spoiled for anyone so as to cause significant inconvenience.

**Article 19** *When properties are separated by boundary water*

Where boundary waters separate properties, the owners of both have equal rights to use water from them for power generation.

The owner of each property has the right to an amount of the hydropower corresponding to half the water flow of the boundary water and the hydraulic head in front of his or her land, provided that no other lawful arrangements have been made.

## Chapter VII Structures

### **Article 20** *A structure concerns two properties*

If the owner of one shore of a boundary water proposes to erect a structure for the utilisation of water and, for this purpose, requires the use of land on the other side, such owner shall invite the owner of the other property to erect the structure jointly and use the water proportionally. If they agree on the above, but disagree on the undertaking of the work, division of costs or use of water, the dispute shall be settled by the assessment of court-appointed assessors.

If the owner of one of the shores of the water does not wish to participate in the construction, the Minister may permit expropriation for the use of his or her land to carry out the undertaking and use the water. In the event that no agreement can be reached on compensation, the compensation shall be decided by an expropriation valuation.

### **Article 21** *Authorisation for construction work*

If a property owner constructs a dam in a water course and diverts water from a natural course, whether through an open ditch, pipe or tunnel, as necessary for the use of water, care shall be taken that no unnecessary damage is caused to the property of other persons. No more water may be diverted from its normal course than necessary for this purpose, and all the water shall be channelled to an established course if possible and as soon as possible.

If necessary the Minister may grant expropriation rights to the owner of a property pursuant to paragraph 1. Compensation is subject to expropriation valuation.

### **Article 22** *Alteration of a water course*

A property owner is permitted to alter a water course, widen it or straighten it, create a new course or other structures in or by the water which are necessary for the purpose of protecting land or land use from damage from erosion or flooding, for water supply, irrigation, energy use, etc.<sup>1</sup>

If the person needing to undertake work pursuant to paragraph 1 requires the use of the properties of other persons, the Minister may grant permission for expropriation. Compensation is subject to expropriation valuation if no agreement is reached by the parties.

The Minister is permitted to undertake work pursuant to paragraph 1 if this has the purpose of protecting property or other structures in the public interest. The Minister is authorised to expropriate property for this purpose. Compensation is subject to expropriation assessment.

<sup>1)</sup>*The paragraph was amended by Act No31/2007. The amendment takes effect on 1 November 2007 pursuant to the same article.*

**Article 23** *Permission to create reservoirs*

A licence shall be obtained from *Orkustofnun* (the Icelandic National Energy Authority) to create a reservoir or change a reservoir if the area of the reservoir so created or enlarged will correspond to 1000 square metres or more at its highest water level. If the creation of the reservoir is part of the development of a stream for the generation of energy, the reservoir licence shall constitute part of the development licence pursuant to the Electricity Act, in which case a licence shall be sought in compliance with that Act.

**Article 24** *Permission of an owner to divert water from his or her property*

If necessary, a property owner may divert water from his or her property to other properties, provided that it is impossible to dispose of the water by any other means. In the same manner, such owner may divert water in ditches to other properties or dig ditches on such properties for such purpose, in which case the ditches shall be extended only to the extent where the owners of other properties are not unnecessarily inconvenienced. The Minister may permit expropriation for the use of a person's property for this purpose. In the event that no agreement can be reached on compensation, the compensation shall be decided by an expropriation valuation.

**Article 25** *Decommissioning of a structure*

Decommissioning of a structure pursuant to this Chapter, including discontinuation of maintenance, is subject to the approval of *Orkustofnun*. The owner of a structure shall submit a plan on the decommissioning to *Orkustofnun* for approval which includes information on how the work will be carried out.

**Article 26** *Due care*

All structures and facilities pursuant to this Chapter shall be so constructed that they pose no danger or significant inconvenience for traffic or damage to the property of any other party, unless such party is under obligation to subject to such damage pursuant to law or contract.

**Chapter VIII Water Associations**

**Article 27** *Establishment of water associations*

Property owners are permitted to form associations on:

1. Water supply
2. Irrigation
3. Protection against water encroachment
4. Reservoirs
5. Any other matters for a lawful purpose pursuant to this Act.

Associations pursuant to paragraph 1 are subject to the provisions of this Chapter.

**Article 28** *Notice of initial meeting*

Property owners proposing to establish a water association pursuant to Article 27 shall send a notice of an initial meeting to the property owners who could be expected to qualify as members of the association. In the event of the lawful establishment of an association, all the cost of calling the meeting, holding the meeting, preparing drawings of proposed works and structures etc. shall constitute initial establishment costs.

**Article 29** *Substance of Articles of Association*

When a decision has been made to form an association, its articles of association shall be drawn up as promptly as possible.

The articles of association shall include provisions on:

1. The name of the association, address and legal venue;
2. The tasks of the association;
3. The composition of the board of directors of the association, the number of members of the board, powers of the board and mandate, if the board is composed of more than one member, and the term of election;
4. The owners of which properties are participants in the association, stated in an unequivocal manner, and voting rights at meetings of the association;
5. The accounts and books of the association and auditing;
6. The manner of calling meetings of the association, the conditions under which such meetings are lawful, what matters the meetings should decide and their powers in other respects;
7. The manner of payment of the costs incurred by the association;
8. The encumbrances or restrictions of ownership rights imposed on the properties of participants in the association;

9. The annual contributions of members;
10. The rules to be observed in amending the articles of association;
11. The admission of new members, cf. Article 30.
12. The conditions for withdrawal from the association, cf. Article 31.
13. Provisions on the dissolution of the association, the number of votes required for such dissolution and the manner of disposal of the assets of the association.

The articles of association should provide that issues are by force of vote. If there is special reason for such arrangements, the articles may stipulate an augmented majority for decisions on certain affairs of the association other than those specifically provided for in this Act.

The entry into force of the articles of a water association is subject to the confirmation of the Minister of Industry.

#### **Article 30** *New members*

New members should be admitted to an association if approved by a lawful meeting of the association.

Any person who has not initially participated in a water association for the purpose specified in Article 27 may do so later, provided that his or her property is so situated that the participation will not cause significant difficulty. If an agreement cannot be reached on permission for membership and/or payment of dues pursuant to paragraph 4, the issue shall be resolved by the assessment of court-appointed assessors.

If the admission of new members results in a significant change in the obligations of members, or if the tasks of members change significantly for this reason, the matter shall be treated as an amendment of the articles of association.

If a new member joins an association, such new member shall from that time pay his or her share of the initial cost of the establishment and the costs accrued by members in the same manner as other members, except as otherwise agreed. The new member shall himself/herself bear the cost of any work which is specifically necessary for him/her to be able to use the association's structures.

#### **Article 31** *Withdrawal*

A member may withdraw from an association, in which case he or she shall be paid his or her initial cost to the extent that the value of his or her share exceeds the cost and damage resulting from his or her withdrawal. Disputes shall be resolved by the assessment of court-appointed assessors.

If a member withdraws from an association, such member shall be liable for any fees accruing to him or her pursuant to the provisions of the association until such time as he or she leaves the association.

#### **Article 32** *Liability for debts*

The assets of an association stand in security of its debts. No member shall be liable beyond his or her lawfully decided share in the association.

### **Article 33** *Dissolution of an association*

An association shall be dissolved:

1. If its members so agree in compliance with the instructions in the articles of the association;
2. If there are only two members and one members calls for dissolution;
3. It is revealed that it is not possible to achieve the objective set by the association, or if it proves so difficult that continuing the association becomes problematic; disputes on whether the conditions for dissolution pursuant to this item are present shall be resolved by the assessment of court-appointed assessors.

If half the members or more so request, a liquidation committee must be appointed to undertake the division of the association; the powers of the committee are subject to the same provisions as those of liquidation committees appointed on the liquidation of a limited liability company.

If the assets of the association are insufficient to cover liabilities, the balance shall be divided among members *pro rata* to the membership dues of each, as decided pursuant to the schedule of fees or other lawful provisions of the association. Each member is liable only for his or her share.

In other respects, the liquidation shall be subject to the provisions of the Act on the division of estates etc.

## **Chapter IX Administration**

### **Article 34** *Final Authority*

Issues under this Act are subject to the final authority of the Minister of Industry.

Administrative decisions of *Orkustofnun* taken on the basis of this Act are subject to appeal to the Minister of Industry. Procedure is subject to the Act on public administration.

<sup>1)</sup>*The paragraph was amended by Act No31/2007. The amendment takes effect on 1 November 2007 pursuant to the same article.*

### **Article 35** *Obligation to Notify*

Any works in or by waters for the purpose of water utilisation, including works which are not subject to licence pursuant to this Act or other acts of law, must be notified to *Orkustofnun*.

However, no notification is required pursuant to paragraph 1 when the Minister of Agriculture is sent a written application for works in or by a fishing water pursuant to Chapter VII of Act No. 76/1970 on

salmon and trout fishing, as amended. On receiving any application for permission for works, the Agricultural Authority shall immediately forward to *Orkustofnun* a copy of all such applications.<sup>1)</sup>

*Orkustofnun* is authorised to establish conditions for works and activities as necessary for technical reasons or if it may be assumed that the works or activities could spoil utilisation in water or the possibilities of using water at a later time. However, the authorisation of *Orkustofnun* to establish such conditions does not extend to works or activities in protected areas which are subject to permits from the Environment and Food Agency.

*Orkustofnun* shall notify parties who are subject to the obligation to notify within four weeks of receiving a notification, whether it intends to prohibit the notified works, set conditions for such works pursuant to paragraph 3 or raise any other objections to the works notified. If no objections from *Orkustofnun* are received by a party under obligation to notify within this deadline, it shall be assumed that no objections will be made to the works. In the event that *Orkustofnun* decides to impose conditions on a party under obligation to notify pursuant to paragraph 3, the decision shall be available within four weeks from the end of the four-week time limit pursuant to this paragraph.

The Minister of Industry shall, by regulation, following consultation with the Ministry of the Environment, issue further instructions on the enforcement of the obligation to notify, the details of conditions that may be set for works and other matters under this Article.

<sup>1)</sup>*The paragraph was amended by Act No31/2007. The amendment takes effect on 1 November 2007 pursuant to the same article.*

### **Article 36 Supervision and recourse**

*Orkustofnun* is responsible for administration and supervision of water utilisation and works pursuant to this Act. If *Orkustofnun* is of the opinion that works or activities in waters are not in compliance with this Act, regulations under this Act or other authorisation, the Agency may call for rectification subject to the imposition of daily fines. *Orkustofnun* shall report to the Minister of any violations by licensees which may be subject to daily fines. The daily fines may be in the range of ISK 10,000 to ISK 500,000 per day. In the determination of daily fines account may be taken of the nature of the neglect or violations and the interests at stake. The party in question shall be notified of a decision to impose daily fines in a verifiable manner. Decisions to impose daily fines are enforceable, as are legal fees. Collected daily fines shall accrue to the Treasury, net of collecting costs.

If violations are repeated or major, *Orkustofnun* may invalidate a licence pursuant to this Act and prohibit works or activities permitted on the basis of Article 35.

Prior to resorting to recourses pursuant to paragraphs 1 and 2, *Orkustofnun* shall always give written notice and provide a reasonable deadline for rectification.

## **Chapter X Provisions on expropriation and compensation**

### **Article 37 Expropriation**

The Minister may authorise expropriation of water rights together with necessary land, structures, facilities and other rights of a property owner in accordance with the provisions of this Act. Efforts shall always be made to reach an agreement with the property owner prior to expropriation.

The procedure of expropriation under this Act shall be subject to general rules.

**Article 38** *Compensation*

In the determination of compensation for expropriation, special account shall be taken of the uncertainty of water rights and cost of use. Furthermore, the determination of compensation for expropriation shall be net of any special benefits to the property in question of the works. In other respects, the compensation for expropriated rights shall be subject to general rules.

**Article 39** *Court-appointed assessors*

Where this Act provides that a dispute shall be resolved by the assessment of court-appointed assessors, the appointment, including the cost of appointment, shall be subject to the Act on Civil Procedure.

Chapter XI **Miscellaneous Provisions**

**Article 40** *Regulation*

The Minister of Industry is authorised to issue in a regulation further provisions on the implementation of this Act, including its provisions on the activities of water associations.

**Article 41** *Sanctions*

Violations of this Act are subject to fines unless more severe sanctions apply pursuant to other legislation. Legal entities and individuals may both be fined for violations of this Act. Legal entities may be fined irrespective of whether the liability of an employee of the legal entity can be proved.

**Article 42** *Entry into force*

This Act enters into force on 1 November 2007.

...

Licences issued pursuant to the Waters Act No. 15/1923, and which are still in effect on the entry into force of this Act, shall remain in effect.

Water associations functioning at the time of entry into force of this Act shall be subject to Chapter VIII of this Act and the articles of association of the respective associations, as applicable. However, such associations shall adapt their activities to this Act before 1 January 2008.

**Article 43 ...**