

# WATER USER ASSOCIATIONS ACT

## CHAPTER ONE GENERAL PROVISIONS

**Article 1.** This Act regulates the establishment and the activities of Water User Associations hereinafter referred to as "**the Associations**".

**Article 2.** (1) Water User Associations shall be voluntary organizations of natural and legal persons, which, in accordance with the interest of their members and society and through mutual assistance and cooperation, shall perform activities related to the irrigation and drainage of agricultural lands and the maintenance of irrigation and drainage infrastructure on a specified territory (the territory of the Association).

(2) The Associations shall be legal persons established and registered in accordance with the provisions of this Act.

**Article 3.** The Associations shall be established to perform the following activities:

1. the operation, maintenance and reconstruction of the irrigation and drainage infrastructure transferred to them pursuant to Article 47 and § 3 of the Transitional and Concluding Provisions hereinafter;
2. the construction of new irrigation and drainage systems and the relevant facilities;
3. irrigation water delivery and distribution;
4. the drainage of agricultural lands;
5. performing agricultural and water related activities for land improvement;
6. fish-farming and waterfowl breeding.

**Article 4.** The Associations shall not enter into deals and perform activities other than the ones listed in Article 3.

**Article 5.** (1) The Associations shall be assisted and encouraged by the State.

(2) The Associations shall operate under the supervision of the State. The functions of a supervisory body shall be accomplished by the Minister of Agriculture and Forests.

## CHAPTER TWO ESTABLISHMENT

**Article 6.** (1) An Association shall be established by natural and legal persons who own or use agricultural land served by a single irrigation/drainage system or by hydrologically detached parts of it and who are interested in the activities of the Association.

(2) The founding members of the Association shall include at least 50 percent plus one of the land owners and users as stated in Para 1, who own and use more than 50 percent of the agricultural land on the territory of the Association.

(3) Only one Association shall be established on the territory served by an irrigation/drainage system or by hydrologically detached parts of it.

(4) The Associations shall be established for an indefinite period.

(5) The Association name shall include the phrase "Water User Association".

(6) Farm land users as stated in Article 1 may be the founding members of an Water User Association in case they are authorized by the farm land owners.

(7) The users' authorization under Para 6 hereinabove shall be done in writing with signatures as witnessed by Notary Public.

**Article 7.** The Supervisory Body shall issue an order for the opening of a procedure for an Association establishment on the basis of:

1. an application by a Constituent Committee;
2. public declaration in conformity with the provisions of Article 9, Para 3.

**Article 8.** (1) The Constituent Committee shall consist of at least 5 (five) persons who meet the requirements stated in Article 6, Para 1. The members of the Constituent Committee may authorize a person who shall represent the Constituent Committee in the procedure for the establishment of the Association.

(2) The following data shall be pointed out in the application calling for the opening of an establishment procedure:

1. type of activity, aims and tasks of the Association;

2. Association territory;
3. irrigation and drainage infrastructure which should be used by the Association.
- (3) The application for establishment shall be signed by all the members of the Constituent Committee or by a person who is authorized to represent the Constituent Committee with certified signatures as witnessed by Notary Public and shall be accompanied by documents certifying that the Constituent Committee's members meet the requirements of Article 6, Paragraphs 1 and 6.
- (4) On the request of the body under Article 7 and within a term defined by it, the Constituent Committee could be obliged to present additional information and documents related to the requirements stated in Paragraphs 2 and 3.
- (5) In case more than one application for opening an establishment procedure are filed under Article 7, subparagraph 1 concerning an identical territory, the procedure shall be opened by the Supervisory Body through public declaration pursuant to the provisions of Article 9, Para 3.

**Article 9.** (1) The Supervisory Body shall declare its decision on the application of the Constituent Committee within a period of 30 (thirty) days.

- (2) In the cases Article 8, Para 4 applies to, the period set by Para 1 shall start from the day on which the inaccuracies in the application are corrected and the additional documents and information, if required, are presented.
- (3) The order for the opening of an establishment procedure shall be published in the State Gazette, in one national newspaper and in one local newspaper.
- (4) The Supervisory Body may refuse to open an establishment procedure when:
  1. The type of the Association's activities does not meet the requirements of Article 3;
  2. The territory of the Association cannot be served of a separate irrigation and/or drainage system or hydrologically detached parts of them;
  3. The Constituent Committee includes persons who do not meet the requirements of Article 6, Paragraphs 1 and 6;
  4. The documentation pursuant to Article 8, Paragraphs 2 and 3 is incomplete or the information and the documents pursuant to Article 8, Para 4 are not presented in the required form.
- (5) The refusal to open an establishment procedure can be appealed against with the Supreme Administrative Court within 14 days from the day the Constituent Committee has been informed in accordance with the Civil Procedure Code.

**Article 10.** (1) The Constituent Committee shall hold preliminary meetings, to which all farm land owners and users who can become Association members shall be invited, in order to:

1. determine the Association territory;
2. determine the number of Association members;
3. prepare drafts of the Association Statutes and other documents needed for the Constituent Meeting;
4. organize the Constituent Meeting.
- (2) The invitation shall be published in the State Gazette, in one national daily paper and one local newspaper.
- (3) The Constituent Committee shall be assisted by the Supervisory Body in the preparation of the Association establishment, including by presenting the information pursuant to Article 19, Para 1.
- (4) The Constituent Committee shall promulgate the project for the Association establishment in the State Gazette and shall publish it in one national daily newspaper and one local newspaper; the invitation shall contain the date and place of the Constituent Meeting, as well as the place where the draft constituent documents are displayed and the time at which they are available.
- (5) The draft constituent documents shall be made available not later than one month after the publication of the invitation described under Para 4.
- (6) The Constituent Meeting shall be scheduled at least 45 days after the publication of the invitation described under Para 4.
- (7) A representative of the Supervisory Body shall participate in the Constituent Meeting.

**Article 11.** (1) The Constituent Meeting shall be legitimate, if the persons described in Article 6, Para 2 participate in it.

- (2) In case quorum is not achieved, a new session of the Meeting shall be scheduled at least 20 days later but not later than 30 days from the date of the first meeting. The date of the new Meeting shall be set in an invitation as stated in Article 10, Para 4.
- (3) Under the provisions of Para 2, no more than two sessions of the constituent meeting could be scheduled. In case quorum is not achieved at the second session either, the procedure for the Association establishment shall be terminated by an order of the Supervisory Body.

**Article 12.** (1) Each founding member may authorize, in written with a signature as witnessed by Notary Public, another person to represent him/her in the Constituent Meeting.

(2) In the Constituent Meeting each participant has one vote.

**Article 13.** (1) The Constituent Meeting shall:

1. determine if all the requirements posed in Article 6, Para 2, and Articles 10 - 12 are satisfied;
2. resolve on the report of the Constituent Committee for reliving it of liability;
3. pass a decision for the establishment of the Association and adopt its Statutes;
4. elect the Association management bodies.

(2) The decisions described in Paragraphs 1, 2 and 4 shall be taken with a half-plus-one majority of the votes, while the decisions described in Subparagraph 3 shall be taken with the majority as required by Article 6, Para 2.

**Article 14.** (1) The Statutes of the Association shall contain:

1. the name, location and address of the Association head office;
2. the type of activities;
3. a description of the Association territory with an attached territory map and a list of the owners, endorsed by the Supervisory Body;
4. the property and the procedure for its use;
5. reference to the fact that the Association is established as a legal person in accordance with this Act, the organization of the Association management and representation;
6. the terms and conditions for convening and managing the sessions of the General Meeting, including the right to vote and quorum requirements, the decision-making procedure and the notification of members about decisions taken;
7. the procedure ruling the election and the conduct of the sessions of the Management and Control Boards, their membership, mandate and competence;
8. the procedure for the election of the Association Chairman and his/her rights;
9. the terms and conditions for dismissing members of the Management and Control Boards;
10. the terms and conditions for the admission of Association members, their rights and duties, as well as membership termination;
11. the terms and conditions for acquiring access to the property of members in order to operate and maintain the irrigation and drainage infrastructure, or to perform other activities determined in the Association Statutes;
12. the rules on the eligibility of members to receive compensation for damages caused by the Association;
13. the types of fees and the rules for their calculation and collection from the Association members;
14. the procedure for the resolution of conflicts among the Association and its members or among the members themselves;
15. the terms and conditions for unification with other associations;

(2) The Statutes can also include rules on issues other than the ones provided for by imperative provisions of this Act.

(3) The Statutes shall not place founding members at an advantage as compared to other members.

(4) The Protocol on the establishment of the Association and the Statutes shall be signed by the founding members and shall be presented by the Management Board to the Supervisory Body within 14 (fourteen) days from the date of the Constituent Meeting.

(5) The Statutes shall be approved by the Supervisory Body within a period of 30 (thirty) days from the date of receipt thereof.

**Article 15.** (1) The Association shall be regarded as existing from the day it is entered in the special register at the Court of the district where the head office of the Association is located.

(2) The entry shall be done following a written application from the Management Board and accompanied by:

1. The Protocol of the Constituent Meeting;
2. The Statutes of the Association, signed by the founding members and approved by the Supervisory Body;
3. Notary certified specimens of the signatures of the persons that represent the Association, as well as the valid stamp of the Association;
4. Certificates showing that each Management and Control Board member has a clear court conviction record;
5. Affidavits by the members of the Management and Control Boards that they are neither related by marriage, nor direct relatives, nor second order relatives.

(3) The register shall contain all the data concerning Article 14, Para 1, Subparagraphs 1-3 and 5, which shall also be published in the State Gazette on the request of the Court.

**Article 16.** (1) Amendments in the Association Statutes shall be approved by the Supervisory Body within 14 (fourteen) days from the date of receipt thereof.

(2) Within 14 days after the approval of the amendments by the Supervisory Body, the Management Board shall apply for the entry in the register of the amendments described in Article 15, Para 3, which come into effect after they are entered in the special register.

**Article 17.** Actions taken on behalf of the Association prior to the day of its entry in the register as stated in Article 15, Para 1, shall result in rights and obligations for the Association if the persons who have acted on behalf on the Association have been authorized to do so by the founding members. In the absence of such authorization these persons shall be liable themselves in common for the obligations they have assumed.

**Article 18.** An Association that has not fulfilled its rights in accordance with Article 47, Para 1 within one year after coming into existence shall be deleted from the register following a request from the Supervisory Body.

**Article 19.** (1) The Supervisory Body shall provide to the Association, free of charge, graphic and text information about:

1. the farm lands on the territory of the Association, their owners and users;
2. the irrigation and drainage infrastructure on the Association territory (location, type, main parameters and physical conditions).

(2) The Association shall keep:

1. a book of member property where the number, boundaries and area of land plots according to the territory map, data on the owners and users, data on the documents verifying the right of ownership or use, as well as data on the changes in the above facts shall be listed;
2. a book of protocols recording sessions held by each of the collective management bodies of the Association;
3. an inventory and a map of the irrigation and drainage infrastructure on the territory of the Association with data on the location, type, main parameters and physical conditions;
4. a record book for the technical activities implemented in relation to the operation and maintenance of the irrigation and drainage infrastructure.

**Article 20.** (1) The Supervisory Body shall set up and maintain a register of the Water User entered in the register mentioned in Article 15, Para 1.

(2) The terms and conditions for register maintenance described in Article 1 shall be determined by an order by the Minister of Agriculture and Forests.

(3) The Association Management Board shall apply for the Association entry in the register run by the Supervisory Body within 14 (fourteen) days after the Association has been registered in the Court register as mentioned in Article 15, Para 1.

**Article 21.** The Water User Association shall be established voluntarily on the initiative of the Supervisory Body in the presence of public interest in the efficient and ecologically sound use of water as a public source in the benefits of farmers on the territory of the Association through the existing irrigation and drainage infrastructure for the intensive use and protection of agricultural lands.

**Article 22.** When the establishment procedure is opened in compliance with the provisions of Article 7, item 2, the establishment of the Association shall be organized and guided by the Supervisory Body which shall perform the activities of the Constituent Committee pursuant to Article 10 hereinabove.

### **CHAPTER THREE MEMBERSHIP, MEMBER RIGHTS AND DUTIES**

**Article 23.** (1) Membership in the Association shall be open to natural and legal persons - owners or users of agricultural lands - who meet the requirements set by this Act and agree with the Statutes of the Association.

(2) A person shall be entitled to be a member of more than one Association.

**Article 24.** (1) The Association shall be open for membership to all owners and users of agricultural lands on its territory. The owner's consent shall be requested for users' membership.

(2) The owner and user of one and the same plot of agricultural land shall not be entitled to be members of the Association simultaneously.

**Article 25.** (1) A new member shall be admitted following a written request to the Management Board from the applicant with attached documents and maps, verifying his/her ownership or the right to use the agricultural land

(2) The membership request shall be reviewed by the Management Board within 14 (fourteen) days of its submission.

(3) The decision of the Management Board relating to the admission of a new member shall be subject to approval by the General Meeting at its first next session. The General Meeting shall notify the applicant of its decision in written.

(4) The Management board shall refuse admission to membership to persons who do not meet the requirements pursuant to Article 23 hereinabove and shall notify the applicant thereof in written.

(5) In case the Management Board turns down the request, the applicant shall be able to appeal against this refusal with the General Meeting within 14 days after the receipt of a written notification to this effect pursuant to Article 4. The General Meeting shall notify the applicant of its decision in written. In case the General Meeting cancels the refusal, the applicant shall be considered an Association member from the date of this decision.

(6) The decision of the General Meeting, by which it either has not approved the admission pursuant to Para 3 or has not granted the appeal pursuant to Para 5, can be appealed against with the District Court within 14 (fourteen) days from the receipt of the written notification to this effect pursuant to Para 3 or to Para 5.

**Article 26.** (1) The heirs of a deceased Association member shall become Association members themselves from the date their legator has died. They are entitled to leave the Association following a written request to the Management Board filed within 6 (six) months after the day their legator died.

(2) The provision of Para 1 hereinabove is applicable with heirs of legal persons, as well.

**Article 27.** The Association member shall be entitled to:

1. participate in the activities of the Association and use all services provided by the Association if he/she has fulfilled his/her obligations to it;
2. participate and vote in the General Meeting, elect the management bodies of the Association and be elected in them;
3. use preferential irrigation charges and other irrigation and drainage services provided by the Association;
4. be informed about the sessions of the General Meeting and its decisions;
5. request explanation from the management bodies for any decision taken but not implemented;
6. obtain information about issues that concern him /her;
7. request cancellation of the illegal, incorrect and counter - statute decisions or actions of the management bodies;
8. have access to the accounting books, annual reports, protocols and archives of the Association;
9. be compensated for sustained damages or damages to his property and crops caused by activities of the Association but after any possible benefits of these activities are deducted.

**Article 28.** The Association member shall be obliged to:

1. observe the Association Statute and fulfill the decisions of the managing bodies;
2. pay the membership fee and the charges in the amount and terms determined by the General Meeting;
3. provide access to his/her lands so that the Association can properly operate and maintain the irrigation and drainage infrastructure as well as conduct other activities of the Association;
4. allow the Association to use, free of charge, the irrigation and drainage infrastructure on his/her lands;
5. protect from damage the irrigation and drainage infrastructure of the Association;
6. tolerate the limitations in the use of his/her lands resulting from the activities of the Association;
7. provide the Association with the information needed for its activities.

**Article 29.** The employment relations, social and health insurance of those working for the Association shall be managed in compliance with the effective legislation.

**Article 30.** (1) In case an Association member fails to fulfill his/her obligations, the following penalties may be imposed to him/her:

1. reproof;
2. expulsion warning;
3. expulsion.

(2) The penalties listed in Para 1 shall be imposed by the General Meeting under the terms and conditions provided in the Statutes.

**Article 31.** (1) Termination of membership shall take place in the following cases:

1. voluntary withdrawal;
  2. expulsion;
  3. death;
  4. winding up of legal persons on liquidation;
  5. termination of the activities and liquidation of the Association;
  6. transfer of the ownership or termination of the use of the lands falling within the Association territory.
- (2) The request to leave the Association pursuant to Para 1 hereinabove, subparagraphs 1 and 6 shall be decided upon by the Management Board and shall be subject to the confirmation of the General Meeting. In case of refusal, the appeal procedure pursuant to Article 26, para 6 shall apply.

**Article 32.** (1) The right of voluntary withdrawal could not be exercised before the end of the irrigation season;

(2) The Management Board may impose other restrictions to an Association member in order to avoid harmful effects that may be caused by his/her withdrawal, if such restrictions are envisaged in the Statutes. The decisions of the Management Board may be appealed against in accordance with Article 25, Para 6.

**Article 33.** (1) A person whose membership has been terminated shall be paid compensation by the Association for damages sustained due to the activities of the Association but not for profits missed.

(2) The compensation provided for in Para 1 shall be paid to the former member or to his/her heirs after the annual accounting report of the Association has been approved.

3) The compensation shall be paid within a period of 5 (five) years.

(4) In case the due obligations have not been paid off to the Association, it shall be possible to make a compensation with the Association takings.

## **CHAPTER FOUR ASSOCIATION BODIES**

**Article 34.** (1) Association bodies shall be:

1. General Meeting of members (Meeting of Proxies);
2. Management Board;
3. Control Board;
4. Chairman.

(2) The Statutes of Associations with fewer than 20 members may envisage that the bodies of Subparagraphs 2 and 3 of the previous Paragraph 1 can be omitted and the functions of the Management Board are shall be taken by the Chairman.

**Article 35. (1)** The General Meeting shall include all Association members. They shall participate in the Meeting personally or through a representative who should be authorized in written with a signature as witnessed by Notary Public.

(2) Legal persons who take part in the General Meeting shall be presented by their legitimate representatives or by persons who have written authorization from a competent organ.

(3) In case the Association members exceed 200, the Association may have General Meeting of Proxies if that is provided for by the Statutes. The rules of representation shall be established in the Statutes.

**Article 36.** (1) The General Meeting shall be the Association supreme body.

(2) The General Meeting shall be convened at least two times a year.

(3) Decisions shall be taken with a half – plus - one majority and listed in a protocol.

(4) An emergency General Meeting may be convened after a request by the Management or Control Boards, by members holding 1/3 of the votes, and by the Supervisory Body in the cases determined with this Act.

(5) The General Meeting shall be convened by the Management Board with an invitation, which shall be published in one national and one local newspaper.

(6) The invitation shall include:

1. the name and seat of the Association;
2. the place, date and hour of the meeting;
3. the type of the General Meeting;
4. the note on the formalities which must be fulfilled so that members can take part in the Meeting and exercise their right to vote;

5. the agenda to be discussed and solutions proposed.

(7) The invitation shall be published at least 30 days before the date of the Meeting.

(8) In case the request of the members holding at least 1/3 of the votes is not satisfied within a month, the Supervisory Body shall convene the General Meeting or shall give power to the members of their representative to convene it

**Article 37.** (1) The General Meeting shall be legitimate if it is attended by members holding more than half of the votes.

(2) Decision for changes in the Statutes, restructuring or liquidation of the Association shall be taken if the Meeting is attended by members holding more than 2/3 of the votes.

(3) The General Meeting shall take decisions by open vote. Decisions may be taken by secret vote if this is provided for by the Statutes or is agreed upon by the General Meeting.

(4) The decisions of the General Meeting may be appealed against with the Supervisory Body if they breach imperative regulations of the Act or the Statutes. The member appealing against a decision must file the appeal within 14 (fourteen) days of the date of the Meeting if he/she has been correctly invited to it or has attended it. Otherwise he/she shall do so within 14 (fourteen) days after he/she has learned about the decision but not later than 3 (three) months after the date of the General Meeting. The decision of the Supervisory Body may in turn be appealed against with the Supreme Administrative Court within 14 (fourteen) days after the notification of the claimant.

**Article 38.** The General Meeting shall:

1. amend and add to the Statutes;
2. determine the number of members of the Management and Control Boards;
3. elect and dismiss the members of the Management and Control Boards as well as the Association Chairman;
4. confirm the admittance, voluntary withdrawal and expulsion of Association members;
5. resolve on proposals for establishment or termination of unions with other Associations in compliance with the provisions of Chapter Nine;
6. approve the annual plan, budget and staffing of the Association;
7. resolve the annual report on the activities of the Management Board;
8. resolve the report of the Control Board;
9. resolve on Association restructuring or liquidation;
10. approve the plans for operation and maintenance of the irrigation and drainage infrastructure as well as the irrigation schedule and water distribution plan;
11. determine the amount of contributions, fees and other charges that the Association members should pay and the terms in which this has to be done, as well as the price of services that the Association is providing to non-members;
12. resolve on the use of credits and adopt the investment program of the Association;
13. defer payment, reschedule or write off debts owed to the Association;
14. resolve on disposal of Association assets determined in the Statutes;
15. determine sanctions to be imposed on members in compliance with Article 30, Para 1;
16. resolve on other issues put within its prerogatives by this Act or the Statutes.

**Article 39.** (1) All Association members shall have the right to vote in the General Meeting in accordance with the Statutes adopted.

(2) The right to vote shall be determined as follows:

1. each member shall hold at least one vote;
2. the votes shall be proportional to the size of the land owned or used within the boundaries of the Association territory, except in cases pursuant to Subparagraph 3;
3. no member shall hold more than 20 percent of the total number of votes;
4. one and the same person shall not be able to represent more than 20 percent of the total number of votes.

**Article 40.** (1) The Management Board shall consist of at least three members and shall be elected for a three - year period. Members of the Management Board cannot be legal persons or persons who are not members of the Association.

(2) People who shall not be elected in the Board include:

1. people stripped of the right to hold management or administrative posts;
2. people related by marriage, or direct relatives, or lateral relatives to the second degree, relatives – in - law to the second degree with members of the Management or Control Boards;

(3) The decisions of the Management Board shall be taken with open vote and half – plus - one majority, unless otherwise provided in the Association Statutes.

**Article 41.** (1) The Management Board shall:

1. implement the decisions of the General Meeting (the Meeting of Proxies);
  2. manage the current activities of the Association between two sessions of the General Meeting;
  3. report on its activities to the General Meeting;
  4. prepare the annual report on the Association activities;
  5. fulfill other functions as allowed in the Statutes or the Law, which are not within the prerogatives of the General Meeting;
- (2) The Board members shall have joint liability for the damages caused by the Board to the Association.

**Article 42.** (1) The Management Board shall be convened at least once a month. Its work shall be managed by the Association Chairman.

- (2) The Chairman shall be obliged to convene the Management Board within 7 (seven) days after a request of at least 1/3 of its members.
- (3) As an exception the Management Board may be convened on a request by the Control Board.
- (4) The sessions of the Management Board shall be legitimate if at least half of its members are present.
- (5) The members of the Management Board shall not be remunerated for their work in it, unless stated otherwise in the Association Statutes.

**Article 43.** (1) The Control Board shall consist of at least three members and shall be elected for a three - year period. Members of the Control Board can not be legal persons or persons who are not members of the Association.

- (2) The members of the Control Board shall meet the requirements stated in Article 40, Para 2.
- (3) The Chairman of the Control Board shall participate in the sessions of the Management Board but have only advisory vote.
- (4) The decisions of the Control Board shall be taken with open vote and half – plus - one majority.

**Article 44.** The Control Board shall:

1. audit the activities of the Management Board and of the Association Chairman and report its findings to the General Meeting;
2. review and resolve disputes between Association members related to the activities of the Association after a request of these members;
3. convene the Management Board and propose the convention of the General Meeting;
4. prepare annual report on its activities and present it to the General Meeting;
5. propose sanctions to be imposed by the General Meeting on offender - Association members including members of the Management Board.

**Article 45.** (1) The Association Chairman shall be a member and Chairman of the Management Board. He/She shall have a decisive vote in case of equally split votes.

- (2) The Chairman shall:
  1. represent the Association;
  2. organize the implementation of the decisions of the General Meeting and the Management Board.
- (3) The competence of the Association Chairman shall be established in the Statutes.

## **CHAPTER FIVE PROPERTY, CONTRIBUTIONS, ACCOUNTING, PREFERENCES**

**Article 46.** (1) The property of the Association shall consist of ownership and use rights on irrigation and drainage infrastructure, other material rights, income resulting from its activities, loans, interests on bank deposits, contributions from the government, municipalities, cooperatives, individuals, legal persons, other rights and obligations.

- (2) The Association shall be allowed to collect:
  1. membership fee;
  2. annual charge from the water users specified in the Statutes for the current operation and maintenance of the irrigation and drainage infrastructure;
  3. charges from the water users for the construction of new irrigation facilities or for the expansion of the existing ones;

4. additional fees collected from the members if provided for by the Statutes.

**Article 47.** (1) The associations shall be entitled to acquire use rights, free of charge, over the irrigation facilities, as well as the service equipment on the territory of the association, included in the property of trade associations in which the state is a sole trader. The terms and conditions for transferring and withdrawing use rights shall be in conformity with an ordinance issued by the Council of Ministers on a proposal from the Minister of Agriculture and Forests.

(2) The trade associations under Para 1 shall be exempt from depreciation, taxes, fees and other charges related to the property right on the irrigation infrastructure on which use rights have been transferred.

(3) The associations shall bear the responsibility for the protection and maintenance of the facilities under Para 1. The associations shall be obliged to have insurance on them.

(4) An association which uses facilities in accordance with Para 1, shall be entitled, within a period of up to 5 (five) years from use right acquisition, to acquire property rights on them free of charge by a decision of the Council of Ministers on a proposal from the Minister of Agriculture and Forests. The Minister of Agriculture and Forests shall conclude a contract for free – of - charge transfer, which shall be registered in an entry office.

**Article 48.** The Associations shall not have the right to perform efficient deals with the property described in Article 46, including to establish limited material rights and mortgage on it, to lease it or to enter into deals for joint use, as well as to give the use of it to other persons without a preliminary written approval by the Supervisory Body.

**Article 49.** (1) The Associations shall have the right to financial support by the Government and international financial institutions for designing, overhaul repair and reconstruction of the irrigation and drainage infrastructure after an assessment of the social and economic efficiency of the investment intentions for the period of property right transfer, but not more than the period pursuant to Article 47, Para 4.

(2) The financing shall be accomplished on the basis of a program developed by the Minister of Agriculture and Forests and coordinated with the Minister of Finance within the annual limit for the capital expenditures of the Ministry of Agriculture and Forests.

(3) The terms and conditions for the financing procedure shall be determined by the Minister of Agriculture and Forests and the Minister of Finance.

(4) The Association shall participate in the expenditures or repair and reconstruction of the irrigation and drainage infrastructure with no less than 20 percent of the investment expenditures. The participation could also be performed through non- - monetary contributions.

**Article 50.** The Associations shall be entitled to credits from State Fund "Agriculture" or from other sources which shall be used for the design, construction, reconstruction and overhaul repair of the infrastructure transferred to them.

**Article 51.** (1) The accounting activity of the Association shall be conducted in accordance with the Accountancy Act.

(2) The associations are not organizations which allocate profit proceeds among its members.

(3) The association's General Meeting, in conformity with the Statutes, shall take a decision as to allocating the balance profit to cover losses incurred during previous years, to make investments in the activities under Article 3, subparagraphs 1 - 5, as well as for credit repayment.

**Article 52.** The Associations shall be exempt from all taxes and charges in connection with their establishment, restructuring, termination and liquidation.

**Article 53.** Lands on which facilities will be build may be alienated by the Minister of Agriculture and Forests in accordance with the State Property Act and the Agricultural Lands Protection Act. The alienation shall be performed for state needs and the associations shall be given, free of charge, building rights for the construction of irrigation facilities.

**Article 54.** The Associations may obtain a bill of execution in accordance with Article 237, item "h" of the Civil Procedure Code for the receivables they claim.

**Article 55.** The municipality shall lease to the Associations immovables or parts thereof in order for them to normally conduct their activities without tender or competition and under the terms of Article 14, Para 2 of the Municipal Property Act.

**CHAPTER SIX**  
**RELATIONSHIP BETWEEN ASSOCIATIONS AND WATER SUPPLIERS AND WATER USERS WHO**  
**ARE NOT MEMBERS OF THE ASSOCIATION**

**Article 56.** The condition of the irrigation and drainage infrastructure to be transferred to Associations shall be determined through a bilateral protocol under the control of the Supervisory Body.

**Article 57.** The relations with the water management bodies shall be established in accordance with the Water Act.

**Article 58.** (1) The Minister of Agriculture and Forests shall:

1. issue an order specifying the price of the service "water delivery" for the next year by September 30th on an annual basis on a proposal from the water supplier; the order shall be published in the State Gazette;  
 2. approve the general conditions of the contracts for irrigation water delivery to the Associations and to water users that are not members of the Association.

(2) The prices under Para 1, subparagraph 1 shall be determined depending on the irrigated areas and their location, the quantity of supplied water and the supply method (gravitation or pumping). In case total water losses exceed 25 percent they shall not be taken into account in calculating irrigation water price.

(3) Till December 31st 2004, the state shall participate in price payment pursuant to Para 1, subparagraph 1 on terms and conditions to be determined by a decree of the Council of Ministers.

**Article 59.** The measurement and billing of irrigation water quantities shall be done with water measurement devices or methods.

**CHAPTER SEVEN**  
**RESTRUCTURING, TERMINATION, LIQUIDATION**

**Article 60.** (1) On the basis of a General Meeting's resolution adopted by the affirmative votes of 2/3 of the members, the Association may be restructured by subdivision, separation, merger or joining another Irrigation Association.

(2) With the resolution pursuant to the preceding Para 1, the General Meeting shall:

1. approve the conditions agreed between their respective Management Boards in case of merger or joining of Associations having neighboring territories;  
 2. set the conditions for the subdivision of the Association or the separation of a new Association from it.

(3) The Managing Board shall be bound in duty to request the Supervisory Body, within 14 (fourteen) days from the date on which the General Meeting was held, for the approval of the restructuring. The Supervisory Body shall deliver its judgment within a period of 30 (thirty) days.

(4) Subdivision and separation of the Association shall be allowed as an exception when a substantial change in the irrigation infrastructure and the preliminary defined territory of the irrigation system has occurred in accordance with the principle of hydrological unity of the irrigation/drainage system.

(5) The request for registration of the restructuring shall be accompanied by the relevant evidence needed for the registration of the dissolution of restructured and of the newly established Associations, as well as for the change of entered circumstances in the case of joining or separation of Associations.

(6) Extension of Association territory out of the cases of joining shall be done under the provisions referring to Association establishment and taking into account the provisions of Chapter Two of this Act.

**Article 61.** The members of the Associations which have merged or joined shall become members of the newly formed Association, while the members of the Association which has been subdivided shall become members of the newly formed Associations abiding by the provisions of Article 6, Para 2.

**Article 62.** (1) In case of subdivision, the newly formed Associations shall be jointly liable for the liabilities of the Association which has ceased to exist.

(2) In case of separation, the newly formed Association shall be jointly liable for the liabilities of the Association from which it has separated.

**Article 63.** (1) An Association may be terminated by a decision of the General Meeting adopted with the affirmative vote of not less than 2/3 of all members.

(2) The General Meeting shall be called on the request of not less than 2/5 of the members within a month from the date the request was received. Should the Management Board remain inactive, the request may be presented to the Supervisory Body which shall convene the General Meeting or shall authorize the members who have so requested to convene it.

**Article 64.** (1) Together with the decision for the termination of the Association, the General Meeting shall appoint one or more liquidators.

(2) The liquidators shall be approved by the Supervisory Body and entered in the register, under Article 15, Para 1, as well as in the register of the Supervisory Body at the same time with the decision for the termination of the Association.

(3) The assets of the Association which remain after satisfying the creditors shall be distributed according to a decision of the General Meeting adopted with half – plus - one majority.

(4) The decisions of the liquidators and the General Meeting concerning the assets from the irrigation and drainage infrastructure transferred to the Association shall be subject to approval by the Supervisory Body. The assets transferred for use shall be given back to their owners.

(5) The liquidators shall be bound in duty to conclude the current deals of the Association and to undertake the real and legal actions needed for the completion of the liquidation and deletion of the Association from the register under Article 15, Para 1, and the register of the Supervisory Body.

(6) The deletion from the register under Article 15, Para 1 shall take place after presenting the documentation of the Association to the Supervisory Body which shall be bound in duty to keep them for a period of 15 (fifteen) years. The deletion shall be done after the irrigation season completion.

(7) For matters not dealt with, the provisions of the Non - profit Legal Persons Act shall apply. The assets that have been envisaged for disposition in case of insolvency shall be restored to their owners.

## **CHAPTER EIGHT SUPERVISION**

**Article 65.** (1) The Minister of Agriculture and Forests shall exercise legal, financial and technical supervision on the activity of the Association.

(2) The structure, organization and functions of the administration providing assistance to the Minister of Agriculture and Forests with the supervision pursuant to Para 1 shall be determined by a decree of the Council of Ministers based on a proposal by the Minister of Agriculture and Forests.

**Article 66.** The Supervisory Body shall:

1. approve the Association Statutes, the amendments to it, and provide the assistance envisaged by the Law for Association establishment;
2. open a procedure for an Association establishment on its own initiative;
3. keep a register of the Associations;
4. determine by order the deeds which shall be binding in respect to the proper and safety use of the irrigation and drainage infrastructure transferred to the Association;
5. require oral or written reports, letters and other documents connected with the activities of the Association;
6. conduct onsite inspections;
7. impose sanctions in case of non - fulfillment of its orders;
8. conduct other actions as required by this Act.

**Article 67.** (1) The legal supervision shall included the following:

1. approval of the Associations Statutes and the amendments in it, if any;
2. ordering the Management Board to convene a General Meeting if the actions of the Association contradict the Law;
3. convening the General Meeting if the Management Board does not execute the order under subparagraph 2;
4. announcing the results of audits performed at the General Meeting;
5. removing the members of the Management Board if proved guilty of failure to execute its prerogatives and convening a General Meeting to elect a new Management Board.

(2) The financial supervision shall include the following:

1. appointment, if necessary, of an independent audit control for an annual revision of the accounting books of the Association;
2. conduct of regular and ad hoc audits of the accounting documentation;
3. announcement of the audit results at the General Meeting.

(3) The technical supervision shall include the following:

1. right of access to the technical information and documentation concerning the operation and maintenance of the irrigation and drainage infrastructure;
2. conduct of annual control surveys of the irrigation and drainage infrastructure and relevant equipment;
3. approval of an Association manual for proper and safety operation and maintenance of the irrigation and drainage infrastructure.

## **CHAPTER NINE UNIONS OF ASSOCIATIONS**

**Article 68.** (1) By a decision of the General Meeting adopted by not less than 2/3 of the votes the Associations may unite in regional and national unions.

(2) The Unions under Para 1 shall be non - profit legal persons, established in accordance with the provisions of the Non - profit Legal Persons Act.

**Article 69.** The regional and national unions shall be established with the objective to assist the activities of the Associations.

**Article 70.** (1) The management bodies of the regional and national unions shall be the General Meeting, Management Board and Control Board.

(2) The General Meeting shall consist of proxies elected by the General Meetings of the separate Associations under the terms and conditions specified in their statutes.

**Article 71.** By a decision of the General Meeting, funds for mutual assistance, education, qualification and other purposes may be established with the regional or national unions.

## **CHAPTER TEN ADMINISTRATIVE/PENAL PROVISIONS**

**Article 72.** An Association, which concludes a deal or performs activities outside the scope of the ones under Article 3, shall be penalized with a property sanction in the amount of 300 - 1,5000 levs.

**Article 73.** An Association, which fails to fulfill its obligations pursuant to Article 19, Para 2, shall be penalized with a fine in the amount of 200 - 1,000 levs.

**Article 74.** (1) An Association, which infringes its obligation pursuant to Article 24, Para 1, shall be penalized with a fine in the amount of 100 - 500 levs.

(2) The owner or the user of an identical property who are both members of the same Association shall be penalized with a fine in the amount of 100 - 500 levs.

**Article 75.** An Association, which performs efficient deals with the property described in Article 46 , Para 1, including establishing limited material rights and mortgage on it, leasing it or entering into deals for joint use, as well as giving the use of it to other persons without a preliminary approval by the Supervisory Body, shall be penalized with a property sanction in the amount of 300 w 1,500 levs.

**Article 76.** A liquidator, who fails to fulfill his/her obligations in accordance with Article 64, Para 5, shall be penalized with a fine in the amount of 100 - 500 levs.

**Article 77.** An Association, which obstructs the implementation of the obligations of the Supervisory Body or fails to fulfill the technical rules and norms determined by an order pursuant to Article 66, subparagraphs 4, 5 and 6 and Article 67, Para 1, subparagraph 2 and Para 3, subparagraphs 1 and 2, and which fails to fulfill an order of the Supervisory Body issued in relation to a legal, financial or technical supervision performed, shall be penalized with a property sanction in the amount of 200 - 1,000 levs.

**Article 78.** An Association, which fails to comply with the rules for using the irrigation infrastructure facilities that have been transferred to it pursuant to Article 47, Para 1, shall be penalized with a property sanction in the amount of 1,000 - 3,000 levs.

**Article 79.** (1) Infringements shall be certified by means of acts issued by officials to be determined by the Minister of Agriculture and Forests.

- (2) Penal decrees shall be issued by the Minister of Agriculture and Forests or by an official w authorized thereby.
- (3) Infringement determining, issuing, appealing and executing of the penal decrees shall be performed in accordance with the Administrative Infringements and Penalties Act.

### **ADDITIONAL PROVISIONS**

§ 1. Within the meaning of this Act:

1. "Irrigation and drainage infrastructure" represents a complex of structures, technical facilities and equipment for irrigation and drainage, of agricultural lands on the territory of the Association together with the adjoining areas, service buildings and roads;
2. "Territory of the irrigation Association" is the area of the agricultural lands which is served by one irrigation and irrigation - drainage system or hydrologically detached parts of it with boundaries determined by the Supervisory Body;
3. "Irrigation system" is a complex of structures, technical facilities and equipment for obtaining, storage, supply and distribution of water for the irrigation of agricultural crop in order to maintain suitable moisture - air regime;
4. "Drainage system" is a complex of structures, technical facilities and equipment for the collection and removal of excess water from waterlogged agricultural lands aimed at improving the soil water - air regime;
5. "Agricultural practices" are technologies for soil cultivation aimed at improving the soil moisture characteristics, speeding up the removal of excess water, restriction of erosion hazards, improving the temperature regime and biological activity of the soil;
6. "Hydrologically detached part of an irrigation system" is such that receives water from a water source, water intake structure or point of the irrigation system and can be managed independently;
7. "Hydrologically detached part of a drainage system" is such that collects and removes the excess water from the agricultural lands and conveys it to a water course or a canal/pipeline and can be managed independently;
8. "User of agricultural land" is a natural or legal person who uses agricultural land on a legal basis - through a rent contract, leasing, or another legal form of use.

### **TRANSITIONAL AND CONCLUDING PROVISIONS**

§ 2. (1) Cooperatives or trade associations for collective use of irrigation water, established and registered under the Cooperative Act or Trade Act as the case may be, attain the status of Water User Associations if registered according to the provisions of this Act within a 6 month period from the date it has come into force.

(2) The term under Para 1 shall be considered observed if before it has expired, a request for opening a procedure has been made with the Supervisory Body. In such a case the Management Board of the cooperative or the General Meeting of the partners shall take the functions of a Constituent Committee. With the order for opening a procedure, the Supervisory Body may oblige the bodies pursuant to Para 2 to present other data and documents beyond those stated under Article 8.

(3) The deletion of the restructured cooperatives and trade associations from the relevant registers shall be done ex - officio simultaneously with the entry of the restructured cooperatives and trade Associations under Para 1 hereinabove in the register under Article 15, Para 1.

(4) The Water User Associations registered under Para 1 shall become successors of the terminated cooperatives and trade associations.

(5) Should the cooperatives and trade associations under Para 1 not organize their activities in conformity with the provisions of this Act, they may be terminated by the Court on the request of the Supervisory Body.

(6) The contracts with the cooperatives and trade associations under Para 1 for the use of irrigation systems and facilities (irrigation or drainage infrastructure) which have not acquired the status of Water User Associations under this Act, shall be considered concluded for an indefinite term. They may be terminated with a one - month notice issued by the owner of the facilities and systems, or by the Supervisory Body.

§ 3. (1) The Associations shall acquire, from the moment of their establishment as legal persons, the right of ownership on the facilities of the irrigation/drainage infrastructure on their territory which have been included in the assets of the terminated organizations under Para 12 of the Transitional and Concluding Provisions of the Act for the ownership and use of agricultural lands.

(2) The municipality is bound in duty to transfer to the irrigation Association the possession of the reservoirs and small reservoirs under Para 1, designed for irrigation and representing elements of the irrigation system or a hydrologically detached part of it on the territory of the Association and to terminate the contracts for concession, rent or joint use with third persons as the case may be. The contracts shall be terminated by the municipality with a written notification with a sufficiently long term, but not longer than 3 years, for completion of the activities that have already started, so that no damages shall be caused due to their premature termination. The municipality shall inform the Minister of Agriculture and Forests for the notification sent.

(3) The transfer of the facilities under Para 1 and 2 hereinabove shall be performed by the 4w municipality on a request from the Minister of Agriculture and Forests within a three - month period if no contracts under Para 2 have been concluded for them.

(4) From the moment of the request under the Para 3 hereinabove:

1. the regime of public municipal ownership of the reservoirs and small reservoirs shall be considered terminated;  
2. the contracts with third persons under Para 2 according to which the use of the reservoir and small reservoir as well as other facilities of the irrigation/drainage infrastructure has been transferred shall be considered as concluded without a definite term.

(5) Should the municipality not fulfill its obligations under Para 2 and 3, the contracts shall be regarded as terminated. The possession transfer as well as the termination of contracts shall be executed by the district governor based on a request by the Minister of Agriculture and Forests.

§ 4. (1) In case when at the moment this Act comes into force, there are no contracts concluded under Para 3, subparagraph 2 before the request under provisions of Para 3, subparagraph 3 has been presented the reservoirs and small reservoirs that are public municipal property may be only rented under the provisions of Article 12, Para 4 of the Municipal Property Act after a coordination with the Supervisory Body.

(2) When subject of rights, under Para 7 of the Transitional and Concluding Provisions of the Water Act are reservoirs and small reservoirs intended for irrigation the arrangements for transformation shall be performed in coordination with the Supervisory Body. W this case the term of concession or the permission for water use in cases under Para 7, subparagraph 2 cannot be longer than 5 (five) years.

§ 5. The electro - transmission network of high and moderate voltage as well as the transformer stations of 110 thousand volts which serve the irrigation systems and are included into the assets of Irrigation Systems Company, Sofia, shall be transferred free of charge to the National Electric Company under the rules and conditions set by the Minister of Agriculture and Forests and the Chairman of the State Agency for Energy and Energy Resources.

§ 6. The following amendments and supplements should be made in the Water Act (Prom. SG, 67/199; amended 81/2000):

1. Article 19, subparagraph 4:

a) after "of Trade associations" is inserted "or of Water User Associations" and after "Trade Associations" is inserted "or of Water User Associations";

b) in item "c" after "Trade Associations by the date of coming into force of this Act" is inserted "or of Water User Associations".

2. Article 22, Para 2 after "this Act" is inserted "and the "Water User Association Act"

3. Article 68, subparagraph 2 the text "water user association under the provisions of Article 91, Para 5" is substituted with "irrigation association or water user association registered as a cooperative or trade association"

4. Article 89 is amended follows:

"Article 89. (1) Water User associations shall be legal persons.

(2) The rules and conditions for the establishment, management and activity of the water user associations for irrigation and drainage as well as for the transfer for use or ownership free of charge to these Associations of irrigation and drainage infrastructure shall be dealt with a separate Act.

(3) Water user associations for other purposes under Article 88, Para 2 may exist in form of cooperatives or trade associations."

5. Article 90, Para 1 is amended as follows:

"Article 90. (1) The members of the water user and/or drainage associations may be natural and legal persons, owners and users of agricultural lands located on the territory of the association who are interested or are affected by the activities of the associations." 6. Para 5 in Article 91 is deleted. 7. In Article 104, Para 2, after the text "designed to assure the water supply to the population" the text "and for irrigation" is inserted.

8. A new Para 4 in inserted in Article 194:

"(4) The Water User Associations registered under the Water User Association Act shall be entitled to preferential water use fees in the amount of not more than 0.01 lev per 100 cubic m. in conformity with the tariff under Para 3."

§ 7. Article 12, Para 1, in the Farmer Support Act (Prom. SG 58/1998; amended 79 & 153/1998; 12, 26, 86 & 113/1999; 24/2000) is amended as follows:

1. A new subparagraph 7 is inserted: "7. designing, construction, reconstruction and capital repair of the irrigation and drainage infrastructure whose ownership has been transferred to the farmers organized in Water User Associations"

2. Subparagraphs 7, 8 and 9 become 8, 9 and 10 respectively.

§ 8. In the Municipality Property Act (Prom. SG 44/1996; amended 104/1996, 55/1997, 22 & 93/1998, 23, 56, 64, 67, 69 & 96/1999, 26/2000), in Article 14, Para 2, after the text "of the relevant needs of the population" the text "as well as the Water User Association" is inserted.

§ 9. The decrees for the implementation of this Act shall be issued within a three - month period from the date it has come into force.

§ 10. The implementation of this Act shall be assigned to the Minister of Agriculture and Forests.  
This Act was passed by the 38th National Assembly on March 22, 2001 and is sealed with the official seal of the National Assembly.

Speaker of the National Assembly  
**Iordan Sokolov**