

WATER (AMENDMENT No. 5) LAW, 5732-1971*

Addition of Article One "A" to Chapter Two.

1. In the Water Law, 5729-1959¹⁾ (hereinafter referred to as "the principal Law"), the following shall be inserted after section 20:

"ARTICLE ONE "A": PREVENTION OF WATER POLLUTION

Definitions.

20A: In this article -

"water pollution" means a change in the properties of water in a water resource in physical, chemical, organoleptic, biological, bacteriological, radioactive or other respect, or a change as a result of which water is dangerous to public health or likely to harm animal or plant life or less suitable for the purpose for which it is used or intended to be used;

"water resource" has the meaning assigned to this term in section 2, but includes also water carriers, both open and closed, water reservoirs and drainage channels;

"factor of pollution" means an industrial or agricultural undertaking, building within the meaning of the Planning and Building Law, 5725-1965²⁾, installation (including sewerage installation), machine and means of transport to location, establishment, operation, maintenance or use of which causes or may cause water pollution.

Prohibition of water pollution

20B. (a) A person shall refrain from any act which directly or indirectly, immediately or later, causes or may cause water pollution; and it shall be immaterial whether or not the water resource was polluted before the act.

(b) A person shall not throw, or cause to flow, into or near a water resource any liquid, solid or gaseous substance or deposit any such substances in or near it.

* Passed by the Knesset on the 11th Kislev, 5732 (29th November, 1971) and published in Sefer Ha-Chukkim No. 640 of the 21st Kislev, 5732 (9th December, 1971), p. 8; the Bill and an Explanatory Note were published in Hatza'ot Chok No. 937 of 5731, p. 199.

1) Sefer Ha-Chukkim of 5719 p. 166-LSI vol. XIII, p. 173; Sefer Ha-Chukkim of 5720, p. 10-LSI vol. XIV; Sefer Ha-Chukkim of 5721, pp. 175 and 193-LSI vol. XV, pp. 193 and 216; Sefer Ha-Chukkim of 5725, p. 191-LSI vol. XIX, p. 196.

2) Sefer Ha-Chukkim of 5725, p. 367; LSI vol. XIX, p. 330.

Prevention
of water
pollution
in water
installations

20C. A person who has in his possession any installation for the production, supply, transportation or storage of water or for recharging subsoil water resources shall take all reasonable measures to prevent such installation or its operation from causing water pollution.

Regulations
to prevent
water pol-
lution.

20D. (a) To prevent water pollution and protect water resources from pollution, the Minister of Agriculture may, after consultation with the Water Board, make regulations prescribing, inter-alia, restrictions, prohibitions, conditions and other provisions as to -

(1) the location and establishment of specified sources of pollution; any such regulations shall require the approval of the Economic Committee of the Knesset;

(2) the use of certain substances or methods in the production processes, operation and use of a source of pollution, including soil cultivation, fertilizer application and crop spraying; any such regulations shall be made in consultation with the Minister of Health;

(3) the production, importation, distribution and marketing of certain substances and products; any such regulations shall be made in consultation with the Minister of Commerce and Industry and prior notice thereof shall be given to the Economic Committee of the Knesset;

(4) the regulation of the movement, stoppage and use of means of transport on or near water resources; any such regulations shall be made with the consent of the Minister of Transport.

(b) Regulations under this section shall not derogate from the obligations imposed by sections 20B and 20C.

Disposal of
sewage from
source of
pollution.

20E. (a) A person who has in his possession any source of pollution the operation or use of which requires the disposal of sewage therefrom shall, upon the order of the Water Commissioner, submit for

his approval a scheme detailing the mode of disposal, nature, quality and chemical, physical and biological composition of the sewage and any other particular demanded by the Water Commissioner. The Water Commissioner may refrain from approving the scheme, vary it or attach such conditions to it as he may think fit.

(b) Where a person has been ordered to submit a scheme as referred to in subsection (a), sewage shall not be disposed of so long as the scheme has not been approved: Provided that the Water Commissioner may issue directions for a temporary mode of disposal pending the approval of the scheme.

(c) Where a scheme for the disposal of sewage has been approved, sewage may only be disposed of in accordance therewith.

(d) Where a person has been ordered to submit a scheme as referred to in subsection (a) and he has not done so within the time prescribed in the order or the scheme has not been approved or he has not carried out the changes in the scheme that have been required of him or he has not fulfilled the conditions attached to the scheme, the Water Commissioner may prepare a sewage disposal scheme for him, and upon his doing so, the person shall bear the cost of preparing the scheme; the Taxes (Collection) Ordinance¹⁾, except section 12 thereof, shall apply to the collection of such cost.

(e) The Water Commissioner shall not exercise his power under subsection (d) before the expiration of one month from the date prescribed for the submission of the scheme, the carrying out of the changes or the fulfilment of the conditions, as the case may be.

(f) A person for whom the Water Commissioner has prepared a scheme under subsection (d) may not dispose of sewage from the source of pollution save in accordance with such scheme.

1) Laws of Palestine Vol. II, Chap. 137, p. 1399 (English Edition).

(g) In every matter relating to the exercise of his powers under subsection (d), the Water Commissioner shall hold a prior consultation with a person empowered in that behalf by the Minister of Health.

Laying down conditions as to prevention of water pollution.

20F. In approvals, licences, and permits granted under this Law or the Drainage and Flood Control Law, 5718-1957¹⁾, the Minister of Agriculture or the Water Commissioner, as the case may be, may lay down conditions as to the prevention of water pollution.

Remedial measures.

20G. (a) Where the Water Commissioner is satisfied that water pollution has been caused, he may order the person who caused it to do everything necessary to stop it, to restore the position which existed before it was caused and to prevent its recurrent, all as specified in the order.

(b) If the provisions of an order under subsection (a) are not complied with within a reasonable time prescribed in the order, the Water Commissioner may do everything specified in the order, and upon his doing so, the person who has failed to comply with the order shall bear the cost involved; the provisions of the Taxes (Collection) Ordinance, except section 12 thereof, shall apply to the collection of such cost.

Stop Order

20H. (a) Where a person, after being warned, causes water pollution or disregards a direction issued to him under the provisions of this article or contravenes any regulation or order made thereunder, the Water Commissioner may order the discontinuance or restriction of the production, supply or consumption of water or may refrain from allocating water (any such measure hereinafter referred to as a "stop order": Provided that a person shall not thereby be deprived of drinking water.

(b) The stop order shall be in force so long as pollution has not stopped, the position which existed before it was caused restored and measures to prevent its recurrence adopted: Provided that the Water Commissioner may cancel the order, subject to conditions or

¹⁾ Sefer Ha-Chukkim of 5718, p. 8; LSI vol. XII, p. 5.

unconditionally, if it is proved to him that the person to whom the order is addressed is doing everything necessary to stop the water pollution, to restore the former position and to prevent a recurrence of water pollution or if the person to whom the order is addressed has given him security, to his satisfaction, that the said operations will be carried out within a reasonable time.

(c) Where a stop order will affect the consumers of a supplier to whom it is addressed, it shall not be made until the Water Commissioner has arranged for a normal supply of water to those consumers so long as the order is in force and on conditions prescribed by him.

Stop order in special cases.

20L. Where the Water Commissioner finds that water pollution has been or is likely to be caused by circumstances beyond the control of any person and that the situation requires, inter alia, the making of a stop order, the stop order shall not be made until the Water Commissioner has, as far as possible, arranged for a normal supply of water, on conditions prescribed by him and so long as the order is in force, to all those whose water supply has been discontinued or restricted as a result of the order.

Emergency powers.

20J. Where the Water Commissioner is satisfied that serious water pollution has been or is likely to be caused and that the situation requires inter alia, the immediate discontinuance or restriction of the production, supply or consumption of water from a particular water resource, he may take all measures deemed appropriate by him in the circumstances of the case in order to stop or prevent water pollution or its effects and for this purpose may use force to the extent necessary.

Authorising order

20K. (a) Where the Commissioner, after consultation with a person empowered in that behalf by the Minister of Health, is satisfied -

(1) that a particular operation is intended for the melioration, improvement of the quality, disinfection or mixing of water, for the prevention of danger to the public or the like or for

conveyance of substances in water for a purpose approved by him in advance; or

(2) that the circumstances of the case leave no choice but to enable the disposal of sewage into a particular water resource for a determinate period which shall be specified, such operation or disposal shall not be regarded as water pollution within the meaning of this article if it is carried out in accordance with an authorising order made by the Water Commissioner for this purpose.

(b) In an authorising order, the Water Commissioner may prescribe conditions, restrictions and limitations, either at the time of making the order or at a later date, and upon his doing so, the person to whom the order has been granted shall act in accordance with such conditions, restrictions and limitations.

(c) An authorising order under subsection (a)(2) shall be personal and reasoned and shall be in force for one year: provided that the Water Commissioner may extend it from time to time for reasons which shall be specified.

(d) The Water Commissioner may, after consultation with a person empowered in that behalf by the Minister of Health, cancel an authorising order or vary the conditions, restrictions and limitations prescribed in it if the circumstances of the case have changed or he finds that the public interest so requires or it appears to him that the order or the conditions, restrictions or limitations prescribed in it have been infringed.

(e) The Water Commissioner shall deliver to the Economic Committee of the Knesset, at the times prescribed by it, but at least once a year, a report on authorising orders made by him.

(f) A list of the authorising orders made by the Water Commissioner shall be open for inspection by the public free of charge.

Conferment
of powers

20L. (a) The Minister of Agriculture or the Water Commissioner, as the case may be, may confer powers under this article or any part thereof, except the power to make regulations with legislative effect and the power to make stop orders or authorising orders, upon a water authority, a drainage authority, a local authority, or an association of towns (each hereinafter referred to as an "authority") in respect of anything relating to the prevention of water pollution in its area.

(b) Authorities as referred to in subsection (a) which have a common interest in the prevention of water pollution in their areas may combine into a body corporate with a view to its being granted powers for the prevention of water pollution in such areas.

(c) A conferment of powers under subsection (a) or (b) will be made with the consent of the authority on which they are conferred and, in the case of a conferment of powers on a local authority or association of towns or on a body corporate as referred to in subsection (b) which includes a local authority or association of towns, also with the consent of the Minister of the Interior.

(d) At the time of conferring powers under subsection (a) or (b), the Minister of Agriculture or the Water Commissioner, as the case may be, shall prescribe the powers so conferred by order.

(e) Where any power has been conferred on an authority under subsection (a) or on a body corporate under subsection (b) the authority or body corporate shall be competent to exercise such power notwithstanding any limitation existing under law or otherwise.

Provisions as
to quality of
water.

20M. (a) The Minister of Agriculture may, after consultation with the Water Board, enact by regulations provisions as to the quality of water for different purposes, including flood-water and sewage water, but not including the sanitary quality of drinking water, within the meaning of Part VI of the Public Health Ordinance, 1940¹⁾.

1) P. G. of 1940, Suppl. I, p. 239 (English Edition): Sefer-Ha-Chukkim of 5730, p.102-
LSI vol. XXIV, p. 107.

(b) Regulations under subsection (a) shall, in so far as they relate to public health, be made after consultation with the Minister of Health.

(c) Where regulations under subsection (a) have been made, the Water Commissioner shall not permit the production, supply or consumption of water for the different purposes and uses save in accordance with the said regulations; and he may prohibit the production, supply or consumption of water which does not conform to those regulations, or may change the purpose of such water, provided that it is suitable for the new purpose.

Saving of obligations.

20N. The provisions of this article shall be in addition to, and not in derogation of, the provisions of any other enactment relating to water pollution.

General and special orders

20 O. Save as otherwise provided in this article, an order thereunder may be general or to a particular person or class of persons or in respect of a particular source of pollution or class of sources of pollution or in respect of part of a source of pollution.

Area of application.

20P. Regulations and orders under this article may apply in the whole area of the State or in any part thereof or in respect of a particular water resource, as may be specified in the regulations or orders; advance notice shall be given to the Economic Committee of the Knesset of any order applied to part of the area of the State.

Acts relating to drinking water.

20Q. The provisions of this article shall not derogate from the provisions of Part V 1 of the Public Health Ordinance, 1940, as to anything relating to drinking water.

Right of objection.

20R. (a) A person who considers himself aggrieved by the exercise of the powers of the Minister of Agriculture or the Water Commissioner under the provisions of this article or by his refusal to exercise his powers as aforesaid or by the exercise of a power conferred on an authority or body corporate within the meaning of section 20L or by

a refusal to exercise any such power may lodge objection with the Tribunal within twenty-one days from the day on which the fact of the exercise or refusal came to his knowledge.

(b) The lodging of objection under this article shall not stay the carrying out of the act objected to unless the Tribunal so directs; however, where collection of the cost is permitted under the provisions of this article, it may only be collected after the Tribunal has adjudicated the objection and in accordance with the results of the adjudication.

(c) The provisions of subsection (b) shall not derogate from the provisions of section 152.

Transition
period.

20S. (a) In exercising their powers under this article, the Minister of Agriculture or the Water Commissioner, as the case may be, may have regard to the period of time which in their opinion, in the circumstances of the case, is required in order to enable any person, including a person who has a source of pollution in his possession, to adapt his activities or the source of pollution in his possession to the circumstances created by the publication of this article.

(b) The period of time referred to in subsection (a) shall not exceed six months from the day on which this article comes into force.

Duty to make
report.

20T. The Water Commissioner shall once a year deliver to the Economic Committee of the Knesset a report on the position with regard to water pollution and on the action taken to prevent it."

Amendment of
sections 8, 9
and 156 and
repeal of
section 10.

2. (a) In section 8 of the principal Law, the definitions of "pollution of water" shall be deleted.

(b) In section 9 of the principal Law -

(1) the words "and pollution in paragraph (2) shall be deleted;

(2) the words "depleting or polluting" in paragraph (3) shall be replaced by the words "or depleting";

(3) the words "depletion and pollution" in paragraph (4) shall be replaced by the words "and depletion".

(c) Section 10 of the principal Law is hereby repealed.

(d) In section 156(a) of the principal Law, the following paragraph shall be added after paragraph (5):

"(6) contravenes any of the provisions of Article One "A" of Chapter Two".

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and Minister of Educa-
tion and Culture
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