

WATER (AMENDMENT NO. 4) LAW, 5725-1965 **

Addition of
section 22A.

1. The following section shall be inserted at the beginning of Article Three of Chapter Two of the Water Law, 5710-1959¹⁾ (hereinafter referred to as "the principal Law"):

- * Passed by the Knesset on the 6th Tammuz, 5725 (6th July, 1965) and published in *Sefer Ha-Chukkim* No. 459 of the 16th Tammuz, 5725 (16th July, 1965), p. 190; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 649 of 5725, p. 206.
- ** Passed by the Knesset on the 7th Tammuz, 5725 (7th July, 1965) and published in *Sefer Ha-Chukkim* No. 459 of the 16th Tammuz, 5725 (16th July, 1965) p. 191; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 622 of 5724, p. 278.
- ¹⁾ *Sefer Ha-Chukkim* of 5719, p. 169 — *LSI* vol. XIII, p. 173; *Sefer Ha-Chukkim* of 5720, p. 10 — *LSI* vol. XIV, p. 10; *Sefer Ha-Chukkim* of 5721, pp. 175, 193 — *LSI* vol. XV, pp. 193, 216.

“Establishment licence. 22A. (a) A person shall not establish any installation, works or structure designed for the production of water or for the diversion of water from another water resource — other than production or diversion from water distribution systems under the control of a person using the water lawfully — save under an establishment licence from the Water Commissioner and in accordance with the conditions of the licence (such a licence hereinafter referred to as an “establishment licence”). The grant of a licence for the establishment of any installation, works or structure as aforesaid on a water resource used also for navigation shall require the consent of the Minister of Transport or a person empowered by him in that behalf.

(b) The provisions of this section shall not derogate from the provisions of the Water Drillings (Control) Law, 5715-1955¹⁾ and the Drainage and Flood Control Law, 5718-1957²⁾.

(c) A person who considers himself aggrieved by the refusal of the Water Commissioner to grant an establishment licence, or by the conditions of the licence, may lodge objection with the Tribunal within 21 days.”.

2. The following Article shall be inserted after section 44 of the principal Law :

Addition of Article Five to Chapter Four.

“ARTICLE FIVE : RECHARGING

Definition. 44A. “Recharging” means the planned introduction into the subsoil of water from any water resource, including floodwater, drainage water and sewage water, and in any manner, whether by the direct recharging of wells, cisterns or boring or by causing water to percolate from the surface to the subsoil.

Prohibition of unauthorised recharging. 44B. Recharging shall only be carried out for one of the purposes set out in section 44C, under a licence from the Water Commissioner and in accordance with the conditions of the licence (such a licence hereinafter referred to as a “recharging licence”).

Purposes of recharging. 44C. The purposes of recharging are —
(1) artificial replenishment in addition to natural replenishment, with a view to the satisfactory production of water from a particular water resource;
(2) seasonal and perennial storage of water;

¹⁾ *Sefer Ha-Chukkim* of 5715, p. 84 — *LSI* vol. IX, p. 88.

²⁾ *Sefer Ha-Chukkim* of 5718, p. 4 — *LSI* vol. XII, p. 5.

(3) any other purpose determined by the Minister of Agriculture, after consultation with the Water Board and with the approval of the Economic Committee of the Knesset.

Proposal of recharging scheme.

44D. (a) A person applying for a recharging licence shall submit to the Water Commissioner a recharging scheme, setting out, *inter alia* —

- (1) the purpose of the proposed recharging;
- (2) the location of the proposed recharging;
- (3) the estimated boundaries of the area in which the effect of the recharging on the existing hydrological situation will be felt, either directly or indirectly (such area hereinafter referred to as the "recharging area") and a list of the suppliers and producers in the recharging area;
- (4) the estimated quantity and quality of the water to be introduced, and the quantity of water which it will be possible to produce, in consequence of the recharging, from the water resources in the recharging area;
- (5) the estimated expenditure involved in the recharging operations;
- (6) a forecast of the effect of the recharging on the water resources as a result of the mixing of water of different qualities;
- (7) a technical description of the recharging operations;
- (8) the follow-up measures for the periodical testing of the effect of the recharging on the water resources in the area.

(b) The Water Commissioner may request the recharger to furnish him with particulars additional to those enumerated in subsection (a) where it appears to him that the additional particulars are necessary for the examination and approval of the recharging scheme; the additional particulars shall include alternative schemes for increasing the quantity of water in the area if the Water Commissioner considers that such is necessary in the interest of improving the water supply situation therein.

Hearing of arguments before grant of recharging licence.

44E. (a) A copy of the recharging scheme shall be exhibited for sixty days at the office of the local authority in whose area the recharging is to be carried out or, in the absence of such an office, at the office of the District Commissioner, and in such other places as the Water Commissioner may prescribe. The local authority shall notify the settlements incorporated in it of the exhibition.

(b) The Water Commissioner shall not approve a recharging scheme, or grant a recharging licence, unless, within the aforesaid period, he has given every producer, supplier and consumer of water in the recharging area an opportunity to state his proposals, arguments or opposition in regard to the scheme in such manner as shall be prescribed by regulations.

Maintenance of quality of water. 44F. The Water Commissioner shall not approve a recharging scheme likely so to impair the quality of the water in the recharging area as to make it unfit for the use for which it is intended, unless the recharger satisfies the Water Commissioner that he will place at the disposal of the supplier or consumer the quality of whose water is impaired as aforesaid water from an alternative water resource of a quality appropriate to the use for which the water in the area is intended.

Contents of recharging licence. 44G. (a) A recharging licence shall state, *inter alia*, the following particulars:

- (1) The purpose of the recharging;
- (2) the quantities of water to be introduced;
- (3) the water systems from which the water is to be taken;
- (4) the technical conditions for carrying out recharging in the manner proposed;
- (5) the places and times of recharging;
- (6) the quality of the water to be introduced.

(b) The recharging licence shall indicate the suppliers and producers intended to benefit from, or likely to be adversely affected by, the operation either directly or indirectly, and the quantities of water likely to accrue to each of them out of the quantity introduced.

Publication of recharging licence. 44H. A copy of the recharging licence shall be exhibited at the office of the local authority in whose area the recharging is carried out or, in the absence of such an office, at the office of the District Commissioner, and in such other places as may be prescribed by the Water Commissioner. The local authority shall notify the settlements incorporated in it of the exhibition. Any person may inspect the copy of the recharging licence free of charge. Notice of the exhibition of the licence shall be published in daily newspapers read locally, in addition to any such other means of publication as the Water Commissioner may direct.

Objection. 44I. A person who considers himself aggrieved by a decision of the Water Commissioner granting or refusing to grant a recharging licence, or by any particular prescrib-

ed or indicated in such a licence, may lodge objection with the Tribunal within 30 days from the day on which notice of the Water Commissioner's decision granting or refusing to grant the licence was given.

Periodical examination.

44J. (a) The recharger shall carry out all the operations prescribed by the Water Commissioner — in the recharging licence or otherwise — with a view to a periodical examination of the effect of the recharging operations on the water resources in the area and on the quality of the water therein.

(b) The results of the examination shall be set down in writing and shall be open for inspection by the public at the places prescribed by the Water Commissioner.

Demand for discontinuance of recharging.

44K. (a) Where it appears from the periodical examinations carried out under section 44J that the recharging has rendered the water unfit for the use for which it was intended, or where a reasonable apprehension exists that the water will become unfit for such use, the Water Commissioner may, on his own motion or on the application of a person who considers himself affected, direct that the recharging be discontinued or that the quantity of water introduced be diminished or that the number of places of recharging be reduced, all in accordance with the directions of the Water Commissioner. The decision of the Water Commissioner to direct the discontinuance or reduction of the recharging or his refusal so to direct may be objected to before the Tribunal.

(b) The objection shall not stay the recharging unless the Tribunal otherwise decides.

Variations of scheme.

44L. The provisions of sections 44D and 44E shall apply also to variations of the scheme. However, where no rights are affected by the variation, the Water Commissioner may exempt from exhibition under section 44E.

Recharging for purposes of storage.

44M. Recharging for the purpose of storage shall not confer on suppliers, producers or consumers a right to an addition to the quantity of water fixed for them in accordance with Law and shall not be a ground for the abrogation of rationing arrangements in a particular area. However, this provision shall not affect the right of any supplier, producer or consumer to demand an addition for the flushing away of salts, as may be provided in rationing arrangements or rationing regulations.

Adjustments in production licence.

44N. (a) Where the recharging licence indicates a quantity of water which is to be at the disposal of a particular supplier or producer, the Water Commissioner shall state in the production licence of that supplier or

produce the quantity of water permitted to be produced, supplied or consumed by him having regard to the hydrological situation which would have existed but for the recharging operations and the quantity of water permitted to be produced, supplied or consumed by him having regard to the quantities introduced into the water resources from which he produces water.

(b) A production licence issued to a supplier shall indicate the quantities of water acquired from the recharger which shall be at the disposal of the supplier's consumers.

(c) The quantities of water introduced shall, if it can to the satisfaction of the Water Commissioner be done in accordance with the recharging scheme, be distributed proportionately among all the water producers and water consumers included in such scheme, as duly approved.

(d) A person who considers himself aggrieved by a decision of the Water Commissioner under this section may lodge objection with the Tribunal within twenty-one days.

Right to obtain water introduced by recharging.

44O. Where the Water Commissioner has approved a recharging scheme, and a recharging licence has been issued accordingly, the suppliers and producers shall be entitled to obtain from the recharger, against payment, the quantities of water accruing to them under the licence.

Acquisition of water introduced by recharging.

44P. (a) The amount of the payment under section 44O shall be fixed by a tariff under section 112 and 113 (b). So long as the Minister has not seen fit to prescribe a tariff, the amount of the payment shall be fixed by agreement between the recharger and the suppliers and producers, and in the absence of agreement the Water Commissioner shall decide. The decision of the Water Commissioner may be objected to before the Tribunal. The objection shall not stay the payment as prescribed by the Commissioner unless the Tribunal otherwise directs.

(b) Before a payment is fixed, whether by agreement between the supplier and the recharger or by a tariff or by a decision of the Water Commissioner, the suppliers and consumers from whom it is to be levied shall be given an opportunity to voice arguments and suggestions in such manner as shall be prescribed by regulations.

Waiver of right to water introduced by recharging.

44Q. Any supplier, producer or consumer may, within 60 days from the approval of the recharging scheme, waive his share in the water added by the recharging operations. Upon his doing so, the Water Commissioner may transfer the right to that water to another supplier, producer or consumer within the area of the scheme,

and the production and recharging licences shall be varied accordingly. The Water Commissioner may allow additional time for the waiver if, in his opinion, the circumstances of the case justify his doing so.

Commencement of right to use water introduced by recharging. 44R. A supplier or producer may not use the water introduced by recharging until he has reached an arrangement with the recharger concerning payment for his share in that water and has given an undertaking as to the settlement of such payment on terms approved by the Water Commissioner. Where the parties have not reached agreement in this matter, the terms shall be laid down by the Water Commissioner. But each of the parties may, instead, request the Tribunal to lay down the terms.

Apportionment of payments. 44S. (a) A producer who has acquired water from a recharger may impose the payments due from him in respect thereof on his consumers in the proportion of the quantity of water fixed for them in licences under this Law and duly supplied.

(b) The payment shall be imposed in accordance with rules prescribed by the Minister of Agriculture after consultation with the Water Board. So long as rules as aforesaid have not been prescribed, the payment shall be imposed by agreement between the supplier and the consumers. In the absence of agreement, the Water Commissioner shall decide; his decision may be objected to before the Tribunal.

(c) Where the supplier or the consumer is a local authority, rules as aforesaid shall be prescribed after consultation with the Minister of the Interior.

Metering of water. 44T. (a) The recharger may read the water meter of every supplier who has acquired water from him, and he may for that purpose, with the approval of the Water Commissioner and in accordance with rules prescribed by him, enter the waterworks and wells of the suppliers and producers. But the maintenance of the water meter in proper condition shall be incumbent on the supplier or producer.

(b) The recharger shall not enter a waterworks or well of a supplier or producer, under subsection (a), save in the presence of the supplier or producer, unless the supplier or producer has refused to accompany him.

Alternative measures. 44U. (a) Instead of a recharging scheme under section 44D, a person may submit an alternative scheme, under which, instead of recharging being carried out by him in a particular area, additional water is to be placed at the disposal of the suppliers and producers included in the area by the following methods :

(1) the direct supply of water through him or another supplier:

(2) the shutdown of wells at his disposal and the placing of the water not produced by him at the disposal of the suppliers and producers in the area for production from the wells at their disposal.

(b) If the Water Commissioner is satisfied that by the application of the said methods the suppliers and producers in the area will have the same quantities of water at their disposal as would have been at their disposal if a recharging operation, within the meaning of this Article, had been carried out, he may approve the said scheme and include the said methods therein: and upon his doing so, the provisions of this Article shall apply to the additional water received by the suppliers in the area and to the conditions of the supply thereof as if the water had been introduced by recharging within the meaning of section 44A.

Compensation. 44V. (a) Where in the past a person produced or consumed water from a water resource not depleted to such extent as to necessitate recharging for the purpose mentioned in section 44C(1) or the addition of water of inferior quality, and as a result of recharging operations under this Article, his existing plantations or crops have been damaged, or the quality of the land has been so impaired that the crops on which the agricultural economy in the area is based can no longer be economically cultivated thereon, or industrial or handicraft installations have been damaged, that person shall be entitled to compensation from the Treasury.

(b) A person to whom damage has been caused as aforesaid by the deterioration of water as a result of mixing water of different qualities shall be entitled to compensation from the Treasury unless the mixing of water of different qualities was necessitated by the depletion of the water resources from which he produced or consumed water.

(c) In the absence of agreement between the claimant and the Water Commissioner as to the amount, form and terms of payment of the compensation, the Tribunal shall decide.

(d) The Minister of Agriculture shall, after consultation with the Water Board and with the approval of the Finance Committee of the Knesset, prescribe rules for the calculation of compensation under this Article.

Delivery of report. 44W. For five years from the date of publication of this Article, the Water Commissioner shall, at the times

prescribed by the Economic Committee of the Knesset, but not less than once a year, deliver to that Committee a report on the recharging schemes approved by him and the recharging operations carried out.”.

Amendment of section 59.

3. Section 59 of the principal Law shall be re-marked as subsection (b), and the following subsection shall be inserted before it :

“59. (a) Where a regional water authority not owned by the State establishes or has established a water supply system in contravention of the conditions of the establishment licence issued to it under section 22A or in contravention of regulations applying to the establishment of a water supply system as aforesaid, the Minister of Agriculture may, after warning it in writing, adopt all or any of the following measures :

(1) do everything necessary to rectify the position and, upon doing so, collect all the expenditure involved from the water authority;

(2) cancel the empowerment of the water authority and, upon doing so, direct the Water Commissioner to complete the establishment of the supply system, in such manner and on such conditions as he may prescribe, after which it shall be transferred to another water authority or to the State, as the Minister may prescribe.”.

Replacement of section 90.

4. Section 90 of the principal Law shall be replaced by the following section :

“Compensation from water authority. 90. (a) Without prejudice to rights under any other law, the following shall be entitled to compensation from the water authority :

(1) the owners and lessees of land permanently requisitioned by the water authority, and any person who immediately before the requisition had a charge, attachment or other right in respect of any such land;

(2) any person to whom damage has been caused by —

(a) the temporary denial of the enjoyment or reasonable use of any land or the diminution of the value, or the destruction, of crops, whether as a result of operations connected with the establishment or management of a water supply system or as a result of defects or breakdowns in the installations of such a system;

(b) the denial of a water resource on which his livelihood depended, or his being cut off from a water resource from which he

used to receive water, or the replacement of one water resource by another;

(c) the refusal of the Water Commissioner to grant a permit under section 85.

(b) The provisions of subsection (a) shall not derogate from the right of a person claiming compensation thereunder in the Tribunal to include in his action any such grounds for a claim as arises out of damage caused to him by an operation connected with the establishment or management of a water supply system or by defects or breakdowns in the installations of such a system.”.

5. The following section shall be inserted after section 91 of the principal Law :

Addition of section 91A.

“Date of commencement of right to compensation.

91A. The right to receive compensation under this Article from the Water Authority shall begin on the date of the requisition or the causing of the damage, or six months after the approval of the scheme under section 72, whichever is the earlier date. This section shall not derogate from the rights conferred by section 79.”.

6. In section 93 of the principal Law, subsection (a) shall be replaced by the following subsection :

Amendment of section 93.

“(a) The Minister of Agriculture shall, after consultation with the Water Board and with the approval of the Finance Committee of the Knesset, prescribe rules for the calculation of compensation under this Article, including compensation in kind for the requisition of land.”.

7. At the end of section 117 of the principal Law, the words “and from reductions granted in respect of such water” shall be deleted.

Amendment of section 117.

8. In section 118 of the principal Law, the words “calculated according to units of the quantity of water supplied” shall be replaced by the words “calculated according to units of the quantity of water produced”

Amendment of section 118.

9. The following sections shall be inserted after section 123 of the principal Law :

Addition of sections 123A, 123B and 123C.

“Refund of payments.

123A. Where after the termination of a particular budget year it appears that during the budget year the Adjustment Fund, in respect of water used for agricultural and industrial production, collected sums exceeding the 20 per cent referred to in section 117, the Fund shall, in one of the three budget years following the said year, in the manner prescribed by regulations, place the excess amounts at the disposal of those entitled thereto.

Status of State. 123B. For the purposes of adjustment charges, the State shall have the same status as any other supplier, producer or consumer.

Special operations. 123C. Notwithstanding the provisions of section 116 a., the Adjustment Fund may, according to rules prescribed from time to time by the Minister of Agriculture after consultation with the Water Board, out of special receipts from various sources, other than adjustment charges, distribute special grants among particular water consumers."

Amendment of section 126. 10. In section 126 of the principal Law, the figure "36" shall be replaced by the figure "39".

Amendment of section 133. 11. In section 133 of the principal Law, the words "or such other schemes for large-scale water supply systems as have been designated in that behalf by the Minister of Agriculture or the Water Commissioner", shall be inserted after the words "under the provisions of this Law".

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