

THE LAW ON PUBLIC WORKS

I. GENERAL PROVISIONS

Article 1

This Law shall regulate the basic conditions and the manner of performing public works, financing of public works and other items of importance for the public works.

Article 2

The performance of public works is of public interest.

Article 3

Public works as used in this Law shall be:

1. Supply of drinking water, meaning intake, treatment and distribution of water, up to the measuring instrument of the user;
2. Treatment and delivery of technological water, meaning intake, treatment and distribution of water, up to the measuring instrument of the user;
3. Taking away and treatment of waste water, meaning intake of waste water at the household connection of the outdoors sewerage network, carrying across the street sewerage network, treatment and outlet in a recipient, as well as cleaning of septic tanks;
4. Taking away and outlet of atmospheric water, meaning intake of atmospheric waters from urban areas, carrying across the sewerage network and outlet in a recipient;
5. Public urban and suburban transportation, meaning transportation of passengers on lines in urban and other settlements, except the transportation with railway which is regulated by separate law;
6. Treatment and disposal of communal solid waste, meaning selection, collection, transportation and treatment of communal solid waste from households and industry, its recycling and treatment, disposal in developed disposal sites, as well as disposal sites maintenance;
7. Disposal of industrial waste and harmful substances, meaning waste collection, transportation, treatment and disposal in developed disposal sites, as well as disposal sites maintenance;
8. Maintenance of public cleanliness in urban and other settlements, meaning cleaning (washing and swarming) of public and traffic areas, maintenance of pedestrian paths, children's playgrounds, opened drain channels, quays, as well as removal of snow in winter conditions;
9. Maintenance and use of parks, greenery, parks-forests, water and recreation areas, meaning growing, maintenance and use of green areas, planting of low and high vegetation, etc.;
10. Maintenance of street traffic signalization and other infrastructure facilities of local importance, meaning their regular investment and winter maintenance;
11. Maintenance of graves, cemeteries, crematories and provision of burial services, meaning maintenance of graves, cemeteries, space, buildings and provision of burial services, such as: taking on, watching over, preparing and transportation of deceased to the place of the burial, burial or cremating;
12. Maintenance of the public lighting, meaning maintenance of street lights in proper condition;
13. Maintenance and use of public parking places, meaning maintenance of the space and buildings and provision of appropriate services, as well as specifying the manner of use thereof;
14. Maintenance and use of wholesale and retail sale marketplaces, meaning maintenance of communal buildings, i.e. the space and the buildings developed for the purpose of providing services of trade;
15. Performance of chimney sweeping services, meaning cleaning and control over the smokestacks and heating equipment;
16. Maintenance of communal devices, meaning keeping city clocks, taps, fountains, and other communal devices and equipment in proper operation condition; and
17. Removal and keeping of improperly parked vehicles, eradication of stray animals, decoration of settlements, maintenance of public sanitary facilities, aerial spraying, disinfecting, pests extermination, etc.

Article 4

The development of public works shall be done by plans and annual programs, in accordance with the law.

Article 5

Private and legal entities performing public works referred to in Article 3 of this Law shall be bound to provide permanent and high-grade performance of activities, as well as maintenance of buildings and equipment of the communal infrastructure in a proper condition.

Article 6

Specific conditions and manner of performance of public works referred to in Article 3 of this Law, except items 9, 13, 15, 16 and 17, shall be regulated by law.

Article 7

Municipality and the City of Skopje shall be bound to make a decision on the communal order and measures for the implementation thereof.

Communal order as referred to in paragraph 1 of this Article shall mean closer regulation of relations and manner of public works implementation, between users and providers of services.

II. COMMUNAL INFRASTRUCTURE FACILITIES

Article 8

Communal infrastructure facilities shall be building structures, plants, devices, installations, public traffic areas and other facilities of the communal infrastructure, intended for public works performance.

Facilities referred to in paragraph 1 of this Article shall be goods of public interest to the Republic and can be transferred for use and maintenance, in a manner regulated by law.

Article 9

Facilities of the communal infrastructure shall be divided into:

1. Primary facilities, including:

- city squares and public areas;
- main traffic areas and streets with pavements;
- street lighting on the main traffic areas, squares and public urban areas;
- public urban and suburban green areas (parks etc.);
- primary atmospheric sewerage systems;
- primary fecal sewerage systems and waste water;
- intake sites, reservoirs and drinking water treatment;
- primary water supply network;
- primary high voltage power network (over 10 KW), with high-voltage power distribution plants (over 110/10KW);
- primary postal network;
- primary heating line networks;
- primary gas line networks;
- cemeteries and crematories;
- disposal sites; and
- other primary public installations specified by the general urban plan.

2. Secondary facilities, including:

- secondary streets with pavements and public parking places;
- secondary water supply networks;
- street lighting of secondary streets and public parking places;
- urban greenery of urban units and facilities;
- secondary atmospheric sewerage systems;
- secondary fecal sewerage systems and waste water systems;

- secondary (low voltage) power networks (under 10 KW) and secondary power distribution plants (under 110/10KW);
- secondary postal networks;
- secondary heating networks;
- secondary gas line networks; and
- other secondary infrastructure networks and installations, specified in detailed urban plans and designs.

Article 10

Communal infrastructure facilities, according to the purpose thereof, shall be divided into facilities intended for individual and ones for common communal consumption.

Communal infrastructure facilities intended to meet individual communal consumption shall be facilities for:

- delivery of water from the main pipeline to the measuring instrument of the user;
- delivery of gas from the main pipeline to the measuring instrument of the user;
- delivery of gas from the central source of heating through heating network to the substation of the user, including the substation with the entire equipment and power required for its proper operation;
- taking away and treatment of waste water from the connection point of the user to the main pipeline;
- public urban and suburban transportation;
- maintenance of wholesale and retail marketplaces;
- treatment and disposal of communal solid waste;
- provision of burial services;
- performance of chimney sweeping services; and
- other works of individual communal consumption, to be specified by municipalities, the City of Skopje and the Republic, for individual users.

Communal infrastructure facilities intended to meet common communal consumption shall be facilities for:

- taking away and discharge of atmospheric waters, from the primary collection network to the recipient;
- maintenance of public cleanliness in urban and other settlements;
- disposal of industrial waste and harmful substances;
- maintenance of streets, together with horizontal and vertical signalization and other infrastructure facilities, accessible to higher number of users;
- maintenance of graves, cemeteries and crematories;
- maintenance and use of parks and green areas;
- maintenance of public lighting;
- maintenance of primary water supply systems; and
- maintenance and use of river beds.

Article 11

Owner of a building, developed in accordance with the relevant legal regulations, shall be bound to connect the building to the communal infrastructure.

Article 12

Illegally developed buildings must not be connected to the infrastructure networks and systems.

Article 13

Development and maintenance of the buildings of the communal infrastructure shall be financed from:

- investor's participation in the arrangement of the building land;
- price of communal services;
- compensation for the use of building land - a rent amounting to 50% of the total collected funds on this grounds;
- the budget of the founder;
- donations;
- earmarked funds of communal services providers and users; and

- other resources provided for in the law.

II. ORGANISATION AND MANNER OF PERFORMANCE OF PUBLIC WORKS

Article 14

Public work can be performed by foundation of public enterprise for public works (hereinafter: public enterprise), by awarding concession for public work performance in a manner provided for by the law (hereinafter: concession) and by license for public work performance (hereinafter: license).

Article 15

For the purpose of organizing and high-grade performance of public works and operation with facilities of communal infrastructure of local character, established for or serving to communal services provision in one municipality, the subject municipality can found public enterprise, provided that there has been no such public enterprise to perform the same public work on the territory thereof.

Article 16

For the purpose of organizing and high-grade performance of public works and operation with facilities of communal infrastructure of local character, established for or serving to communal services provision to users from the territory of two or more municipalities, the subject municipalities or the City of Skopje, by means of mutual agreement and in a manner provided for in the law, can found an inter-municipal public enterprise, provided that there has been no such public enterprise to perform the same public work on the territories thereof.

Article 17

The Government of the Republic of Macedonia, with reference to infrastructure systems of economic, technical and technological, functional and environmental significance to the Republic, shall establish public enterprises for water supply systems, sewerage systems with waste water treatment plants, disposal sites for the communal solid waste and disposal sites for industrial dangerous and harmful substances, crematories and other infrastructure systems, specified in the law.

Article 18

Water supply systems referred to in Article 17 of this Law shall be: water supply systems of "Studencica-Zletovica" and other systems specified in the law.

Water supply systems referred to in paragraph 1 of this Article shall comprise the intake and the main pipeline to the measuring instrument before the distribution network.

Article 19

Sewerage systems with waste water treatment plants referred to in Article 17 of this Law shall be the collection systems for the protection of: Ohrid, Prespa and Doyran Lakes and other systems specified in the law.

Article 20

Public enterprise referred to in Article 14 of this Law can be organized as limited liability company or share holding company as soon as resources of private and legal entities are invested therein, in a manner specified in the law.

Resources of private and legal entities can be invested in a public enterprise for the purpose of performing the works specified in Article 2, paragraph 1, items 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of this Law.

Article 21

Public enterprises registered for communal works, upon prior consent by the founder, can perform other activity as well.

The founder of the public enterprise shall specify the conditions and the manner of distribution and use of surplus resources acquired from the enterprise operation.

Article 22

Public enterprise performing communal activity cannot enter into a bankruptcy procedure, except in cases specified in the law.

In case of appearance of conditions for entrance into and execution of bankruptcy against public enterprise, the founder shall be obliged to undertake measures aimed at providing conditions for an uninterrupted operation and functioning of the public enterprise and give guaranties for the public enterprise liabilities towards third parties fulfillment.

The founder can decide that the public enterprise terminates the operation, provided that conditions for bankruptcy initiation have been fulfilled, only if the performance of communal activity has been previously provided for in a manner specified in the law.

Article 23

Public enterprises performing communal activity can be associated in groups of enterprises, in a manner specified in the law.

Article 24

By concession, the right to perform public works referred to in Article 3 of this Law can be acquired, in accordance with the law.

Article 25

The performance of public works can be accomplished by means of license awarding to private and legal entities by the Government of the Republic of Macedonia, the municipality or the City of Skopje, respectively, except for the work referred to in Article 3 item 7 of this Law, in accordance with the provisions of the Law on Public Enterprises.

IV. RESOURCES FOR COMUNAL WORKS PERFORMANCE

Article 26

Resources for public works performance referred to in Article 10 paragraph 2 of this Law, shall be acquired from the price of communal services.

Resources for public works performance referred to in Article 10 paragraph 3 of this Law, shall be acquired from:

- the charge for the building land use - revenue from private property amounting to 50% of the total resources collected on this ground;
- the price of the communal service;
- other resources provided for by the law.

Article 27

The level of the price and the manner of payment for communal services, shall be determined by the steering board of the public enterprise, upon prior consent by the founder.

Article 28

In case the user fails to pay for the communal service regularly, the provider thereof is entitled to terminate the provision of service, under conditions and in a manner specified in the law.

Article 29

The payment for the communal services shall be done in the following measuring units:

- treatment and delivery of water - den/m³;
- generation and delivery of gas - den/lit;
- generation and delivery of heat - den/m², den/Jules;
- taking away and treatment of waste waters - den/m³;
- public urban and suburban transportation - den/passenger;
- maintenance of cleanliness in urban and other settlements-den/m²;
- maintenance of cleanliness in the business sector - den/m²;
- collection and transportation of communal solid waste - den/m²;
- treatment and disposal of communal solid waste - den/ton;
- provision of burial services - den/burial;
- maintenance of wholesale and retail marketplaces - den/selling place;
- maintenance and growing of greenery - den/m²; and
- performance of chimney sweeping activity - den m¹/f.

V. SUPERVISION

Article 30

The supervision over the application of this Law shall be done by the authority having competence in affairs of urban planning, construction and environment.

Inspection supervision over the legality of working of entities in the area of public works shall be carried out by the Republican Communal Inspectorate as an organ within the Ministry of Urban Planning, Construction and Environment, as well as communal inspectors in municipalities and the City of Skopje, respectively.

Article 31

The Republican Communal Inspectorate shall be composed of the Principal Republican Communal Inspector and Republican communal inspectors.

Article 32

Republican communal inspectors shall carry out inspection supervision in public communal enterprises, as specified in Article 17 of this Law and with private and legal entities that obtained concession or license for public work performance by the Government.

Republican communal inspectors shall also carry out inspection supervision in cases of emergency, if the postponement threatens to endanger lives and health of citizens and their property.

Article 33

Municipalities, and the City of Skopje, respectively, for the purpose of carrying out the works in the area of public works, in the framework of their competencies provided for in the law, shall appoint communal inspectors.

Communal inspectors referred to in paragraph 1 of this Article shall carry out inspection supervision over the public communal enterprises founded by the municipalities, and the City of Skopje, over the implementation of the decision on communal order and over private and legal entities to whom the municipality or the City of Skopje has granted a license for public work performance.

Article 34

The communal inspector shall be obliged to prepare minutes on the completed inspection supervision, i.e. on the found condition and measures undertaken by the supervision, and submit it to the private or legal entity where the inspection was done.

If, during the inspection supervision, the inspector finds out that violation or criminal act have been done, he shall be obliged to initiate a procedure in front the competent court.

Article 35

The communal inspector, after the completion of the inspection supervision, shall make a decision.

An appeal against a decision made by the Republican communal inspector can be submitted to the Commission of the Government of the Republic of Macedonia.

An appeal against a decision made by the municipal communal inspector, or communal inspector of the City of Skopje, respectively, can be submitted to the Council of the Municipality or the City of Skopje, respectively.

The appeal shall cause no postponement of the execution of the decision.

Article 36

The communal inspector shall have an authorization.

The authorization of the communal inspector shall be issued by the organ appointing him.

The Minister of Urban Planning, Construction and Environment shall specify the form and the manner of the authorization granting to communal inspectors.

VI. PENALTY PROVISIONS

Article 37

A fine between 150.000 and 300.000 denars shall be imposed to legal entity providing communal services, for a violation, if such legal entity:

- terminates the provision of communal services or carries out the communal activity beyond the required quality or does not maintain communal facilities and devices in a proper operation condition (Articles 5 and 22, paragraph 2);
- connects the building structure without following the conditions specified in the law (Article 11);
- connects an illegally built structure to infrastructure networks and systems of all types (Article 12);
- performs other activities for which the founder gave no consent (Article 21, paragraph 1);
- performs public work without a license (Article 25);
- collected higher price from the user of the communal services than the price specified (Article 27); and
- the payment of the price for the communal service has not been carried out in accordance with the specified measuring units (Article 29).

A fine between 30.000 and 50.000 denars shall be imposed to the responsible person of the legal entity providing communal service, for a violation referred to in paragraph 1 of this Article.

A fine between 10.000 and 20.000 denars shall be imposed to private entity providing communal service, for a violation referred to in paragraph 1 of this Article.

Article 38

A fine between 150.000 and 300.000 denars shall be imposed to the user of communal service - legal entity, for a violation, i.e. for not respecting the Decision on communal order (Article 7).

A fine between 150.000 and 300.000 denars shall be imposed to the user of communal service - legal entity, for a violation, i.e. failure in payment of the costs for connecting the building to the communal infrastructure (Article 11).

A fine between 30.000 and 50.000 denars shall be imposed to the responsible person of the legal entity-user of communal service, for a violation referred to in paragraphs 1 and 2 of this Article.

A fine between 10.000 and 20.000 denars shall be imposed to private entity - user of communal service, for a violation referred to in paragraphs 1 and 2 of this Article.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 39

The Government of the Republic of Macedonia, the municipality or the City of Skopje shall issue regulations and other legal acts in accordance with this Law, within three months as of the day of its entrance into force.

Article 40

In case municipalities or the City of Skopje, within the term specified in the law, fail to conclude mutual agreement referred to in Article 16 of this Law or provide for the performance of public works, the Government of the Republic of Macedonia shall undertake the performance of public works referred to in Article 3, items 1, 2, 3, 4, 6 and 7 of this Law, to be financed by the budget of the local self-government unit, in a manner specified in this and other laws.

Article 41

The public communal enterprises which, by the day of constitution of the Council of the Municipality, or the City of Skopje, have had a status of municipal communal enterprises, shall be transformed into inter-municipal public enterprises for the communal work they used to provide for the territory of all newly established municipalities and for the municipality from which the said new municipalities have been established.

The newly established municipalities and the municipality from which the said new municipalities have been established, by means of mutual agreement, can arrange that the existing public enterprise performs other communal works that have not been performed on their territory previously.

Article 42

If, on the territory of the Municipality, the existing public enterprise does not perform certain communal activities, the said Municipality can found a public enterprise for such activities performance or provide for the performance of the subject activity in a manner specified in this and other laws.

Article 43

If facilities of communal infrastructure are placed or reach the territory of other municipality and, as such, have been used for the performance of communal activity by the time of new municipalities establishment, the said facilities shall continue to be used for the same purpose for which they have been used previously.

The municipalities referred to in paragraph 1 of this Article, by means of agreement, shall provide for the performance of public works on their territory as well, by using the facilities of communal infrastructure or found a new public enterprise for that purpose.

Article 44

Public communal enterprises or parts thereof, performing additional activities, can separate and transform into a limited liability companies or share holding companies and other forms in accordance with this and other laws.

Article 45

This Law shall enter into force on the eighth day as of the day of the publication thereof in the "Official Gazette of the Republic of Macedonia".