

WATER LAW

Enacted on the 5th of May 1983

[Law 1983:291]

Chapter 1. Introductory provisions

§ 1. Water should be protected and preserved as a common natural resource.

§ 2. This law is applicable to water projects and water works. This law has provisions on the protection of water-supply.

In regard to certain water enterprises which may affect another country, other legal provisions apply.

§ 3. A water project is defined as:

1. construction, modification, repair and demolition of dams or other works in watercourses, lakes or other water areas; filling and building piles in water areas; diverting water from, or digging, blasting works or weeding in water areas; and other actions in water areas if the action has the purpose of changing the depth or the position of the water.
2. diverting ground water and the construction of works for this purpose.
3. providing water to increase the amount of ground water and the construction of works and actions for this purpose.
4. actions which are carried out to drain lands, when this does not involve the diversion of sewage water or the lowering or draining of a lake or the protection against water,

when the purpose of that action is not to permanently enhance the suitability of a property for any particular purpose.

A water work is a structure that has been built in connection with a water project, including the structure's control devices.

A water area in paragraph one above refers to an area which is covered by water at the highest foreseeable water-level.

§ 4. In this law the following definitions apply:

1. control of water: change in the flow of water in a watercourse for the advantage of a water project.
2. water transfer: control of water through the transfer of surface water from one water area to another.
3. water supply: the diversion of surface or ground water for the provision of water, the extraction of heat or for irrigation.
4. land drainage: measures taken according to § 3, paragraph four.
5. sewage water: waste water or other flowing pollution; water which has been used for cooling in the operation of a factory or other establishment; drainage water under a local plan where no specific property is benefited; and drainage water from a cemetery. [Law 1987:139]

Chapter 2. Dominion over water, etc.

§ 1. In order to develop a water project the developer must have dominion over the water within the area where the project will take place.

§ 2. Every person has dominion over the water within his property. Dominion over the water of another's property can also accrue to a person as a consequence of a grant of that property owner or, under the law regarding eminent domain.

§ 3. In regard to streams, the owner of each of the banks of the stream controls an equal share of the flow even if a greater part of the water flows on one owner's property rather than the other's.

§ 4. A person who wants to carry out:

1. the control of water;
2. a water diversion for public water provision, public heat provision, or irrigation;
3. a land drainage project;
4. a water project that is needed for a public road, a public waterway, a public harbor or a public floatway; or
5. a water project that is needed to prevent pollution from sewage water

has for this purpose dominion as stated in § 1. [Law 1984:913]

§ 5. Dominion as stated in § 1 is available to:

1. the state, municipalities and water associations carrying out such water projects as are desirable for reasons of health or from a general environmental point of view, or for the promotion of fishing.

2. administrators who are referred to in § 82(a) of the prior law [1919:426], concerning log-driving in public floatway, to restore the stream after the cancellation of the public floatway.

A person who is dependent on the maintenance of water conditions also has the necessary dominion to maintain the channel, the depth, or the course of the water or to immediately restore a watercourse which has diverged from its former stream bed or which, in any other way, has changed its character.

§ 6. For the use of his property, the owner of riparian land alongside a watercourse, the bottom of which is owned by someone else, has the right to have a small bridge, boat house or any other similar building on the shore, so long as the existence of the building does not harm the bottom owner.

In chapter 1, § 6 of the land code there are provisions also stipulating that other persons than the shore owner can have this right.

§ 7. If a stretch of falling water belongs to different owners, one of them can utilize the water power in the entire stretch if that owner, by virtue of ownership or other rights, controls more than half of the water power, good against all the world and not limited in time. Consideration should be given to water power represented by a share in an association under chapter 1, § 3 of the property-formation law. [1970:988]

The above paragraph also applies when the owner of a water-power plant wants to utilize water power in stretches of falling water which belong to different water courses, if such common utilization is a necessary condition of building the power plant, from a technical and economic point of view.

§ 8. If in the development of a power supply plan, it becomes necessary to claim a privately owned stretch of falling water which is not being used, in a manner consistent with the public interest, the government can, on application by a potential water power user, authorize that the stretch of falling water or a special right therein can be claimed by that user.

A permittee under paragraph one must, within a year from the issuance of the permit, apply in the water court for a determination of compensation for the power supply claimed.

If the application is not made within such time, the permit ceases to be valid.

The right to claim a stretch of falling water under paragraph one can not be transferred by the owner without the permission of the government.

The government can condition the utilization of the right to protect the public interest.
[Law 1988:212]

§ 9. A person who develops water or has dominion over a water resource under § 2 is required, at times of serious water deficits caused by drought or other comparable circumstances, to give up the water necessary for the public water supply or other public need.

A person who gives up water under paragraph one is entitled to reasonable compensation for the damage he suffers.

The regional administration can, under penalty of a fine, require the developer or the holder of dominion to carry out his obligations to give up water. The regional administration can authorize the decision to be executed even during an appeal.

Chapter 3. Common prerequisites for water projects

§ 1. A water project cannot be carried out, if its location or other aspects are contrary to public planning. At the permit hearing for a water project, the law [1987:12] on natural resource management should be applied. [Law 1987:139]

§ 2. A water project and associated construction works cannot be in conflict with a local plan or with area restrictions. If the purpose of the plan or of the area restrictions is not interfered with, minor variations from such plan or area restrictions can be made.

In the case of special regulations for building on, or other utilization of, a land or water area, other than § 16, 18 and 20 of the nature conservation law [1964:822], the water project should be carried out so that the purpose of such regulations is not defeated. [Law 1987:139]

§ 3. Even if a water project is not prohibited by § 1 or § 2, any significant damage or nuisance hurting public interests and caused by the project is prohibited.

Despite any prohibitions as specified in paragraph one, the project may take place if the government finds that it is required in the public interest.

§ 4. A water project can take place only if the public and private benefits outweigh the costs, including damages and nuisance. [Law 1984:913]

§ 5. At the permit hearing consideration should be given to related water projects or particular works that might be needed to assist in the suitable operation of the water project in question.

§ 6. The regulations in §§ 1, 2 and 4 are not applicable to:

1. a proposed water project in an area named in chapter 4 of the law [1987:12] on *natural resources management, etc.*
2. bridges or other water projects for roads, railroads, subways, or tramways, the construction of which has been examined in a special hearing.
3. pipelines in water, for which permission has been granted under the Pipeline Law. [Law 1978:160]
4. activities for which processing permission has been granted according to the law on certain peat deposits. [Law 1985:621] [Law 1987:139]

§ 7. A permitted water project should be carried out with such scope and in such a way, without unreasonable cost, that the purpose is achieved with the least interference and inconvenience to conflicting public and private interests. It should be carried out, wherever possible without unreasonable cost, and in such a manner that it does not interfere with future water projects which may affect the same water resource and which will benefit important public or private goals.

A water developer is obliged to prevent or reduce damages from the project, if the costs are not unreasonable. For non-monetary compensation measures, see chapter 9, § 1, paragraph three.

§ 8. If permit applications for competing water projects are heard at the same time and the projects, due to the fact that they affect the same water resource or for other reasons, cannot both be developed consistent with the applications, and if they are not in an association under this law, the projects should, if possible, be modified so that they can both be developed without any significant detriment to either. If such modification

cannot be accomplished, preference should be given to that project which will result in the greatest public and private benefit.

§ 9. When under this act a water project is best carried out within the framework of an association, it should be administered so that each participant receives equal treatment.

§ 10. If, at the permit hearing for a water project, it is established that with only minor changes, a project may be carried out with considerable benefit for another person, conditions should, at the request of that person, be imposed on the permit. Such conditions may not be imposed if the prerequisites for an association exist.

The beneficiary under paragraph one should pay reasonable compensation to the permittee.

If the permittee incurs costs due to conditions imposed under paragraph one, he is entitled to compensation as provided in chapter 9.

§ 11. If an applicant applies for a water project that can harm fishing, he is obligated, without compensation, to carry out and maintain in the future, measures required for fish migration or stocking, allowing water to pass for this purpose, and to follow any other conditions imposed for the protection of fishing in the waters which are affected by the water project, or in any adjacent water area. If the benefits of such an arrangement or condition do not reasonably correspond to the cost, the developer can be freed from such obligation.

In chapter 10, § 5, there are regulations on particular fishing fees which can be decided instead of announcing conditions according to section one.

§ 12. The regulations in § 1-6 and § 8-11 are not applicable in the case of demolition under chapter 14, §§ 1 and 3.

Chapter 4. Permit requirements

§ 1. A permit for a water project is required, unless otherwise provided in §§ 1(a), 2, 3 or 4 of this chapter.

When a permit is required for a water project, related construction may not begin until such permit has been granted.

A water developer has the right to a hearing, even if a permit is not required.

Chapter 14, § 5 contains regulations regarding the obligation for a hearing before a project for removing ground water is taken out of use. [Law 1984:913]

§ 1(a). A permit is not required for:

1. water supply for one- or two-family houses nor for a farm property's household use or heating supply;
2. the building of works for the cultivation of fish, clams or shellfish;
3. the building of works for the extraction of thermal heat, if the project does not impact a water supply. [inserted in Law 1984:913]

§ 2. A permit for a water project is not required, if it is obvious that neither public nor private interests are damaged through the impact of the project on water conditions. In regard to local sub-surface drainage, a permit is required only if public or private interests probably will be damaged by the project.

Where land will be drained, a permit is also required under the special provisions of chapter 8, § 1 or 2, or if two or more developers will take part in the enterprise and there is no agreement existing on the levels of participation.

§ 3. A permit is not required to dredge a watercourse in order to maintain the depth or course of the water, or to immediately restore a water-way which has changed its location or which, in any other way, has changed its course.

If the project affects the property of another person, the owner of the affected property must be notified before the project is started.

If fishing may be damaged, notification of the planned project must be given to the regional fishery authority before the project begins. [Law 1991:381]

§ 4. If it becomes necessary to make emergency modifications or repairs on a project, such modifications or repairs can be made prior to obtaining a permit. Application for permit approval should be made as soon as possible.

If to avert danger to life or health, to save valuable property or for any similar reason it is necessary to take actions which are contrary to published regulations about the storage and diversion of water, such actions may be taken without a prior permit. Application for approval of the actions should, however, be made as soon as possible. [Law 1989:513]

§ 5. If a water project has been carried out without a permit as required by this or an earlier law, the developer may request a hearing on the legality of the project.

An application for a permit to alter an existing water project that has been carried out without a permit can be heard only if a hearing on the legality of the project is requested at the same time.

Paragraph two also applies to applications made pursuant to chapter 8, § 2, to use someone else's project. Such application can also request a hearing on the legality of that project.

§ 6. If a water project, after this law becomes effective, is carried out without a permit, the developer bears the burden of demonstrating the water conditions existing before the project was carried out.

Chapter 5. Special regulations regarding land drainage

General regulations

§ 1. When an application is made for a permit for a land drainage project, this project should, at the request of the owner of other property, and if appropriate, be constructed so that it also benefits that property. Owners of properties benefited by the land drainage must participate in the project. Obligation to participate in a land drainage project, other than ditching, only exists if a land owner's participation is requested by other owners, whose properties will receive more than half of the calculated benefits of the project.

Paragraph one is also applicable to persons maintaining roads who are not property owners, if such roads have a significant effect on the land drainage project.

§ 2. *In the construction and management of the project, the participants constitute an association. The permit for the project and its facilities and rights which belong to the project are held jointly by the participants.*

When an association has been formed, the requirements in this law regarding permit holders or owners of facilities apply to the association.

Land which has been acquired for the project is held jointly for the benefit of the properties which, when redemption takes place, are owned by the participants in the association and included in the land drainage enterprise.

§ 3. The costs for the construction and management of the project are shared among the participants, such sharing to be primarily based on a reasonable proportion of the benefit which each of the participants gets from the project.

If, through differences in the natural conditions or otherwise, it can be assumed that one area would have considerably reduced costs compared to the benefits of the land drainage had another area not been part of the project, the project should be divided to take account of these differences.

The agreement amongst the participants regarding the sharing of costs should be used as a basis for the permit, if lien holders of the properties owned by the participants and included in the land drainage project, accept this procedure. If a property secures a joint mortgage, consent from property owners and creditors is also required, consistent with the security requirements of chapter 22, § 11 of the land code. Consent of the right-holders is not needed, if the agreement is essentially of no importance to them.

§ 4. The regulations in §§ 1-3 are not applicable to land drainage where the permit applicant is someone other than the property owner or road maintainer.

Land drainage and the removal of sewage water

§ 5. If pipes for a land drainage project can be used to great advantage to remove sewage water from another property, the owner of that property should participate in the project if either he or the permittee of the land drainage project so requests. This should also apply where sewage water is removed from an area served by a public water and sewage plant. In such a case, the rules applicable to the owner of the property should apply to the authority responsible for the plant.

§ 6. The cost of constructing and maintaining a common pipe is shared between the land drainage interest and the sewage interest, keeping in mind the amount and character of the water which is added to the pipe in relation to the interested parties' benefit from the pipe.

The previous paragraph is also applicable to the distribution of costs among those parties interested in sewage disposal.

In the case of agreements between the interested parties, sentence three of § 3, paragraph three, is applicable.

§ 7. The provisions in §§ 5 and 6 regarding the removal of sewage water from properties can also be applied to the removal of sewage water from buildings and projects owned separately from the property, if this can be done without significant inconvenience to the other participants.

§ 8. The provisions of §§ 5-7 do not apply to the removal of sewage water from private properties within the area served by a public water and sewage plant.

Land drainage and road projects etc.

§ 9. For the purpose of land drainage a road maintainer has the right to build, enlarge, or deepen a water pipe underneath a road.

If not unreasonable, such measures should be paid for by the road maintainer, to the extent that the measures are needed to create drainage to a depth of 1.2 meters of arable

and pasture land, which drainage requirement has been associated with arable or pasture land since the creation of the road or for at least twenty-five years, counted from the date of the permit application. The road maintainer's responsibility for costs is not applicable to private roads, bridges, or other water projects, that have been constructed under this act or the prior water act. [Law 1918:523]

When the road maintainer is not responsible for costs under the previous sentence, the measures should be paid for by those benefited by the land drainage.

§ 10. If the costs, imposed on the road maintainer by § 9, paragraph two, considerably exceed the damage that would have occurred were the measures not taken, the road maintainer may pay compensation in the amount of the damage, rather than the cost of the project.

§ 11. If a road is to be built or altered and a property owner requests that a water pipe for future land drainage should be built under the road, the road maintainer should do this so long as no detriment to the future fitness of the road will occur. As to the responsibility for costs for any increase in the price of building and maintaining the road, the pertinent portions of § 9, paragraphs two and three, and §10 apply.

Requests under paragraph one of § 11 should be addressed to the road maintainer or, in the case of a private road subject to private maintenance, to the appropriate hearing authority. Requests should be in writing and, in the case of major construction, accompanied by a plan for the land drainage.

§ 12. The provisions in §§ 9-11 do not restrict the rights that a road maintainer or property owner has by virtue of a verdict, agreement or other legal grounds.

§ 13. The provisions of §§ 9-12 also apply to embankments for railroads, subways or tramways.

Chapter 6. Irrigation associations

§ 1. If several individuals apply for a permit for an irrigation water supply out of the same water resource, and the water needs to be distributed among them, the permit can be conditioned on the formation of an association of permittees (irrigation association).

If a permit for irrigation water supply has been granted and a permit for a new irrigation water supply out of the same water source is applied for, it may, if special reasons exist, be required that the permit holders constitute an irrigation association or, if an association has been constituted under the prior sentence, that the existing permittee should participate in the association.

If, after an association has been established, someone applies for a permit for a new water irrigation supply from the same water source, the permit may be conditioned on the participation of the applicant in the association.

§ 2. The members of an irrigation association may distribute available water among themselves, as required by a water shortage or any other circumstance, or if a member does not use his right to take water. Distribution of the water should be consistent with the permit conditions imposed by the water court.

§ 3. If appropriate, the water court can decide that joint irrigation works should be established for all or some of those who will participate in the association.

§ 4. A joint project can only be established for those persons for whom it is of considerable importance to have a share in the project.

A joint project cannot be established, if those who are to participate are generally against the project and have good reasons for their opposition. At the hearing greatest weight should be given to the views of those who most benefit from the project.

The previous paragraph does not apply, if the project is particularly important to accommodate opposing public and private interests.

§ 5. A joint project and the right for space for it are held in common by the participants. They are jointly responsible for the construction and management of the project.

Land which has been acquired for joint projects, is held for the benefit of the properties which, when acquisition takes place, are owned by participants in the association and included in the irrigation project.

§ 6. An irrigation association's costs for administration and costs for the construction and management of joint projects are distributed reasonably among the participants, with primary consideration given to the amount of water that each of the participants can use under the permit; each participant is then assigned a certain number of shares.

Under special circumstances, special numbers of shares can be allocated to certain parts of the activity.

Where proper, the management costs of joint projects can be distributed through fees, based upon the extent to which each participant uses the projects.

§ 7. The agreement of the participants regarding the shares and the grounds for the calculation of fees should be used as a basis for the verdict of the water court, provided that creditors, with liens on properties owned by participants and included in the irrigation association, agree. If a property is liable under a joint mortgage, the consent of property owners and creditors is also required as stated in chapter 22, § 11 of the land code for mortgage releases. The consent of lien holders is not needed, if the agreement is essentially of no importance to them.

Chapter 7. Associations for the control of water

Water regulation for the purpose of power generation

§ 1. At the request of a person who applies for or has received a permit under this law for a water project for hydro-electric power purposes, the permit should require that an owner of another stretch of falling water, who benefits from that project should participate in the project, if more than half of the project benefits accrue to the stream flow that belong to the person who makes the demand and his associates, and each stretch of falling water which the demand applies to is built or will be constructed for hydro-electric power purposes in the near future.

If a person applies for or has received a permit under this law for a water project for hydro-electric power purposes, the permit, at the request of the owner of another stretch of falling water who benefits from the project, should be conditioned on that person participating in the project.

§ 2. If a permit conditioned in accordance with § 1 has been issued, all participants in the project constitute an association for the construction and management of the project. The permit for the project together with building works and rights which belong to the project are held jointly by the participants.

When an association has been constituted, the provisions of this law regarding permit holders or owners of projects are applicable to the association.

Land acquired for the project is held jointly for the benefit of land owned by the participants in the association and included in their stretch of falling water.

§ 3. The costs for the construction and management of the project are shared among the participants based upon the number of shares assigned to each with primary emphasis on their share of the benefits of the project.

If a water project involves many lakes or particular stretches of a water course and therefore requires more dams or special structures, the costs, if required, for each such part of the project should be determined separately and shared according to the basis established in the previous sentence.

The agreement of the participants regarding the sharing of costs should be used as the basis of the water court decision, if creditors with liens on the properties associated with the streamflows belonging to the participants agree. If a property is subject to a joint mortgage, the consent of property owners and creditors, protected by chapter 22 § 11 of the land code regarding mortgage release, is also required. The consent of the rightholders is not needed, if the agreement is essentially lacking importance to them.

Water regulation for irrigation

§ 4. At the request of a person who applies for or who has received a permit for a water project for the purpose of irrigation, it should be required that others who have a permit for water supply for irrigation, and who get permanent advantage from the project through improved opportunities to irrigate, should participate in the project, if the person making the request and his associates are found to receive a greater benefit from the project than those of whom the request is made.

If a person applies for or has received a permit for an irrigation project, then at the request of another party who has also received a permit for a water supply for irrigation, and who gets permanent advantage from the project through improved opportunities to irrigate, it should be required that this other person should participate in the project.

§ 5. In regard to water projects for irrigation, §§ 2 and 3 have the same application with the following exceptions:

Land acquired for the project is held jointly for the benefit of those properties which, when acquisition takes place, are owned by participants in the project association and included in the irrigation project.

The division of shares between the participants is reasonably apportioned, primarily based on the amount of water that each participant can take under the water supply permit.

In applying § 3, paragraph three, consent should be received from creditors who have a lien on properties owned by participants in the project association, and for whose irrigation the project is maintained.

Water regulation based upon agreement

§ 6. If permission for a water project has been granted based upon the application of several persons who wish, for a common benefit, to construct the project, the claimants constitute an association for the construction and management of the project unless they have made a contrary agreement.

If a water project, for which a permit has been granted under the previous paragraph, involves different purposes, §§ 1 and 4 are not applicable.

§ 7. In regard to a water project § 6 applies as follows:

1. in regard to redemption, § 2, paragraph three, and § 5, paragraph two,
2. in regard to the sharing of costs, § 3 and § 5, paragraphs three and four.

Chapter 8. Special rights of coercion

§ 1. A person who constructs or will construct a water project can be given the right to develop works or take actions on properties which belong to someone else, and to use that land for this purpose when it involves:

1. a water project involving the utilization of surface or ground water,
2. control of water,
3. a water project involving a public channel, a public port or a public floatway,
4. land drainage,
5. a water project to control pollution from sewage water,
6. a water project referred to in chapter 2, § 5, number 1.

A person who constructs or will construct a water project can be given the right, on another person's property, to construct works and take actions needed to prevent or reduce damage to the project.

An area of land which is used according to the previous paragraph can be acquired, if it is land riparian to a stretch of falling water.

If property rights under this section have expired, everything that has been constructed belongs to the property owner free and clear, unless it is taken away within one year from such expiration.

§ 2. If no substantial inconvenience is involved for the owner of a water project, another person can be given the right to use that project for his own purposes, and the right to change that project in order to prevent or reduce damages to his own water

project. If the project is to be changed, the owner has the right to make that change and receive compensation for the costs incurred.

A person who obtains a right to use a project should give the owner of the project reasonable compensation for its use.

§ 3. If dredging is done, or other actions referred to in chapter 2, § 5, paragraph two, the dredged material removed can be put on the nearest shore, unless this involves considerable public or private inconvenience. Such material can otherwise be brought to a suitable place nearby.

The owner of the land should be informed before such dredged materials are deposited. The depositor of the material is obligated to carry out measures to prevent or reduce damage from the deposits, unless excessive costs are thereby incurred.

§ 4. When a permit is issued for facilities either promoting fishing or preventing damages to fish, the permit may contain a condition prohibiting fishing within a certain area.

Chapter 9. Compensation and co-operative hydro-electric power

General regulations

§ 1. A person who has received a permit under this law to acquire or in any other way claim another person's property, or to carry out an action which damages another person's property, should pay compensation for what is acquired or damaged, in the absence of special provisions. This rule also applies to a person who deposits dredged materials under chapter 8, § 3, and through such action damages another person's property. Compensation should also be paid for damage caused by the prohibition of fishing under chapter 8, § 4.

If the project or actions for which a permit has been granted under this law results in the loss or alteration of a special right in property, the rule regarding compensation applies if properties are taken or damaged.

The person liable for compensation should, if appropriate, be responsible for carrying out actions to prevent or reduce damages. Compensation is payable only for those damages which remain after such actions have been carried out.

§ 2. Properties or property interests that receive particular damage from a project or action for which a permit has been granted under this law, should be acquired, at the request of the owner.

The person liable for compensation for damages has the right to acquire title to the property, if this would increase the compensation only slightly and the owner does not have any considerable interest in keeping such property or property interest. The costs

of actions referred to in § 1, paragraph three, should under such circumstances be counted as part of the compensation.

§ 3. Compensation is fixed in money, to be paid immediately.

Where good reasons exist, compensation can be fixed, for damages resulting from projects establishing a public right of way for floating, to be paid yearly. If the damages from such a project, cannot be estimated with certainty in advance, or if it is likely that they will not occur every year, the person damaged should claim compensation in the way prescribed in the law [1919:426] on floating in a public floatway. The basis for the calculation of compensation should be set out wherever possible.

§ 4 . When a property is acquired in its entirety, in the absence of any of the factors stated below, the acquisition price should equal the market value of the property. If part of a property is acquired, or property or a part thereof is in any other way claimed or damaged, compensation should be paid equal to the reduction of the market value of the property arising from the acquisition. Compensation should also be paid for other damages to the property owner.

When compensation is determined, the actions referred to in § 1, paragraph three, should be taken into account.

§ 5. If a project, in connection with which property has been acquired, has affected the market value of another property in a significant way, the acquisition price should be fixed on the basis of the market value the property would have had in the absence of such effects; only to the extent, however, that is reasonable in light of the local circumstances or the general presence of similar effects under comparable circumstances. If the

acquisition is such that compensation for encroachment should be paid, the principles regarding the calculation of market value should be applied to the value before the encroachment.

§ 6. When the acquisition price is being determined, any significant increase in the value of the property which has occurred during the previous ten years before the date of the court pleading or hearing, should be counted in favor of the property owner, but only to the extent that it is not attributable to expectations of a change in the permitted land use. If the acquisition is such that compensation for encroachment should be paid, the method described above of calculating the market value should be applied to the value before the acquisition. Such valuation should be made in light of the condition of the property at the time of the determination or, if the property has been previously taken over, or claimed or damaged, then at that time.

If a decision on a local plan, under which the land is intended for private development, has been made prior to the time a cause was pleaded at court, or an execution on the property was made, the previous paragraph should be applied only to that increase in value that has taken place since such decision.

When improved land is acquired, and such land is owned for the primary purpose of serving as a place of residence for the property owner and/or his family, the acquisition cost may not be set at an amount lower than what is needed for the acquisition of a similar residential property.

To the extent it appears that the increase of value, apart from any anticipation of a change in the permitted land use, depends on the effects of the water project, § 5 of the Law 1987:139 applies.

§ 7. When a property has been acquired in its entirety or has been claimed or damaged, compensation should not include any change in the value of the property which thereafter occurs. The same applies when only a portion of the property has been taken over, unless the change of value is attributable to a change in the condition of that portion of the property not taken.

Compensation should be adjusted in the light of any increase in the general level of prices that may have taken place since the property was taken over or claimed or damaged.

If necessary, compensation should be adjusted in order to protect the person being compensated from incurring a loss due to changes in the value of money between the time of the compensation determination and the time of payment.

§ 8. If an action has been taken with the obvious intent of increasing the compensation, compensation should be determined as if that action had not been taken.

If a project or actions for which a permit has been granted under this law result in the loss or alteration of a special right to property, then, when an action of the sort referred to in the previous paragraph has been taken by the owner of the property with the intent of increasing the compensation, the previous paragraph should be applied so that the compensation is reduced.

§ 9. Separate compensation should be determined for each plaintiff. Acquisition payments, compensation for encroachment, and other compensation should be determined separately.

Where compensation is being determined and all plaintiffs belong to an association, and the association has a known board or an administrator with the right to receive compensation on behalf of the association, the court or referee can, without regard to sentence one, decide upon joint compensation for the participants, to the extent that there is no deposit under chapter 16, §1.

§ 10. If a project or actions for which a permit has been granted under this law involve damages to a property belonging to the permittee, compensation for the damage should be determined. This does not apply, if consent has been given by all the creditors holding liens on the property. If the property is burdened by joint mortgages, consent is also required from those property owners and creditors prescribed in chapter 22, § 11 of the land code. Consent is not required from a party whose right is not affected by the court's or the referee's decision.

Compensation for demolition, etc.

§ 11. A person who has received a permit under chapter 14, § 1 or who has been made responsible or granted a permit under chapter 15, § 6 to demolish a water project should pay reasonable compensation for damages to any other person's property caused by any permanent alteration of the water conditions. Liability for loss of benefits, caused by the demolition, is incurred only if the benefit has been imposed in the permit decision or in any agreement made in connection with the construction of the water plant. Compensation in such a case is only to be paid for costs caused by the loss of the benefit.

If consent has been given to demolish a water construction to any person other than the party liable for maintenance of the plant and liability has been denied in connection with

this, the compensation may once again be applied for by the party liable for maintenance of the plant.

A person who has gotten permission under chapter 14, § 3, paragraph one, to remove a construction for a floatway is not required to pay compensation for damages other than those incurred in connection with the process of removing the plant.

Compensation on reconsideration

§ 12. If reconsideration, under chapter 15, §§ 3, 4, 9 or 11, results in loss of water, or height of fall, or restriction in the right to regulate the runoff of water for a holder of a permit included in the reconsideration, compensation for such loss or restriction is to be paid, unless otherwise mandated in § 14. Compensation is not to be paid for the part of the loss or the restriction which results in the improvement of the safety of a plant.

If the reconsideration, under this law, damages anyone other than the permit holder who is included in the reconsideration, compensation must be paid to that person. Certain restrictions apply, under §19.

As to compensation under paragraphs one or two of this section, §§ 1-10 apply. [Law 1989:513]

§ 13. Compensation under § 12, paragraph one, is paid by the person requesting the reconsideration. If reconsideration is done under chapter 15, § 11, involving permits for competing water supplies, then it is paid by each of the permit holders.

Compensation under § 12, paragraph two, is paid:

1. if the reconsideration is accomplished under chapter 15, §§ 3, 4 or 8, by the permittee;
2. if the reconsideration is accomplished under chapter 15, § 11 and involves permits for competing water supplies, then by each of the permit holders;
3. at any other reconsideration by the person requesting the reconsideration.

Compensation for the reduction of cooperative hydro-electric power from a power plant included in the reconsideration is paid by the power plant permit holder.

Restriction of the right of compensation

§ 14. If damage or restriction as referred to in § 12, paragraph one, is caused by reconsideration for the benefit of the public fishing interest, public channel, public port, public floatway or health care or, by a reconsideration under chapter 15, § 3 or § 9, sentence one, for the benefit of the public control of the environment, the permit holder must, without compensation, endure part of the damage or the restriction.

The uncompensated part relates to the total damages or restriction caused by separate reconsiderations as stated above, and to water projects as referred to in §15, in the following ratios:

1. For hydro-electric power plants, a maximum of a fifth and a minimum of a twentieth of the production value of the hydro-electric power which under the permit can be taken out at the power plant after reduction for the part of the production value related to control of waters,
2. For a control of water project for hydro-electric power purposes, a maximum of a fifth and a minimum of a twentieth of the regulation-related production value of the

hydro-electric power that according to existing permits can be taken out at each power station,

3. For other water projects, a maximum of a fifth and a minimum of a twentieth of the value of the amount of water, height of fall or volume of the reservoir which is included in the project permit.

When the water court issues a permit for a water project for which a restriction in the right of compensation applies, as has been mentioned above, the water court, within the boundaries stated in paragraph two, numbers 1-3, should determine the part which is not compensated. On this occasion, consideration should be taken primarily of the project's effect on the water level and runoff conditions, the advantage or disadvantage that the project can be expected to bring from a public viewpoint, the degree of benefit for the permit holder and recipients of cooperative hydro-electric power, and the length of time that is prescribed according to chapter 15, § 3, paragraph one.

If reconsideration takes place before the time fixed in chapter 15, § 3, paragraph one, that part which is not compensated should be reduced in accordance with the time remaining.

§ 15. If a permittee under this law is caused loss of water or height of fall or restriction in the right to regulate the runoff of the water because of a permit given to a water project that provides for the public fishing interest, public channel, public port or public floatway, health care, or the public control of the environment, his right to compensation for this is restricted in the same way as in § 14 .

This principle is also applicable to a loss of height of a waterfall that is not utilized. In this event, the part which is not compensated should correspond to a twentieth of the

value of the water power in the affected stretch of falling water after reduction for the part of this value due to control of waters.

Shares of cooperative hydro-electric power

§ 16. A person whose water power could be utilized by another agreement with a person, or under chapter 2, § 7, can participate in such utilization, if it is of significance to his operation and if his right to the power is based upon right of possession or other common right not limited by time. He is then entitled to share in the power production, and is bound to contribute to the costs for the construction of the power plant and its management, based on the share he holds in the water power that will be utilized at the plant. This rule applies to a person whose stretch of falling water is claimed under chapter 2, § 8, if compensation for the claim has not already been awarded.

The obligation to supply cooperative hydro-electric power falls upon property riparian to the stretch of falling water.

The right to cooperative hydro-electric power should be associated with the property to which the water power has belonged or to which the right has been transferred under § 18, paragraph one.

§ 17. In connection with a decision dealing with the supply of cooperative hydro-electric power, regulations should be set out stating the conditions for the supply and for contributions to costs.

If the conditions are changed, either the owner of the power plant or the recipient of cooperative power can call for a rehearing regarding the legal relations between them. On such an occasion, only such changes can be made, as cause considerable advantage for either of the parties without causing any considerable disadvantage for the opposite party. Where it is decided that the right to cooperative power should be replaced with monetary compensation, the general regulations regarding compensation in §§ 1-10 apply.

§ 18. Upon application by the owner of property with which a right to cooperative power is associated, it can be determined that the right to cooperative power should be transferred to another property belonging to the same owner, assuming this can be done without any injury to lien holders or other creditors.

The right to cooperative power can be granted by the owner of the property with which it is associated. No agreement making such a grant is binding for a longer period than fifty years from the time of the agreement. Grants for a person's lifetime are, however, not further limited in time.

§ 19. If the amount of power delivered as cooperative power is reduced as indicated in §§ 14 or 15, or as a result of reconsideration to improve the safety of a water plant, the recipient of the cooperative power must, without compensation, suffer this reduction to the same extent as the owner of the power plant supplying the cooperative power.

[Law 1989:513]

Chapter 10. Charges

Community charges

§ 1. If a water project involves:

1. management of a hydro-electric power plant,
2. control of water that is intended for a one-year or many-year regulation,
3. the diversion of water for any other purpose than for hydro-electric power,
4. surface water supply,

then the permittee of the project should pay a yearly community charge, determined by the water court according to the charge units and charge classes established in §§ 2 and 3 below.

If the water project is intended to expand another water project or, if expansion has previously occurred to other water projects, for which permits have already been issued, a joint charge should be established as if for a single project, at which time any earlier charge is dropped.

Community charges should be used, under detailed regulations issued by the government, on the one hand to prevent or reduce such damages from the water project or works for which compensation has not been paid under chapter 9, and to compensate for such damages and, on the other hand, to provide for general purposes in the community affected by the water project or works.

§ 2. Charge units are:

1. for hydro-electric power plants, each unit of installed generator effect which includes 10 kilowatts up to 150 % of the effect at mean water-flow and each unit of 20 kilowatts above that;
2. for control of water, each unit of the reservoir's volume which comprises 25,000 cubic meters up to 100 million cubic meters, each additional unit of 50,000 cubic meters up to 1,000 million cubic meters and each unit of 100,000 cubic meters above that;
3. for the diversion of water and surface water supplies, each cubic meter per second of water that at maximum can be diverted under the permit.

Charges should not be paid for a hydro-electric power plant or for control of water, if the number of charge units is less than 500.

§ 3. For hydro-electric power plants and control of water projects, the charge for each charge unit is, if the project belongs to

- | | |
|----------|--------------------------------------|
| class 1: | 0.5 per thousand of the base amount, |
| class 2: | 1 per thousand of the base amount, |
| class 3: | 1.5 per thousand of the base amount, |
| class 4: | 2 per thousand of the base amount. |

For water diversion projects, the charge for each charge unit is, if the enterprise belongs to

- | | |
|----------|--------------------------|
| class 1: | 5 % of the base amount, |
| class 2: | 10 % of the base amount. |
| class 3: | 15 % of the base amount, |
| class 4: | 20 % of the base amount. |

The "Base amount" means the amount that has been determined according to the law [1962:381] on general insurance for the year for which the charge is levied.

In determining the charge class, account should be taken of the minor or major alterations in the water conditions and the minor or major disadvantages or advantages for the community that results from the water project or project works.

§ 4 . Community charges should be paid from the calendar year following the year when the water project permit was applied for until the year the project is closed down.

The community charge should, before the end of each calendar year, be paid to the regional administration in the region where the major part of the project is carried out.

Fishing charges

§ 5. The water court or the referee may, in the proper circumstances and in lieu of establishing permit conditions under chapter 3, § 11, require the permittee to pay a special charge for the promotion of fishing in the water affected by the water project or in any adjoining water area. The charge should be established as either a non-recurrent charge or as a yearly charge.

The amount of a yearly charge is calculated on the basis that the charge amount determined by the water court or the referee is multiplied by a number corresponding to the ratio between the base amount according to the law [1962:381] on general insurance for the year when the charge is to be paid, and the base amount for the year when the charge was established.

§ 6. If a water project under § 1, or associated works, can be assumed to damage fishing or will cause significant alteration in the natural water-level conditions, the project permit holder should pay a yearly public fishing charge for the promotion of fishing within the country.

This charge is set by the water court consistent with the charge units and charge classes under §§ 7 and 8.

If the water project is intended to expand another water project or, if expansion has occurred earlier, to other water projects, for which a permit has been given under this law, a joint charge should be determined as if for one single project, at which time any earlier charge is eliminated.

§ 7. Charge units are:

1. for hydro-electric power plants, each unit of installed generator effect which includes 10 kilowatts up to 150 % of the effect at mean water-flow and each unit of 20 kilowatts above that,
2. for control of water, each unit of the reservoir's volume which comprises 25,000 cubic meters up to 100 million cubic meters and each additional unit of 50,000 cubic meters above that,
3. for the diversion of water and surface water supplies, each cubic meter per second of water that at maximum can be diverted under the permit.

Charges should not be paid for a hydro-electric power plant or for control of water, if the number of charge units is less than 10.

§ 8. For hydro-electric power plants and control of water projects, the charge for each charge unit is, if the project belongs to:

class 1: 0.05 per mil of the base amount,

class 2: 0.1 per mil of the base amount,

class 3: 0.15 per mil of the base amount,

class 4: 0.2 per mil of the base amount.

For water diversion projects, the charge for each charge unit is, if the enterprise belongs to:

class 1: 1 % of the base amount,

class 2: 5 % of the base amount.

class 3: 10 % of the base amount,

class 4: 15 % of the base amount.

"Base amount" means the amount that has been determined according to the law [1962:381] on general insurance for the year for which the charge is levied.

In determining the charge class, account should be taken of the extent to which fish and fishing occurs in the water area affected by the water projects or associated works, of the extent to which the water conditions and the fishing are affected by the water project or associated works, and of the extent of the obligations that have been imposed on the developer under § 5 or under chapter 3, § 11.

§ 9. If the yearly amount of the public fishing charge is minor, it can be directed that the charge obligation be fulfilled through a non-recurrent payment. This approach should be used if the yearly charge amount is below 500 Swedish crowns.

§ 10. The yearly fishing charge under § 6 should be paid from the calendar year following the year when the project or other associated works effecting the water conditions were begun or when the legal decision was handed down until the year when the project ceases.

The yearly fishing charge under §§ 5 or 6 should be paid to the National Board of Fisheries before the end of each calendar year.

Non-recurrent charges should be paid to the National Board of Fisheries no later than the point in time at which the charge is determined. [Law 1991:381]

Chapter 11. Special regulations for larger water projects etc.

The government's right to hold hearings

§ 1. The government should hold the hearings for a permit for the following kinds of water projects:

1. hydro-electric power stations which are intended to produce an installed generator output of at least 20,000 kilowatts,
2. control of water projects with a greater water level difference between the high and low water levels than two meters during any year or one meter during a given week, and storage projects with a smaller water level difference than this, if the storage capacity is at least 100 million cubic meters during any year or 10 million cubic meters during a given week,
3. the diversion of water within a watershed or water diversions outside of a watershed from watercourses or lakes with a normal unregulated low water flow of at least one cubic meter per second at the diversion point or at the outlet respectively, if the water flow that is to be diverted is more than a fifth of the normal unregulated low water flow and it is not apparent that the diversion can be made without any significant inconvenience to the public interest,
4. other water projects and other water divisions or diverting of water for hydro-electric purposes if:
 - a. the project involves any of Torne älv, Kalix älv, Pite älv and Vindelälven
 - b. the project involves any of the rivers or part of the rivers listed below:

| River | Part of the River |
|----------------|---|
| Klarälven | the part between Kärrbackastrand and Edebäck |
| Dalälven | Västerdalälven upstream of Hummelforsen and downstream of Skifsforsen, Österdalälven upstream Trängslet and the part between Näs and Hedesundafjärdarna |
| Ljusnan | the part between Hede and Svegsjön (Härjedalsljusnan) and the part between Laforsen and Arbrásjöarna (Melianlgusnan) |
| Ljungan | upstream of Storsjön |
| Indalsälven | Åreälven, Ammerån above Överammer, Storån-Dammån and Härkan upstream of Hotagen |
| Ångermanälven | Lejarälven, Storån upstream of Klumpvattnet, Långseleån-Rörströmsälven, Saxån, Ransarån upstream of Ransaren and Vojmån upstream of Vojmsjön |
| Vapstälven | |
| Moälven | |
| Löde älv | |
| Öre älv | |
| Umeälven | Tärnaån och Girjesån, Juktån upstream of Fjosokken and Tärnaforsen between Laisan and Gäutan |
| Skellefteälven | sources upstream of Sädvajaure and Rebnisjaure |
| Byske älv | |
| Lule älv | Stora Luleälv upstream of Akkajaure, Lilla Lule älv upstream of Skalka and Tjaktjaure and Pärlälven |
| Råne älv | Rörån - Livas älv. |

5. ground water supplies that involve utilization of a greater amount of water than 10,000 cubic meters per day,

6. control of water projects, the diverting of water within a watershed and water diversions outside of a watershed, other than have been previously stated, if the project involves Lakes Vänern, Vättern, Mälaren, Hjälmaren, Storsjön in Jämtland, or Siljan, and the project may have significant effects on the water level or the water outflow from the lake. [Law 1984:597] [Law 1985:621] [Law 1987:139]

§ 2. If application is made for change or expansion of a water project, § 1 is only applicable in regard to the change or expansion described in the application.

§ 3. If a water project other than a project referred to in §§ 1 and 2 is of considerable scope or represents an encroachment, the government may reserve for itself the hearing on the legality of the project. The rule is also valid in cases regarding water projects under chapter 3, § 6, paragraph three of the act concerning the management of natural resources. [Law 1987:12] Notice of such reservation should be sent to the water court or the referee before a verdict or decision has been rendered on the legality of the project. [Law 1993:190]

§ 4. A permit hearing for a water project can also be carried out by the government under chapter 12, § 29 or chapter 13, § 42.

§ 5. In connection with a permit hearing for a project under §§ 1 - 4, the government can also reserve for itself the hearing on a permit for another water project, if the application refers to the permit for both projects, and they are connected to each other, or a question under chapter 3, § 8 has arisen regarding adjustment or preference between the projects. In regard to such a reservation, § 3, sentence two applies.

§ 6. If the government finds that a project is appropriate, the government can impose special conditions to protect the public interest.

Preliminaries for certain water projects

§ 7. Before a permit is sought for a water project of such extent or character that the permit application is subject to a hearing by the government under §§ 1-3 or is covered by chapter 3, § 6 of the law [1987:12] on the management of natural resources etc., preparatory measures should be taken under §§ 8-11 below. [Law 1987:139.]

§ 8. Well before a hearing on a project is begun, the applicant must notify the National Juridical Board for Public Lands and Funds, the National Environmental Agency, the National Board of Housing, Building and Planning, the National Board for Industrial and Technical Development, the National Monuments Board and the Public Historical Museums, and the regional administrations and municipalities affected by the project. If the activities of the National Shipping Board and the National Board of Fisheries are effected, they should be notified. The National Board of Agriculture should be notified if the reindeer industry, or agricultural land of any significant extent, is affected. The applicant should, on request or if any reason arises, inform the authorities and municipalities about the project. [Law 1986:326] [Law 1991:396] [Law 1991:381] [Law 1991:2023]

§ 9. When the general prerequisites of the project have been set out, the applicant, in consultation with the regional administration of the region where most of the project will be located, should give affected municipalities and authorities and associations, the opportunity to comment on the detailed plan for the project.

§ 10. If the project can potentially cause significant harm to fishing, the National Board of Fisheries can determine the issues for the hearing. If the project can cause significant harm to the reindeer industry or to agriculture, the National Board of Agriculture can determine the issues for the hearing. The National Monuments Board and the Public Historical Museums can determine any required cultural historical inventory. The Natural Conservation Board can determine the issues for the hearing needed in regard to the execution of the project from the broad perspective of nature conservation.

Before a permit is granted, consultation should take place with the water court.

The applicant should pay the costs of the hearings, unless that cost is prohibitively high.

[Law 1991:396] [Law 1991:381]

§ 11. Well before the submission of an application for a permit for a project, the applicant should arrange for information about the planning of the project to be given to the local population at a public meeting, through the local press or in some other appropriate way. A meeting should be arranged, if the regional administration in any region affected by the project wishes such a meeting.

The applicant should in an appropriate way give private parties the opportunity to make suggestions regarding actions to prevent or reduce damages caused by the project.

Chapter 12. Hearings on land drainage projects

General regulations

§ 1. The permit application for land drainage projects is considered at a hearing. The regional administration appoints a referee to administer the hearing.

The government, or the authority to which responsibility has been delegated by the government, establishes special regulations regarding the authority of referees.

§ 2. Two qualified citizens should participate in the proceeding when the referee finds this needed or when demanded by a claimant, and no unreasonable delay is involved.

A decision that qualified citizens should participate does not alter what has already been decided or implemented during the proceeding.

If qualified citizens participate, the regulations applicable to the referee are also applicable to the qualified citizens, unless otherwise provided.

§ 3. The qualified citizens are chosen from among those citizens who are elected members in real estate court or qualified citizens at land survey proceedings.

§ 4. If qualified citizens are to participate, the referee should summon them to the hearing. For such service qualified citizens with both needed local knowledge and expert knowledge should preferably be summoned.

If a qualified citizen is prevented from serving due to challenge, or should he fail to appear at a meeting and another qualified citizen cannot, without delay, appear, the referee can summon for service any person eligible under § 3.

§ 5. The regulation in chapter 4, § 12 of the code of procedure, prohibiting relatives from serving as judge, also applies to referees and qualified citizens.

§ 6. In regard to referee and qualified citizens, the same opportunity for challenge applies as to judges.

§ 7. If a claimant wants to challenge a referee or a qualified citizen, he should raise such objection at the first time he pleads his cause after receiving knowledge that the referee or the qualified citizen will serve and determining that a reason for challenge is available. Failing this, the right to challenge is forfeited.

After a challenge against the referee or the qualified citizen has arisen, that person can only take such measures that cannot, without considerable inconvenience, be postponed, and those that do not involve a decision of an issue important to the proceeding. Such actions can be taken by the referee, even if he has been declared challengable.

A challenge to the referee or the qualified citizen does not affect the validity of decisions or actions that have been taken before the challenge arose.

§ 8. The referee can request the assistance of experts in examining questions for which special professional knowledge is needed. No person who has a relationship to the case or to any claimant that would cast doubt on his reliability may be called as an expert.

[In regard to determination of compensation see chapter 10, section 7, paragraph three.]

Initiating the hearing

§ 9. Application for a hearing is made to the regional administration by the person who wants to carry out or participate in a land drainage project.

If, at a survey hearing, it is decided that a matter of land drainage should be judged according to the water law, this fact is reported by the authority responsible for property surveys to the regional administration. The owners of the properties that are involved in the survey are then to be considered as claimants.

§ 10. The application for a hearing should be in writing and include information about:

1. the properties, buildings or plants involved in the project,
2. the nature of the project,
3. the land- and water-areas that are affected by the project,
4. claimants known by the applicant.

If an application does not meet the above instructions, or if it, in any other way, is incomplete, the regional administration can require the applicant to remedy the flaw. If the flaw is not corrected, the regional administration can reject the application. This reason should be specified in the rejection.

Paragraph one also applies in regard to reports under § 9, paragraph two.

§ 11. The regional administration can require the applicant to provide security for the costs of the proceeding before a referee is appointed.

The procedures

§ 12. The referee should set the conditions for the project. If objections to the project have not been raised, he should, as a guide for the hearing, work out a general procedure and carry out the inquiries needed to accomplish the project.

The referee should consult with the applicant and other claimants, and the authorities affected by the project.

§ 13. The referee should determine who, in the capacity of property owner or on other grounds, are the claimants.

If there is a dispute over title to a property effected by a project, the party in possession, under claim of right of ownership, has the right to represent the property during the proceeding until this right is legally taken from him.

If the title to a property has been transferred to a new owner during the proceeding, the new owner cannot change what the previous owner has agreed to or approved of.

§ 14. The referee should publish a notice about the project. In the notice, a short summary regarding the project should be included and the affected properties should be legally described. In the notice, the claimants should be directed to appear.

The notice should, at least 14 days before the hearing, be published in a local newspaper. Well before the meeting, a copy of the notice should be sent to known claimants, affected municipalities, national public authorities whose areas of activity can be affected by the project and, if public interests may be involved, to the National Juridical Board for Public Lands and Funds.

If the project affects jointly held real estate, a copy of the announcement need not be sent to each member of the association. If there is a known board for the association, a copy of the announcement should be sent to the board.

§ 15. If the project is relatively small and obviously affects only one or a few claimants, published notice is not required. Notice regarding the project and hearing should in such a case be communicated directly to the claimants. Communications should be sent to municipalities and other authorities to the extent stated in § 14, paragraph two.

In regard to service of process, general regulations and §§ 16 and 17 are applicable.

§ 16. If the owner of a property, building or works, or an agent or a deputy for such a person, permanently lives outside Sweden and service cannot be made in Sweden with any known representative for this person, the document can be left with the manager or occupant of the property, building or works.

The person with whom the document has been left is responsible, without delay, for sending the document to the claimant, if possible. He should be notified of this responsibility when the document is left with him. If the claimant's place of residence is known, the referee should mail him a notice regarding the service.

Service is considered to have taken place, when the document has been left according to paragraph one.

§ 17. The rules applicable to service upon partners in an association also apply to service upon partners in property, where there are in possession, under joint ownership, more than ten owners, and to holders of easements which accrue to the benefit of more than ten properties under different ownership.

§ 18. If necessary, the referee should appoint a suitable person [recorder], to safeguard and maintain public access to the documents which are associated with the hearing. Several recorders can be appointed where appropriate.

The recorder's name and the place where the documents are kept must be stated in the notice referred to in § 14, or in a communication under § 15.

§ 19. Owners of properties affected by the projects must notify the referee of holders of easements, usufructs or rights to electrical power which have been granted in the property. If this is neglected without good reason and if such claimants are thereby damaged, the property owner must compensate them for the damage. These property owners must be reminded about the provisions of this section in the notice given under § 14, in communications under § 15, or by some other suitable means.

§ 20. The National Juridical Board for Public Lands and Funds should, if needed, appear in the proceeding to protect public interests.

The municipality can appear at the hearing to protect public interests within the municipality.

§ 21. If an additional hearing must be held, the referee should summon all known claimants to this hearing. A summons is not necessary, however, if it can be assumed that the claimants will appear anyway. If the time and place of the hearing has been announced at an earlier hearing, the claimants who have been properly summoned to the previous hearing do not have to be summoned again.

If special summonses are needed, these should be delivered to the claimants well before the hearing. The referee can, however, at any meeting issue a special summons to forthcoming meetings. In regard to communications with claimants, §§ 16 and 17 apply.

§ 22. If a claimant has not been properly summoned to a meeting, another meeting should be held unless such claimant in fact has appeared or accepts that the hearing can continue.

Despite the previous paragraph, proceedings can be held that do not significantly affect the rights of a claimant.

§ 23. If the referee and the qualified citizens disagree, the shared opinion of two of the three controls. If each of them has a different opinion, the referee's opinion controls, unless the issue is money or other quantitative measurement. In this case, the opinion setting the second largest quantity controls.

With each decision the grounds for that decision should be stated, unless an explanation is superfluous. If a decision is subject to appeal, that fact should be stated in the decision.

When a decision is announced at a hearing, it should be read to the persons present. If a decision canceling the hearing is made, or, unconnected to the permit decision, a decision that can be separately appealed is made, the claimants and others with a right of appeal should be informed of the contents of such decision without delay. Such communications should be made in writing or be consistent with any special method of summons that may have been decided under § 21, paragraph two, sentence two.

§ 24. *If, in the course of the proceeding it becomes necessary, the referee and the qualified citizens and their deputies have the right to enter buildings and properties, and to make measurements and land examinations pertinent to the case. In gardens or parks, trees may not be damaged or felled without the consent of the owner. In any event, damages should be avoided whenever possible.*

The right to enter the property of another person is also available to the other parties to the proceeding.

When damages are caused through measures taken under paragraphs one or two, compensation is to be paid. Claims for compensation should be made before the hearing is concluded or canceled.

The police authorities should provide whatever help is needed so that powers granted under paragraph one can be exercised.

§ 25. If a permit applicant wants to withdraw his application, he should do this in writing, or orally at a meeting. If no other claimant has pleaded his cause in the hearing when the withdrawal is requested, the hearing should be canceled at once. Otherwise, the claimants who have pleaded their causes at the hearing and who, themselves, have been able to withdraw, should be informed of the withdrawal application. If any such claimant, within the prescribed time, does not demand that the hearing should be continued, it should be canceled.

Claimants on whose demand the hearing is continued, are thereafter considered as permit applicants.

After the permit decision has been announced, the application cannot be withdrawn by the referee. Instead, cancellation must be decided by the water court in such a way and within the time provided for appeals under § 38. In this case, paragraphs one and two apply.

§ 26. A hearing that has begun after a report from the land survey authority should be canceled if the land survey report is canceled. The hearing should be continued, however, if claimants who have pleaded their causes at the hearing and who could have applied for the cancellation of the hearing so demand. If the claimants are informed about the hearing's cancellation at a meeting, the demand should be put forward at that meeting. In any other case, the demand should be put forward within the time prescribed by the referee.

§ 27. If a bar to the project exists, the referee should, as soon as possible, terminate the hearing and cancel it.

§ 28. Issues regarding the application of chapter 3, § 8, concerning land drainage projects that have been heard at different hearings should, after a report to the regional administration, be heard at a special hearing by the referee whom the regional administration nominates. In regard to such a hearing, the regulations in this chapter apply as appropriate.

Issues regarding the application of chapter 3, § 8, concerning land drainage projects in the jurisdiction of the water court, should be determined by the water court.

§ 29. If the referee finds that bars to the project are encountered under chapter 3, § 3, paragraph one, but that there are circumstances present such as those referred to in paragraph two of that section; or if the issue regarding the permissibility of the project, under chapter 11, § 3, should be determined by the government, then the referee should, after meeting with the claimants, and making his own conclusions, leave the question for the determination of the government.

§ 30. At the hearing, a record should be kept. The record and other documents that are sent in or entered in the hearing should be combined into one file.

Decisions on permits, etc.

§ 31. If there is not any bar opposed to the project, the referee should announce a decision granting the permit.

The permit decision should, as appropriate, include provisions regarding:

1. the purpose of the project, its location, extent, safety and technical details in other respects,

2. participants in the project and each participant's share in regard to costs for the construction and management of the project,
3. the areas that are claimed and the special legal rights of coercion that are granted for the project,
4. the construction and maintenance of the project,
5. supervision, inspection and control,
6. the obligation to pay compensation or to prevent damages, and how payment is to take place,
7. other conditions required in order to provide for public and private rights,
8. the costs of the hearing and how they are to be shared,
9. the time within which claims in regard to unanticipated damages may be made,
10. the time, after the expiration of which, reconsideration, under chapter 15, §§ 3 and 14 ,or § 15, paragraph two, may take place.

If the permit refers to project works, the permit decision should include a statement about the time within which the works are to be completed. [Law 1989:513]

§ 32. If an agreement on compensation has been reached, the compensation is determined by the terms of the agreement. This also applies to agreements in cases where non-monetary compensation is involved or where actions preventing damages must be carried out.

If necessary for the application of chapter 16, § 14, paragraph three, the referee should estimate the value of effected property without considering any special right that reduces the value of the property.

§ 33. Before a decision is announced regarding acquisition of part of a property, under the rules for real estate surveys, a map with a description should be established for the area, and its boundaries marked.

§ 33(a). If provisions are established on the storage and diversion of water to, under unusual conditions, provide for the safety of a water project and if the damages that arise cannot, under the regulations, be properly estimated before hand, the referee may postpone the question of compensation.

Claims based on such damages are heard under chapter 15, § 17. [Law 1989:513]

§ 34. The permit decision should be announced at a hearing or at a time and place which the referee has communicated to the claimants and others with the right of appeal. Such announcement should be given at a meeting or through written notices or in such a way as may have been decided according to § 21, paragraph two, sentence two.

§ 35. If a decision by the referee, because of an error in writing, miscalculation or any other similar mistake, contains a patent error, the referee should correct it. This rule also applies in regard to maps, drawings and other documents to which the decision in the hearing refers.

Before a correction is made, the person affected by the change should have the opportunity to express his opinion.

The correction should, with an indication of the date, be noted on the main document and, if possible, on other copies of the document that have been corrected. The person affected

by the decision should immediately be informed about the change and the opportunity for appeal.

§ 36. The referee should not call in a person as interpreter who has such a relation to the matter or to the claimants that his reliability is impugned.

An interpreter has the right to receive a reasonable fee including compensation for costs and time spent. This does not apply to a person serving the hearing when on duty.

Appeal to the water court

§ 37. The referee's decision is subject to appeal, if the referee has

1. disallowed a challenge under § 7,
2. awarded compensation to an expert or interpreter,
3. awarded compensation under § 24, paragraph three,
4. made a correction under § 35.

An appeal under the first paragraph is initiated through a request for appeal, which should be sent in to the water court within three weeks from the day of the decision.

A referee's decision to accept an objection regarding a challenge cannot be appealed.

A person who is of the opinion that the proceeding has been unnecessarily delayed due to a decision by the referee can appeal the decision via appeal to the water court. This right of appeal is not limited in time. [Law1990:454]

§ 38. In cases other than those referred to in § 37, decisions by the referee can be appealed by a request for appeal, that should be sent to the water court within four weeks from the day when the permit decision was announced or the hearing canceled.

Chapter 13. The hearing of water cases

General regulations

§ 1. The court of initial jurisdiction in water cases is called the water court. Those district courts designated by the government are water courts.

The appellate court in water cases is the Water Court of Appeal, Svea hovrätt.

The Supreme Court is the highest court in water cases.

[Law 1971:550] regarding water court:

The district courts of Luleå, Umeå, Östersunds, Stockholms, Växjö and Vänersborgs are water courts with the following areas of jurisdiction.

Luleå district court: the parts of Norrbottens and Västerbottens län that are located north and east of the watershed between Piteälvs with several watercourses' water areas, on the one hand, and Skellefte-älvs, Byskeälvs and Åbyälvs water areas on the other,

Umeå district court: the part of Norrbottens län not belonging to the area of the Luleå district court and neither belonging to Ångermanälvens water area and the part of Västernorrlands län that is located north and east of the watershed between Gideälvs, with several watercourses' water areas, on the one hand, and Ångermanälvens water area, on the other.

Östersund district court: the part of Västerbottens län not belonging to the area of the Luleå or Umeå district court, the part of Västernorrlands län not belonging to the area of the Umeå district court and neither belonging to the water area of Ljusnan and the parts of Jämtlands and Gävleborgs län located north and east of the watershed between Ljungan, with several watercourses' water areas, on the one hand, and the water area of Ljusnan, on the other.

Stockholm district court: the parts of Västernorrlands and Gävleborgs län not belonging to Umeå or Östersund district courts and neither belonging to the water area of Vänern, Kopparbergs län with the exception of the parts belonging to the water area of Vänern, Örebro län with the exception of the parts belonging to the water areas of Vänern, Vättern and Motalaström, Västmanlands län, Uppsala län, Stockholms län, Södermanlands län with the exception of the part belonging to the water area of Motalaström, the part of Östergötlands län located north of the watershed between Nyköpingsån with several watercourses' water areas, on the one hand, and the water area of Motalaström, on the other, the part of Skaraborgs län belonging to the water area of Hjälmarén and Gotlands län.

Växjö district court: the parts of Södermanlands and Östergötlands län not belonging to the area of the Stockholm district court, the parts of Örebro and Skaraborgs län belonging to the water areas of Vättern and Motalaström, Jönköpings län with the exception of the areas belonging to the water areas of Fylleån, Nissan, Åtran and Vänern, Kronobergs län with the exception of the water area belonging to Fylleån, Kalmar län, Blekinge län, Kristianstads län, Malmöhus län and the part of Hallands län located south of the watershed between Lagan, on the one hand, and Fylleån with several watercourses' water areas, on the other.

Vänersborgs district court: the parts of Jönköpings, Kronobergs and Hallands län not belonging to the area of the Växjö district court, Skaraborgs län with the exception of the parts belonging to the areas of the Stockholm and Växjö district courts, Älvsborgs län, Göteborgs and Bohus län, Värmlands län and the parts of Jämtlands, Kopparbergs and Örebro län belonging to the water area of Vänern. [Law 1981:424.]

§ 2. In the case of water courts and the legal proceedings in water cases, including procedures in such courts, the provisions regarding public courts are applicable in the absence of contrary provisions in the law.

Water court

§ 3. The water court consists of a president, a technical member and two jurymen. An additional technical member may, at the discretion of the president, be included as a member of the court.

The president should be knowledgeable in district court legal matters.

Technical members should have a technical education and be experienced in the handling of water cases.

Jurymen should be qualified jurymen in real estate court within the jurisdiction area of the water court.

§ 4 . The water courts have, absent any contrary provisions in this law, jurisdictional power with only the president present, at hearings which do not involve formal sessions

and at formal sessions in the cases referred to in chapter 1, § 3(a), paragraphs two and three, of the code of procedure.

Before the president makes a decision, he should consult a technical member of the court, if the character of the issues so requires. [Law 1989:666]

§ 5. The government, or an authority to which power has been delegated by the government, appoints the water court president and nominates or appoints the technical members.

§ 6. The jurymen serve after receiving a summons from the water court. Jurymen should preferably be summoned from that part of the water court's area of jurisdiction to which the case relates.

§ 7. The government determines the jurisdictional areas of the water courts. The boundaries between the areas of jurisdiction of the water courts should follow watersheds between different water systems.

§ 8. Water cases are heard in that water court within whose jurisdiction the water project or activity will for the most part be carried out or has been carried out.

Questions about the water court's jurisdiction may, except in cases under chapter 10, § 20, paragraph two of the code of procedure, not be examined on appeal.

§ 9. The water court may for its hearings use premises in court buildings or other public buildings, unless those premises are being occupied for their main purpose, or

unless they are in use for religious services. If special costs arise, these must be compensated.

§ 10. In a vote on a decision, the president should first express his opinion, then the technical members and finally the jurymen. [Law 1983:381]

The Water Court of Appeal

§ 11. In order to fulfill the tasks of Svea hovrätt as water court of appeal, there should be present in addition to members knowledgeable in legal matters, water-right councilors. These persons should have a technical education and experience in handling water issues. The water-right councilors are appointed by the government.

The Water Court of Appeal has judicial powers in the presence of four members, of which three should be knowledgeable in legal matters. More than five members can not participate.

Water cases

§ 12. The three categories of water cases are: application, summons and execution.

§ 13. Application cases are cases concerning:

1. a determination under chapter 2, § 8, paragraph two, of compensation for the right to claim a stretch of falling water,
2. a permit under chapter 4, § 1 to carry out water projects other than land drainage projects,

3. approval under chapter 4, § 4 of a completed alteration or repair work, or of activities that are contrary to published regulations on the storage and diversion of water, unless the work or the activities are connected with a land drainage project,
4. a hearing under chapter 4, § 5 of the legality of a completed water project that is not a land drainage project,
5. the establishment under chapter 6, § 3 of a joint project for irrigation, following the formation of an association under chapter 6,
6. a transfer under chapter 9, § 18, paragraph one, of the right to co-operative hydro-electric power,
7. a permit under chapter 14, § 1 for the demolition of a water project or a hearing under chapter 14, § 5, regarding the circumstances under which a project for the diversion of ground water may be taken out of use,
8. a permit under chapter 14, § 3, paragraph one, to dismantle floatway construction, or the right to, apart from dismantling, take over floatway construction under paragraph four of the aforementioned section,
9. an extension of the time to complete works under chapter 15, § 2, paragraph two,
10. a reconsideration under chapter 15, §§ 3, 4, 8, 9, 11 and 12,
11. a forfeit under chapter 15, § 5,
12. a reconsideration, apart from ongoing applications or hearings, under chapter 15, § 15, paragraph one, or a reconsideration under chapter 15, § 15, paragraph two,
13. a determination of an agreement under chapter 15, § 16.

If an application affects only certain claimants and the case can be settled with legal effect on these parties only, the water court, if agreed to by the claimant, may prescribe that the case should be examined under the law regarding summons cases. [Law 1989:513]

§ 14 Summons cases are claims concerning:

1. the demolition or modification of a water project, when the claim is based on an assertion that the project has not been established according to the regulations prescribed by the law, or are not legal,
2. compensation for damage or encroachment caused by construction such as one referred to in 1,
3. compensation for damage caused by demolition of a water plant, if the demolition has taken place without a permit when such a permit was required, or compensation, unconnected with a permit application, under chapter 14, § 5, paragraph two,
4. compensation under chapter 2, § 9, paragraph two,
5. participation, unconnected with an ongoing hearing or permit application, under chapter 8,
7. a reconsideration under chapter 9, § 17, paragraph two,
8. an announcement of regulations under chapter 15, § 19,
9. compensation under chapter 16, § 19,
10. compensation or something else caused by the fact that a water works has not been maintained under chapter 17, § 1,
11. compensation for damage caused by a water project not being managed in accordance with permit conditions or consistent with chapter 17, § 2,
12. compensation under chapter 17, § 3 or chapter 19, § 7,
13. compensation, unrelated to an ongoing permit application, under chapter 20, § 10,
14. distribution of water under chapter 22, § 7.

§ 15. Execution cases are appeals from decisions made at proceedings under this Act.

§ 16. A claim that does not come under §§ 13 or 14 , but which concerns a subject treated in this Act can be considered by the water court, unless an objection to the

jurisdiction of the court is made within the time stated in chapter 34, § 2 of the code of procedure, or unless the water court finds that the claim is of considerable importance to water conditions. If a claim is considered, the case is brought up as a water case. The water court cannot, however, consider claims regarding criminal responsibility.

If, according to this Act, a special regulation for the hearing of a certain issue is applicable, the procedures for this regulation apply.

§ 17. If appropriate, the water court can hear claims which are related to a water case but which concern legal matters that should not normally be examined under this Act. The water court cannot, however, hear matters regarding ownership of properties or regarding the division of properties.

§ 18. If a water court has heard a case concerning a subject considered in this Act, the question whether the case is of such a character that it should be considered by a court other than water court, or by some other legal authority, should be heard on appeal only if:

1. the person raising the appeal is a proper party in the water court, or
2. the water court has heard a case regarding the right to possession of a property or regarding the division of properties, or
3. the water court has heard a case, where a special means of consideration is indicated in this Act, or
4. the water court has heard a case regarding criminal responsibility.

The water court procedure in application cases

§ 19. An application whereby an application case is brought into court should be in writing and, in the absence of any contrary instruction in § 20 include:

1. any information, drawings and technical descriptions needed to judge the character, extent and impact of the project, including an environmental impact assessment. [Law 1991:649]
2. any information needed to judge whether the project is undesirable from the perspective of public planning, and information regarding possible alternative locations for the project, and information about other water projects or special works that may be necessary for the effective utilization of the project for which a permit is sought,
3. as complete information as possible regarding the properties affected by the project, and the names and addresses of the owners and other affected holders of rights in the properties,
4. information on whether special regulations required by law have been established regarding the use of the land and water areas affected by the project,
5. information regarding the amount of compensation offered by the applicant to each claimant, unless such information, due to the extent of the project, cannot yet be provided.

The application for a project, the permissibility of which should be heard by the government, should include information about the actions taken by the applicant under chapter 11, §§ 7-11, and about the result of these actions.

If the project involves the construction of a hydro-electric power plant, the application should include information on the area that the applicant believes should constitute the property that includes the stretch of falling water.

§ 20. An application according to § 13, paragraph one, should include drawings and a description of the location and character of the stretch of falling water, information on proffered compensation and other information needed to decide issues of compensation.

An application under § 13, paragraph one, number 6 should be accompanied by, first: an abstract of the certificate of search, applicable to the property from which the right to co-operative power is to be moved, and, second: any agreements that have been made with creditors with liens on the property and with owners of other rights.

§ 21. The application documents should, in cases under § 13, paragraph one, numbers 2-5 and 7-12, be submitted in eight copies, and in other cases in three copies. If necessary, the water court can require additional copies.

If too few copies of the documents are submitted, or if the water court believes the documents to be incomplete, the applicant should be requested to remedy this defect. If the applicant does not send in additional copies, the documents can be duplicated at the expense of the applicant. If the applicant does not remedy other defects in the application, the application can be dismissed.

§ 22. If the application is to be considered, the court should issue a notice regarding the project. In the notice, a short account of the application should be given, and a legal description of the properties that can be affected. Also, the contents of §§ 29 and 40 should be reiterated, as well as the time limit for objections under § 29.

The water court should appoint one or more qualified persons to keep one copy of the documents in the case (recorders). Names and addresses of the recorders should be stated in the notice.

In the notice, it should also be announced that summonses and other notices to the parties will, unless they are specially delivered to a party, be inserted in a local newspaper and kept accessible by the recorder. If summonses and other notices are not to be inserted in all local papers, it should be made clear in the notice that they will be inserted in a limited number of local papers.

The notice should, as soon as possible, be inserted in Post- and Inrikes Tidningar and in local papers. A copy of the notice should also be sent to every claimant who has been mentioned in the application or who, in any other way, is known to the court.

If the application affects real estate which is jointly held, a copy of the notice does not have to be sent to each partner in the association. If there is a known board for the association, a copy of the notice should be sent to the board. [Law 1987:680] [Law 1993:1416]

§ 23. A copy of the application documents and of the notice should be sent to the National Juridical Board for Public Lands and Funds and to the National Board of Fisheries. If it can be assumed that neither the public fishing interest nor any other public interest will be affected by the project, the application documents do not have to be sent to these boards. [Law 1991:381]

The notice should also be sent to affected municipalities, to the regional administration, and to other national authorities whose operations may be affected by the application.

§ 24. A copy of the notice should also be sent to:

1. the board or other manager of a canal, locks or other public channel, or a public port or floatway, affected by the application;
2. the board of a water association, and the board or other manager of an association affected under this law or corresponding older regulations;
3. the owner of a plant for the utilization of hydro-electric power, if the application concerns the claim of the utilized power;
4. the owner of the stretch of falling water from which co-operative hydro-electric power is provided, when the matter concerns an application under § 13, paragraph one, number 6.
5. the holder of the permit in an application under § 13 , paragraph one, numbers 10 or 11.

§ 25. The National Juridical Board for Public Lands and Funds should, if necessary, appear in the case to provide for the public interest.

A municipality can appear to provide for the public interest within such municipality.

The National Board of Fisheries should, if notice has been sent to the Board under § 23, *express its opinion on the impact of the water project on public fishing and propose any regulations needed for the protection of fishing.* If the Board finds that an opinion cannot be given without a local inquiry, the Board should report this to the water court which decides on an expert inquiry under § 32. [Law 1991:381]

§ 26. The owners of properties affected by the application should notify the water court of holders of easements, usufructs or rights to electrical power that have been made available in regard to such properties. If this is not done and no valid reason exists and,

as a result, damages are incurred by such claimants, the property owner should compensate for the damage. The property owner should be notified of this provision in the notice referred to in § 22, or in some other appropriate way.

§ 27. If a claimant has been named or otherwise has become known to the water court after the notice has been issued and he has not appeared in the case, he should, in an appropriate way, be given an opportunity to express his opinion. The hearing of the case may not, however, be delayed.

§ 28. If a dispute arises over a property affected by the project or other action being considered, the disputant who holds the property under color of title has the right to represent the property in the case, until this right is removed through legal action.

A new owner cannot change agreements made by the former owner, or change other actions taken in the case that are binding on the former owner. If the former owner has received documentation and a summons in the case, documentation or a summons to the new owner are not needed.

§ 29. Objections to the application should be made in writing and within the time decided by the court. Such time should be at least 30 days from the time when the notification was made. The water court is not required to consider late objections. A copy of each objection should be sent to the applicant.

§ 30. The continued preparation of the case may be either in writing or oral.

In preparing for the case, the water court should see to it that the hearing in the case is appropriate in scope to the case's nature. In this regard, the court should, where possible, insure that no unnecessary investigation is done.

§ 31. The water court determines the extent of any presentations and which parties should be present at a presentation. The parties should be summoned to the presentation. This summons should be communicated to the parties or announced in a local paper. The parties can be required, under penalty of fine, to be present personally.

At the oral presentation, judgment by default may not be announced. The parties can refer to documents they have not submitted. A report should be given regarding the contents of these documents.

§ 32. If any special technical examination or more comprehensive appraisal is needed for a decision in the case, the water court can appoint one or more experts to deliver an opinion in the case, after they have had a preliminary investigation.

Such an investigation should be carried out as soon as possible. If needed, given the character of the case or the purpose of the investigation, the court should, as appropriate, inform the parties as to the time of the investigation.

§ 33 . If appropriate, the water court can instruct one or more members of the water court to hold an investigation at the site of the project. The parties should be informed of the time for such investigation. A record of the investigation should be kept.

§ 34. At the demand of the applicant, the water court can, without any formal session, decide on actions to be taken to prevent or reduce damages or inconvenience, before final

action on the matter is taken. As a condition for this, the applicant must provide security to the regional administration for the compensation he might be liable to pay due to such actions.

The decision is in force immediately, but it can be changed if conditions change.

§ 35. If it is evident from a report received under § 32, or otherwise, that the water project for which a permit is sought affects properties that have not been identified in the notice under § 22, the water court, applying § 22, should give owners, and holders of special rights in such properties, the opportunity to appear.

If it is more appropriate, the water court can summon the plaintiffs to the formal session in the case. The summons should be served on the claimants, at the latest, eight days before the formal session, in the manner that is applicable to service of summons in cases of dispute.

§ 36. When the case is ready for the formal session, the water court should determine the time and place for this session. That place is determined, first and foremost, in a way which minimizes the costs for the session.

Information regarding the time and place of the formal session should in due time be given to the parties in the manner chosen for service of summons. If appropriate, the summons should contain information about the matters to be considered at the formal session.

If any party must personally attend the formal session, the water court should require him to do this under penalty of a fine. This injunction should be communicated.

The formal session can be held, even if a party fails to appear. Judgment by default cannot, however, be entered.

§ 37. If the water court finds that a case can be heard without preparation, the court can, by notice, immediately summon the parties to a formal session in the case. At this point, §§ 22-28 and 32-36 apply as appropriate. The formal session can be held, at the earliest, three weeks after the time when the notice is given.

§ 38. An inspection should be held in the case, unless it is unnecessary.

§ 39. A situation where a juryman has been disqualified does not alter those decisions or actions of the water court which have occurred before a challenge was made, and in regard to which the other members of the court have agreed.

§ 40. Claims regarding compensation resulting from the water project or an action contemplated by the application, and objections to statements of opinion under § 32, should be put forward in writing or orally no later than at the formal session. The water court can dismiss claims and objections made too late, unless these have not been brought about by observations at the inspection or by other circumstances that have taken place during the formal session.

§ 41. At the start of the formal session, the president, or any other member of the court, should give a brief account of the application and the objections made to it. For the examination of matters of a technical nature, the parties can refer to submitted documents. A statement should be given about the contents of the documents.

At any postponed formal session, the hearing should be resumed in the state in which it was at the end of the previous session. If the members serving at the later session did not participate in the earlier session, the case should, however, be heard de novo. To the extent that, in such a case, evidence that has been brought up at the earlier session can be assumed to be without importance, or if bringing it up again would cause *unreasonable costs or considerable inconvenience*, it does not have to be resubmitted.

§ 42. If the water court finds that objections to the project for which a permit is sought are *in accordance with chapter 3, § 3, paragraph one*, but that circumstances exist such as those referred to in paragraph two of the same section, the water court should, along with its own statement of opinion, refer the matter for determination by the government. The same applies, if the matter of the permissibility of the project, under chapter 11, §§ 1-3 or 5, should be determined by the government.

§ 43. The decision of the water court should be based on what has been determined by inspection and other proceedings at the water court, and on the contents of the documents.

The verdict should be announced as soon as possible, given the character of the case and other circumstances. Unless special considerations apply, the verdict should be announced within two months after the end of the formal session.

The obligation under chapter 17, § 9, paragraph seven, of the code of procedure, to inform the parties about the contents of the verdict, should be considered as satisfied when a copy of the verdict is filed with the appointed recorder(s).

§ 44. When, at the demand of a party, the compensation accruing to him is determined to be *higher than what the applicant has proposed*, the water court can, in regard to this

and other parties, make such adjustments in the compensation amounts as are needed to reach equitable payments. The compensation cannot be set lower than what the applicant has offered in the case. If a settlement has been agreed upon between the parties, however, compensation cannot be set at a different amount than that agreed upon by the parties.

§ 45. If needed to apply chapter 16, § 14, paragraph three, the water court should estimate the value of an affected property without considering any special right that reduces the value of that property.

§ 46. Before the water court announces a decision regarding the acquisition of a property share, or regarding compensation for a stretch of falling water that must be relinquished under chapter 2, § 8, and which represents a share in property, a descriptive map of the area should be established, with the boundary lines of the affected properties marked.

Before the water court announces a decision on a permit for a hydro-electric power plant, the court should insure that there is a suitable property, owned by the applicant, with which the right to utilization of the power in the future should be associated (stretch of falling water).

§ 47. A decision awarding a permit to a water project or other activities under this law should, when appropriate, include provisions involving:

1. the project's purpose, location, extent, safety and other technical details;
2. the areas that can be utilized for the project and other special rights of action given to the claimant;
3. maintenance, inspection and control;

4. property containing a stretch of falling water;
5. the participants in a control of water or irrigation association and the division of the number of shares allocating the costs of the project;
6. any obligation to pay compensation or to prevent damages, and how any payment is to be made;
7. conditions regarding the supply of co-operative hydro-electric power and regarding any subsidies for such supply;
8. the obligation to pay charges;
9. any other conditions providing for public and private interests;
10. the time within which any claim caused by unanticipated damages can be put forward;
11. the time limit for reconsideration under chapter 15, § 3, or § 15, paragraph two;
12. the loss of water, or other loss that the permittee must submit to without compensation under chapter 9, §§ 14 and 15;
13. the costs for the legal proceedings.

If the permit is for construction of the project, the decision should state the time within which the construction works should be completed. [Law 1989:513]

§ 48. At the request of the applicant, the water court can, in a special decision, determine the permissibility of the water project.

If the court has found that the project is permissible and that the completion of the project, without delay, is urgent, the court may in a special verdict, issue a permit for the necessary construction.

If a special verdict is announced, the water court can determine that the remaining portions of the case should be in abeyance until this special verdict is final.

§ 49. When the effects of a water project cannot, in certain regards, be predicted with sufficient certainty, the water court can, at the time of issuance of a permit for the project, postpone the matter of compensation or other conditions regarding the uncertain effects, until the necessary experience has been gained about the effects of the project.

In connection with such a postponement, the water court should, in regard to damage or loss that can be assumed to become more severe, announce temporary measures on compensation, or actions to prevent damages.

The postponed matters should be determined as soon as possible. The amount of compensation cannot subsequently be set at a lower amount than what has been provisionally determined.

If a portion of the case has been postponed, the water court should, as a condition for permitting the project, require the applicant to provide security for the final compensation and for the provisional compensation which has been determined but which is not payable prior to the issuance of the permit.

The regulations of the limitation law [1981:130] are not applicable to claims for compensation involved in a postponed decision.

§ 49(a). If measures are imposed on the storage and diversion of water to provide for the safety of a water project under unusual conditions, and if the damages that follow if

the measures are implemented cannot be estimated in advance, the water court can postpone the matter of compensation.

Claims due to damage under the preceding paragraph, sentence one, are heard in the manner prescribed in chapter 15, § 17. [Law 1989:513]

§ 50. For good reason, the water court can prescribe that a permit for a water project or other activity under this law can be implemented, even if the decision on this matter has not yet gained legal force. As a condition it should be prescribed that the applicant should provide security to the regional administration for the compensation that may be paid, if the decision of the court is changed.

If the applicant, after a permit for a water project or another activity under this law has been issued, is under obligation to prevent or reduce damages or to pay compensation, the water court can prescribe that the decision should be put into effect as if it had gained legal force.

If a decision under paragraph one or two is appealed, the Water Court of Appeal can set aside the decision, before any claims regarding the remainder of the case are heard.

The water court procedure in summons cases

§ 51. Suit in summons cases is initiated by means of a summons.

§ 52. The preparations can be in writing or oral.

Summonses and other notices should be communicated to the parties.

§ 53. The water court can determine the case without a formal session if the parties have not demanded any such session and their appearance is not needed for a hearing of the case. If the case is determined without a formal session in a situation other than that referred to in chapter 42, § 18, paragraph one, numbers 1-4 of the code of procedure, the water court should be composed as stated in § 3, paragraph one of this chapter.

If the court has decided that the case should be determined without a formal session and it is not apparent that the parties already have completed their pleadings, they should be given the opportunity to do so.

Where parties are required to file written pleadings or to appear at an oral hearing or at a formal session, and fail to do so, the code of procedure applies; out of court settlements are not permitted. [Law 1987:758]

§ 54. In other respects regarding proceedings in summons cases, the regulations regarding application cases apply, as found, in § 31, paragraph two, §§ 32 and 33, § 36, paragraph one, §§ 38, 39 and 41, § 43, paragraphs one and two, and § 46, paragraph one.

In cases under chapter 14, §§ 6, 45 and 50 also apply. If the matter in such a case involves work to prevent or reduce damages or inconveniences due to a project under this law, § 34 also applies.

§ 55. If a defendant, to answer plaintiff's case, makes application to the water court under § 13, paragraph one, numbers 3 or 4, or regarding altered regulations on water diversion under § 13, paragraph one, number 10, the case is handled in its entirety as

an application case, unless the case qualifies as a summons case under § 13, paragraph two.

If, in a summons case, a decision has been made by the water court, by the sheriff's office under the act ruling default and legal assistance [Law 1990:746] or by the regional administration under chapter 21, § 3 of the same act and if an application, such as that referred to in paragraph one is made, the water court can, as in an application case, decide that the decision cannot be implemented before the case has been finally determined or until the water court decides to the contrary. The applicant should provide security for costs and damages. [Law 1991:869]

The proceedings in execution cases in the water courts

§ 56. If the decision of the referee has not been appealed in the prescribed manner or within the proper time, the objections should immediately be dismissed by the water court. If the petition for appeal has been submitted to the referee, but not to the court, prior to the expiration of the time for appeal, the fact of the late petition should not lead to the suit being dismissed. [Law 1990:454]

§ 57. A petition for appeal should include two copies of the petition and any related documents. If the court needs additional copies for notification of interested parties, the appellant must supply them. If such copies are not in hand, the court can provide them at the expense of the appellant.

§ 58. If appeals are brought before the water court, the court should send a copy of the appellate documents to the recorder(s) that have been appointed at the hearing, and send a notice regarding the appeals.

The notice should state:

that a copy of the documents in the case is available from the recorder(s);

that summonses to the parties and other notices in the case should, if these are not served personally, be inserted in a certain or certain local papers and be available from the recorder(s);

that a written statement regarding the appeals should be submitted to the water court within a time, at least 30 days from the time notice was given, as determined by the water court.

If proper, the water court should, in the notice, summon the parties to the formal session in the case.

§ 59. The notice should be published in a local paper as soon as possible. If the project is of small scope and only affects a few claimants, such notice can be replaced with a notice to each claimant, containing the same contents the published notice would have had. The notice should be sent to the claimants.

A copy of the published or personal notice should be sent to the appointed recorder(s). The notice must be served.

If an appeal by a private claimant affects the public interest, copies of the published or personal notice should be sent to the authorities as stated in § 23. Furthermore, a copy of the appeal documents should be sent to the National Juridical Board for Public Lands and Funds and, if the general fishing interest is affected, to the National Board of Fisheries. [Law 1991:381]

If a pleading affects an owner of a property, or a holder of a special right in a property, and that property has not been mentioned in any notice during the hearing, the appeals and a copy of the notice regarding these should be communicated to the owner or the holder of the affected right.

§ 60. For the handling of cases regarding procedural matters, or regarding part of the case that can be determined separately, the formal session can be set even though the rest of the preparation of the case has not been completed.

61. The water court can decide a case without a formal session, if a formal session will be of no importance for the hearing and no party has demanded such a session, or if the court finds it obvious that the suit is unfounded. The water court in such a case has judicial power without jurymen.

or a hearing that does not refer to the main issue, a formal session is not required.

the court has decided that the case should be determined without a formal session and it is not apparent that the parties have already completed their pleadings, they should be given the opportunity to do so.

§ 62. The water court's determination of the case is done by a verdict. Other determinations of the court are made by decisions and rulings.

§ 63. If a change in the referee's ruling is best done by the referee, the court can return an execution case to the referee. The court can impose conditions to guide the changes.

§ 64. Regarding the proceedings in execution cases, in other respects, the regulations regarding application cases apply, as found in §§ 30-33, 36, 38, 39, 41-43 and 45 , § 46, paragraph one, and §§ 47-50.

The legal proceedings in the Water Court of Appeal

§ 65. Unless otherwise provided by law, the verdicts or decisions of the water court can be appealed to the Water Court of Appeal. Instead of the time limits prescribed in chapters 1 and 2, and chapter 52 of the code of procedure, for notice of appeal the time limit is four weeks, and for connecting notice of appeal, two weeks. [Law 1987:758]
{Law 1994:1047}

§ 66. If the water court in connection with a verdict, which includes a permit for a water project, has not announced procedures under § 50, paragraph one, regarding appeals, chapter 49, §5, paragraph two, of the code of procedure is applicable. [THIS SECTION HAS BEEN CANCELED. LAW 1994:1047]

§ 67. The decision of the water court in matters appealed under chapter 12, § 37, paragraph one, numbers 1 and 3, and paragraph four cannot be further appealed.

The decision of the water court in matters referred to in § 34 may be appealed specially
Decisions in cases under § 55, paragraph two, can be appealed only in connection with the appeal of a verdict or final decision in an application case. [Law 1994:1047]

§ 68. If, in an application case in which a notice under § 22 has been issued, the applicant has appealed the verdict or the ruling of the water court, the Water Court of Appeal, instead of requiring notification of the opposing parties, can decide that a copy of

the notice of appeal or appeal petition and attached documents be sent to the recorder(s), that have been appointed by the water court, to issue notice of the appeal.

In the notice it should be stated:

that a copy of the documents in the case be kept accessible by the recorder(s);

that summonses and other notices to the parties in the case should, unless they are delivered in person to a party, be inserted in a local paper or papers and be kept accessible by the recorder(s);

that a written response or written answer should be submitted to the Water Court of Appeal within the time that the Water Court of Appeal determines, and at least three weeks from the date of the notice.

The notice should be inserted in the one or more local papers that the water court has selected for notices in the case.

Paragraphs one through three are also applicable in execution cases, in which a notice under § 58 has been issued, whether or not the claimant or another party has appealed.

When the requirements of this section have been observed, notification should be considered as having taken place. [Law 1994:1047]

§ 69. A case where an appeal has been noticed can be determined by the Water Court of Appeal without any formal session, if such a session would not affect the outcome. If the parties on both sides of the case have demanded a formal session, this should occur, unless it is obviously unnecessary. [Law 1994:1047]

During the formal session, the investigation of the case can be initiated through the Water Court of Appeal to the extent decided by the court.

If the Water Court of Appeal in an appealed application or execution case finds that a penalty or other sanction for absence should be imposed upon any party, such penalty or sanction cannot be addressed to the party through a notice under § 68. The penalty or sanction instead should be communicated directly to the party.

§ 70. If appropriate, the Water Court of Appeal can direct one or several members of the court to conduct a local investigation. The parties should be informed in a suitable way about the time of the investigation. At the investigation, a record should be kept.

An investigation conducted by a Water-right councilor regarding a matter of a technical character cannot be used as a basis for a verdict or ruling of the Water Court of Appeal without giving the parties the opportunity to state their opinion in regard to the investigation. This does not apply, however, if the investigation differs in only minor regards from what had earlier been produced in the case.

§ 71. Regarding the legal proceedings in the Water Court of Appeal, §§ 32, 42, 43 and 45-50 are applicable.

The legal proceedings in the Supreme Court

§ 72. The verdicts or rulings of the Water Court of Appeal can, unless otherwise provided by law, be appealed to the Supreme Court.

Regarding the legal proceedings in the Supreme Court, the rules relating to legal proceedings in the Water Court of Appeal are applicable as found in §§ 68, 69 and 71.

Chapter 14. Special regulations regarding demolition, etc.

§ 1. If an application is made for permission to demolish a surface water structure, permission for the demolition should be granted, unless a procedure has been announced under § 2.

§ 2. Instead of giving permission to demolish a surface water structure, the water court can, at the request of the owner of any property that would be damaged by such demolition, prescribe that the obligation to maintain the structure, and to carry out other future responsibilities of the owner of the structure, should, until decided otherwise, be transferred to the owner of that property.

To protect the public interest, such a procedure can also be imposed on the state, a municipality, or a water association, with their agreement.

Such a procedure cannot be imposed, if it appears that such property owner cannot carry out the obligations, or if, to protect the claimant or the public interest, it is essential that the structure be demolished.

If the owner is damaged by the fact that a structure is maintained, the person taking responsibility for the structure should pay reasonable compensation for such damage.

§ 3. Structures for a public floatway no longer in operation can be removed with the permission of the water court. Such permission can be given to:

1. the state, a municipality or a water association;
2. a manager as defined in § 82 of the law [1919:426] regarding floating in a public channel and;

3. a person who might suffer injury if the structures were maintained.

A person holding a permit to remove a structure can dispose of the structure as he desires.

If it is obvious that neither public nor private interests are injured by the removal of a structure, no permission from the water court is needed. If a manager has been appointed under § 82 of the law on floating in a public channel, his consent to the action is required.

If a property owner, whose property would be injured by the removal of a structure in the floatway, wants to take over the structure, the water court can approve this. Such a procedure can also be imposed on a person who wants to use the structure for a water project or on the state, a municipality or a water association in order to protect the public interest.

§ 4. If a property, whose owner has taken over a maintenance obligation under § 2, paragraph one, or a structure under § 3, paragraph four, sentence one, is transferred to a new owner, the new owner is responsible for those obligations.

The takeover should be noted in the property book.

§ 5. If a threat to public or private interests can arise when a ground water structure is completely or partly taken out of use, the owner of the structure should obtain the instructions of the water court regarding the conditions under which this can occur.

If such an action causes damage to another person's property through a permanent alteration of the water conditions, reasonable compensation should be paid.

Chapter 15. The validity of a permit, reconsideration, etc.

Effects of decisions in application cases

§ 1. If a decision in an application case, under chapter 13, § 13, paragraph one, involves a permit for a water project or for any other activity under this law, and the verdict has gained legal force, the permit is valid against all the world, regarding matters which according to this law are to be judged in such a case. If the permit involves the building of a structure, it includes the right to maintain the structure. Consistent with chapter 2, § 9 or regulations in chapter 15, however, a permit can be limited, or be amended with altered or new conditions, or be declared forfeited.

A permit, in this chapter, includes an approval of works or actions under chapter 4, § 4, and legalization under chapter 4, § 5. [Law 1989:513]

§ 2. A permit becomes invalid, if the permittee does not meet the deadlines for the works imposed in the permit decision.

If the permittee demonstrates that there are valid reasons for the delay or that substantial inconveniences would arise if the permit became invalid, the water court can extend the time by, at most, ten years. Application for an extension should be made before the prescribed time has expired.

§ 3. In order to protect the public interest, the water court can reconsider the conditions in a permit and prescribe modified or new conditions. This reconsideration cannot take place until after the expiration of a time that the court has determined at the time the permit is issued, and shall be at least ten years and at most thirty years from

the date the permit gains legal effect. However, a reconsideration to improve the safety of a water works or to protect public interests that are effected by substantial changes in water conditions can take place before the expiration of the determined time.

The water court should, on reconsideration, determine when the modified or new conditions should be effective. When reconsideration occurs after the expiration of the pre-determined time, it should then be established at what future time, between ten and thirty years, further reconsideration can occur. [Law 1989:513]

§ 4. If it appears that arrangements or conditions imposed for the protection of fishing, under chapter 3, § 11, or chapter 10, §5, are ineffective, the water court can prescribe different regulations.

§ 5. If the permittee fails to follow a permit condition, the water court can declare the permit forfeited. If the permit relates to activities at a water project, the water court can also declare the right to maintain the water plant forfeited.

If maintenance of a water project has been seriously neglected, the water court can declare the right to maintain the project forfeited.

If a permit to alter the water conditions has not been used for a long period of time and it appears that the permit will not be used, the water court can declare the permit forfeited. In such a case, the water court can also declare forfeited the right to maintain the water works which affects the water conditions.

§ 6. In case of a forfeiture under § 5 regarding a water works, the water court should order the person responsible for the maintenance of the plant to demolish it, and to take steps necessary to prevent or reduce damages caused by such action.

Instead of such an order, the water court can grant to another person, whose right is affected by the demolition or, in order to protect the public interest can grant the state, a municipality or a water association, permission to demolish the plant at the cost of the person responsible for its maintenance. The court can also, under the circumstances referred to in chapter 14, § 2, provide for the continuation of the plant and transfer the obligation of maintenance to a property owner, or to the state, a municipality or a water association. In such a case, chapter 14, § 2, paragraph four, and § 4 are applicable.

§ 7. Application for hearing under §§ 3-5 is made by the National Juridical Board for Public Lands and Funds.

§ 8. Upon application by the permittee, the water court may revoke or modify regulations in a permit decision other than those regarding the size of the compensation amount.

§ 9. The water court can establish revised or new provisions regarding the storage and diversion of water, upon an application by a person other than the permittee, if such person seeks to better utilize the hydro-electric power in his stretch of falling water, or upon application by a municipality or a water association that seeks to provide for public nature conservation or health care, or to promote fishing. For the benefit of public channels, public ports, public floatways, irrigation or land drainage association and sewage enterprises, such provisions can be established upon the application of the principal.

§10. Unless otherwise provided by law, the general legal principles applicable to water projects also apply to matters dealt with in §§ 3, 4, 8 and 9 of this chapter.

In reconsiderations under §§ 3 or 4 , no conditions can be imposed that would defeat the purpose of the project, nor significantly alter the conditions for the project. The conditions must not --- for the permittee, recipient of co-operative hydro-electric power, or others, who have adapted to the project --- lead to costs that are disproportionate to the benefits to be gained for the public interest. At any reconsideration, consideration should be given to what the permittee, under earlier reconsideration verdicts, has agreed to for the benefit of the public interest.

If the government in connection with the examination of a water project has prescribed that a certain condition should be included in a permit, the water court, at the reconsideration, cannot significantly vary such condition unless the government has approved.

§ 11. A permit for a water supply can be reconsidered by the water court on the application of anyone who manages another water supply that is dependent upon the same water source, or by any applicant for a permit for such water supply. In such a case, the principles of chapter 3, § 8 regarding modification of the project or advantage for one of the projects is applicable.

§ 12. On the application of the National Juridical Board for Public Lands and Funds or of the person liable to pay, the water court can amend a community charge or a public fishing charge in the light of experience regarding the effect of the project, or if the project cannot be utilized as intended.

Changes in such charges can also be addressed in connection with reconsiderations under §§ 3, 4, 8, 9 or 11.

§ 13. A decision on reconsideration has the same effect as a permit decision.

Effect of a decision after hearing

§ 14. After a permit decision or other decision by the referee has gained legal effect, it can be implemented.

In regard to permits for land drainage projects and reconsideration, §§ 1-10 and 13 apply. Reconsideration under §§ 3, 4, 8 and 9 should, however, occur at a new hearing. The regional administration sets such a hearing upon application.

Altered conditions in associations

§ 15. If a verdict or a decision under §§ 3-6, 8, 9, 11 or 14 affects the continued existence of an association, the number of participants, or the sharing of costs among them, revised regulations may be issued.

If, after an association has been formed under this law, in cases other than those referred to in paragraph one, altered circumstances arise that substantially affect the method of carrying out the project, the number of participants, or the sharing of costs among them, then the matter, on application by any participant, can be reconsidered by the water court or, if a land drainage association is involved, at a new hearing. Even in the absence of such circumstances, a reconsideration can take place, if someone wishes to

participate, or if, in the earlier decision, it has been decided that the matter can be reconsidered after a certain time, and that time has expired.

On reconsideration, the regulations regarding the carrying out of water projects apply as appropriate.

A participant in a permanent association should be required to reasonably compensate the other participants for their construction costs. This principle also applies when the number of shares is increased for participants in an association.

§ 16. Any agreement concerning joining or withdrawing from an association under this law, or where the number of shares of a participant will be changed, or where the association will cease to exist, has the same effect as a permit decision verdict, if the agreement, on application by a participant, is approved by the water court or, if the agreement is made during a hearing, by the referee. Such an approval cannot be given if it is obvious that the agreement is inconsistent with this law.

Unforeseen damages

§ 17. If a water project or a water works, that has been carried out in accordance with a permit issued under this law, causes damages unforeseen by the water court or the referee when the permit was granted, the injured party can make claims for compensation under chapter 9, §§ 1-10.

If there is considerable damage to a private party or to any public interest, changes can be requested, at the expense of the developer, in the water project or water works, to prevent or reduce future damages without causing injuries to a third party or undue

inconvenience for the permittee. The public interest is represented by the National Juridical Board for Public Lands and Funds or by the municipality.

Claims due to unforeseen damages should, in order to be heard, be reported to the water court within five years or any longer time, not to exceed twenty years, that may have been established when the permit was issued. Such time is counted from the completion of construction as determined by the court or referee. Regarding damage, as stated in chapter 12, § 33, or in chapter 13, § 49(a), the period of notification never expires before two years after the time when the damage arose.

The regulations in the limitation law [1981:130] do not apply to claims under this paragraph. [Law 1989:513.]

§ 18. Any claim report under § 17 should be in writing and three copies provided to the water court. One copy should be sent to the permittee.

The claim is heard before or after the expiration of the time limit on the claim report. The procedure prescribed for proceedings in summons cases applies. In addition, chapter 13, § 45 and § 50, paragraphs two and three, apply.

The determination of regulations on water diversion and water supply

§ 19. If permit conditions are lacking on the storage or diversion of water by a water project, or conditions regulating the utilization of a water supply, or if the existing conditions are incomplete, the water court, at the request of someone injured through the prevailing circumstances, can impose regulations to prevent or reduce future

damages. Such conditions cannot alter legal requirements nor injure the rights of a third party.

Chapter 16. Payment of compensation, entry, etc.

§ 1. Acquisition payments and compensation for encroachment under chapter 9, that are to be paid immediately, are paid by making a deposit at the regional administration in the region where the property is located.

If the deposit involves properties in different regions, it should be made at the regional administration determined by the court or the referee.

§ 2. A deposit of the acquisition payment under § 1 should not be made, if the property is not security for any existing or applied-for mortgage, or if the creditors with a right of redemption in the property have permitted the compensation to be paid to the person entitled to compensation. If the property is burdened by a joint mortgage, these principles are only applicable if a release has been given by property owners and creditors whose agreement is required by chapter 22, § 11, of the land code. However, consent is not required from any person whose right is not significantly affected by the determination of the court or the referee.

§ 3. Decisions on acquisition payments or compensation for encroachment should state if a deposit has been made.

§ 4. Compensation that is not to be deposited is paid to the person entitled to compensation. If the compensation involves land that is to be required, the person liable for payment must report this to the regional administration in the region where the property is located, and thereby establish that compensation has been paid. If the compensation involves properties in different regions, such report should be made at the regional administration determined by the court or the referee.

§ 5. The regulations in §§ 1-4 also apply to temporary compensation established in chapter 13, § 49, paragraph two.

§ 6. Upon deposit or report, the person liable for payment of damages should send in the verdict or the ruling and the certificate of entry to the regional administration and, upon deposit, in addition, send in certificate of search for the property. If this does not occur, the regional administration should acquire these documents at the expense of the person liable for damages.

§ 7. Compensation for land that is acquired should be paid and the report required by § 4 made within six months after the decision regarding the permit and compensation. Compensation that does not involve land that is acquired, and for which immediate payment has been determined, should be paid within two years from that point in time. If the person liable to pay damages does not meet these time limits, he loses whatever rights he has acquired against the person entitled to compensation.

Time limits can be shortened or extended by agreement of the parties, or when special reasons require it.

§ 8. Acquisition of land is completed when the person liable for pay damages has completed his obligations under § 1 or § 4.

§ 9. The person liable to pay compensation can immediately take possession of the property when acquisition is completed under § 8. If, in addition to the acquisition payment or the compensation for encroachment, any other compensation has been

awarded due to the surrender of the property, entry may not occur until this additional compensation has been paid.

Permission to take another person's property into possession or to take actions that cause damage to someone else in any other way than through acquisition, can be granted when the person liable for compensation has paid the required compensation.

If required by the circumstances of the person liable for compensation, a reasonable delay in the entry or the carrying out of the action should be granted.

§ 10. If part of a property is acquired, the change in the subdivision of properties occurs when the acquisition is completed under § 8.

Any special rights in property that have been created by voluntary grants expire when acquisition of the property, or acquisition of such part thereof that is affected by the said right, is completed under § 8, unless the court or the referee has prescribed that such rights should remain in existence. Such a combination of rights can occur only if it does not affect the rights of creditors who have a right of redemption in the property.

Special rights in the property other than those stated in paragraph two, remain after acquisition, unless eliminated by the court or the referee.

After acquisition, the acquired property's liability for claims ceases. However, this rule does not apply to a claim that has priority under § 6, paragraph one of the priorities law. [1970:979]

§ 11. If the compensation owed by a water project or another activity has been finally determined only after the permit has been obtained, the portion of the compensation that exceeds earlier estimates should be paid and a report made under § 4 within a month from the time the compensation is finally determined. This principle is applicable to compensation that has been awarded in connection with an existing water project.

If the total compensation does not exceed the previously estimated compensation, and liability for deposit or report otherwise would have been applicable, the person liable for compensation should report the compensation decision to the regional administration after such decision has become final.

§ 12. In regard to compensation such as that referred to in § 11, paragraph one, interest will be paid under § 5 of the interest law [1975:635], from the day when the land was taken into possession or the water project or action carried out, unless paragraph two of this section applies. If the payment does not occur on time, interest will be paid according to § 6 of the interest law, for the time after the delay began. Acquisition is considered complete even if interest has not been paid.

In regard to compensation that involves unforeseen damages, interest must be paid under § 6 of the interest law, from the date when the compensation claim was presented to the water court.

If the person liable for compensation neglects to pay the compensation which, under § 11, paragraph one, is to be paid through deposit, then the regional administration, on the demand of a person entitled to the compensation or a part thereof, should ensure the the verdict or decision, by which compensation has been determined, is put into effect.

§ 13. The regional administration without delay should deposit, in an interest-bearing bank account, funds that have been deposited with them or charged.

§ 14. *Deposited or charged funds with accrued interest should be delivered by the regional administration to whomever has the right to the funds.*

Upon payment of the funds that have been deposited according to a decision by the court or the referee, the regulations regarding distribution of purchase-price for real estate sold at a compulsory auction should be applied, *except as stated in the following paragraph.* There are special regulations regarding the right of a holder of a letter of pledge to give up his right to receive payment, and on the effects thereof.

If the property is burdened by a mortgage and, in addition, by a special right that reduces the value of the property, and if the special right is inferior to the mortgage, the creditor whose lien is based on the mortgage should receive payment as if the property were not burdened by the special right, to the extent this is needed for the mortgagee's receipt of full payment for his claim. The compensation for the special right should be reduced by a corresponding amount.

§ 15. A meeting to determine the distribution should be held as soon as this can be arranged. Summons to this meeting should be sent to the property owner, other plaintiffs and known lien holders, at least two weeks in advance. These persons should, in the summons, be urged to report their claims, at the latest, at the meeting. If appropriate reasons exist, an announcement of the meeting should also be inserted in Post- och Inrikes Tidningar at least two weeks before the meeting.

§ 16. When acquisition of land is completed, this should be noted in the property book [fastighetsboken].

§ 17. If there is a dispute regarding priorities for compensation, the compensation should be deposited at the regional administration, even if a deposit is not required under § 1. The rules in §§ 13-15 should be applied to such compensation.

§ 18. Compensation that has been paid cannot be recovered in any part. This principle does not apply, if the permit that has created the need for compensation is revoked at the suit of the person entitled to the compensation.

§ 19. If a creditor with a lien on a property is suffering losses due to compensation not being determined or having become too low, and the amount of compensation, because of an agreement between the person liable for compensation and the plaintiff, or for any other reason, has not been examined by the water court or the referee, the creditor is entitled to compensation from the person liable for the compensation, with corresponding reduction in the claim. The right to compensation also exists for losses due to an agreement that has been made regarding non-monetary compensation, or if actions to prevent damage remain to be carried out.

§ 20. The principles stated in this chapter regarding property are, as appropriate, also applicable to rights held in connection with ground leases.

Chapter 17. Maintenance, etc.

§ 1. The owner of a water works is obliged to maintain the structure so that no damage is caused to private or public interests through changes in the water conditions. If the water works, by virtue of a special right, has been built on someone else's land, and the ownership of the works has been transferred to the land owner because the right has expired, the obligation to maintain the structure remains with the original owner of the special right.

A person who, under chapter 8, § 2, has been granted the right to utilize someone else's water works is, together with the owner, obliged to maintain the plant, unless the water court has decided differently.

In chapter 14, § 2 and chapter 15, § 6, there are regulations on the transfer of the liability for maintenance.

§ 2. Water projects that affect water conditions should be managed so that they do not unnecessarily injure public or private interests.

§ 3. A person obliged to maintain a water works has the right to utilize someone else's land for construction or activities needed to fulfill the obligation to maintain the works. The person liable for maintenance should pay compensation to the other landowner for damage and encroachment.

Chapter 18. Supervision and inspection

Supervision

§ 1. Supervision over water projects and water works is the responsibility of the regional administration.

If special reasons exist, it can be prescribed in a permit verdict or permit decision that some other authority in addition to the regional administration should exercise supervision in certain regards.

§ 2. The developer is obliged, at the request of the supervisory authority, to give whatever information about the water project or water works is needed for its supervision.

The regional administration can require the developer to carry out the examinations needed for the supervision. If special reasons exist, the regional administration can, in such a case, prescribe that an examination should be carried out by someone other than the developer, and appoint a person to carry out such examination.

In connection with the injunctions in paragraph two, the regional administration can levy a fine.

Inspection

§ 3. In a permit verdict and a permit decision, it can be required that a water works should be inspected after the project has been completed.

The inspector is appointed by the regional administration on the request of the developer.

§ 4. At the request of the owner of a water works or by someone whose right is affected by the works, the regional administration can appoint an inspector to examine whether the works can be regarded as legal.

§ 5. The inspector should keep a record of what has taken place at an inspection under §§ 3 or 4. The record should be given to the regional administration and, where the inspection is made under § 4, a copy should be provided to the person who has requested the inspection. If the inspector finds that departures exist from what has been prescribed in the permit verdict or the permit decision, he should identify those departures which, in his opinion, may injure public or private interests.

Right to entry, etc.

§ 6. To carry out supervision under this law, the supervisory authority has the right to enter water works and conduct examinations within areas that are affected by the water project. The same right belongs to persons who are going to conduct examinations referred to in § 2, paragraph two, sentence two, and to inspectors.

The police authority should give whatever assistance is needed for the execution of the supervision or the inspection.

§ 7. Anyone dependent on the running of a water project, any public prosecutor, and any official at the Swedish Meteorological and Hydrological Institute, has the right to enter places housing water level meters, water meters or observation tubes, and to use

records that the developer is required to keep regarding the water level, the runoff of water or amounts of water utilized.

Officials at the National Board of Fisheries, and fishing supervisors who have been appointed for this purpose, should be given the opportunity to exercise supervision regarding the fulfillment of conditions for the protection of fishing. [Law 1985:436]
[Law 1991:381]

Obligation to preserve secrecy

§ 8. The persons who have participated in supervision or inspection, or who have carried out such examinations as are referred to in § 2, paragraph two, sentence two, cannot, without authorization, reveal or use what they have learned, in carrying out their duties, about business or management conditions, or conditions of importance for the defense of the country.

Regarding activities in the public sector, the regulations in the law of secrecy [1980:100] are applicable.

Chapter 19. Protection of the water supply, etc.

General regulations

§ 1. If a surface or ground water resource is utilized, or can be expected to be utilized, for water supply, any persons who want to pursue such an activity, or to carry out such actions in water or on land that may damage the water resource, are responsible to make the arrangements, endure limitations on the activity and observe the other precautionary measures that reasonably can be required to prevent or remedy the damage.

A person who carries on an activity or carries out an action in accordance with what has been prescribed in a permit under this law, the environmental protection act [1969:387], or § 18 of the nature conservation act [1964:822] is subject to requirements of paragraph one.

The regional administration can, under penalty of a fine, require any person who wants to carry on such an activity or to carry out such actions as referred to in paragraph one, to observe the requirements of that paragraph.

§ 2. For the protection of a surface- or ground-water resource that is utilized or can be assumed to be used for water supply, the regional administration can establish a water protection area.

The regional administration should prescribe whatever limitations are required in the right to have access to properties within the water protection area, in order to provide

for the purpose of the area. If needed, the regional administration can require that signs and fences be put up, even on another person's land.

Requirements that seriously burden future land use or that claim another person's land, can only be imposed at the request of a municipality or a person whose interest in the water protection area has been established.

§ 3. The government or, on the authorization of the government, the regional administration, can impose such requirements on public behavior within a water protection area as are needed to provide for the purpose of the area. [Law 1989:513]

§ 4. Before the regional administration makes a decision under § 2, it should notify the plaintiffs requiring them, if they wish to put forward objections to the action, to do this at the regional administration within a certain time from the notification. The time cannot be set less than one month. The notification, which should include information on proposals for the water protection area and for protection regulations, should be inserted in a local paper. A copy of the notification should, in addition, be sent to known plaintiffs.

If the decision affects real estate that is owned by an association, a copy of the notification does not have to be sent to the known participants in the association. If there is a known board for the association, a copy of the notification should be sent to the board.

If the decision obviously affects only a certain plaintiff(s), the requirement can, instead of being published, be communicated personally to the plaintiff(s).

If the matter of a water protection area has been taken up on a claimant's request, the costs for the notification should be paid by the claimant.

§ 5. When a water protection area has been established, and when requirements under § 2 or § 3 have been established, altered or revoked, the decision should, as soon as possible, be published in the way that is prescribed regarding ordinances in general. Publication of the decision should also be inserted in a local paper. Claimant and plaintiff are considered as having received notice of the decision as of the day when the notice was inserted in a local paper.

If the decision has been rendered after application by a claimant, such claimant should pay the costs for the notice.

§ 6. If a municipal authority has rendered a decision, consistent with a requirement that has been imposed under § 2, paragraph two, sentence one, appeal from such a decision can be taken to the regional administration.

Decisions under §§ 1-3, or under the previous paragraph, are effective immediately, unless otherwise directed.

Compensation

§ 7. Property owners and holders of special rights in property have a right to compensation, whenever requirements requested under § 2, paragraph two, lead to serious limitations on future land use within the affected part of the property, or lead to the land being claimed.

If a requirement under § 2, paragraph two, sentence one, involves the prohibition of certain actions in the absence of special permission, compensation can only be paid if such special permission has been refused or limited by special conditions.

The compensation should be paid by the person who has requested the requirements from the regional administration.

If particular injury occurs regarding the utilization of the property, the property should be acquired by the person liable for compensation if acquisition is requested by the property owner.

In applying paragraphs one, two and four, one should also consider other decisions made under § 2 of this chapter, decisions made under §§ 5, 8, 9, 11 and 19 of the nature conservation act [Law 1964:822], prohibitions under § 20, paragraph two, § 21, paragraph two of the same act, and decisions made under § 18, paragraphs two and three, of the forestry act [Law 1979:429], and chapter 14, §8, paragraph one of the planning and building act, on condition that such decision has been made within ten years before the current decision. In addition, consideration should be given to conditions, under § 30 of the forestry act [Law 1979:429], that have been rendered in cases arising in the same period. [Law 1990:1377] [Law 1991:649] [Law 1993:557]

If right to sue, or right to compensation, or to acquisition, under a prior decision referred to in paragraph five, has been lost due to § 8 or corresponding regulations in the nature conservation act or the planning and building act, these circumstances will not prevent a decision from being considered. [Law 1987:139]

§ 8. A person who wishes to make claims for compensation or to request acquisition should bring suit against the person liable for compensation, at the water court and within one year from the day when the decision on which the claim is based became final. If he does not do this he loses his right.

§ 9. In regard to compensation and acquisition under this chapter, chapters 9 and 16 also apply.

Chapter 20. Regulations about costs

Legal expenses at court etc.

§ 1. In application cases, except as provided in the second paragraph, and in cases covered by chapter 13, § 13, paragraph two, the claimant is responsible for his own and the opponent's costs in the water court. In application cases that involve the formation of an association for irrigation, or for control of water and control, the claimant is not responsible for costs in the water court that have arisen for participants in the association.

In cases that concern reconsideration or forfeiture under chapter 15, §§ 3-6 or § 12, the National Juridical Board for Public Lands and Funds and the permittee are responsible for their own costs in the water court. In cases under chapter 15, § 3, the National Juridical Board for Public Lands and Funds is also responsible for costs in the water court that arise for counter claimants other than the permittee. If a case arising under chapter 15, § 3, regards reconsideration to improve the safety of a water structure, the permittee, rather than the National Juridical Board for Public Lands and Funds, should be responsible for the afore-mentioned costs. In cases regarding the number of participants or the sharing of costs under chapter 15, § 15 or chapter 15, § 16, each party is responsible for his own costs.

In the appeal of application cases referred to in paragraph one, sentence one, the claimant is responsible for his own costs in the upper courts and also for the costs that have arisen there for the counter claimants because of the appeal. [Law 1989:513]

§ 2. The regulations in § 1 do not apply, if they are inconsistent with chapter 18, §§ 6 or 8 of the code of procedure.

Regarding special matters in application cases, it may be reasonable to determine either that each party should be responsible for costs or that the losing party should compensate the other party for costs.

§ 3. *If a suit is dismissed, and has been brought by a property owner or possessor of a special right in the property, and the suit regards compensation or acquisition because of an ordinance regarding a water protection area, the water court can prescribe that the plaintiff should bear his own costs, if he is found to have initiated the suit without sufficient reason. If the legal proceedings have been obviously initiated without any reasonable basis, the water court can, in addition, put the plaintiff under an obligation to compensate the legal expenses of the opposing party. [Law 1987:139]*

§ 4 . *If reasonable, the water court can in execution cases prescribe that the losing party should compensate the expenses of the opposing party in the water court.*

§ 5. *In application cases, the claimant can be required to pay compensation for the legal expenses of the opposing party, even if the suit has not been finally heard in court. Compensation should include interest, under § 6 of the interest law [1975:635], from the day of the decision until payment is made. [Law 1987:330]*

§ 6. *In the water court, the claimant in application cases is liable to reimburse the court for:*

1. notices
2. recorders

3. experts who have been called by the court
4. premises for meetings

These principles regarding claimants are applicable to the complainant in execution cases, if the expense has been caused by his complaint, and in summons cases are applicable to the plaintiff.

In the appellate court these principles regarding claimants, complainants, or plaintiffs apply to the appellant.

At the request of the court, advance payment of compensation should be made.

The matter of who should finally be responsible for the expenses is determined in accordance with the rules regarding legal expenses in the water court.

Hearing costs etc.

§ 7. Plaintiffs other than participants have the right to reasonable compensation for their hearing expenses. In addition to the compensation, interest should be paid at the rate of six percent from the day of the decision until payment is made.

The referee and qualified citizens have the right to compensation under regulations announced by the government.

Compensation to experts under chapter 12, § 8, is determined by the referee.

§ 8. Hearing costs include:

1. compensation to referees, qualified citizens and experts,
2. notice costs, compensation to recorders and other costs necessary for the hearing,
3. compensation for costs under § 7, paragraph one,
4. compensation for damages under chapter 12, § 24,
5. hearing costs under chapter 12, § 28, paragraph one.

If a permit decision is announced, the hearing expenses should be shared among the participants in the land drainage project or in reasonable proportions.

If the hearing is canceled, the claimant should pay the costs that have arisen, unless special circumstances require that the payment be shared among all plaintiffs, or among certain of them. If the canceled hearing has been initiated because of a decision at a regulation of properties, the costs should, however, be regarded as hearing costs at the regulation of properties.

If the National Juridical Board for Public Lands and Funds demands reconsideration of a land drainage project, that board should be responsible for the hearing costs. When the matter involves reconsideration for the purpose of improving the safety of a water works, compensation for costs as under § 7, paragraph one should, however, be reasonably shared among the participants in the land drainage project.

Claimants also include those who have joined the claimant for the project, and those upon whose request the project has been enlarged beyond what the claimant requested. [Law 1989:513]

§ 9. The claimant is liable, at the request of the referee, to pay in advance for the hearing costs.

Other costs

§ 10. In cases involving the government and regarding claims to a stretch of falling water under chapter 2, § 8, the claimant should be responsible for all costs.

In cases involving the regional administration and regarding distribution of compensation, the person liable for compensation should be responsible for all costs.

Paragraphs one and two do not apply, if inconsistent with the application of chapter 18, §§ 6 or 8 of the code of procedure.

Matters regarding compensation under this section are heard by the water court.

§ 11. The developer should, in the amounts determined by the regional administration, pay the costs of:

1. supervision under chapter 18, § 2, paragraph two,
2. investigations under chapter 18, § 2, paragraph two, sentence two,
3. inspection under chapter 18, § 3.

§ 12. A person who has applied for an inspection under chapter 18, § 4, should pay expenses for the inspection in an amount determined by the regional administration. If requested by the inspector, the applicant is also liable to pay in advance for the cost of the inspection.

§ 13. The decision of the regional administration under §§ 11 and 12 may be executed immediately.

Chapter 21. Responsibility, legal assistance, etc.

§ 1. Any person is subject to a fine or maximum of two years in prison if, negligently or with premeditation, he:

1. violates chapter 4, § 1, paragraph one or two, or chapter 4, § 4, paragraph one, sentence two, or paragraph two, sentence two.
2. violates conditions or prescriptions that have been announced in connection with a permit for a water project under this or an older law, or in connection with approval of construction activities under chapter 4, § 4, legal notice under chapter 4, § 5, or hearing under chapter 14, § 5, paragraph one or corresponding older regulations, or in connection with a hearing under chapter 15,
3. disregards the obligation to maintain a water works or violates chapter 17, § 2,
4. neglects to fulfill his duties under chapter 18, § 2, paragraph one,
5. violates prescriptions that have been announced under chapter 19, §§ 2 or 3.

Conviction is not appropriate for minor infractions.

Conviction, under this section, is not appropriate if responsibility for the action can be determined under the code of procedure.

In the law [Law 1993:787], on right to fishing there are regulations on penalties and other sanctions for one who violates a prohibition against fishing that has been announced according to this or an older law. [Law 1993:790]

§ 2. A person who with premeditation or negligently disregards his duties under chapter 4, § 3, paragraph three, is subject to a fine.

§ 3. If a person has done something referred to in § 1, paragraph one, numbers 1-3 or number 5, the regional administration can, under penalty of a fine, require him to carry out a corrective action. Such a requirement can also be imposed if a person has not observed the provisions of chapter 19, § 1, paragraph one.

If the permit for a water project has expired under chapter 15, § 2, the regional administration, under penalty of a fine, can require the permittee to demolish any water works, built under the authorization of the permit, that could injure public or private interests.

The regional administration is authorized to decide if an injunction under this section should be valid even if it is appealed.

A person who has violated a decision of penalty must not be judged under this law for an action under the injunction. [Law 1991:318]

§ 4. In cases under § 3, the sheriff's office can provide legal assistance. In regard to such assistance, there are regulations in the law governing default and legal assistance. [Law 1990:746] The verdict in such a case is appealable to the Water Court of Appeal. [Law 1991:869]

If public interests are affected, the application for assistance is made by the regional administration.

Chapter 22. Final regulations

§ 1. The regulations in this law regarding property are also applicable to mines, except in cases under chapter 5, § 2, paragraph three.

§ 2. A water project should be considered as affecting a particular property:

1. when a claim is put forward regarding liability of the owner of the property for participation in the project,
2. when the property or its waters are claimed for the project or for a works in connection with the project,
3. when the project can cause damage to land or water belonging to the property, to buildings or works located on the property, or to the utilization of the property.

§ 3. If the security required by this law has not been approved by the person for whose benefit it has been provided, the security should be examined by the regional administration.

Guarantees can be approved by the regional administration only if the guarantor is personally responsible for the debt and, if several people have provided a personal guarantee, they are responsible jointly and severally.

The state, municipalities, regional county councils and municipal associations do not have to furnish security.

§ 4 . If a person in preparation for a water project wants to examine a property, the regional administration can require that entry to the property should be given for a certain time. The regional administration can also prohibit, under penalty of fine,

removal of or damage to water lines, gauges or anything else that may be needed for the investigation.

The investigation should be carried out so that the least amount of damage and encroachment is caused. In gardens and similar parks, trees cannot be damaged or felled without the permission of the owner or the consent of the regional administration.

Where damages and encroachments have arisen because of investigation under paragraph one, compensation must be paid. Suit for compensation should be brought in the property court within whose jurisdiction the property is located.

The regional administration can determine that a decision under paragraph one, sentence one, can be executed even if such decision is appealed, if security is provided under paragraph four.

§ 5. At the request of a person who wishes to carry out a water project but who has not yet applied for a permit, the water court can appoint an expert to make the necessary investigations, at the expense of the developer. If the investigations involve the effects of the project on the general fishing interest, an expert proposed by the National Board of Fisheries should be appointed. [Law 1991:381]

§ 6. A decision of the regional administration under this law can be appealed to the administrative court of appeals, if the decision involves:

1. appointment of a referee under chapter 12,
2. an ordinance regarding investigations under chapter 18, § 2, paragraph two, or investigations by an inspector under chapter 18, §§ 3 or 4,

3. an ordinance on a water protection area and instructions under chapter 19, §§ 2 and 3,
4. costs as stated in chapter 20, §§ 11 or 12,
5. examination of security under § 3 of this chapter,
6. an injunction under chapter 2, § 9, paragraph three, chapter 19, § 1, paragraph three, chapter 21, § 3, or a prohibition under chapter 22, § 4, paragraph one.

In other cases, a decision of the regional administration, under this law, can be appealed to the government. [Law 1989:513]

§ 7. If several household properties are dependent on the same source of ground water, the water should be distributed in reasonable proportions, if the needs of each property cannot be fully covered. Care should be taken to see that no property is deprived of water, to which the property appears entitled with regard to location and natural character, older buildings or other circumstances.

A distribution that has occurred under paragraph one can be modified, if conditions have changed.

§ 8. The water courts should, to the extent the government prescribes, keep a list of water projects within their respective areas of jurisdiction.