

## TURKEY

**Act No. 167 relative to groundwaters.** - 16 December 1960. - *Resmî Gazete* No. 10,688, 23 December 1960, p. 2853.

### OWNERSHIP OF GROUNDWATERS

1. Groundwaters form part of national waters and shall be subject to State ownership and possession. All kinds of prospecting, utilization, protection and registration of such waters shall be governed by the provisions of this Act.

### DEFINITIONS

2. The terms used in this Act in relation to groundwaters shall be defined as follows:

Groundwaters shall be all waters found below the ground, whether still or in motion (flowing waters).

Groundwater Sheet shall be any deposit of groundwaters existing in underground strata the withdrawal of water from which at any point exercises an effect on the total water mass.

Persons shall be physical and juridical persons with official, semi-official or private status.

Neighbours shall be persons who own adjoining land or persons who while inhabiting the same general area must, in cases of necessity, utilize groundwater in the same way as owners of adjoining land.

Applicants shall be persons seeking a licence for prospecting, utilization, or improvement and alterations.

Licensee shall be a person who has obtained a licence for prospecting, for utilization or for improvement and alterations.

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Suitable purposes shall be the use of groundwaters for drinking and cleansing purposes, municipal services, watering of livestock, agricultural irrigation, mining and industrial exploitation, sport or other installations.

Water requirements for suitable needs shall mean the supply of water required by persons using groundwaters for suitable purposes.

Safe marginal limit shall mean the quantity of water that may be withdrawn continuously without affecting unfavorably the level of the groundwater sheet concerned.

Test wells shall be wells sunk for the purpose of obtaining data relative to groundwaters.

Exploitation wells shall be wells intended for exploitation.

#### ESTABLISHMENT OF GROUNDWATER DEPOSITS AND CONSTITUTION OF GROUNDWATER EXPLOITATION SECTORS

3. As and when the limits and characteristics of groundwater deposits are determined, the said deposits shall be recognized and incorporated into the public domain, by an Order of the Council of Ministers on the recommendation of the Minister of Public Works, constituting them "groundwater exploitation sectors".

#### SINKING OF WELLS IN DEPOSITS CONSTITUTED AS GROUNDWATER EXPLOITATION SECTORS

4. The number of wells to be sunk within the groundwater exploitation sectors, after the grant of a licence in accordance with the provisions of Article 8, their locations, depth, other characteristics and quantities of water that may be withdrawn therefrom shall be determined and established by the State General Directorate of Hydraulic Works.

Hydraulic works of any character within the provisions of Article 8, in respect of groundwaters comprised within such exploitation sectors, shall be carried out in accordance with the provisions of technical regulations established by the Minister of Public Works.

Whoever sinks a well shall be authorized to withdraw therefrom only that quantity of water absolutely necessary for his own suitable purposes.

The extent of such needs for suitable purposes shall be determined and specified, in accordance with the purposes expressly established in this respect, by the State General Directorate of Hydraulic Works, subject to previous consideration by the Ministries concerned.

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PROSPECTING AND UTILIZATION OF GROUNDWATERS OUTSIDE THE LIMITS OF OFFICIALLY CONSTITUTED GROUNDWATER EXPLOITATION SECTORS

5. Outside the limits of officially constituted groundwater exploitation sectors, every landowner shall have the right to prospect for such waters on his own land and to make use of any waters so discovered in quantities required for his own suitable purposes.

Nevertheless, in so far as the provisions of Article 8 apply hereto, the party concerned shall be bound to obtain a licence beforehand.

The requirements of water for suitable purposes shall be established in accordance with the provisions of Article 4.

NEIGHBOUR'S RIGHT

6. The conditions in which any person whose land lacks sufficient water to meet his suitable purposes or who would incur undue expenditure in obtaining such water, may utilize groundwaters situated on his neighbour's land, shall be laid down in the Regulations referred to in Article 20 below.

POWERS OF THE STATE GENERAL DIRECTORATE OF HYDRAULIC WORKS

7. For purposes of conducting investigations and prospecting for groundwaters, the State General Directorate of Hydraulic Works shall have the right to sink wells or to cause them to be sunk in any locality whatsoever. No expropriation shall be made in respect of such wells.

In the case of wells specifically sunk for exploitation purposes or of test wells subsequently converted into exploitation wells, the land necessary for such operations and for access thereto shall be subject to expropriation by the State General Directorate of Hydraulic Works. The amount of indemnity for such expropriation shall be charged to the cost of the well. The right of utilizing such exploitation wells may be assigned or leased to natural or juridical persons by the State General Directorate of Hydraulic Works, at a price fixed thereby.

The owner of the land shall enjoy a preferential right in regard to assignment or lease of the right of utilizing the well in question.

OBLIGATION TO OBTAIN A LICENCE AND TO SUPPLY INFORMATION

8. For purposes of the execution of the operations of sinking or opening up a well as referred to in paragraphs *a)* and *b)* below, a licence must be obtained from the State General Directorate of Hydraulic Works for:

#### LICENCE

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- a) excavations of all kinds, and also the sinking and opening up of water wells whatever the width thereof, if their depth is in excess of the limit established by the State General Directorate of Hydraulic Works, as approved by the Council of Ministers and duly published (except for wells dug by manual labour);
- b) galleries and tunnels of all kinds, horizontal or inclined, provided with apertures for water catchment, regardless of their length and cross-section.

In the case wherein the sinking and the opening up of wells are not intended for the purpose of water catchment, it shall not be necessary to procure a licence, but if the State General Directorate of Hydraulic Works so requests it shall be obligatory to supply information concerning them.

#### PROSPECTING LICENCE

9. For the execution of groundwater prospection works which require the grant of a licence, there shall be issued a prospecting licence valid for one year. Upon the expiry of that period, if prospecting has not yet been completed, the licence shall be renewable for a further year provided that the licensee makes application for such renewal within the month before the date of expiry. If prospecting has still not been completed by the date of expiry of the period of renewal, the licence shall be considered to have expired and the party concerned must apply for a new licence.

#### UTILIZATION LICENCE

10. A person upon whose land water has been discovered as a result of prospection under a licence shall be authorized to make use of such water.

Application for a utilization licence must, however, be made to the State General Directorate of Hydraulic Works within one month after such water is found.

#### IMPROVEMENTS AND ALTERATIONS LICENCE

11. The holder of a utilization licence may not proceed on his own initiative to undertake operations of any nature designed to increase the output of the wells or groundwater sources on his land or for any other purpose, or to change the form of use of such wells. Such operations may be undertaken only subject to the previous grant by the State General

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Directorate of Hydraulic Works of an "improvements and alterations licence".

EXEMPTION FROM PAYMENT OF ALL FEES AND TAXES FOR LICENCES

**12.** All licences granted pursuant to the provisions of Articles 9, 10 and 11 above shall be exempt from payment of all charges, stamp duties, fees or any other taxes whatsoever.

APPLICATION FOR LICENCES

**13.** Any person wishing to obtain a licence for prospecting, utilization or improvements and alterations shall make application to the office of the State General Directorate of Hydraulic Works at the place of his residence, or where no such office exists there, through the offices of the nearest civil authority.

Requests for licences must be approved or refused within one month after their submission.

APPROACH TO THE SAFE MARGINAL LIMIT IN THE CASE OF SIMULTANEOUS APPLICATIONS

**14.** When the volume to be withdrawn under simultaneous requests approaches the safe marginal limit of the groundwater deposit, all requests for use of the same groundwater deposit filed within a period of one week from the date of submission of the said requests shall be reviewed by a Commission composed of representatives of the Ministries concerned, which shall then designate the applicants to whom a utilization licence shall be issued.

REGISTRATION

**15.** All licences issued on the basis of this Act shall be recorded in a register kept by the State General Directorate of Hydraulic Works.

ESTABLISHMENT AND CONTROL OF CONDITIONS

**16.** The Regulations referred to in Article 20 of this Act shall stipulate the conditions governing operations for prospecting, utilization, and improvements and alterations respectively as well as the rights, authority and responsibility devolving upon technical experts in connection with well sinking operations and the inspection thereof.

TURKEY

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TECHNICAL PROJECTS AND RESPONSIBILITIES

17. Investigations and projects and works of all kinds carried out in view of the use of groundwater, whether newly constructed or improved or altered in accordance with the provisions of this Act, shall be based upon an approved plan drawn up by and on the responsibility of authorized experts.

Surface wells sunk in alluvial soil, with a depth not exceeding the limit specified in Article 8, shall not be subject to the provisions of this Article.

PENAL PROVISIONS

18. Without prejudice to the imposition of more severe penalties provided for under other legislation, those persons failing to fulfil the obligations strictly incumbent upon them under this Act, shall be punished in accordance with the provisions of the present Article.

- a) Those who carry out the operations specified in Article 8 without having obtained a licence to do so and those who deliberately supply false information shall be punished by a fine of between 500 and 3,000 Turkish pounds. In cases where, after the payment of the fine, the State General Directorate of Hydraulic Works finds that there is no obstacle to the opening and exploitation of the well concerned, the necessary licence shall be issued to the owner. Otherwise, such well shall be closed down at the expense of the party responsible for opening it up. In the case of a repeated offence the fine shall be doubled, the issue of a licence to the offender shall be refused, and the well shall be closed down at his expense.
- b) Those who contravene the provisions of Articles 10 and 11, those who fail to observe the conditions imposed during operations for prospecting, utilization, and improvements and alterations, as well as those who refuse to supply the data requested in application forms or who fail to observe the obligations imposed upon them by the last paragraph of Article 8, shall be punished by a fine of between 500 and 1,500 Turkish pounds. In the case of a repeated offence the fines shall be doubled and the licence either refused or, if already issued, withdrawn. The well shall be closed down at the expense of the party responsible for opening it up.
- c) Disputes arising out of this Act shall be heard by the Magistrate's Courts.

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**EXEMPTIONS**

19. Waters considered to be mineral waters within the meaning of Act No. 6309 and waters with therapeutic qualities for drinking or bathing purposes governed by Acts Nos. 927, 4268 and 6977 shall be exempt from the provisions of this Act. The provisions of the last paragraph of Article 8 shall, however, remain applicable thereto.

**PREVIOUSLY OPENED WELLS**

**Temporary Article:** Owners of groundwater wells opened before the coming into force of this Act, falling within the scope of Article 8 and used for agricultural irrigation or for mining and industrial operations shall within two years from the coming into force of this Act submit the matter to the office of the State Hydraulic Works Service in the district where the well is situated, by forwarding thereto the special printed forms, duly filled in. Within one month from the date of submission of such forms, the State General Directorate of Hydraulic Works shall, after having studied them, establish the conditions governing the use of the wells in question and issue a utilization licence to their owners.

Those who fail to obtain such licence within the time limit granted by this Temporary Article shall be liable to a fine of between 500 and 1,500 Turkish pounds.

**PREPARATION OF REGULATIONS**

20. Regulations governing matters in application of this Act shall be jointly prepared by the Ministries of Public Works, Agriculture, Industry, and City Planning and Housing.

21. This Act shall come into force on the date of publication.

22. The provisions of this Act shall be promulgated by the Council of Ministers.