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## **LAW NO. 98/005 OF 14 APRIL 1998 TO LAY DOWN REGULATIONS GOVERNING WATER RESOURCES**

# LAW NO. 98/005 OF 14 APRIL 1998 TO LAY DOWN REGULATIONS GOVERNING WATER RESOURCES

The National Assembly deliberated and adopted,

The President of the Republic hereby enacts the law set out below:

## PART 1

### GENERAL PROVISIONS

#### Article 1:

This law shall determine, in line with the principles of environmental management, the general legal framework governing water resources.

#### Article 2:

- (1) Water shall be a common national resource protected and managed by the State, which shall facilitate access to it by all citizens.
- (2) However the State may transfer all or part of its prerogatives to regions and councils.
- (3) Furthermore, water management may be transferred or leased according to conditions laid down by a decree to implement this law.

#### Article 3:

In this law and its implementation instruments:

- a) surface water shall mean run-off water;
- b) ground water shall mean infiltration water;
- c) spring water shall mean water sold for human consumption, containing traces of minerals or not, with or without soda, irrespective of their therapeutic properties;
- d) mineral water shall mean ground water containing dissolved minerals with therapeutic properties.

## TITRE II

### WATER PROTECTION

#### Article 4:

- (1) It shall be forbidden to discharge, submerge, spray, infiltrate, strew or dump directly or indirectly into water any solid, liquid or gaseous matter, in particular industrial, agricultural and atomic wastes likely to:
  - to alter the quality of surface or groundwater or seawater within territorial boundaries;
  - alter the quality of surface, underground or sea waters within territorial limits;

- affect public health as well as aquatic or submarine fauna and flora; jeopardize the development of the economy and tourism of regions.
- (2) However, the Minister in charge of Water Resources may, following studies and consultation with other public service concerned, authorize and regulate the discharge of the matters referred to in Subsection (1) above, where the relevant public services certify that such discharges are innocuous and non-polluting to the effluent and receptor environment.
- (3) The authorization so granted may be altered or withdrawn either by the holder or concerned third parties, at the request of a government service, or automatically as provided for in the authorization instrument.

#### Article 5:

- (1) A decree to implement this law shall fix the list of toxic or dangerous substances which may not be discharged, dumped, deposited, submerged or introduced directly or indirectly in water, or which shall be subject to prior authorization.
- (2) Waste water discharged in the public drainage system must not jeopardize the preservation of structures or the management of water.
- (3) Discharge facilities installed before the date of promulgation of this law shall comply with the regulations within a time-limit fixed by a decree to implement this law.
- (4) Facilities installed after the date of promulgation of this law shall, upon being commissioned, comply with the discharge standards laid down by the regulations in force.

#### Article 6:

- (1) Any natural person or corporate body owning facilities that may cause water pollution shall take all the necessary measures to limit or contain their effects.
  - (2) Any person producing or possessing waste shall be responsible for disposing of or recycling such waste, or having it disposed of or recycled at facilities approved by the services in charge of classified establishments, after the required recommendation of the services in charge of the environment.
- Furthermore, the person shall, barring requirements of confidentiality, inform the public of how the production, possession, elimination or recycling of waste may affect water, the environment and public health, as well as of the measures designed to prevent such or to compensate for the damaging effects thereof.
- (3) Also, it shall be forbidden to wash or service motor vehicles, internal combustion and similar engines close to water points.

#### Article 7:

- (1) In order to protect the quality of drinking water, a protected area is hereby instituted around water-catchments, water treatment and storage points.
- (2) Lands within the protected area shall be declared to be of public interest.

#### Article 8:

- (1) The State shall collect a drainage tax from natural persons or corporate bodies owning facilities that have been connected to public or private sewerage systems for collecting and treating waste water.
- (2) The rate and conditions of collection of the tax provided for above shall be fixed by the finance law.

#### Article 9:

- The Minister in charge of water resources may, upon the proposal of the competent authority of the area, ban the harnessing of surface water for either of the following duly established reasons:
- a) risk of the stream drying up ;

- b) obvious pollution of the stream
  - c) public health hazard ;
  - d) public interest.
- (2) The provisions of Subsection (1) above shall also apply to the collection or harnessing of ground water.

## PART II

# THE HARNESSING OF WATER RESOURCES

## Chapter I

### THE HARNESSING OF SURFACE AND GROUND WATER

#### Article 10:

- (1) The use of surface or ground water for an industrial or a commercial purpose shall be subject to an authorization and the payment of a royalty the rate, basis of assessment and conditions of collection of which shall be determined by the finance law.
- (2) However, approved companies to which the State has granted concessions for the harnessing and distribution of drinking water shall be exempt.
- (3) Without prejudice to Subsections (1) and (2) above, an impact survey shall be conducted before surface or ground water can be used for industrial or commercial purposes to assess the direct or indirect repercussion of the envisaged use on the ecological balance of the area concerned or any other region, the condition and quality of life of the people as well as on the environment in general.
- (4) A decree to implement this section shall specify the conditions thereof.

#### Article 11:

- (1) Any person offering water in any form whatsoever for human or public consumption, either free of charge or for a fee, must ensure that the quality of the water complies with the standards in force.
- (2) The provisions of Subsection (1) above shall also apply to any person who, in the absence of a public water supply system, offers water from wells, water tanks and harnessed spring water.
- (3) The products used for the treatment of drinking water shall comply with the standards in force.
- (4) The networks for the treatment of drinking water shall be approved by the service in charge of water resources.

#### Article 12:

The control of the quality of drinking water shall be constantly ensured by the duly sworn and commissioned personnel of the services in charge of water resources and of public health respectively.

## Chapter II

# HARNESSING OF SPRING AND MINERAL WATER

### Article 13:

The harnessing of spring and mineral water shall be governed by a special law

## PART IV

# RESPONSIBILITY AND SANCTIONS

## Chapter I

# RESPONSIBILITY

### Article 14:

- (1) Any person who causes bodily or material damage as a result of the poor quality of the water he distributes for consumption shall be liable for damage, regardless of whether or not an offence is proven, without prejudice to the penalties applicable in respect of criminal responsibility and notwithstanding the inspection carried out by the services in charge of control.

## Chapter II

# SANCTIONS

### Article 15:

- (1) A prison term of from 2 (two) to 5 (five) years and a fine of from 5,000,000 (five million) to 10,000,000 (ten million) CFA francs or either of these two penalties only shall be imposed on any person who:
- collects surface water or ground water in violation of the provisions of this law and/or its implementation instruments;
  - collects surface or ground water in a way that is inconsistent with the criteria, standards and measures provided in the impact survey; prevents the controls, supervision and analyses provided for by this law and/or its implementation instruments;
  - runs a facility for the catchment, treatment and storage of water, in violation of the provisions of this law and/or its implementation instruments; offers drinking water to the public without complying with the quality standards in force;
  - violates a protected area around water catchment, treatment and storage points.
- (2) In the event of a repeated offence, the maximum penalty provided for in Subsection (1) above shall be doubled.

#### **Article 16:**

- (1) Whoever pollutes and alters the quality of water shall be punished with imprisonment of from 5(five) to 15(fifteen) years and with a fine of from 10,000,000 (ten million) to 20,000,000 (twenty million) CFA francs.
- (2) In case of repeated offence, the maximum penalty provided for in Subsection (1) above shall be doubled.

#### **Article 17:**

The penalties provided for in this law shall be supplemented by those contained in the Penal Code and in the law on environmental protection.

#### **Article 18:**

The provisions of Sections 54 and 90 of the Penal Code relating to suspended sentence and mitigated circumstances shall not be applicable to the penalties prescribed in this law.

## **Chapter III**

### **ESTABLISHING OFFENCES**

#### **Article 19:**

- (1) Notwithstanding the acknowledged prerogatives, of the Legal Department and judicial police officers with general powers, the sworn officers of the service in charge of water resources and other services concerned, particularly those in charge of health and the environment, shall be responsible for investigating, establishing and prosecuting violations of this law and its implementation instruments.
- (2) The officers mentioned in Subsection (1) above shall take the oath before the competent court, at the request of the service concerned, following the procedure laid down by the decree implementing this law.
- (3) In discharging their duties, the sworn officers shall be bound to carry along their professional card.

#### **Article 20:**

- (1) Any offence established shall be the subject of a regular report.
- (2) Investigating and establishing offences shall be done by two officers who shall jointly sign the report. This report shall be deemed authentic until proved wrong.

#### **Article 21:**

- (1) All reports establishing an offence must be immediately forwarded to the service in charge of water resources which shall notify the offender. The latter shall have a time-limit of twenty days with effect from such notification to challenge the report, after which no petition shall be entertained.
- (2) In case the petition is made within the time-frame prescribed in Subsection (1)above, it shall be examined by the service in charge-of water resources

If the petition is founded the report shall be filed and put away.

Otherwise, and in the absence of a final negotiation or settlement, the service in charge of water resources shall initiate legal action in accordance with the laws in force.

## Chapter IV

# TRANSACTIONS AND ARBITRATION

### Article 22:

- (1) The service in charge of water resources shall have full powers to settle the matter. To that end, the matter must be duly brought before it by the offender.
- (2) The amount of the negotiation shall be determined in conjunction with the service in charge of finance. This amount may not be less than the minimum corresponding penalty.
- (3) The negotiation procedure must precede any legal proceedings otherwise it shall be null and void.
- (4) The proceeds from the negotiation shall be paid in full into the Fund provided for by this law.

### Article 23:

The parties to a dispute relating to the management of water resources may, by mutual consent, settle it through arbitration.

### Article 24:

- (1) Traditional authorities shall be empowered to settle disputes relating to the use of water resources on the basis of local customs and practices, without prejudice to the rights of the parties concerned to refer the matter to the competent courts.
- (2) A report shall be drawn up on the settlement of the dispute. A copy of this report, duly signed by the traditional authority and the parties to the dispute or their representatives, shall be lodged with the administrative authority with jurisdiction over the village community in which the dispute arose.

## PART V

# MISCELLANEOUS AND FINAL PROVISIONS

### Article 25:

- (1) To ensure the financing of sustainable water resources and drainage development projects, the finance law shall each year allocate special resources for a special account created by presidential decree, in compliance with the provisions of Articles 39 to 41 of Ordinance No. 62/OF/4 of 7 February 1962 on the organization of State finances.

This decree shall determine in particular the organization and functioning of the above-mentioned account

- (2) The special account referred to in Subsection (1) above may also receive whenever possible :
  - 1- contributions from international donors ;
  - 2- other volunteer donations ;
  - 3- gifts and legacies.
- (3) The special revenue provided for in Subsections (1) and (2) above may not be used for other purposes.

### Article 26:

- (1) Without prejudice to legal provisions governing environmental management, a National Water Board is hereby created.

(2) The duties, organization and functioning of the National Water Board shall be laid down by a decree to implement this law.

**Article 27:**

The technical details relating the construction, exploitation and maintenance of the public or private subscription network and facilities in respect of water and sanitation shall be laid down by a decree to implement this law.

**Article 28:**

The use of water as a means of transport shall be regulated by the code of merchant shipping.

**Article 29:**

Decrees to implement this law shall, as and where necessary, lay down the terms and conditions.

**Article 30:**

All the previous provisions of Law No. 84/13 of 5 December 1984 to lay down regulations governing water resources are hereby repealed.

**Article 31:**

This law shall be registered, published according to the procedure of urgency and inserted in the Official Gazette in English and in French./-

**Yaounde, 14 April 1998**

**Paul Biya  
President of the Republic**