

**Promulgation  
of the Amended Version of the Federal Water Act  
of 19 August 2002**

Pursuant to Article 2 of the Act Amending the Environmental Audit Act of 16 August 2002 (Federal Law Gazette I page 3167), the wording of the Federal Water Act in the version effective as of 21 August 2002 is hereby promulgated as follows. The amended version takes the following provisions into consideration:

1. The version promulgated on 12 November 1996 (Federal Law Gazette I page 1695)
2. Article 2 (1) of the Act of 30 April 1998 which entered into force on 9 May 1998 (Federal Law Gazette I page 823)
3. Article 2 of the Act of 25 August 1998, which entered into force on 29 August 1998 (Federal Law Gazette I page 2455)
4. Article 19 of the Act of 3 May 2000, which entered into force on 11 May 2000 (Federal Law Gazette I page 632)
5. Article 3 (1) of the Act of 27 December 2000 which entered into force on 31 December 2000 (Federal Law Gazette I page 2048)
6. Article 7 of the Act of 27 July 2001, which entered into force on 3 August 2001 (Federal Law Gazette I page 1950)
7. Article 18 of the Act of 9 September 2001, which entered into force on 1 January 2002 (Federal Law Gazette I page 2331)
8. Article 1 of the Act of 18 June 2002 which entered into force on 25 June 2002 (Federal Law Gazette I page 1914, 2711)
9. Article 1a of the aforementioned Act, which entered into force on 21 August 2002.

Bonn, 19 August 2002

**The Federal Minister for the Environment,  
Nature Conservation and Nuclear Safety  
Jürgen Trittin**

**Act on the Regulation of Matters Pertaining to Water  
(Federal Water Act – WHG)<sup>\*)</sup>**

Introductory Provision

**Article 1**

**Waters to which this Act applies, definitions**

(1) This Act shall apply to the following waters:

1. permanently or temporarily confined flowing or standing waters, and unconfined waters from natural springs (surface waters),
  - 1a. the sea between the coastline at mean high water or the seaward limits of the surface waters and the seaward limits of the coastal sea (coastal waters),
2. water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil (groundwater).

The provisions of this Act shall also apply to parts of waters.

(2) The *Länder* may exempt from the provisions of this Act small bodies of water which are of minor importance in terms of water-resources management as well as springs which have been declared medicinal springs. This provision shall not apply to Article 22.

(3) The *Länder* shall determine the seaward limits of those surface waters which are not Federal inland waterways.

(4) For the purposes of this Act,

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<sup>\*)</sup> The Act serves to implement Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ EC No. L 327 page 1)

#### 1. River basin:

means the area of land from which all surface run-off flows through a sequence of surface waters into the sea at a single river mouth, estuary or delta;

#### 2. Sub-basin:

means the area of land from which all surface run-off flows through a sequence of surface waters to a particular point in a body of surface water;

#### 3. River basin district:

means the area of land and sea, made up of one or more neighbouring river basins together with their associated groundwater and coastal waters, which is identified under Article 1b (3) sentence 2 as the main unit for management of river basins.

### Part I

## General Provisions Relating to Waters

### Article 1a

#### Principle

(1) As an integral part of the natural environment and as a habitat for animals and plants, waters must be protected. They shall be managed in such a way that they serve the public interest, and in harmony with this interest, benefit individual users, and that avoidable impairments to their ecological functions and to the terrestrial ecosystems and wetlands directly depending on them shall not occur, and hence that overall sustainable development is ensured. In this respect, account should be made of the possibility that disadvantageous effects could be transposed from one protected commodity to another; a high level of protection for the environment as a whole, with due regard for the requirements of climate protection, shall be guaranteed.

(2) Where activities can have an impact on a body of water, everyone shall be obliged to exercise all due required caution under the circumstances in order to prevent pollution of the water or any other detrimental change in its properties, in order to ensure that water is used

economically, as is required in the interests of natural water resources, in order to preserve the vitality of natural water resources and in order to prevent the increase and acceleration of water run-off.

(3) *Länder* law shall stipulate that the water requirements of public water supply are to be met primarily from local water sources, unless this is contrary to the overriding public interest.

(4) Ownership of land shall not bestow an entitlement

1. to any use of water which requires a permit (*Erlaubnis*) or a licence (*Bewilligung*) pursuant to this Act or to the water laws of the *Länder*,

2. to the development of a body of surface water.

#### **Article 1b**

##### **Management on the basis of river basin districts**

(1) Waters are to be managed on the basis of river basin districts. The river basin districts are as follows:

1. Danube,
2. Rhine,
3. Maas,
4. Ems,
5. Weser,
6. Elbe,
7. Eider,
8. Oder,
9. Schlei/Trave,
10. Warnow/Peene.

The river basin districts are shown in map format in Annex 1.

(2) In order to achieve the management objectives set forth in this Act, coordination of the management of river basin districts shall be regulated by *Länder* law, in particular:

1. coordination with other *Länder*
2. coordination of the programmes of measures and the management plans with the competent authorities of other Member States of the European Union in whose territory the river basin districts are also located,
3. endeavours for coordination with the competent authorities of states outside of the European Union pursuant to number 2,
4. consultation of the competent Federal authorities within the context of coordination pursuant to numbers 1 to 3 and, insofar as the administrative competencies of the Federal Government or national interests when cultivating contacts with foreign countries are affected, any agreements to be issued.

(3) The competent *Land* authorities shall assign the river basins within their regional boundaries to a river basin district. Coastal waters on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured, extending where appropriate up to the outer limit of the waters which are substantially influenced by freshwater flows, and the groundwater, shall be assigned to river basin districts.

## **Article 2**

### **Obligation to obtain a permit or licence**

(1) The use of waters shall require an official permit (Article 7) or licence (Article 8) unless otherwise specified by the provisions of this Act or by regulations issued by the *Länder* in accordance with this Act.

(2) A permit or licence shall not confer a title to a supply of water in any specific quantity or of any specific quality. Notwithstanding Article 11, a permit or licence shall not affect any claims under private law to a supply of water in any specific quantity or of any specific quality.

**Article 3**  
**Uses of water**

(1) Within the meaning of this Act, uses are defined as

1. the withdrawal or diversion of water from surface waters,
2. the damming or drawing-down of surface waters,
3. the withdrawal of solid material from surface waters, where this affects the properties of such waters or their flow,
4. the introduction or discharge of substances into surface waters,
- 4a. the introduction or discharge of substances into coastal waters,
5. the discharge of substances into the groundwater,
6. the withdrawal, conveyance to the surface or diversion of groundwater.

(2) The following shall also be deemed to constitute uses of water:

1. the damming, drawing-down and diversion of groundwater by means of installations that are designed or suitable for such purposes
2. any measures which are likely to cause permanent or not only inconsiderable harmful changes to the physical, chemical or biological properties of the water.

(3) Any measures which serve to develop a body of surface water shall not be deemed uses. The same shall also apply to measures for maintaining a body of surface water, provided that such measures do not involve the use of any chemicals.

**Article 4**  
**Conditions and conditions pertaining to use**

(1) A permit or a licence may be granted subject to the imposition of certain conditions and conditions pertaining to use. Conditions may also be imposed in order to prevent, or compensate for, any detrimental effects to other persons.

(2) In addition, conditions may in particular be imposed in order to

1. prescribe measures for observing or ascertaining the status of the water before use and the impairments and harmful effects caused by its use,

2. prescribe the appointment of responsible plant officers, where the appointment of a water pollution control officer pursuant to Article 21a is not prescribed or cannot be ordered,
- 2a. prescribe measures which are necessary to compensate for impairments to the ecological and chemical status of a surface water or coastal water body, or for a change in the quantitative and chemical status of groundwater, which is attributable to use of the water
3. require the entrepreneur to make appropriate contributions toward the cost of measures taken, or to be taken, by a public corporation or to prevent, or to compensate for, any impairment of the public interest arising from the use of the water.

### **Article 5**

#### **Reservation**

- (1) A permit or a licence shall be granted subject to the reservation that at a later date
1. additional requirements may be imposed regarding the properties of any substances to be introduced or discharged into the relevant waters,
    - 1a. measures within the meaning of Article 4 (2) nos. 2, 2a and 3, Article 21a (2) and Article 36 may be prescribed,
  2. measures may be prescribed for monitoring water use and its consequences,
  3. measures may be prescribed to ensure economical use of water as required in the interests of the water balance.

No additional requirement pursuant to number 1 may be imposed if the expense that would be incurred in complying with the requirement is out of proportion with the result the requirement is intended to achieve; in this respect, particular account must be taken of the nature, volume and hazardousness of the substances to be introduced or discharged, as well as the duration of usage and the special technical characteristics of the installation in question. The requirements pursuant to Article 7a must be met as a minimum requirement. Where the water is used by virtue of a licence, any measures taken pursuant to numbers 2 and 3 must be economically justified and compatible with the relevant use.

(2) Paragraph 1 shall apply *mutatis mutandis* to existing rights and authorisations (Article 15), provided that Article 15 does not permit farther-reaching restrictions.

## **Article 6**

### **Refusal**

(1) A permit or a licence shall be refused if the proposed use is likely to be detrimental to the public interest and, especially, to endanger the public water supply, and where these adverse impacts cannot be prevented or compensated by the imposition of conditions or measures taken by a public corporation (Article 4 (2) no. 3).

(2) A permit or a licence shall furthermore be refused if the intended use is likely to cause a significant impairment to a site of Community importance, a European bird sanctuary or a consultation site within the meaning of Article 19a (2) no. 3 of the Federal Nature Conservation Act affecting those components which are decisive for the conservation objectives or protection purpose, and the impairment cannot be compensated in accordance with Article 19 (2) sentences 1 to 3 of the Federal Nature Conservation Act or offset in some other way. This shall not apply if the requirements of Article 34 (3) in conjunction with paragraph (4) of the Federal Nature Conservation Act are met. Article 34 (1) and (5) and Article 37 (2) of the Federal Nature Conservation Act shall apply *mutatis mutandis*.

## **Article 6a**

### **Supranational and international requirements**

Where necessary for the fulfilment of binding resolutions of the European Community or of international treaties, the Federal Government may issue regulations, by way of statutory ordinances approved by the *Bundesrat*, concerning the management of bodies of water pursuant to the basic principles of Article 1a (1); in particular, the Federal Government may establish requirements for water quality and water use, as well as requirements for the construction and operation of installations within the meaning of Article 18b (1), Article 19a (1), and Article 19g (1) and (2).

## **Article 7**

### **Permit**

(1) A permit shall confer a revocable authority to use a body of water for a specific purpose, in a specific way and to a specific extent; a permit may be granted for a limited period of time. Permits for projects which are subject to environmental impact assessment under the Environmental Impact Assessment Act shall only be granted by means of a procedure which fulfils the requirements of the aforementioned Act. For projects falling under the scope of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (IPPC Directive) (OJ EC No. L 257 page 26), the *Länder* shall adopt regulations stipulating the requirements which must be met in water permit procedures under water legislation, particularly with regard to the application procedure, comprehensive coordination of the licensing procedures carried out, together with the principal content and collateral clauses of the permit, monitoring and review thereof, amendments to plant operation, the declaration by water users concerning their emissions into bodies of water, and the domestic and transboundary involvement of the authorities and the general public.

(2) Unless otherwise specified when the permit is granted, the permit shall be passed on to any legal successor together with the water utilisation plant, or in cases where a permit has been granted for land, together with the relevant piece of land.

## **Article 7a**

### **Requirements applying to the discharge of waste water**

(1) A permit for the discharge of waste water shall only be granted if the pollutant load of the waste water in question is kept at the minimum possible level via the application of appropriate procedures according to the state-of-the-art. This shall not affect the provisions of Article 6. By way of statutory ordinances approved by the *Bundesrat*, the Federal Government shall stipulate appropriate requirements which reflect the state of the art (best available technology). Such requirements may also be established for the site where the waste water is produced or prior to it being mixed.

(2) In the ordinance pursuant to paragraph 1 sentence 3, alternative requirements shall be established for existing effluent discharges if and insofar as the necessary compliance measures would otherwise impose a disproportionate burden.

(3) Where existing waste water discharges do not comply with the requirements pursuant to paragraph 1 sentence 3 or paragraph 2, the *Länder* shall ensure that the necessary measures are carried out within appropriate periods of time.

(4) The *Länder* shall also ensure that discharges of waste water into public waste water installations comply with the relevant requirements pursuant to paragraph (1), sentence 4. Paragraph (3) shall apply *mutatis mutandis*.

(5) Within the meaning of paragraph 1, state-of-the-art shall mean the current development status of progressive procedures, installations or modes of operation which appear to ensure the practical suitability of a measure to limit emissions into air, water and soil, to guarantee the safety of a plant, to guarantee environmentally compatible waste disposal, or otherwise to avoid or reduce environmental impacts in order to attain a high general level of protection for the environment as a whole. When determining the best available technology, particular consideration shall be given to the criteria listed in Annex 2.

## **Article 8**

### **Licence**

(1) A licence shall confer the right to use a body of water in a specific way and to a specific extent. It shall not confer upon the licensee the right to utilise objects belonging to another person or pieces of land and installations in the possession of another person.

(2) A licence may be granted only if

1. the entrepreneur cannot be expected to carry out his project without a secure legal position and
2. the use of water is for a specific purpose which is pursued in accordance with a specific plan.

It must not be granted for the introduction and discharge of substances into a body of water or for uses within the meaning of Article 3 (2) no. 2. Sentence 2 shall not apply to the reintroduction of works water from outfall power plants which has not been adversely altered.

(3) If use of the water is likely to have a detrimental effect on the rights of another person, and if the person concerned raises objections, then the licence may only be granted if the detrimental effect is prevented or compensated for by the imposition of conditions. Where this

is not possible, the licence may be granted nevertheless if considered to be in the public interest; in such cases, the affected party shall be compensated.

(4) The *Länder* may specify other cases in which detrimental effects entitle another person to raise objections. In such cases, paragraph 3 shall apply *mutatis mutandis*; the *Länder* may nevertheless stipulate that a licence may also be granted where the anticipated benefit from the proposed use of the water considerably exceeds the expected disadvantage for the person concerned.

(5) A licence shall be granted for a specific and appropriate period of time; in special cases, this period may exceed thirty years.

(6) Unless otherwise specified when the licence is granted, the licence shall be passed on to any legal successor together with the water utilisation plant, or where the licence has been granted for land, together with the relevant piece of land.

## **Article 9**

### **Licensing procedure**

A licence may only be granted by way of a procedure which ensures that the affected persons and authorities are able to raise formal objections. In the case of projects which are subject to environmental impact assessment under the Environmental Impact Assessment Act, the procedure must comply with the requirements of the aforementioned Act.

## **Article 9a**

### **Authorisation of early commencement**

(1) During a permit or licensing procedure, the authority responsible for granting the permit or licence may issue an authorisation – which shall be revocable at any time – for utilisation to commence prior to the permit or licence being granted, provided:

1. the decision is likely to be in favour of the entrepreneur,
2. early commencement is in the public interest or the entrepreneur has a justified interest in early commencement and

3. the entrepreneur undertakes to compensate for any damage caused by the enterprise until a final decision is reached and to restore the site to its former state if a permit or licence for the proposed utilisation is refused.

(2) The authorisation may be issued for a limited period and made subject to certain terms and conditions of use.

## **Article 10**

### **Subsequent decisions**

(1) If an affected party (Article 8 (3) and (4) ) has raised objections to the granting of a licence and if, at the time of the decision, it is not possible to ascertain whether and to what extent there will be any detrimental effects, then the decision as to the relevant conditions to be imposed and any compensation to be awarded shall be reserved for proceedings to be held at a later date.

(2) If the affected party was unable to foresee any detrimental effects during the proceedings pursuant to Article 9, he may request that conditions be subsequently imposed on the entrepreneur. If the detrimental effects cannot be prevented or compensated for via the subsequent imposition of conditions, the affected party shall be granted compensation. Claims will only be admitted if they are made within three years of the affected party becoming aware of the detrimental effects arising from use of the water; no claim shall be admitted if thirty years has elapsed since the establishment of the state specified in the licence.

## **Article 11**

### **Exclusion of claims**

(1) The affected party (Article 8 (3) and (4) ) cannot make any claims against the holder of a licence in respect of detrimental effects arising from the exercise of that licence where such claims involve the removal of the disturbance, cessation of water use, establishment of protective installations or the awarding of damages. This provision shall not preclude claims for damages based on detrimental effects arising from the licensee's failure to comply with conditions imposed on him.

(2) Paragraph 1 sentence 1 shall not apply to contractual claims.

## **Article 12**

### **Revocation of licences**

(1) Where this is not already admissible without compensation pursuant to Article 5, a licence may be revoked completely or in part, against payment of compensation, if the unrestricted continued use of water is likely to cause considerable impairment to the public interest, in particular the public water supply.

(2) Where this is not already admissible pursuant to Article 5, a licence may only be revoked completely or in part without award of compensation if the entrepreneur

1. fails to commence use of the water within the appropriate period specified or has not used it for an uninterrupted period of three years or has made considerably less use of the water than planned,
2. has changed the purpose of water use so that it no longer conforms to the plan (Article 8 (2) sentence 1 no. 2),
3. despite a warning that the licence may be revoked, has repeatedly exceeded the limits of his licence with respect to water use, or has failed to comply with the conditions or conditions pertaining to use imposed.

## **Article 13**

### **Use of water by associations**

Water and soil associations and special-purpose associations of local authorities shall also require a permit or licence if, within the context of performing their functions as outlined in the statutes of the association, they wish to use a body of water above and beyond the scope for utilisation not requiring a permit as set forth in this Act. This shall not apply in cases of existing rights or authorisations, or if provisions to the contrary are set out in a special legal provision governing individual projects as of 1 March 1960.

## **Article 14**

### **Plan approval procedures and operating plans under mining law**

(1) Where a plan approval procedure is carried out for a project involving the use of a body of water, the authority carrying out the plan approval procedure shall decide whether a permit or licence is to be granted.

(2) Where an operating plan under mining law envisages the use of bodies of water, the mining authority shall decide on the granting of the permit.

(3) The decision shall be taken in agreement with the responsible water authority; in the case of plan approval procedures by the federal authorities, the responsible water authority shall be consulted.

(4) Upon application by the responsible water authority, any decision as to the limitation or withdrawal of a permit or licence granted under paragraph 1 shall be made by the authority carrying out the plan approval procedure; the same authority shall also be responsible for any subsequent decisions (Article 10). Paragraph 3 shall apply *mutatis mutandis*.

(5) Paragraph 4 shall apply analogously to the limitation or withdrawal of a permit granted under paragraph 2.

## **Article 15**

### **Existing rights and authorisations**

(1) Unless otherwise specified by the *Länder*, no permit or licence shall be required for uses of water

1. on the basis of rights issued under the water legislation of the *Länder* or upheld by the same,
2. on the basis of permits pursuant to Article 1(1) sentence 1 of the Ordinance of 10 February 1945 on the Simplification of Water Legislation and Legislation Relating to Water Associations (Reich Law Gazette I page 29 ),
3. by virtue of an installation licence granted under the Trade and Industry Code,

for the exercise of which lawful installations existed on 12 August 1957 or on another date to be determined by the *Länder*.

(2) Furthermore, no permit or licence shall be required for uses of waters by virtue of statutory plan approval procedures or by virtue of official acts of dedication for public transport installations, for the exercise of which lawful installations existed on 12 August 1957.

(3) Any other uses of waters which have been formally admitted on the basis of *Land* water laws may be treated by the *Länder* as equivalent to the uses referred to in paragraph (1).

(4) Where considerable impairment to the public interest is likely to result from the continued use of the rights and authorisations (existing rights and authorisations) described in paragraphs (1) to (3), such rights and authorisations may be revoked against payment of compensation. However, they may be revoked without compensation where this was not already admissible under valid law prior to 1 October 1976,

1. if the entrepreneur failed to exercise his right to utilisation for an uninterrupted period of three years,
2. if it is no longer necessary for the entrepreneur to use the water to the extent previously permitted; in particular, this shall apply in cases where utilisation has fallen considerably short of the permissible extent over a three-year period,
3. if the entrepreneur has changed the purpose of use so that it no longer conforms with the specified purpose,
4. if the entrepreneur, despite a warning that the licence may be revoked, has used the water considerably in excess of the limits of the existing right or authorisation, or has failed to comply with conditions or terms imposed.

The admissibility of retrospective requirements and measures without compensation pursuant to Article 5 shall remain unaffected.

## **Article 16**

### **Registration of existing rights and authorisations**

(1) As far as they are known, existing rights and authorisations shall be entered *ex officio* in the Water Register.

(2) Holders of existing rights and authorisations may be publicly requested to submit them for entry in the Water Register, within three years of the date of the public notice. Existing rights and authorisations which have neither become known nor been registered upon expiry of the aforementioned period shall expire ten years after the public notice, unless they have already expired on other legal grounds prior to the expiry of this period; the public notice shall draw attention to these legal consequences. Sentence 2 of this paragraph shall not apply to rights which are entered in the Land Register.

(3) A former holder of an existing right which has expired in accordance with sentence 2 of paragraph 2 shall, on application, be granted a licence covering the scope of this right, provided the legal prerequisites for granting a licence are met.

(4) If an individual is prevented by an act of God or other unavoidable circumstances from observing the deadline specified in sentence 1 of paragraph 2, he may subsequently register his right within a period of three months from the date when said obstacle has been removed.

## **Article 17**

### **Other existing uses**

(1) A permit or licence shall only be required after the expiry of a period of five years from 1 March 1960 in cases where the use of water exceeds the limits laid down in this Act for uses not requiring a permit if, on 1 March 1960,

1. usage was based on a right or an authorisation of the kind referred to in Article 15 (1) and (2), even though lawful installations did not exist at the time specified, or
2. usage was based on another right or was permitted in some other way; in the case of uses of water which can only be exercised by means of installations, this shall only apply if lawful installations existed at the time specified in Article 15 (1).

If application for a permit or licence is submitted prior to expiry of the aforementioned five-year period, usage may continue until the date when a decision on said application becomes legally enforceable.

(2) In the cases outlined in paragraph 1, the holder of a right shall be granted a licence covering the scope of his right, provided the application is submitted on time; this shall not affect the provisions of Article 6. No claim can be made for a licence under sentence 1 if it was permissible under the provisions applicable on 1 March 1960 for the right to be revoked or limited without compensation.

(3) In the cases cited in paragraph 2, if a licence is refused or granted in a limited form only pursuant to Article 6, the applicant shall be entitled to claim compensation. However, this shall not apply if it was admissible for the claim to be revoked or limited without compensation under the legal provisions applicable on 1 March 1960.

### **Article 17a**

#### **Uses for manoeuvres and tests not requiring a permit**

A permit or licence shall not be required when carrying out manoeuvres and tests for the following purposes:

1. defence, including civil defence or
2. the aversion of dangers to public safety or public order involving
  - a) the temporary abstraction of water from a body of water and its reintroduction into a body of water by means of mobile installations, as well as
  - b) the temporary introduction of substances into a body of water,

provided this causes no or only minor impairments to others, no detrimental changes to the properties of the water are expected, and no other impairment to the water regime is anticipated. The competent water authorities shall be notified beforehand of the planned project.

## **Article 18**

### **Reconciliation of rights and authorisations**

At the application of an affected party or by official initiative, the nature, scope and periods of exercising permits, licences, existing rights and existing authorisations may be regulated or limited by a compensatory procedure if the quantity and quality of the water is not adequate for all uses, or if the uses adversely affect one another, and provided this is in the public interest, particularly in the interest of public water supply. Compensatory payments may also be fixed under this procedure.

## **Article 18a**

### **Obligation and plans for the disposal of waste water**

(1) Waste water shall be disposed of in such a manner that the public interest is not impaired. The disposal of domestic waste water in decentralised installations may also be in the public interest. Within the meaning of this Act, waste water disposal shall include the collection, conduction, treatment, discharge, seepage, spray irrigation and broad irrigation of waste water, as well as the dehydration of sewage sludge in connection with waste water disposal.

(2) The *Länder* shall specify which public corporations are responsible for waste water disposal, and shall stipulate the criteria under which waste water disposal shall be incumbent upon other parties. If a plan which has been declared binding pursuant to paragraph 3 identifies other responsible bodies, then these shall be obliged to carry out waste water disposal. Those obliged to carry out waste water disposal may meet their obligation via the engagement of third parties.

(2a) The *Länder* may stipulate the prerequisites a public corporation must meet in order to transfer, either completely or in part, its waste water disposal obligation to a third party for a limited period and under a revocable arrangement. In particular, such pre-requisites shall include the following:

1. The relevant third party must have the necessary expert knowledge and must be reliable
2. Fulfilment of the transferred obligations must be ensured
3. The transfer must not conflict with any overriding public interest.

(3) (Repealed)

### **Article 18b**

#### **Construction and operation of waste water installations**

(1) Waste water installations shall be constructed and operated in such a way that the requirements pertaining to the discharge of waste water, particularly those pursuant to Article 7a, are met. In addition, the construction and operation of waste water installations shall conform to the generally accepted state-of-the-art.

(3) Where existing installations do not conform to the provisions of paragraph 1, then Article 7a (3) shall apply *mutatis mutandis*.

### **Article 18c**

#### **Authorisation of waste water installations**

The construction, operation and modification of a waste water installation which is subject to mandatory environmental impact assessment under the Environmental Impact Assessment Act shall require official authorisation. Authorisation may only be issued in a procedure which meets the requirements of the Environmental Impact Assessment Act.

### **Article 19**

#### **Water protection areas**

(1) Water protection areas may be established where the public interest so requires in order to:

1. protect bodies of water against detrimental effects in the interests of the existing or any future public water supply, or

2. recharge groundwater, or

3. prevent the harmful effects caused by rainwater run-off as well as by erosion and the introduction of soil components, fertilisers, herbicides and pesticides into bodies of water.

(2) Within water protection areas,

1. certain activities may be prohibited or only permitted to a limited extent, and
  2. the owners and authorised users of land may be obliged to tolerate certain measures. This shall also include measures for monitoring the water and the soil.
- (3) Compensation shall be paid if an order pursuant to paragraph 2 amounts to expropriation; Article 12 shall apply in cases where a licence is limited, whilst Article 15 (4) shall apply in cases where an existing right is restricted.
- (4) Where an order pursuant to paragraph 2 establishes more stringent requirements limiting the proper agricultural or silvicultural use of land, appropriate compensation shall be paid, in accordance with the law of the respective *Land*, in order to recompense for the economic disadvantages thereby incurred, unless there is a liability to pay compensation under paragraph 3. The same shall apply to any orders issued prior to 1 January 1987. In matters of dispute, recourse may be made to the courts of law.

#### **Article 19a**

##### **Licensing of pipeline installations for the conveyance of substances constituting a hazard to water**

(1) The construction, operation and significant modification of a pipeline installation for the conveyance of substances constituting a hazard to water, as well as any significant modifications to the operation thereof, shall require a licence issued by the responsible water authority, provided the licence application was submitted prior to 3 August 2001. For a pipeline installation which is subject to environmental impact assessment under Article 3 of the Environmental Impact Assessment Act in the version valid prior to 3 August 2001, a licence may only be issued in a procedure which meets the requirements of the aforementioned Act in the version cited. If the licensing application is submitted after 2 August 2001, Articles 20 to 23 of the Environmental Impact Assessment Act shall apply to the pipeline installations cited in sentence 1, subject to the provision that Articles 19b and 19c shall additionally be applied *mutatis mutandis* in order to protect the bodies of water. Sentences 1 to 3 shall not apply to pipeline installations which do not exceed the boundaries of industrial premises, which are classed as the accessories of a plant for handling substances

constituting a hazard to water, or which link installations with close spatial and operational ties to one another and which are separated within a limited area by public land access routes.

(2) Within the meaning of paragraph 1, substances constituting a hazard to water shall include:

1. Crude oils, petrol, diesel fuels and fuel oils;
2. Other liquid or gaseous substances capable of contaminating bodies of water or of adversely altering their properties in some other way; such substances shall be defined by the Federal Government by way of a statutory ordinance with the consent of the *Bundesrat*.

(3) (Repealed)

(4) The licence shall be passed on to the legal successor with the installation. The previous holder of the licence shall notify the competent authority pursuant to paragraph 1 of any such transfer.

### **Article 19b**

#### **Imposition of terms and conditions, refusal of a licence**

(1) In order to protect bodies of water, and in particular to protect groundwater, a licence may be issued subject to the imposition of terms and conditions; Article 4 (1) sentence 2, and paragraph 2 shall apply *mutatis mutandis*. The licence may be granted for a limited period. Even after a licence has been granted, conditions may be imposed with regard to the characteristics and operation of the installation in cases where the pollution of bodies of water, or any other detrimental change in their properties, is to be feared.

(2) A licence shall be refused if the pollution of bodies of water, or any other detrimental change in their properties, is to be feared as a consequence of the construction or operation of the pipeline installation and this cannot be prevented or compensated via the imposition of conditions. In the case of pipeline installations which cross the borders of the Federal Republic of Germany, a licence can also be refused if such fears are prompted by parts of the installation that are constructed or operated outside the scope of validity of this Act.

(3) (Repealed)

### **Article 19c**

#### **Revocation of a licence**

(1) A licence pursuant to Article 19a may be revoked, completely or in part, in exchange for compensation if any pollution of bodies of water, or any other detrimental change in their properties, is to be feared. This shall also apply if the concern is prompted by parts of the pipeline installation that are constructed or operated outside the scope of validity of this Act.

(2) A licence may be revoked, completely or in part, without compensation in cases where the holder has failed to comply with the conditions imposed, despite a warning that the licence may be revoked.

(3) Any retrospective imposition of conditions without compensation pursuant to Article 19b (1) sentence 3 shall remain unaffected.

### **Article 19d**

#### **Statutory ordinances**

In order to protect bodies of water, particularly in the interests of the public water supply, the Federal Government is authorised, by way of statutory ordinance with the consent of the *Bundesrat*, to adopt regulations governing pipeline installations subject to licensing in accordance with Article 19a. Such statutory ordinances may cover the following:

1. Technical requirements relating to the construction and operation of the installations,
  - 1a. the obligation to report any modifications to the installations or operation thereof which are not subject to licensing,
2. inspections of the installations prior to commencement of operation, together with regular controls and inspections on the basis of official orders, by official experts or other experts who have been officially approved for this purpose.
3. (Repealed)

## **Article 19e**

### **Existing installations**

(1) Pipeline installations whose construction was commenced prior to the introduction of mandatory licensing pursuant to Article 19a (1) or which were already operational at that time shall only require a licence pursuant to Article 19a (1) if a permit in accordance with regulations adopted on the basis of Article 24 of the Trade and Industry Code or a licence under the provisions of water legislation was required for their construction or operation, and if this permit or licence had not yet been granted prior to the introduction of mandatory licensing pursuant to Article 19a (1).

(2) Pipeline installations for which, pursuant to paragraph 1, a licence in accordance with Article 19a (1) is not required, shall be notified to the competent authority pursuant to Article 19a (1) within six months of the commencement of mandatory licensing for installations of this kind. This shall not apply to pipeline installations for which an official licence under the water acts of the *Länder* was issued prior to the commencement of mandatory licensing, or which had already been notified on the basis of such acts. Pipeline installations pursuant to sentence 1 shall be subject to Article 19a (3) and (4), Article 21 and the provisions of Article 19d no. 3. Article 19b (1) sentence 3 and the provisions pursuant to Article 19d no. 2 shall apply *mutatis mutandis*. The operation of such installations may be prohibited under the circumstances outlined in Article 19c; the obligation to pay compensation under Article 19c (1) shall not apply in cases where operation of the pipeline installation could have been prohibited without compensation on the basis of any other regulations.

## **Article 19f**

### **Coincidence of licensing with decisions under employment protection and mining legislation**

(1) Where a pipeline installation requires a permit pursuant to the provisions adopted for installations subject to monitoring within the meaning of Article 2 (2a) of the Equipment Safety Act, the authority responsible for granting the permit shall also decide on the issuing of a licence, its revocation, the imposition of retrospective conditions and any prohibition of operation. If an operating plan under mining law envisages the construction or operation of a pipeline installation, the mining authorities shall also decide on the issue of a licence, its revocation, the imposition of retrospective conditions, and any prohibition of operation.

(2) Any decisions pursuant to paragraph 1 shall be taken in collaboration with the competent authority pursuant to Article 19a (1).

### **Article 19g**

#### **Installations for handling substances constituting a hazard to water**

(1) Installations for the storage, filling, manufacturing and treatment of substances constituting a hazard to water, as well as installations for the use of such substances in industry and in the public sector, must be designed, installed, erected, maintained and operated in such a way that no pollution of waters, or any other detrimental change in their properties, is to be feared. The same shall apply to pipeline installations which do not exceed the boundaries of industrial premises, which constitute accessories of a plant for the handling of substances constituting a hazard to water, or which link installations with close spatial and operational ties to one another and which are separated within a limited area by public land access routes.

(2) Installations for the loading and unloading of substances constituting a hazard to water and installations for the storage and filling of liquid manure, slurry and silage seepage must be designed, installed, erected, maintained and operated in such a way that the best possible level of protection of waters from pollution or other detrimental changes to their properties is achieved.

(3) As a minimum requirement, installations within the meaning of paragraphs 1 and 2 must be designed, installed, erected, maintained and operated in such a way that they comply with the generally accepted state-of-the-art.

(4) Provisions of the *Länder* regulating the storage of substances constituting a hazard to water in water protection areas, headwater protection areas, flood plains or project areas shall remain unaffected.

(5) Within the meaning of Articles 19g to 19l, substances constituting a hazard to water shall include solid, liquid and gaseous substances, especially

- acids, alkalis,
- alkali metals, silicon alloys containing more than 30 % silicon, organometallic compounds,

- halogens, acid halides, metal carbonyls and caustic salts,
- mineral and tar oils and their products,
  - liquid and water-soluble hydrocarbons, alcohols, aldehydes, ketones, esters as well as organic compounds containing halogens, nitrogen or sulphur,
  - toxic substances,

which are likely to cause lasting detrimental changes to the physical, chemical or biological properties of the water. The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety shall, with the consent of the *Bundesrat*, issue general administrative provisions containing further details of substances constituting a hazard to water and classifying them according to the level of hazard they present.

(6) The provisions of Articles 19g to 19l shall not apply to installations within the meaning of paragraphs 1 and 2 for the handling of

1. waste water,
2. substances which exceed radioactivity exemption limits as set forth by radiological protection legislation.

Paragraph 1 and Articles 19h to 19l shall not apply to installations for the storage and filling of liquid manure, slurry and silage seepage.

### **Article 19h**

#### **Determination of suitability and type approval**

(1) Installations pursuant to Article 19g, paragraphs 1 and 2 or parts thereof, together with any safety equipment, may only be used if their suitability has been established by the competent authority. Sentence 1 shall not apply

1. to installations, installation parts or safety equipment of a simple or conventional design,
2. in cases where substances constituting a hazard to water
  - a) are temporarily stored in transport containers or briefly stored or kept in conjunction with transportation, provided that the relevant containers or packaging comply with the prevailing regulations and requirements for transportation within the public transport

network,

- b) are being used or processed,
- c) are kept in laboratories in quantities required for daily use.

(2) Where installations, parts of installations and safety equipment pursuant to paragraph 1, sentence 1 are mass-produced, they may be approved on the basis of type. The type approval may be limited in scope, and may be issued for a limited period of time and subject to certain conditions. It is granted by the competent authority responsible for the place of manufacture or the registered offices of the importing company, and shall apply to the scope of validity of this Act.

(3) The establishment of suitability pursuant to paragraph 1 and type approval pursuant to paragraph 2 shall not apply to installations, parts of installations or safety equipment

1. that may be placed on the market under the provisions of the Act on Products for Construction of 10 August 1992 or other statutory provisions implementing Directives of the European Community whose regulations on usability also include requirements pertaining to the protection of bodies of water, and if the European Community mark (CE mark) carried by such products indicates classes and performance categories to be established by the *Länder* that are admissible under these regulations
2. for which the applicable provisions of the Construction Code relating to the use of construction materials also ensure compliance with the requirements of water legislation, or
3. which are type-approved or subject to type approval under immission protection or work safety regulations; any type approval shall also make allowance for the requirements of water legislation.

### **Article 19i**

#### **Obligations on the part of the operator**

- (1) The operator shall commission specialist firms as defined in Article 19l with the installation, fitting, maintenance, repair and cleaning of installations pursuant to Article 19g (1) and (2) if he himself does not meet the requirements pursuant to Article 19l (2) or is not a

public institution with a supervisory system equivalent to that specified in Article 19l (2) no. 2.

(2) The operator of an installation pursuant to Article 19g (1) and (2) must continuously monitor the installation for leaks and the effective functioning of the safety equipment. In individual cases, the competent authority may order the operator to sign a supervisory contract with a specialist firm pursuant to Article 19l if he himself does not possess the required expertise or does not have his own specialised personnel. Moreover, depending on the provisions of *Länder* law, the operators shall allow officially approved experts to check that installations are in proper condition, specifically

1. prior to commissioning and following any significant modifications,
2. no more than five years after the last inspection, and in the case of underground storage in water and headwater protection areas, no more than two-and-a-half years after the last inspection,
3. prior to recommissioning an installation that has been shut down for more than one year,
4. if an inspection is ordered due to fears of a hazard to water,
5. when an installation is shut down.

(3) The competent authority may require the operator to implement measures for monitoring water and soil, where this is essential for the early detection of any pollution originating from the installations pursuant to Article 19g (1) and (2). It may also order the operator to appoint a water pollution control officer; Articles 21b to 21g shall apply *mutatis mutandis*.

### **Article 19k**

#### **Special obligations relating to the filling and emptying of installations**

Any person who fills or empties an installation used for the storage of substances constituting a hazard to water shall supervise this procedure, and shall ensure that the required safety equipment is in proper working order prior to commencing work. The permissible tolerances of the installations and of the safety equipment must not be exceeded during the filling or emptying operations.

**Article 19I**  
**Specialist firms**

(1) Installations pursuant to Article 19g (1) and (2) must only be installed, fitted, maintained, repaired and cleaned by specialist firms; Article 19i (1) shall remain unaffected. The *Länder* may designate certain activities which need not be performed by specialist firms.

(2) Within the meaning of paragraph 1, a specialist firm is a company which

1. has at its disposal tools and equipment, as well as specialised personnel, which ensure compliance with the requirements pursuant to Article 19g (3) and
2. is entitled to use the seal of approval of a supervisory or quality control association that is recognised under building law or has signed a supervisory contract with the Technical Control Association including a review at least every two years.

A specialist firm may confine its activities to selected specialist fields.

**Article 20**  
**Compensation**

(1) Compensation payable under this Act shall provide adequate reparation for any damages caused to property. If utilisation rights are being exercised at the time of the official order for mandatory compensation, the amount of compensation to be paid shall be based on the extent to which these uses are impaired; if the claimant has taken measures to intensify utilisation and if it has been proven that these measures would have led to a permanent increase in such utilisation, this shall be taken into account. Furthermore, consideration shall also be given to any reduction in the fair market value of land as a result of the official order, where this has not already been taken into account pursuant to sentence 2.

(2) Compensation shall be fixed in monetary terms where the law does not provide for compensation to be given in the form of water resources management or other measures.

## **Article 21**

### **Supervision**

(1) Any individual who uses a body of water, or who has filed an application for a permit or licence, shall be obliged to tolerate official supervision of the installations, equipment and processes which are of importance for water use. To this end, and in particular in order to determine whether or not to approve the use applied for, which conditions of use and other requirements should be imposed to determine whether the use is within the permissible limits, and whether subsequent orders must be issued on the basis of Article 5 or supplementary regulations under *Länder* law, said individual shall allow

1. access to the site and premises during working hours,
2. access to residential facilities, as well as to the site and premises, outside working hours where inspection is necessary in order to prevent an imminent threat to public order and safety, and
3. access to sites and installations not belonging to the directly bordering fenced property of premises pursuant to numbers 1 and 2, at all times;

the fundamental right of the inviolability of the home (Article 13 of the Constitution) shall be restricted by number 2. Furthermore, he shall also, for the same purpose, grant access to installations and equipment, provide information, place human resources, documents and tools at the disposal of the inspectors, and permit technical investigations and testing. Users of waters for which a water pollution control officer has been appointed (Article 21a) shall, at the request of the competent authority, consult said officer with respect to the supervisory measures pursuant to sentences 2 and 3.

(2) Paragraph 1 shall apply analogously to anyone who

1. constructs or operates a pipeline installation pursuant to Article 19a,
2. manufactures, installs, fits, maintains or operates an installation pursuant to Article 19g (1) and (2), or
3. is the proprietor of a commercial enterprise pursuant to Article 19l.

The owners and proprietors of land on which the installations are manufactured, constructed, installed, fitted, maintained or operated shall allow access to the land, provide information, and permit technical investigations and testing.

(2a) Persons obliged to furnish information may refuse to answer questions which would make them or any of their relatives, as defined in Article 383(1) nos. 1 to 3 of the Code of Civil Procedure, liable to criminal prosecution or to proceedings under the Administrative Offences Act.

(3) Articles 93, 97, 105 (1) and Article 111 (5) in conjunction with Article 105 (1) and Article 116 (1) of the Tax Code shall not apply to the authorities responsible for supervision pursuant to paragraphs 1 and 2 and the employees of such authorities. This shall not apply insofar as the fiscal authorities require the information in order to prosecute a tax offence and the associated taxation procedure, the pursuit of which is in the compulsive public interest, or insofar as false statements have been wilfully made by the person obliged to furnish information or persons working for him.

(4) The Federal Government is authorised, by way of statutory ordinance, with the consent of the *Bundesrat*, to stipulate that official supervision, within the meaning of this regulation, of installations and equipment serving the purpose of national defence shall be transferred to departments belonging to the official duties of the Federal Ministry of Defence.

### **Article 21a**

#### **Appointment of water pollution control officers**

(1) Users of waters who are permitted to discharge more than 750 cubic metres of waste water on one day shall appoint one or more works officers for water pollution control (water pollution control officers).

(2) The competent authority may direct that dischargers of waste water into waters for which the appointment of a water pollution control officer is not prescribed under paragraph 1, and dischargers of waste water into waste water installations, shall be required to appoint one or more water pollution control officers.

(3) Anyone who was appointed as a competent works officer with respect to the discharge of waste water prior to 1 October 1976 pursuant to Article 4 (2) no. 2, shall be deemed a water pollution control officer.

### **Article 21b**

#### **Duties**

(1) The water pollution control officer shall advise the water user and the workforce of the plant on all matters which may be of relevance to water pollution control.

(2) The water pollution control officer is authorised and obliged

1. to supervise compliance with regulations, terms and conditions in the interests of water protection, particularly via the regular inspection of waste water installations to verify proper functioning, correct operation and maintenance, via measurements of the waste water to ascertain its quantity and properties, and by documenting the results of the inspections and measurements; he shall inform the user of any shortcomings ascertained and propose measures to rectify the same,

2. to promote the use of suitable waste water treatment procedures, including procedures for the proper recycling or disposal of residual substances arising during the course of waste water treatment,

3. to promote the development and introduction of

- a) internal procedures for avoiding or reducing the quantity of waste water generated as well as certain types of waste water,
- b) environmentally compatible production,

4. to inform the workforce about the water pollution generated by the plant and about the equipment and measures to prevent it, with due regard for the provisions under water law.

(3) The water pollution control officer shall submit to the user an annual report on the measures taken and planned pursuant to paragraph 2.

(4) In individual cases, the duties of the water pollution control officer outlined in paragraphs 1 to 3 may be

1. specified in greater detail,
2. extended, where the requirements of water protection so dictate,
3. restricted, provided this does not impair proper self-monitoring

by the competent authority.

### **Article 21c**

#### **Obligations on the part of the user**

(1) The user shall appoint the water pollution control officer in writing, giving a precise description of the duties incumbent upon him. The user shall notify the competent authority immediately of the appointment of the water pollution control officer, giving a description of his duties; the same shall apply to any changes in the scope of his duties and the termination of his appointment. A copy of every such notice shall be given to the water pollution control officer.

(1a) Before appointing the water pollution control officer, the user shall notify the works council or staff council of such pending appointment, including a description of the duties to be assigned to the water pollution control officer. The same shall apply in the event of any changes to the scope of the water pollution control officer's duties and the termination of his appointment.

(2) The user may only appoint persons to the position of water pollution control officer who are in possession of the necessary degree of expertise and reliability in order to fulfil his duties. If the competent authority becomes aware of any facts suggesting that the water pollution control officer does not possess the necessary degree of expertise or reliability in order to fulfil their duties, it may demand that the user appoints a different water pollution control officer.

(3) If more than one water pollution control officer is appointed, the user shall ensure the necessary coordination to enable them to perform their duties, in particular via the establishment of a committee. A similar provision shall also apply if, pursuant to other statutory provisions, works officers are appointed alongside one or more water pollution

control officers. The user shall furthermore ensure that the works officers cooperate with appointed individuals in the field of work safety.

(4) The user is obliged to support the water pollution control officer in the performance of his duties. In particular, this shall include providing him with auxiliary staff as well as premises, facilities, equipment and financial resources, and allowing him to attend training courses, where this is necessary for the performance of his duties.

#### **Article 21d**

##### **Opinion of the water pollution control officer on decisions taken by the user**

(1) The user shall obtain the opinion of the water pollution control officer prior to making decisions on the introduction of procedures and products and any investment decisions, where such decisions could be of relevance to water pollution control.

(2) Such opinions shall be obtained in time for them to be given due consideration when making decisions pursuant to paragraph 1; they shall be submitted to the office responsible for decisions on the introduction of procedures and products and for investment decisions.

#### **Article 21e**

##### **Right to report**

The user shall ensure, by means of internal organisational measures, that the water pollution control officer is able to report any suggestions or concerns directly to the office responsible for the decision if he has been unable to reach an agreement with the competent works manager and considers that a decision by this office is necessary in view of the particular significance of the issue in question. If the water pollution control officer is unable to reach an agreement with the company management regarding a measure proposed by him within the scope of his duties, he shall receive comprehensive notification of the reasons why his proposal was rejected.

#### **Article 21f**

##### **Prohibition of discrimination, protection against dismissal**

(1) The water pollution control officer must not suffer any discrimination due to the performance of his duties.

(2) If the water pollution control officer is an employee of the user obliged to appoint such an officer, termination of his employment shall be impermissible unless the user is justified in terminating the water pollution control officer's employment on serious grounds without giving the required period of notice. For a period of one year from the date of his removal from the post of water pollution control officer, termination of that individual's employment with the company shall be inadmissible, unless the user is justified in terminating his employment without notice on serious grounds.

### **Article 21g**

#### **Special provision**

The Federal *Länder* may adopt a regulation which deviates from Articles 21a to 21f for waste water discharges from regional authorities, associations of regional authorities, and water associations under public law. Such a regulation must guarantee at least an equivalent level of self-monitoring and intensified efforts in the interests of water pollution control.

### **Article 21h**

#### **Relaxed provisions for audited sites**

In order to encourage private autonomy, for those companies which are registered on a list pursuant to Article 6 in conjunction with Article 7 (2) sentence 1 of Regulation (EC) No. 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (OJ EC No. L 114 page 1), the *Länder* may order relaxed provisions for the content of application documents in the licensing procedure and other concessions with respect to the supervisory requirements for companies, provided the requirements of Regulation (EC) No. 761/2001 in this respect are equivalent to the requirements governing supervision and application documents under the water law provisions of the Federal Government and the *Länder*, or provided such equivalence is ensured by the regulations of the *Länder*. Further requirements governing the utilisation and withdrawal of relaxed provisions or the complete or partial suspension thereof when the applicable prerequisites no longer apply, may also be regulated. Relaxed regulatory provisions may be granted if the environmental expert has verified compliance with the environmental regulations, has failed to ascertain any deviations, and has documented this fact in a declaration of validity. In particular, relaxed provisions may be granted with respect to

1. Calibrations, investigations, inspections and measurements,
2. measurement reports and other reports and notices of investigation results,
3. duties of the water pollution control officer,
4. reporting obligations to the plant organisation and
5. the frequency of official monitoring.

## **Article 22**

### **Liability for changes in the properties of water**

(1) Anyone who introduces or discharges substances into a body of water or takes any action which causes changes to the physical, chemical or biological properties of a body of water, shall be liable to compensate for any damages incurred to another party as a result of this action. If several parties were responsible for this action, they shall be jointly and severally liable.

(2) If substances from an installation for the manufacturing, processing, storage, disposal, transportation or forwarding of such substances enter a body of water without having been introduced or discharged into that body of water, the owner of the installation shall be liable to compensate for any resultant damages incurred to another party; paragraph 1 sentence 2 shall apply *mutatis mutandis*. This obligation to compensate shall not apply if the damage is attributable to an act of God.

(3) If compensation for damages cannot be claimed under Article 11, the affected party shall be compensated in accordance with Article 10 (2). Such claims are still admissible even after the thirty-year period has expired.

## **Part II**

### **Provisions relating to surface waters**

#### **Section 1**

##### **Uses not requiring a permit**

**Article 23****Public use**

Any person may use surface waters to the extent permitted under *Land* legislation for public use, provided this does not conflict with the rights and authorities of others and provided that usage by property owners or riparian owners is not thereby impaired.

**Article 24****Use by property owners and riparian owners**

(1) Surface waters may be used without a permit or licence by a property owner or any other person authorised by him for their own requirements, provided this does not impair other persons, and provided that no detrimental change in the properties of the water, no substantial reduction in the water flow and no other adverse impacts on the water regime are to be expected as a result. The Federal *Länder* may debar property owners from use if such use was not permitted hitherto.

(2) The *Länder* may determine that the owners of land adjacent to surface waters and any persons entitled to use such land (riparian owners), as well as the owners of land adjacent to land owned by riparian proprietors and persons entitled to use such land (owners of rear property), may use surface waters without any permit or licence in accordance with the provisions of paragraph 1.

(3) Use by riparian owners or owners of rear property pursuant to paragraph 2 shall not be permitted in the case of Federal waterways and other waters which are used for shipping or which have been constructed artificially.

**Article 25****Use for fishery purposes**

The *Länder* may determine that no permit or licence is required for the introduction of substances into surface waters for fishery purposes, provided this is not expected to cause any significant adverse impacts on the status of the water.

Section 2  
Management objectives and requirements

**Article 25a**  
**Management objectives**

(1) Unless classified as artificial or heavily modified, bodies of surface water shall be managed in such a way that

1. any adverse changes to their ecological and chemical status is avoided and
2. a good ecological and chemical status is preserved or attained.

(2) The requirements relating to the

1. characterisation
2. establishment and classification
3. representation in maps and
4. monitoring

of the status of bodies of surface water shall be determined by means of *Land* law.

(3) *Land* law shall stipulate the measures designed to achieve a reduction of pollution of bodies of surface water, the progressive reduction of discharges and other inputs of priority substances, and the cessation or phasing out of discharges and other inputs of priority hazardous substances as outlined in greater detail by corresponding legal instruments of the European Community. Priority substances and priority hazardous substances within the meaning of sentence 1 shall mean substances which have been identified as such by a legal instrument of the European Community.

**Article 25b**  
**Artificial and heavily modified bodies of surface water**

(1) Artificial and heavily modified bodies of surface water within the meaning of paragraph (4) shall be managed in such a way that

1. any adverse changes to their ecological potential and chemical status are avoided and
2. a good ecological potential and a good chemical status is preserved or attained.

Article 25a (2) and (3) shall apply *mutatis mutandis*.

(2) Bodies of surface water may be classified as artificial or heavily modified if

1. the changes to the hydromorphological characteristics which would be necessary for achieving good ecological status would have significant adverse effects on:
  - a) the environment as a whole,
  - b) navigation, including port facilities,
  - c) recreation,
  - d) activities for the purposes of which water is stored, such as drinking-water supply, power generation – with due regard for the requirements of climate protection – or irrigation
  - e) water regulation, flood protection or land drainage, or
  - f) other equally important, sustainable human development activities

and

2. the objectives served by the artificial or modified characteristics of the water body cannot be achieved by other technically feasible means, with significantly fewer adverse environmental impacts, without incurring disproportionately high costs.

(3) The classification of a body of water pursuant to paragraph 2 must not permanently exclude or compromise the achievement of the objectives outlined in paragraph 1 and in Article 25a (1) in other bodies of water within the same river basin district.

(4) Within the meaning of paragraphs 1 and 2

1. artificial water body:

means a body of surface water created by human activity;

2. heavily modified body of surface water:

means a body of water which is substantially changed in character as a result of physical alterations by human activity.

**Article 25c**

**Deadlines for achievement of the management objectives**

(1) *Land* law shall stipulate deadlines by which a good ecological and chemical status of bodies of surface water (Article 25a (1) no. 2) and a good ecological potential and good chemical status of artificial and heavily modified bodies of water (Article 25b (1) no. 2) must be achieved.

(2) The deadlines pursuant to paragraph 1 may be extended, provided no further deterioration in the status of the body of water occurs and

1. the required improvements in the status of the water body cannot be achieved within the set time limit due to the prevailing natural conditions,
2. the envisaged measures can only be achieved in phases over a longer period, for reasons of technical feasibility, or
3. compliance with the deadline would be disproportionately expensive.

(3) Extensions of the deadline pursuant to paragraph (2) must not permanently exclude or compromise the achievement of the objectives outlined in Article 25a (1) and Article 25b (1) in other bodies of water within the same river basin district.

(4) The deadlines pursuant to paragraphs 1 and 2 shall also apply to bodies of water in protected areas within the meaning of Article 6 in conjunction with Annex IV of Council

Directive 2000/60/EC, provided the statutory provisions of the European Community under which the protected areas were designated do not contain any provisions to the contrary.

### **Article 25d**

#### **Exemptions from the management objectives**

(1) The responsible authorities of the *Länder* may stipulate less stringent objectives for certain bodies of water than the management objectives pursuant to Article 25a (1) and Article 25b (1) if

1. the bodies of water would be so affected by human activity or their natural condition is such that the achievement of the objectives would be infeasible or disproportionately expensive,
2. the ecological and socio-economic needs served by such human activity cannot be achieved by other means with significantly fewer adverse effects on the environment without incurring disproportionately high costs,
3. any further deterioration in the status of the affected body of water is avoided, and
4. the best possible ecological and chemical status is achieved, with due regard for impacts that could not reasonably have been avoided due to the nature of the human activity or the properties of the body of water.

(2) Temporary deteriorations in the status of bodies of water shall not be in breach of the objectives pursuant to Article 25a (1) and Article 25b (1) if this is the result of circumstances of natural cause or of an Act of God which are exceptional or could not reasonably have been foreseen, or which are the result of accidents. In the case of temporary deteriorations pursuant to sentence 1, the following conditions must be met:

1. all practicable steps must be taken to prevent further deterioration in the status of the body of water and so as not to compromise the achievement of the stated objectives in other bodies of water not affected by those circumstances,

2. the measures to be taken, which must not compromise the restoration of the body of water to its prior state once the circumstances no longer apply, are to be listed in a programme of measures pursuant to Article 36, and
3. the effects of the circumstances are to be reviewed annually and all practicable measures taken to restore the body of water to its prior status as soon as possible, subject to the reasons cited in Article 25c (2).

(3) If the physical properties of bodies of surface water or the groundwater level are modified, and if, as a result of this, good ecological status or good ecological potential cannot be achieved or a deterioration in the status of a body of surface water is unavoidable, this shall be admissible provided

1. the reasons for the modifications are of overriding public interest or the benefits to the environment and to society of achieving the objectives set out in Article 25a (1) and Article 25b (1) are outweighed by the benefits to human health, human safety, or sustainable development of the new modifications,
2. the objectives served by the modifications to the water body cannot be achieved by other technically feasible means, with significantly fewer adverse environmental impacts, without incurring disproportionately high costs, and
3. all practicable measures are taken to mitigate the adverse impacts on the status of the bodies of water.

In the event of new sustainable impacts caused by human activity within the meaning of Article 25b (2) no. 1, a deterioration in the status of water bodies from very good to good is also admissible, subject to the requirements listed in sentence 1 nos. 1 to 3.

(4) For the measures pursuant to paragraphs (1) to (3), Article 25c (3) shall apply *mutatis mutandis*.

**Article 26****Introduction, storage and transport of substances**

(1) Solid matter shall not be introduced into a body of water for the purpose of disposal.

Sludgy substances shall not be classified as solid matter.

(2) Substances may only be stored or deposited near a body of water if this is done in such a way that there is no reason to fear pollution of the water or any other detrimental change in its properties or in the water flow. The same shall also apply to the conveyance of liquids and gases through pipelines. More stringent prohibitive regulations shall not be affected.

**Article 27**

(Repealed)

## S e c t i o n 3

## M a i n t e n a n c e a n d d e v e l o p m e n t

**Article 28****Extent of maintenance**

(1) The maintenance of a body of water shall comprise its care and development. It must be based on the management objectives outlined in Articles 25a to 25d and must not compromise the attainment of these objectives. It must meet the requirements for body of water maintenance as outlined in the programme of measures pursuant to Article 36. Maintenance must make due allowance for the requirements of the natural balance; consideration must also be given to the appearance of the water landscape and its recreational value. Maintenance shall also include maintaining proper flow conditions, and in the case of navigable waters, maintaining them in a navigable state. *Länder* laws may stipulate that maintenance shall also include maintaining waters and their banks in a proper condition vis-à-vis other aspects of water management.

(2) The provisions governing the extent of maintenance shall also apply to the maintenance of waters which have been developed, unless provisions to the contrary have been specified within the context of a procedure pursuant to Article 31 or by Federal or *Land* legislation.

## **Article 29**

### **Responsibility for maintenance**

(1) Where this is not the function of regional authorities, water and soil associations or associations of local authorities, the responsibility for maintaining waters shall lie with the owners of waters, the riparian owners, and owners of land and facilities who either benefit from maintenance or who make maintenance of such waters more difficult. The *Länder* may stipulate that other owners of land in the same river basin shall also be responsible for maintenance. Any existing obligations of other persons to maintain stretches of water or structures in or near waters shall not be affected by sentence 1 or by any regulation issued under sentence 2. The *Länder* shall determine the manner in which maintenance responsibilities are to be fulfilled; different provisions regarding responsibility for maintenance may be adopted for the period up to 1 January 1965.

(2) If the responsibility for maintenance pursuant to paragraph 1 is not fulfilled, or is not fulfilled satisfactorily, steps shall be taken to ensure that the necessary maintenance work is carried out by a regional authority or by a water and soil association or by an association of local authorities.

## **Article 30**

### **Special obligations in the interests of maintenance**

(1) Where this is necessary for the proper maintenance of a body of water, the riparian owners and the owners of rear property shall, after being given prior notice, allow persons responsible for maintenance or other persons commissioned by them to have access to the property, to make temporary use of it, and to remove from it any components required for the purpose of maintenance if these can only be obtained elsewhere at a disproportionately high cost.

(2) The riparian owners shall allow the persons responsible for maintenance to cover the banks with vegetation, to the extent that this is necessary for maintenance purposes. They may be obliged to manage the sections of bank in the required widths in such a way that maintenance is not impaired; when using the land they must take into account the requirements of bank protection.

(3) If damages are incurred as a result of any actions pursuant to paragraphs 1 or 2, the damaged party shall be entitled to compensation.

### **Article 31**

#### **Development**

(1) Bodies of water in a natural or near-natural state shall be preserved in this condition, and developed natural waters that have not been developed in a near-natural manner shall be restored, as far as possible, to a near-natural condition, provided this does not conflict with overriding concerns of public interest. Such concerns could apply, for example, in the case of an existing use of hydropower. Development measures must be based on the management objectives outlined in Articles 25a to 25d and must not compromise the attainment of these objectives. They must meet the requirements for water body development as outlined in the programme of measures pursuant to Article 36.

(2) The establishment, removal or substantial modification of a body of water or its banks (development of a body of water) shall require a plan approval procedure by the competent authority. The construction of dykes and dams affecting flood-water flow shall be considered equivalent to development of a body of water. Sentence 1 shall not apply if a body of water is created for a limited period of time only and does not incur any substantial detrimental change in the water balance. The plan approval procedure for development of a body of water which is subject to environmental impact assessment under the Environmental Impact Assessment Act (water body development subject to EIA) must meet the requirements of that Act.

(3) For water body development which is not subject to EIA, a planning licence may be issued instead of official plan approval.

(4) Approval of developments, including any follow-up measures required, which are carried out in separate stages or sections because of their geographical or temporal scale, may be granted in separate parts, provided this does not make it impossible, either completely or in part, to evaluate the overall project's considerable impacts on the environment, as is necessary. Article 9a shall apply *mutatis mutandis* in the case of a plan approval procedure pursuant to paragraph (2) or a licensing procedure pursuant to paragraph (3).

(5) Any development must conserve natural retention areas, must refrain from considerably altering the natural run-off, must conserve typical natural habitats and must avoid any other considerable detrimental changes to the body of water's natural or near-natural state or, where this is not possible, must compensate for any such adverse impacts. The procedure shall ascertain the nature and extent of the development measures and the installations which are

required in the public interest or to prevent adverse impacts on the rights of other persons and should mandate compensation for damages. Planning permission or the licence should be refused if the development is deemed likely to impair the public interest, especially if it is deemed likely to considerably and permanently increase the risk of flooding in a way which cannot be compensated, or to destroy natural retention areas, particularly in riparian forests.

(6) If an intended development measure affects a body of water administered by more than one *Land*, and if a consensus cannot be achieved on the development plan, the Federal Government shall, at the application of one of the affected *Länder*, act as a mediator between the *Länder*.

## Section 4 Flood plains

### **Article 32 Flood plains**

(1) Flood plains are areas between surface waters and dykes or high banks which are subject to flooding or water flow during floods or which are used for flood alleviation or floodwater retention. The Federal *Länder* shall designate areas as flood plains and adopt regulations designed to protect against the risk of flooding, insofar as these are required in order to

1. protect or improve the ecological structures of bodies of water and their flood areas,
2. prevent intervention which could promote erosion,
3. preserve or restore natural retention areas, or
4. control flood water run-off.

If, in connection with the restoration of natural retention areas, orders are issued stipulating more stringent requirements on the proper agricultural or silvicultural use of a piece of land, then Article 19 (4) sentences 1 and 3 shall apply *mutatis mutandis*.

(2) The function of flood plains as natural retention areas shall be preserved; where this conflicts with overriding concerns of public interest, the necessary compensatory measures must be taken in good time. Former flood plains that are suitable to act as retention areas

should be restored as far as possible, provided this does not conflict with overriding concerns of public interest.

(3) The *Länder* shall coordinate their measures for preventive flood protection where such measures could have considerable effects on the territories of other *Länder*. If a consensus on such measures cannot be reached, the Federal Government may act as a mediator between the *Länder* at the request of one of the *Länder* concerned.

Part III  
Provisions for coastal waters

**Article 32a**

**Uses not requiring a permit**

The *Länder* may stipulate that a permit or licence is not required

1. for the discharge of groundwater, spring water and precipitation water,
2. for the introduction and discharge of other substances, provided these are not expected to have any significant adverse impacts on the status of the water.

**Article 32b**

**Maintenance of water quality**

(1) Solid matter shall not be introduced into coastal waters for the purpose of disposal. Sludgy substances shall not be classified as solid matter.

(2) Substances may only be stored or deposited near coastal waters in such a way that there is no reason to fear pollution of the water or any other detrimental change in its properties. The same shall also apply to the conveyance of liquids and gases through pipelines.

**Article 32c**

**Management objectives**

Articles 25a to 25d shall apply *mutatis mutandis* to coastal waters within the meaning of Article 1b (3) sentence 2. In coastal waters offshore of the line mentioned in Article 1b (3)

sentence 2, then Articles 25a to 25d shall apply *mutatis mutandis* in order to achieve a good chemical status.

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**Article 33**

**Uses not requiring a permit**

(1) No permit or licence shall be required for the abstraction, delivery or conveyance to the surface, or diversion of groundwater

1. for domestic purposes, for farming purposes, for watering cattle outside the farm or for use in small quantities for temporary purposes,
2. for the normal drainage of land used for agricultural, silvicultural or horticultural purposes.

Sentence 1 shall not apply if the uses are deemed likely to cause significant adverse effects on the status of the body of water.

(2) The *Länder* may stipulate, either as a general rule or for specific areas, that

1. in the cases cited in paragraph 1, a permit or a licence shall be required,
2. a permit or a licence shall not be required for the withdrawal, delivery or conveyance to the surface or diversion of groundwater in small quantities for commercial enterprises or for agricultural, silvicultural or horticultural purposes above and beyond the purposes outlined in paragraph 1 sentence 1 and with due application of paragraph 1 sentence 2,
3. no permit shall be required for the discharge of precipitation water into the groundwater in order to allow it to seep harmlessly into the ground.

**Article 33a**  
**Management objectives**

(1) Groundwater shall be managed in such a way that

1. any adverse changes to its quantitative and chemical status are avoided
2. any significant and sustained upward trends in the concentration of pollutants resulting from the impacts of human activities are reversed,
3. a balance is ensured between the abstraction and recharge of groundwater, and
4. a good quantitative and chemical status pursuant to the provisions of paragraph 2 are preserved or achieved.

(2) The requirements relating to the

1. characterisation
2. establishment and classification
3. presentation in maps and
4. monitoring

of groundwater status shall be determined by means of *Land* law.

(3) Notwithstanding paragraph 1, measures to prevent and restrict groundwater pollution shall be determined by means of *Land* law. In this respect, the *Länder* shall be guided by the decisive legal instruments of the European Community, both with regard to the criteria for evaluating a good chemical status of groundwater, for identifying significant and sustained upward trends in the concentration of pollutants, and for the starting points of a trend reversal pursuant to paragraph 1 no. 2, as well as for specifying measures to prevent and restrict groundwater pollution.

(4) With regard to the objectives outlined in paragraph 1 Article 25d (2) and (4) shall apply *mutatis mutandis*. If the objectives outlined in paragraph 1 cannot be attained because the

groundwater status or the physical properties of bodies of surface water are altered, this shall be admissible via the *mutatis mutandis* application of the requirements cited in Article 25d (3) sentence 1 nos. 1 to 3. For the objectives set forth in paragraph 1 nos. 3 and 4, moreover, Article 25c and Article 25d (1) shall apply *mutatis mutandis*, subject to the provision that in accordance with Article 25d (1) no. 4, the minimum possible changes in the good status of groundwater instead of the best possible ecological status, shall be achieved.

#### **Article 34**

##### **Maintenance of water quality**

(1) A permit for the discharge of substances into groundwater shall only be granted provided there are no grounds to fear harmful pollution of the groundwater or any other detrimental change in its properties.

(2) Substances shall only be stored or deposited in such a way that there is no reason to fear pollution of the groundwater or any other detrimental change in its properties. The same shall also apply to the conveyance of liquids and gases through pipelines.

#### **Article 35**

##### **Excavation, exploratory work**

(1) Insofar as this is necessary in the interest of the water balance, the *Länder* shall stipulate that any excavation or exploratory work which extends into the ground beyond a certain depth shall be monitored.

(2) If groundwater is tapped unintentionally or without authorisation, restoration to the original state may be ordered if this is necessary in the interest of the water balance.

#### **Part V**

Water management planning; Water Register;  
procurement and transmission of information

#### **Article 36**

##### **Programme of measures**

(1) *Land* law shall stipulate that for every river basin district pursuant to paragraphs 2 to 6, a

programme of measures shall be prepared in order to achieve the objectives stipulated in Article 25a (1), Article 25b (1), Articles 32c and 33a (1). Such plans shall comply with regional planning objectives and shall take account of regional planning principles and other requirements.

(2) Each programme of measures shall include basic measures and, where necessary, supplementary measures.

(3) Basic measures shall include all the measures listed in Article 11 (3) of Directive 2000/60/EC which are designed to achieve the objectives stipulated in Article 25a (1), Article 25b (1), Articles 32c and 33a (1) or to contribute to the achievement thereof.

(4) Supplementary measures, particularly within the meaning of Article 11 (4) in conjunction with Annex VI Part B of Directive 2000/60/EC, shall be included in the programme in addition to the basic measures, where this is necessary in order to achieve the objectives stipulated in Article 25a (1), Article 25b (1), Articles 32c and 33a (1). Supplementary measures may also be adopted in order to achieve more extensive protection of the waters.

(5) Where monitoring or other findings indicate that the objectives stipulated in Article 25a (1), Article 25b (1), and Articles 32c and 33a (1) are unlikely to be achieved, the causes of the possible failure shall be examined, the relevant permits for water use and the monitoring programmes shall be reviewed and adjusted as appropriate, and any additional measures as may be necessary shall be included in the programme of measures.

(6) Basic measures pursuant to paragraph 3 must not be allowed to cause additional pollution of surface waters, coastal waters or marine waters, unless implementation of the measures under consideration would be more adverse in terms of their impacts on the environment as a whole. Within the framework of Articles 33a and 34, the competent *Land* authorities may also permit the discharges into groundwater cited in Article 11 (3) letter j of Directive 2000/60/EC.

(7) *Land* law shall stipulate the deadlines by which the programme of measures is to be established, implemented, reviewed and updated. *Land* law shall also stipulate the deadlines within which any modified or new measures are to be implemented.

**Article 36a****Ban on modifications to safeguard planned water management projects**

(1) In order to safeguard planned projects for the abstraction or storage of water, disposal of waste water, groundwater recharge, use of hydropower, irrigation, flood control or development of a body of surface water, where such plans are in the public interest, as well as plans for projects under the programme of measures pursuant to Article 36, the competent supreme *Land* authority or other authorities designated by *Land* law may, by way of statutory order, designate certain planning areas where no modifications may be carried out which considerably increase the value or which considerably hamper execution of the planned project (ban on modifications). Article 4 (5) of the Federal Regional Planning Act of 8 April 1965 (Federal Law Gazette I page 306) shall remain unaffected.

(2) Modifications which have already been commenced in a legally permissible manner, maintenance work and the continuation of a prior usage shall not be affected by the ban on modifications.

(3) The ban on modifications shall expire after three years, unless an earlier date is stipulated by the statutory ordinance. The three-year period may be extended by a maximum of one year by way of statutory ordinance, if special circumstances so dictate.

(4) Exemptions to the ban on modifications may be admitted, provided this does not conflict with overriding public interests.

**Article 36b****Management plan**

(1) *Land* law shall stipulate that a management plan is to be prepared for every river basin district pursuant to paragraphs 2 to 4.

(2) The management plan must contain a description of the characteristics of the waters in the river basin district, a summary of the significant pressures and impacts on the status of the waters, identification of those protected areas which are directly dependent upon the waters, the monitoring networks and monitoring results, the management objectives, a summary of the economic analysis of water use, a summary of the programmes of measures, a summary of the public information and consultation measures and their results, and any changes to the

plan made as a consequence of this, a list of competent authorities, and the contact points and procedures for obtaining background documents and background information. Such plans shall comply with regional planning objectives and shall take account of regional planning principles and other requirements.

(3) Furthermore, the following shall also be included in the management plan:

1. the designation of bodies of surface water as artificial or heavily modified pursuant to Article 25b (2) and the reasons for this,
2. the deadline extensions granted in accordance with Article 25c (2), Articles 32c and 33a (4) sentence 3 and the reasons for this, the reasons for any significant delay in implementing the measures, and the measures and timetable for attainment of the management objectives,
3. the exemptions from the management objectives pursuant to Article 25d (1) and (3), Articles 32c and 33a (4) and the reasons for this,
4. the conditions and criteria for the assertion of circumstances justifying a temporary deterioration pursuant to Article 25d (2), Articles 32c and 33a (4) sentence 1, the effects of the circumstances on which the deterioration is based, and the measures to be taken to restore the prior state.

(4) The management plan may be supplemented by more detailed programmes and management plans for sub-basins and for certain sectors and aspects of water management or water types. These programmes and plans shall be included in the management plan for the river basin district in summarised form.

(5) *Land* law shall stipulate the deadlines within which management plans are to be published, reviewed and updated. It shall also regulate public information and consultation with regard to the production, review and updating of the management plan, particularly with regard to Article 14 (1) sentences 1 and 2 of Directive 2000/60/EC.

**Article 37**  
**Water Register**

(1) Water Registers shall be kept for the bodies of water covered by this Act.

(2) In particular, the following shall be entered in the Water Register:

1. Permits (Article 7) which are not merely granted for a temporary purpose, licences (Article 8), existing rights and authorisations (Article 16),
2. Water protection areas (Article 19),
3. Flood plains (Article 32).

**Article 37a**  
**Procurement and transmission of information**

The procurement and transmission of information, including personal data, shall be regulated by *Land* law, insofar as this is necessary for the implementation of legal instruments of the European Communities, intergovernmental agreements or national statutory provisions in the field of water management; in this respect, it is necessary to ensure that existing information and data from *Land* authorities are transmitted free of charge to the authorities of other *Länder* and the Federal Government. Upon request, Federal Government authorities shall provide the *Land* authorities, free of charge, with any existing information required in accordance with sentence 1, including personal data. The provisions relating to the protection of personal data shall remain unaffected.

P a r t V I  
A d m i n i s t r a t i v e f i n e s a n d c o n c l u d i n g p r o v i s i o n s

**Articles 38 – 40**  
(Repealed)

**Article 41**  
**Administrative offences**

(1) An administrative offence shall be deemed to have been committed by anyone who wilfully or negligently

1. in contravention of Article 2, exercises utilisation without an official permit or licence , or contravenes an enforceable condition pursuant to Article 4 (1) or (2) nos. 1, 2 or 2a or an enforceable order pursuant to Article 5 (1) no. 1 or 1a, insofar as these concern measures pursuant to Article 4 (2) no. 2a, or an enforceable order pursuant to Article 5 (1) nos. 2 or 3, also in conjunction with Article 5 (2),
2. contravenes a statutory ordinance pursuant to Article 19 (2) no. 1, insofar as the statutory ordinance makes reference to this provision on fines for a given offence,
3. constructs or significantly alters a pipeline installation without a licence in accordance with Article 19a (1) sentence 1 or contravenes an enforceable condition pursuant to Article 19b (1) sentence 1,
4. contravenes a statutory ordinance pursuant to Article 19d nos. 1, 1a or 2 or Article 36a (1), insofar as the statutory ordinance makes reference to this provision on fines for a given offence,
5. in contravention of Article 19e (2) sentence 1, fails to notify a pipeline installation to the competent authority or to do so on time, or contravenes an enforceable condition pursuant to Article 19e (2) sentence 4 in conjunction with Article 19b (1) sentence 3,
6. a) in contravention of Article 19g (3), fails to observe the generally recognised rules of good technical practice during the installation, fitting, maintenance or operation of installations pursuant to Article 19g (1) or (2),  
b) in contravention of Article 19h (1) sentence 1, uses an installation or part thereof or safety equipment whose suitability has not been established by the competent authority,  
c) as the operator of an installation pursuant to Article 19g (1) or (2), in contravention of Article 19i (1), fails to commission a specialist firm as defined in Article 19l with the

- installation, fitting, maintenance, repair or cleaning of the installation, in contravention of Article 19i (2) sentence 1, fails to continuously monitor the installation, fails to sign a supervisory contract in contravention of an enforceable order pursuant to Article 19i (2) sentence 2, or fails to appoint a water pollution control officer in contravention of an enforceable order pursuant to Article 19i (3) sentence 2,
- d) in contravention of Article 19k, fails to supervise a procedure, fails to verify that the safety equipment is in proper working order, or fails to comply with the permissible tolerances of the installations and safety equipment,
- e) in contravention of Article 19l (1), installs, fits, maintains, repairs or cleans installations pursuant to Article § 19g (1) and (2) without being entitled to use the seal of approval of a supervisory or quality control association that is recognised under building law, or without having signed a supervisory contract with a technical control association,
7. in contravention of Article 21,
- a) fails to allow access to the site, facilities or premises, fails to allow access to installations or equipment, or fails to allow technical investigations or testing,
- b) fails to make available the required human resources, documents or tools, or
- c) fails to provide information, or to do so on time, or provides incorrect or incomplete information,
- d) fails to consult the water pollution control officer in connection with supervisory measures,
8. in contravention of Article 21a (1) or in contravention of an enforceable order pursuant to Article 21a (2), fails to appoint a water pollution control officer,
9. contravenes a regulation pursuant to Article 26 or Article 32b or Article 34 (2) relating to the introduction, storage, disposal or transportation of substances, or
10. (repealed)
11. carries out development measures without an approved plan pursuant to Article 31 (2) sentence 1, also in conjunction with sentence 2, or without a licence pursuant to Article 31 (3).

(2) A fine of up to fifty thousand Euros may be imposed for administrative offences in the cases outlined in paragraph 1 nos. 1 to 6 and nos. 8 to 11, and a fine of up to ten thousand Euros for the cases outlined in paragraph 1 no. 7.

#### **Article 42**

##### **Adaptation of *Länder* law**

(1) The obligation of the *Länder* pursuant to Article 75 (3) of the Constitution must be met by 22 December 2003 in the case of Article 1a (3), Article 1b (2), Article 25a (2), Article 25b (1) sentence 2, Article 25c (1), Articles 32c and 33a (2) and (4) sentence 3, Articles 36, 36b and 37a sentence 1.

(2) The *Länder* shall ensure that the provisions of Article 9 of Directive 2000/60/EC are transposed into provisions under *Land* law by the year 2010 at the latest, notwithstanding provisions under Federal law.

#### **Articles 43 and 44**

(Repealed)

#### **Article 45**

(Entry into force)

## Annex 1 (to Article 1b (1) sentence 3)



<Legende>:

***River basin districts in the Federal Republic of Germany (Directive 2000/06/EC – Water Framework Directive)***

*The marking and labelling of international river basin districts located outside the borders of the Federal Republic of Germany is for illustrative purposes only, and shall not affect the designations of other countries or international agreements.*

*Source: Federal Environment Agency, February 2002*

**Annex 2 (to Article 7a (5) )****Criteria for determining the state-of-the-art**

When determining the state-of-the-art, the following criteria in particular shall be taken into account, with due consideration for the fact that the benefits of potential measures are proportionate to the input, together with the principles of prevention and precaution, each with reference to installations of a certain kind:

1. The use of low-waste technology,
2. the use of less hazardous materials,
3. promoting the recovery and reuse of the materials generated and used in the individual processes, and where applicable, of waste,
4. comparable procedures, equipment and operating methods which have been successfully tested under operating conditions,
5. progress in technology and in scientific findings,
6. the nature, impacts and quantity of the respective emissions,
7. the date of commissioning of new or existing installations,
8. the amount of time required to introduce a superior available technology,
9. consumption of raw materials and the nature of the raw materials used in the individual processes (including water) and energy efficiency,
10. the need to prevent, as far as possible, or reduce, the overall impact of emissions and the risks to man and the environment,
11. the need to prevent accidents and minimise their consequences for man and the environment,
12. information published by the Commission of the European Communities in accordance with Article 16, paragraph (2) of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ EC No. L 257, page 26) or by international organisations.