

Content

Title :	Enforcement Rules for Water Act <b>Ch</b>
Date :	2018.11.12
Legislative :	<ol style="list-style-type: none"><li>1.Promulgated on March 22, 1943 by Executive Yuan.</li><li>2.Amendment promulgated on September 16, 1944 by Executive Yuan.</li><li>3.Addition and amendment promulgated on April 19, 1955 by Executive Yuan.</li><li>4.Amendment to Article 30 promulgated on July 1, 1959 by Executive Yuan.</li><li>5.Amendment promulgated on August 5, 1969 by Executive Yuan.</li><li>6.Amendment promulgated on May 12, 1975 by Executive Yuan.</li><li>7.Amendment promulgated on March 16, 1990 by Executive Yuan.</li><li>8.Amendment promulgated on November 17, 2004 by Executive Yuan.</li><li>9.Amendment to Article 29 and 36 promulgated on November 3, 2009 by Executive Yuan</li><li>10.Amended on September 13, 2016</li><li>11.Amendment to Article 5 promulgated on November 12, 2018</li></ol>
Content :	<p><b>Chapter 1 General Provisions</b></p> <p><b>Article 1</b> The Rules herein are set forth in accordance with Article 98 of the Water Act (hereinafter referred to as the “Act”).</p> <p><b>Article 2</b> The term “surface water” depicted in the Act refers to water flowing or standing on ground surface; the term “groundwater” refers to water flowing or standing below the ground surface. However, subsurface water inside the unsaturated zone under the riverbed within the waterway belongs to surface water.</p> <p><b>Article 3</b> The terms depicted in Article 3 of the Act below are defined as follows: <ol style="list-style-type: none"><li>1.“Flood control” means control or fending off heavy rainfall or flooding by artificial means to abate or alleviate the damages of flood submergence.</li><li>2.“Tidal wave control” means constructing sea embankment or using other artificial means to prevent damages brought about by tidal waves in coastal or estuary areas.</li><li>3.“Irrigation” means drawing water by artificial means to irrigate farmland or crops for the purpose of agricultural development.</li><li>4.“Drainage” means discharging by artificial means surface or ground water that is potentially hazardous or may be reutilized.</li><li>5.“Leaching of injurious salt” means flushing or leaching soil with water by artificial means to remove or reduce the acid, base or salt content in soil.</li><li>6.“Soil conservation” means using artificial means to enhance the rational use of land, conserve water sources, or prevent soil erosion.</li><li>7.“Water reservation” means holding or storing and utilizing surface or ground water by artificial means.</li><li>8.“Silt dredge” means diverting water to designated areas by artificial means to hold or precipitate silt or transport sediment to ameliorate land degradation or improve waterway.</li><li>9.“Water supply” means transporting and distributing water resources via hydraulic structures to supply water usages specified in the first paragraph of Article 18 of the Act.</li><li>10.“Pier construction” means constructing harbor or pier along the bank of waterway.</li><li>11.“Facilitating navigation” means opening waterways or digging canals by artificial means to facilitate navigation.</li><li>12.“Hydro-power development” means converting by artificial means the potential energy of water via water turbine into mechanical or electric energy.</li></ol></p>

#### Article 4

The term “waterway” depicted in the Act refers to areas run through by rivers, lakes, regional drainage, distributary.

#### Article 5

The term “reservoir” depicted in the Act refers to weir, dam and auxiliary facilities and water storage area thereto significantly associated with use of water resources and flood control, and announced as such by the central authority-in-charge. Reservoirs announced before the promulgation of this Rule as amended on November 12, 2018, regulations before the amendment shall still apply. The original reservoir announcement, when necessary, the central authority-in-charge may consult with the reservoir management agency (entity) and the related competent authorities to consider for abolishment in accordance with the preceding paragraph.

#### Article 6

The term “water right holder” in the Act refers to a person granted with water right, including individual, or legal entity, agency (institution), and non-legal entity having a representative or administrator.

#### Article 7

The term “water work proprietor” depicted in the Act refers to one of the following occasions:

1. In the case involving the construction, alteration or removal of hydraulic structures, the person who applies to the authority-in-charge for approval pursuant to the second paragraph, Article 46 of the Act before the work is completed; or the person who controls, operates, maintains or manages the water work after it is completed.
2. In the case not involving the construction, alteration or removal of hydraulic structures, the person who controls, operates, maintains or manages a water work.
3. Where the water work is constructed by the government, its proprietor is the government agency in charge before the work is completed, or the designated management agency after the work is completed.

#### Article 8

The term “soil and stone” depicted in the Act refers to ores existing in solid-state mass as stipulated in subparagraph 1, Article 4 of Quarrying Law and Article 3 of Mining Law.

#### Article 9

The term “water for agricultural use” depicted in the Act refers to water used by agricultural, forestry, fishery and animal husbandry industries; the term “water for industrial use” refers to water used by factories or mines for cooling, consumption or wastewater treatment; the term “water for hydro-power use” refers to water used in hydro-power generation.

### **Chapter 2 Water Districts and Administrations**

#### Article 10

The “alteration of waterway” depicted in Article 9 of the Act refers to the following behaviors:

1. Manually divert rivers or regional drainage in part or in whole to other rivers or regional drainage of the same or different water system, including original rivers or regional drainage having impacts on two or more municipalities or counties (cities).
2. Open up new waterways that divert rivers or regional drainage in part or in whole to the sea.

### **Chapter 3 Water Right**

#### Article 11

Regarding the “use of water needed by an entity” depicted in Article 17 of the Act, the following major factors should be considered:

1. Domestic use and public use: population of water supply.
2. Agricultural use:
  - (1) Irrigation: type of crop, irrigated area, irrigation rate, water conveyance loss,

and time of daily water use.

(2) Aquaculture: type and area of aquaculture.

(3) Livestock: type and number of livestock.

3. Hydro-power: designated water for generating units.

4. Industrial use: designated water for development of industrial areas, which is adjusted according to actual needs; for individual factories, the type of industry, use of water per unit area, and the area of factory shall be considered.

5. Others: granted based on actual purposes.

#### Article 12

When a single-purpose or multi-purpose water work proprietor applies for water right registration, the water yield registered for each purpose of usage shall be the use of water approved by the authority-in-charge for the water work project, unless it is otherwise agreed among different water work proprietors and approved by the authority-in-charge.

The yield of water approved for a water work project by the authority-in-charge as specified in the preceding paragraph shall not contravene Article 55 of the Act.

#### Article 12-1

When reviewing the water yield under the surface water right in hydraulic structures established in accordance with Article 55, the authority-in-charge shall refer to the average inflow and actual capacity within the storage area of hydraulic structures, the authorized water supply, the authorized downstream water yield under the surface water right, the use of water needed by an entity, and other necessary matters for approval.

The chief representative of water right registration or the administrative authority of hydraulic structures referred to in the preceding paragraph shall review and update the water supply of hydraulic structures on a regular basis or based on actual situations and submit it to the authority-in-charge upon applying for the extension of water rights as a reference to the review of water yield.

#### Article 13

Where the right of a water work changes hand as a result of compulsory execution or government requisition, the transfer, change or extinguishment of the original right shall be registered according to the Act based on the purpose and content of the compulsory execution or requisition.

#### Article 14

The authorized yield depicted in Articles 20 and 23 of the Act refers to the water yield stated in the water right deeds.

#### Article 14-1

When reviewing the water yield under the surface water right, the authority-in-charge shall refer to the constantly maintained yield based on hydrological testing, the authorized downstream water yield under the surface water right, the use of water needed by an entity, and other necessary matters for approval.

The constantly maintained yield referred to in the preceding paragraph refers to yield of surface water with flow exceedance probability of 85% or higher. The constantly maintained yield will be reviewed and updated by the authority-in-charge every five years.

#### Article 15

The surplus depicted in Article 21 of the Act refers to unstable possible yield of surface water with flow exceedance probability of 85% or higher, based on hydrological testing. Based on hydrological testing conducted in accordance with Article 21 of the Act, the temporary water right is granted only when the water source has a surplus.

Given that the yield constantly maintained by the water source is not sufficient to meet the demands of the applicant, the temporary water right will be granted only after the applicant changes the application.

#### Article 16

When applying for temporary right of water usage pursuant to Article 21 of the Act, the provisions for the application of water right registration apply to the qualification of the applicant, the format of application form, and the application procedure.

#### Article 17

Entities that have obtained temporary right of water usage pursuant to Article 21 of the Act should immediately stop the usage as notified by the authority-in-charge or as requested by an interested party through the authority-in-charge when the water source is unable to maintain a constant yield over the granted duration of right.

The temporary right of water usage may be reapplied according to the provisions of the Act upon expiration if the continuing use of water is deemed necessary.

#### Article 18

Where the authority-in-charge orders water right holders to improve their water conveying or usage technology or facilities pursuant to Article 22 of the Act or reassign water right pursuant to Article 25 of the Act, it may order the water right holder to register changes to water right within a given period. If the water right holder fails to comply accordingly, the authority-in-charge may proceed to make public announcement to the effect, cancel the original water right deed and issue a new deed. The given period referred to in the preceding paragraph is thirty (30) days, which may be extended another thirty (30) days if the application for extension is deemed reasonable by the authority-in-charge.

#### Article 19

The term “public utility” depicted in Article 26 of the Act refers to one of the following:

1. National defense facilities.
2. Water supply enterprises.
3. Public health.
4. Public buildings of the central or local government.
5. State-run enterprises.
6. Other enterprises run by the government for the purpose of public interest.

### **Chapter 4 Registration of Water Right**

#### Article 20

The term “transfer” depicted in Article 27 of the Act refers to the succession or all or part of assignment of water right and associated water work; the term “alteration” refers to change of name, title or representative without changing the entity of water right holder as specified in Subparagraph 3, Article 38 of the Act, or changes to the information stated in Subparagraphs 4 ~ 14 or Subparagraph 16 of Article 38 of the Act.

#### Article 21

The “natural navigation waterway” depicted in the second paragraph, Article 27 of the Act does not include waterway that was once canalized or had construction work performed to facilitate navigation.

#### Article 22

If the water intake point for drawing seawater lies below the average low tide level, application for water right registration provided in Article 28 of the Act is not required. The “average low-tide level” depicted in the preceding paragraph refers to the yearlong average low-tide level of the tide station closest to the water-intake in the latest Tidal Observation Data Annual Report published by Central Weather Bureau.

#### Article 23

The designated applicant for application of water right registered according to the first paragraph, Article 29 of the Act shall be the following:

1. For registration of water right acquisition, the water work proprietor or the entity that requires access to water source shall apply.
2. For registration of water right transfer or hypothecation of other rights, the water right holder and obligator shall jointly apply.
3. For registration of water right alteration, the water right holder shall apply.
4. For registration of water right extinguishment, the water right holder shall apply.

#### Article 24

The application for water right registration pursuant to Article 29 of the Act or for temporary right of water usage pursuant to Article 44 of the Act shall be for single source of water and single purpose of water usage.

#### Article 25

If the application form and support documents submitted by an applicant for water right registration pursuant to Article 29 of the Act has any of the following situations, the authority-in-charge should notify the applicant to remedy the situation in fifteen (15) days following the receipt of application:

1. The information provided in the application form is unclear.
2. The support documents are incomplete.
3. The application is made by an agent but no power of attorney is provided.
4. Other nonconformities of forms.

#### Article 26

An applicant shall make remedy in thirty days upon receiving the notice in the foregoing article or else will have his application rejected unless an extension is granted by the authority-in-charge.

The aforesaid extension is limited to once and shall not exceed thirty days.

#### Article 27

The order of acceptance of application for water right registration as provided in Article 29 of the Act or application for temporary right of water usage as provided in Article 44 of the Act shall be determined by the actual date (year, month, day, hour) of receipt by the authority-in-charge; for applications submitted by registered mail, the date of receipt shall be the date as postmarked.

#### Article 28

The application for water right or temporary right registration received by the authority-in-charge shall be processed by the order received. An applicant who registers the right first according to law will be granted the water right or temporary right first.

#### Article 29

The duration of water right specified in subparagraph 2 of Article 30, subparagraph 3 of Article 35 and subparagraph 4 of Article 38 of the Act shall be three to five years for each purpose of water usage as provided in the first paragraph of Article 18 of the Act. Notwithstanding the foregoing, the duration of water right shall be two to three years for each purpose of water usage as provided in the first paragraph of Article 18 of the Act if the source of water is associated with hot spring water right. The validity of permit for temporary use of water issued according to Article 44 of the Act shall not exceed two years each time.

The duration of water right shall be issued as applicants requested if less than the minimum duration specified in the first paragraph.

#### Article 30

The "joint water right" depicted in Article 31 of the Act refers to the same water right acquired jointly by two or more persons.

#### Article 31

When the authority-in-charge intends to conduct a survey pursuant to Article 33 or Article 44 of the Act, it may notify the applicant and interested parties to be present at the site of survey.

#### Article 32

When the authority-in-charge makes public announcement pursuant to Article 34 of the Act, it should mail a copy of the announcement to the applicant and interested parties mentioned in the foregoing article by registered mail on the same day.

#### Article 33

The written opposition filed by an interested party pursuant to Article 36 of the Act shall contain the following information:

1. The name, date of birth, residence, and ID No. of the opposer; in the case of a legal entity or organization with an administrator or a representative, its name, office or

- business place, and the name, date of birth, residence and ID No. of its administrator or representative.
2. Facts and grounds for opposition.
3. Title and number of evidence.
4. Date of filing.
5. Other required information.

#### Article 34

For the purpose of reviewing the opposition filed by an interested party according to the first paragraph, Article 36 of the Act, the authority-in-charge may, if deemed necessary, dispatch personnel to meet with the interested party and the applicant to conduct survey.

#### Article 35

The authority-in-charge shall, within thirty days after completing the survey mentioned in the foregoing article, make a decision on the opposition. If deemed necessary, the authority-in-charge may invite reviews according to Article 97 of the Act.

#### Article 36

A water right holder that finds it necessary to have the duration of water right extended shall, in a period of thirty days starting from two months before the expiration date, apply for registration of extension. A water right holder that applies the extension behind time and continues to use water after the expiration date shall be punished according to the Act.

A water right holder shall use water as stated on the water right deed in a period of the expiration of original water right and approval of extension, if the extension is applied during the duration of the foregoing paragraph.

#### Article 37

The so-called "other simple means of drawing water" depicted in Subparagraph 4, Paragraph 1, Article 42 of the Act refers to diverting or drawing water by non-mechanical power and through pipes of 2 inches (inclusive) or below in width or ditches with a cross-sectional area of 2,500 square centimeters (inclusive) or below, without any concrete structure built.

The use which is suspected of interfering with public water works or water usage by others depicted in Paragraph 2, Article 42 of the Act refers to the following cases:

1. Use of hot spring water that has a significant impact on the amount, temperature and ingredients of hot spring water or other public interests.
2. Use of water from the shared reservoir or water supply pipe established for the collective use of households in a community or village.
3. Other uses recognized by the authority-in-charge.

#### Article 37-1

People living in the area without water supply or with simple water supply or indigenous people living in indigenous areas and applying for water right registration for the domestic use or public use shall have the priority to be granted with the water right or temporary right in accordance with Article 43 of the Act.

#### Article 38

With regard to the issue of permit for temporary use of water by the authority-in-charge pursuant to Article 44 of the Act, the provisions for water right registration shall apply to its review, correction, survey, publication, handling of opposition, entry in temporary water use registration book, and preparation of permit.

#### Article 39

In case the water right deed or permit for temporary use of water is damaged or lost, the water right holder or the temporary permit holder should submit an application to the authority-in-charge for replacement or reissue.

#### Article 40

When replacing or reissuing a water right deed or temporary permit, the content of the deed or permit shall be identical to the original paper except for the date of

replacement or reissue.

## **Chapter 5 Water Works**

### **Article 41**

For the approval of hydraulic work construction, alteration or approval as provided in Article 46 of the Act, a water work proprietor shall apply to the municipal or county (city) authority-in-charge at where the base of the hydraulic structure is located; if the hydraulic structure has any of the following conditions, the water work proprietor shall apply to the central authority-in-charge:

1. The base involves two or more municipalities and/or counties (cities).
2. The base involves the river area, range of drainage facilities, sea embankment area or reservoir storage area under the jurisdiction of the central government.
3. The hydraulic structure is a major public work.

### **Article 42**

The central authority-in-charge will set forth rules for work completion inspection, issue of permit, and procedure for entry into the hydraulic structure registry involving hydraulic structure granted approval by the authority-in-charge pursuant to Article 46 of the Act.

### **Article 43**

An applicant shall report the date of work commencement for a hydraulic structure to the authority-in-charge prior to commencing the work.

### **Article 44**

For the registration of water right concerning a multi-purpose water work mentioned in the second paragraph, Article 53 of the Act, all right holders shall enter a water use agreement and elect one among them as the general representative to apply for the water yield of individual right holders and the collective registration of water right.

When issuing water right deeds, the authority-in-charge should simultaneously issue deeds to individual right holders and the general representative, and note in the name field of the deed the name of individual right holder and the name of general representative, and in the "other items" field of the deed, the water yield approved for said right holder.

Where a multi-purpose water work mentioned in the first paragraph hereof is initiated by the authority-in-charge, the agency in charge or the agency designated to manage the water work shall be the general representative for the purpose of water right registration.

The right holder in the first paragraph hereof refers to an individual, or legal entity, agency, and non-legal entity having a representative or administrator that has existing water right to certain water yield but will take water from the multi-purpose water work concerned or that shares the development expenses of water work concerned.

Where the right holders in the first paragraph hereof fail to elect a general representative, the authority-in-charge will appoint one among them as general representative.

### **Article 45**

When a municipal or county (city) authority-in-charge determines that a water work under application has the value of multi-purpose development, it should report to the central authority-in-charge to handle the application according to Article 54 of the Act.

### **Article 46**

(Deleted)

## **Chapter 6 Water Storage and Drainage**

### **Article 47**

The "flood" depicted in Article 64 of the Act refers to inundation and pooling of water; "inundation" is defined as an overflowing of water in the waterway that surpasses the possible accommodation and discharge limits of waterway and suffices to spill over and cause disaster; "pooling of water" is defined as a body of standing water on ground surface from rain or melted snow and enough to cause damages of flood

submergence.

The “distributary” depicted in Article 64 of the Act refers to another waterway constructed to divert the overflow in certain section of the main channel and merge the diverted flow back into the main channel at a proper downstream location or discharge the diverted flow into a lake or ocean, or store it temporarily in a low-lying area.

The “newly constructed waterways” depicted in Article 64 of the Act refers to new waterways constructed to divert or discharge water for the purpose of flood control; a waterway that is also used for navigation is regarded as a canal.

#### Article 48

Water that flows into the waterway system after being used by the original water right holder may be reutilized by the same water right holder or others. However the water user shall register his water right according to the Act.

#### Article 49

The “land likely to be flooded” depicted in Article 69-1 of the Act refers to water storage area reached by the maximum flood level designed for the reservoir and by its backwater, the land on which important facilities of the reservoir are built, and the protection belt of reservoir.

#### Article 50

The reservoir proprietor or its manager will draw up the rules and procedures for storage and utilization of water, flood control operation, emergency measures and reservoir operational procedures and submit them to the authority-in-charge for approval and public announcement.

#### Article 51

For reservoirs equipped with floodgate, the maximum outflow at the water level rising section during the flood period shall not be greater than the maximum inflow into the reservoir; the increment of discharge flow of reservoir shall not surpass the maximum increment of inflow. However when there is concern over reservoir safety, the flood control operation and emergency measures provided in the foregoing article may prevail.

The “outflow” in the preceding paragraph is the discharge flow after the regulation of after bay or equivalent facilities at downstream of reservoir, if any.

### **Chapter 7 Waterway Protection**

#### Article 52

The “water level” depicted in the first paragraph, Article 74 of the Act refers to the alert levels classified and announced by the authority-in-charge.

#### Article 53

The “scope of waterway protection” depicted in the first paragraph, Article 75 of the Act refers to river area, range of drainage facilities or areas reached by the flow of waterway.

#### Article 54

The “emergency measure for flood control” depicted in the first paragraph, Article 76 of the Act applies to the period of torrential rain alert or typhoon alert announced by the Central Weather Bureau.

#### Article 55

The agency in charge of flood control as provided in Article 77 of the Act shall keep the authority-in-charge informed of the water level everyday during the flood control season; when the flood water rises, the agency shall immediately circulate the water level information to relevant agencies and provide the authority-in-charge with a summary of the river sections with flood control works in place, the status of construction, and flood situation; after the flood control facilities are removed, the agency shall prepare a report on the course of flood control and submit it to the authority-in-charge for reference.

#### Article 55-1

Discharging wastewater or drawing water with prior approval from the authority depicted in Subparagraph 2, Article 78-1 and Subparagraph 2, Paragraph 2, Article 78-3 of the Act refers to discharging wastewater or drawing water in constructions.

#### Article 55-2

Plants or structures that shall be appropriately compensated in accordance with Paragraph 1, Article 79 of the Act are limited to those permitted by law; the land stretching to the outer reach of normal flood water depicted in Paragraph 2, Article 79 of the Act refers to the land ranging from the level of normal flood water to the line of river reservation zone.

#### Article 56

The “area between a dike and river banks” depicted in Article 80 of the Act refers to the area between the line connecting hydraulic structures and land outside the dike and the line on the water side of the river channel.

#### Article 57

The “sandbank or beach of a waterway” depicted in Article 81 of the Act refers to an area with access prohibited or restricted due to obstruction of water flow or flood control, including swamp, reclaimed land and delta at estuary, and designated flood discharge area.

#### Article 58

The “line of waterway management plan” depicted in Article 82 of the Act refers to the water-side dike shoulder lines or lines bordering the width of water surface under the waterway management plan; the “boundary line” refers to the line covering the designated or constructed hydraulic structures or drainage facilities, flood barrier roads, land reserved for maintenance and repair, and land for safety control.

#### Article 59

The “normal flood submerge level” depicted in Article 83 of the Act refers to the flood level corresponding to the runoff peak flow with two-year return period ; the “areas under normal flood submerge level” refers to areas covering the land-adjointing side of two banks facing the normal flood submerge level plus a certain area.

### **Chapter 8 Water Conservancy Fund**

#### Article 60

The “water right fees” depicted in the first paragraph, Article 84 of the Act refers to fees levied on water right holders; the “river construction fees” refers to fees levied on passing ships and boats on a quarterly or per time basis; the “flood control beneficiary fees” refers to fees levied on beneficiaries of flood control works on an installment basis.

The “river construction fees” in the preceding paragraph does not include lockage fees of canalized waterway; the “flood control beneficiary fees” includes the construction and maintenance costs of the flood control work.

The “water right fees” in subparagraph 1, first paragraph of Article 84 will be collected by the authority-in-charge of water right registration under Article 28 of the Act.

#### Article 61

The fund designated for water work constructions mentioned in the second paragraph, Article 84 of the Act refers to fund expended exclusively for the construction, maintenance, and management of hydraulic facilities, as well as the research and development of water works, including survey and testing, research planning, design and construction, scholarship, grant, manpower cultivation, and instrument manufacture.

#### Article 62

The “supply of water” depicted in Article 85 of the Act refers to water yield stated in the water right deeds.

#### Article 63

The water right fees levied according to Article 85 of the Act will be collected

according to the water yield stated in the original water right deeds if the registration of right extension, alteration or extinguishment is not carried out or if the registration is not completed during the levy period; after the registration is completed, water right fees will be levied according to the new registration record.

#### Article 64

The districts subject to flood control beneficiary fees depicted in Article 88 of the Act refer to districts protected by the construction and maintenance of flood control works.

#### Article 64-1

Intake or use without permission depicted in Paragraph 1, Article 93 of the Act includes the following cases:

1. Any person who takes or uses water without registering the water right based on the Act. However, wells that already exist since August 4, 2010 and are reported for control by the deadline prescribed by the authority-in-charge shall not apply.
2. Any person who has acquired the water right and takes or uses water in violation of Article 38 Of the Act, except for one who lawfully allocates water resources under the authority-in-charge's command in response to the drought.
3. Any person who is exempted from water right registration and takes or uses water before registering the water right by the deadline prescribed by the authority-in-charge based on Paragraph 2, Article 42 of the Act.

### **Chapter 9 Supplemental Provisions**

#### Article 65

The central authority-in-charge will prescribe the formats for the documents, charts, figures and forms stipulated in the Act and the Rules herein.

#### Article 66

The Rules herein shall be in force on the date of promulgation.