

**NB: Unofficial translation**  
**Legally binding only in Finnish and Swedish**

## **Water Act** **(587/2011)**

### **Chapter 1 – General provisions**

#### **Section 1 – Purpose of the Act**

The purpose of this Act is to:

- 1) promote, organise and coordinate the use of water resources and the aquatic environment, so as to render it socially, economically and ecologically sustainable;
- 2) prevent and reduce the adverse effects of water and the use of the aquatic environment; and
- 3) improve the state of water resources and the aquatic environment.

#### **Section 2 – Scope of application and relation to other legislation**

(1) This Act shall apply to water resources management issues. The provisions of the Environmental Protection Act (*Ympäristönsuojelulaki* 86/2000) shall apply to any water resources management issues that pose a threat of pollution of water bodies and that are not subject to a permit in accordance with this Act.

(2) The provisions laid down in or under the Nature Conservation Act (*Luonnonsuojelulaki* 1096/1996), the Antiquities Act (*Muinaismuistolaki* 295/1963) and the Land Use and Building Act (*Maankäyttö- ja rakennuslaki* 132/1999) shall be complied with when applying this Act and otherwise acting in accordance with this Act.

(3) Provisions on preventing environmental pollution are laid down in the Environmental Protection Act; on water services in the Water Services Act (*Vesihuoltolaki* 119/2001); on dam safety in the Dam Safety Act (*Patoturvallisuuslaki* 494/2009); on preventing health hazards in the Health Protection Act (*Terveydensuojelulaki* 763/1994); and on organising water resources management in the Act on Water Resources Management (*Laki vesienhoidon ja merenhoidon järjestämisestä* 1299/2004).

#### **Section 3 – Definitions**

(1) In this Act:

1) *water resources management issue* means the implementation of water resources management projects and other use and management of water resources and the aquatic environment;

2) *water area* means an area covered by water on a non-temporary basis, delimited in accordance with section 5;

3) *water body* means a lake, pond, river, brook and other natural water area and a reservoir, channel and other similar artificial water area; however, a streamlet, ditch and spring are not considered water bodies;

4) *river* means a water body with flowing water whose catchment area covers at least a hundred square kilometres;

5) *brook* means a water body with flowing water, smaller than a river;

6) *streamlet* means a channel smaller than a brook whose catchment area is less than ten square kilometres where water does not flow continuously and the passage of fish is not possible to any significant extent;

7) *groundwater* means water in the ground or bedrock;

8) *groundwater body* means groundwater stored as a distinct volume of water in the saturation zone;

9) *water resources management project* means a measure implemented in a water or land area or the use of a structure that may influence surface water or groundwater, the aquatic environment, water resources management or the use of a water area;

10) *party responsible for the project* means the applicant for or holder of a permit or some other party responsible for the preparation, implementation, use or maintenance of a water resources management project or practice of activities;

11) *hydropower* means the power calculated for a certain part of a water body, using the mean flow and corresponding fall height;

12) *hydroelectric power plant* means a facility constructed for the utilisation of hydropower in a water body, as well as the relevant structures;

13) *public channel* means a channel in a water body, designated as a public channel or public local channel under this Act;

14) *private channel* means a channel in a water body other than one referred to in paragraph 13 and section 6;

15) *area taken into special use* means a plot, building site, garden, storage site, bathing beach, harbour area or other similar land or water area;

16) *water supply plant* means a plant which manages the water services of a community, referred to in the Water Services Act; and

17) *dredged material* means bed material and sludge removed from the bottom of a water area.

(2) The provisions on fish and fishing laid down in this Act shall also apply to lamprey and crayfish, and to the catching of them.

## **Section 4 – Territorial waters and exclusive economic zone**

The provisions laid down in this Act on water bodies shall also apply to Finland's territorial waters and exclusive economic zone.

## **Section 5 – Boundary of a water body**

(1) When applying this Act, the shoreline according to the mean water level is considered the boundary line between a water area and dry land.

(2) If the water level or the position of the water and land area relative to each other changes or has changed, the boundary line of the water area is determined in accordance with the water level subsequent to the change.

(3) The boundary line between the sea and land area is the landward boundary line of the territorial waters under the Act on the Delimitation of the Territorial Waters of Finland (*Laki Suomen aluevesien rajoista* 463/1956).

## **Section 6 – Main channel**

(1) The deepest section of a river forms a channel for the free flow of water, transport, timber floating and passage of fish (*main channel*). The provisions laid down on main channels in this Act shall also apply to a strait or narrow channel in a water body that is regularly used for traffic or where fish usually pass.

(2) The main channel consists of one third of the width of the river in accordance with the mean water level. When a water body is regularly used for traffic or timber floating, the width of the main channel shall be at least seven metres.

(3) Upon application, the permit authority may confirm the width and position of the main channel. Should an important reason so require, the main channel may be defined as wider or narrower or its position may be specified as somewhere other than that provided in subsections 1 and 2.

## **Section 7 – Authorities**

(1) The regional state administrative agency serves as the permit authority referred to in this Act. Provisions on the authority of municipal environmental protection authorities and on ditch drainage proceedings in ditch drainage matters are laid down in Chapter 5.

(2) The centre for economic development, transport and the environment (*state supervisory authority*) and municipal environmental protection authority serve as the supervisory authorities referred to in this Act.

(3) The area of responsibility for fisheries matters of the centre for economic development, transport and the environment serves as the fisheries authority referred to in this Act.

## **Chapter 2 – Public rights, obligations and restrictions**

## **Section 1 – Ownership and property administration of water**

(1) The water in a water tank and well and other water abstraction facility is owned by the owner of the tank, well or water abstraction facility. The water in a spring and artificial pond is owned by the owner of the ground. Within the limitations provided in this Act, any other water with an open surface and groundwater is administered by the party to whom the water or land area in question belongs, unless otherwise provided by the right of another party.

(2) In a river or brook that is shared half-and-half by two real estates or two jointly owned areas of real estates, the owner of each of the halves has the right to an equal share of the water flowing in the river or brook.

## **Section 2 – Certain rights and obligations**

(1) The rights and obligations provided for in this Act concerning a water area or land area belong to the owner of the area, unless otherwise provided below or separately.

(2) Provisions on the right of a partner to a jointly owned area to use the jointly owned area are laid down in the Act on jointly owned areas (*Yhteisaluelaki* 758/1989).

## **Section 3 – Passage in a water body**

(1) Unless otherwise provided by law, everyone has the right, without inflicting unnecessary damage, harm or disturbance, to:

1) move in a water body and on its ice-covered surface;

2) anchor in the water body on a temporary basis;

3) float timber in the water body;

4) swim in the water body; and

5) temporarily move traps and other movable objects in a main channel or public channel that hinder passage or timber floating, as well as such movable objects outside the channel that unreasonably hinder passage or prevent timber floating.

(2) The provisions laid down in subsection 1 for a water body shall also apply to an area beyond the boundary line of the water area referred to in section 5 of Chapter 1 if the area is covered by water.

## **Section 4 –Water abstraction**

(1) Everyone has the right to abstract water or take ice from a water body for a personal need on a non-permanent basis and from an area beyond the boundary line of the water area referred to in section 5 of Chapter 1 if it is covered by water. Everyone also has the right to occasionally take a small quantity of water or ice from a streamlet belonging to another party or from a spring that is not in regular use by the owner or by another person with the permission of the owner. Provisions on other forms of abstracting water are laid down in Chapter 4.

(2) The abstraction of water or the taking of ice under subsection 1 may not cause harm or no more than a minor disturbance to the owner of the area or to other right holders.

### **Section 5 – Placing a structure in a water area belonging to another party**

The owner or possessor of a shore, even if he or she is not an owner or part owner of the water area, has the right to place an anchor post or mooring buoy in the water body offshore for private use, or to build a jetty, boathouse or another comparable structure on his or her shore that extends into to the water area of another party. This right is subject to the condition that the building or use of the structure does not require a permit under Chapter 3, section 2 or 3, and that this can be done without inflicting damage or causing substantial harm to the owner of the water area. However, such a right does not apply to a water area taken into special use.

### **Section 6 – Nuisance removal and the placing of dredged material**

(1) Anyone who suffers from sludge, shallow water or a similar nuisance regarding the use of a water body may, without the consent of the owner of the water area, carry out a measure necessary for removing the nuisance in order to improve the state and possibilities of use of the water body. This right is subject to the precondition that the measure does not require a permit under Chapter 3, section 2 or 3, and the performance of work does not cause substantial harm to the owner or environmental pollution in a water area referred to in section 3(1)(1) of the Environmental Protection Act. The same applies to the placing of dredged material in the water area of another party.

(2) The placing of dredged material on the land area of another party is subject to the landowner's consent. However, a permit authority may grant the right to place dredged material if this does not cause any notable harm to the use of the area and does not require an application for an environmental permit referred to in the Environmental Protection Act.

(3) The owner of the water area shall be notified of any measure referred to above in subsection 1 and of the method of performing the work no later than 30 days before the measure is carried out. The notification may be submitted to partners to a jointly owned area under section 26(3) of the Act on jointly owned areas or by delivering the notification to each of the known partners. The state supervisory authority shall also be informed of the measure in accordance with the provisions laid down in section 15 of this Chapter.

### **Section 7 – General obligations for the use of water resources and water areas**

A water resources management project shall be implemented and water resources and water areas otherwise used in a way that it does not cause any avoidable infringement of a public or private interest, if the purpose of the project or use can be attained without an unreasonable increase in the costs relative to total costs and any detrimental consequences to be caused.

### **Section 8 – Rights of the Sámi people**

A water resources management project located in the Sámi homeland or that has impacts on this shall be implemented in a manner that does not undermine to no more than a minor extent

the possibilities of the Sámi to exercise their right as an indigenous people to maintain and develop their culture and practise their traditional livelihoods.

### **Section 9 – Maintenance and removal of a structure**

(1) The owner of a structure built in a water body shall maintain the structure in such a condition that it does not pose a danger or result in adverse or harmful consequences that violate a public or private interest.

(2) A structure that affects the water level or flow of water shall not be removed without the consent of the permit authority. A permit may be granted on condition that the removal of the structure does not significantly infringe a public or private interest.

(3) Provisions necessary to secure a public or private interest shall be appended to the decision on removing a structure. Loss of any benefit caused by the removal shall be compensated for. However, one who has not contributed towards the costs of the project is not entitled to compensation for the loss of a benefit resulting from the structure to be removed.

### **Section 10 – Diverting the flow of water in a streamlet and ditch**

The owner of a streamlet, ditch or reservoir shall not obstruct or divert the free flow of water in the channel to the detriment of anyone downstream without the consent of the party concerned. Consent is not required if the use of water by the owner of a channel or reservoir requires the project to be implemented. If a downstream party abstracts water from the channel for household use in his or her real estate, the upstream party shall not use the water for other purposes to the extent that the supply of water required for household use of the downstream party's real estate is prevented. Provisions on ditch drainage and related measures are laid down in Chapter 5.

### **Section 11 – Protection of certain aquatic habitat types**

(1) It is prohibited to endanger the natural state of a coastal lagoon (flada in Finnish) with a maximum area of ten hectares, a lake created by land uplift (kluuvijärvi in Finnish) or a spring or, outside the region of Lapland, a streamlet or a pond or lake with a maximum area of one hectare.

(2) In an individual case a permit authority may, upon application, grant an exception to the prohibition laid down in subsection 1, if the conservation objectives of the aquatic habitats referred to in the subsection are not considerably endangered. If the consequence referred to in subsection 1 were to be caused by a project for which a permit has been applied for under this Act, the question of granting an exception shall be examined *ex officio* in connection with the permit matter. As applicable, the provisions laid down on the permit of a permit authority apply to the exception.

### **Section 12 – Right to an area belonging to another party**

(1) The party responsible for a project may be granted the right to an area belonging to another party including the buildings or other structures in the area if use of the area is necessary because of a water resources management project to be implemented for:

- 1) a device, building or other structure and their use and maintenance;
- 2) a bottom of a water area or new channel under Chapter 1, section 5(2);
- 3) placing of soil to be removed; or
- 4) a device or structure necessary to the protection of a public or private interest and their use and maintenance.

(2) The right shall be granted on a permanent or, for a special reason, temporary basis. The area may only be used for the purpose for which the right was granted.

(3) The matter regarding the granting of the right shall be decided on by the permit authority in connection with a permit matter or upon separate application. Loss of a benefit arising from the granting of the right shall be compensated for as laid down in Chapter 13.

### **Section 13 – Conditions for granting a right**

(1) The right to an area or structure belonging to another party referred to above in section 12 may be granted if the conditions laid down in Chapter 3, section 4(1)(2), for a water resources management project exist and on the basis of right of ownership or permanent right of use the applicant controls more than one half of the required area. If the area in question is one that jointly belongs to the applicant and other parties, the granting of the right requires that the area subject to the measure is not notably larger than the portion of the jointly owned area corresponding to the portion of the applicant.

(2) Regardless of the conditions laid down above in subsection 1, provided that the conditions referred to in Chapter 3, section 4(1), exist, the right may be granted to:

- 1) build a minor construction in a water body in the area of another party or jointly owned area provided that the water body is not substantially changed;
- 2) cause water to rise temporarily into an area that belongs to another party;
- 3) carry out cleaning work in the area of another party;
- 4) straighten or widen the channel to a minor extent; or
- 5) place bed material that has been removed on the land of another party or in the water area of another party, but not in an area taken into special use.

(3) If the water resources management project is required to meet a public need and the preconditions for granting a permit are met, an applicant may be granted the required right to another party's area or to purchase it into his or her ownership even if the conditions laid down in subsection 1 and 2 are not fulfilled.

### **Section 14 – Right to a structure belonging to another party**

(1) If a building, device or another structure whose removal is not covered by the right granted under sections 12 and 13 prevents the implementation of a water resources

management project, the permit authority may, on the preconditions laid down in Chapter 3, section 4, grant the right to remove, alter or utilise it.

(2) A decision granting an applicant the right to remove or alter a structure belonging to another party shall provide the owner of the structure, should he or she so require, with the opportunity to remove or alter the structure within a certain deadline. In such a case, the applicant shall compensate the owner of the structure for any reasonable costs incurred by the measure.

(3) If the owner wants to remove a structure for the use of which another party has been granted a permit and which the user still needs, the permit authority may, upon application, grant the latter the right to purchase the structure. The purchase price shall be determined in accordance with the value of the structure at the time, taking into account any payments made to the owner for building costs, and the possible nuisance caused by retaining the structure in the area of another party.

### **Section 15 – Obligation to provide notification**

(1) The party responsible for the project shall, at least 30 days prior to commencing a measure, notify the state supervisory authority in writing of:

1) any measure referred to in section 6(1);

2) removing bed material from the bottom of a water body, if the removal is not subject to a permit under Chapter 3, section 2 or 3;

3) abstracting surface water and groundwater where the quantity abstracted exceeds 100 m<sup>3</sup>/day and the abstraction is not subject to a permit under Chapter 3, section 2 or 3.

(2) The notification shall include information on the project, the method of implementation and environmental impacts. If the notification applies to an activity referred to in section 6(1), it shall also include information on other corresponding projects planned for the affected area that are known to the party responsible for the project.

(3) Further provisions concerning the method of submitting the notification and information to be included in the notification may be given by government decree.

## **Chapter 3 – Water resources management projects subject to a permit**

### **Section 1 – Scope of application**

The provisions of this chapter shall apply to all water resources management projects, unless otherwise provided separately.

### **Section 2 – General permit requirements for water resources management projects**

(1) Water resources management projects are subject to a permit by the permit authority if they may cause changes in the state, depth, water level or flow, shore, or aquatic environment of a water body or the quality or quantity of groundwater, and this change:

- 1) results in a risk of flooding or general shortage of water;
- 2) results in detrimental changes in the natural environment and the way it functions or deterioration in the ecological status of a water body or groundwater body;
- 3) significantly reduces the beauty of nature, causes deterioration in the amenities of the environment or in cultural values or the suitability of the water body for recreational use;
- 4) poses a risk to human health;
- 5) substantially reduces the yield of an important or other groundwater body suitable for use for water supply purposes, or otherwise impairs its usability or causes other damage or harm to the water abstraction or the use of water as drinking water;
- 6) causes damage or harm to fishing or fish stocks;
- 7) causes damage or harm to waterborne traffic or timber floating;
- 8) jeopardises the conditions for a brook channel to remain in a natural state; or
- 9) violates the public interest in another manner similar to the above.

(2) Moreover, a permit by a permit authority is required for a water resources management project if the change referred to in subsection 1 results in loss of benefit for the water area of another party, fishing, water supply, land, real estate or other property. However, a permit is not needed if the loss of benefit is caused to private interest only and the interested party has given written consent to the project.

(3) A permit by a permit authority is also required for:

1) altering a streamlet or ditch or water flow in a streamlet or ditch in a way that results in damage to the land of another party land, if the party concerned has not given consent to this action and it is not a question of ditch drainage referred to in Chapter 5;

2) use of a structure, built in a water area, which disrupts the use of a real estate belonging to another party and the party concerned has not given consent to this.

(4) A permit is also required for altering a water resource management project for which a permit has already been granted, if the change violates public or private interests in a manner referred to in subsections 1–3.

### **Section 3 – Water resources management projects subject to a permit in all cases**

(1) Regardless of the consequences referred to above in section 2, a permit by a permit authority is always required for the following water resources management projects:

1) closure or narrowing of a main channel or public channel or timber floating channel and placement of a device or another obstruction that hinders the use of the channel;

- 2) abstraction of water for the needs of a water supply plant or a party supplying water to such a plant or for transfer for use elsewhere and other abstraction of groundwater when the quantity abstracted exceeds 250 m<sup>3</sup>/day, as well as another measure where at least 250 m<sup>3</sup>/day of groundwater is extracted from a groundwater body on a non-temporary basis;
  - 3) absorption of water into the ground to produce artificial groundwater or to improve the quality of groundwater;
  - 4) construction of a bridge or a transport device over a public or main channel and a tunnel or water, sewer, power or other line under such a channel;
  - 5) transforming a land area permanently into a water area by raising the water level in a water body;
  - 6) construction of a hydropower plant;
  - 7) dredging of a water area when the quantity of dredged material exceeds 500 m<sup>3</sup>, unless it is a question of maintaining of a public channel;
  - 8) placing of dredged material into Finland's territorial waters for the purpose of dumping it when the quantity of dredged material in question is not insignificant;
  - 9) removal of soil material from the bottom of a water area for a purpose other than ordinary household use;
  - 10) establishment of a permanent facility for timber floating operations.
- (2) A permit is also required for making changes to a facility or structure referred to in subsection 1 for which a permit has already been granted or their use if the change violates public or private interests.

#### **Section 4 – General conditions for granting a permit**

- (1) A permit for a water resources management project will be granted if:
- 1) the project does not significantly violate public or private interests; or
  - 2) the benefit gained from the project to public or private interests is considerable in comparison to the losses incurred for public or private interests.
- (2) However, a permit may not be granted if the water resources management project jeopardises public health or safety, causes considerable detrimental changes in the natural state of the environment or the aquatic environment and its functions, or causes considerable deterioration in the local living or economic conditions.
- (3) The applicant shall hold a right of use to the areas required for the project. If the applicant does not own the area or control it through a permanent right of use, a permit may be granted on condition that the applicant is granted the right of use to the area in the manner provided in Chapter 2, or that the applicant presents a reliable account of how the right of use to the area will be arranged.

## **Section 5 – Relation to land use planning**

(1) When deciding on a permit matter, the local detailed plan shall be taken into account. In addition, the provisions laid down in the Land Use and Building Act on the legal impacts of regional plans and master plans shall be taken into account.

(2) When deciding on a permit matter, it shall be ensured that the permit does not complicate the preparation of a plan in any significant way.

## **Section 6 – Assessment of public benefits and losses**

(1) When considering the conditions for granting a permit, a general assessment shall be made of the benefits and losses caused to public interest by a water resources management project. A monetary value may be used in the assessment if the amount of the benefit or loss can be defined in monetary terms.

(2) Matters included in a river basin management plan under the Act on Water Resources Management with respect to factors related to the state and use of waters in the area impacted by the project shall be taken into account in the assessment.

## **Section 7 – Assessment of private benefits and losses**

(1) When considering the preconditions for granting a permit, the increase in the utility value of property resulting from the improved productivity or usability of a land or water area or other property and any immediate other benefits gained from implementing the project shall be taken into account as a private benefit gained from a water resources management project.

(2) Regarding a private loss incurred from the project, the following shall be taken into account:

1) right of use or right to purchase granted to the applicant;

2) costs incurred from damage and right of use that the applicant has separately agreed on with the stakeholder in order to implement the project and the costs of acquisition of areas voluntarily handed over to the applicant for a similar purpose; and

3) other losses incurred by a party not participating in the project and a passive partner in a ditch drainage operation referred to in this Act.

## **Section 8 – Validity of permit**

(1) A permit is granted until further notice or, for special reasons, a specified period.

(2) A permit valid until further notice shall specify the time period during which the water resources management project is to be implemented and the implementation started. The time limit for project implementation may be ten years at most, and that for undertaking implementation may be four years at most.

(3) For a special reason, the permit authority may, upon application, extend the time limit referred to in subsection 2. The decision on extending the time limit may involve amending or supplementing the permit regulations.

### **Section 9 – Expiry of permit**

(1) A fixed-term permit expires at the end of the time limit, unless otherwise provided in the permit decision.

(2) A permit valid until further notice expires if the significant parts of actions required in the permit decision have not been implemented or implementation has not been started within the period specified in the permit decision or within the period extended under section 8(3).

(3) The right of use to the property of another party granted in the permit decision will expire upon the expiry of a permit valid until further notice. The same applies to right to purchase, unless proprietary rights have already been transferred to the permit holder.

### **Section 10 – General permit regulations**

(1) The permit decision shall issue the necessary regulations on:

1) avoiding any nuisance resulting from the project and its implementation under the provisions laid down in Chapter 2, sections 7 and 8;

2) landscaping and other elimination of traces of work; and

3) measures and devices necessary to preserving the state of the water body and groundwater body.

(2) The permit decision for a project that affects the water level or water flow in a water body shall also, if necessary, include regulations on the maximum and minimum water level and arrangements for the discharge of water.

(3) If a project subject to a permit under this Act causes environmental pollution in a water area referred to in section 3 of the Environmental Protection Act or poses a threat of this, the provisions laid down in the Environmental Protection Act on issuing permit regulations shall also apply when issuing the permit regulations.

(4) When issuing a permit, the use of a right based on a permit may be restricted to a specified purpose only.

### **Section 11 – Monitoring obligation**

(1) Where necessary, the permit shall oblige the permit holder to monitor the implementation of the project and its impacts. The permit authority or, when designated by this, the state supervisory authority or fisheries authority may order several permit holders to jointly monitor the impact of their activities (*joint monitoring*) or may approve participation in monitoring carried out in the region in order to follow the activities. Joint monitoring may relate to monitoring based on the Environmental Protection Act and this Act. The decision on monitoring may grant the right to carry out measures concerning monitoring in the area of

another party. Any loss of benefit on account of monitoring shall be compensated for in the manner laid down in Chapter 13.

(2) Under the permit, the permit holder may be obliged to present a monitoring plan on the more detailed organisation of the monitoring referred to in subsection 1 to the permit authority or an authority designated by this for approval in sufficient time for monitoring to be initiated when the activity begins or at some other appropriate time with regard to the impacts of the activity.

(3) The authority that made a decision on joint monitoring or approval of a monitoring plan may amend the decision regardless of the permit being valid. The matter may be introduced by the own initiative of the authority that decided on the monitoring or at the request of the permit holder, supervisory authority, an authority protecting the public interest, a municipality or a stakeholder suffering harm. A decision on joint monitoring shall always be amended if a new permit holder has been ordered to participate in joint monitoring.

(4) When imposing a monitoring obligation, what has been considered necessary for organising the monitoring in a monitoring programme regarding the status of waters referred to in the Act on Water Resources Management shall be taken into account. Information gathered when monitoring a project may be used in monitoring under the Act on Water Resources Management and in preparing river basin management plans.

*Regarding appeals, see Chapter 15, section 1(3); fees charged for processing a matter, Chapter 18, section 12(4); and entry into force, Chapter 19, section 9.*

## **Section 12 – Imposition of a monitoring obligation**

A decision on the joint monitoring or approval of a monitoring plan or on changing these shall be made in accordance with the provisions of the Administrative Procedure Act (*Hallintolaki* 434/2003), as applicable, unless the decision is made when granting or amending a permit. The decision is issued after a public notice on it, and information on the decision shall be provided in accordance with the provisions on issuing and providing information on a decision laid down in Chapter 11, section 22, of this Act. Provisions on a request for a revised decision are laid down in Chapter 15, section (1)(3).

## **Section 13 – Accessibility and transport connections**

(1) In a permit decision it shall be stated that any project affecting a main or public channel is to be implemented in a way that the water body stays accessible and transport will continue without significant harm.

(2) If a project is implemented in a water body that is significant in terms of timber floating, the permit decision shall oblige the party responsible for the project to provide the required devices and structures for securing the passage of timber and to protect structures related to the project from damage caused by timber floating.

(3) If the project results in obstruction or significant disruption of a transport connection serving public or private use in a water area or on ice or a shore, the party responsible for the project shall be obliged in the permit decision to build a road or to assume responsibility for

the costs of building it, or to take other measures to provide a transport connection that meets reasonable requirements for those who need it.

#### **Section 14 – Fisheries obligation and fisheries fee**

(1) If a water resources management project causes damage to fish stocks or fishing, the party responsible for the project shall be obliged to take measures to prevent or reduce the damage (*fisheries obligation*) or be ordered to pay a fee to the fisheries authorities that corresponds to the reasonable costs of such measures (*fisheries fee*).

(2) When imposing a fisheries obligation, a fisheries fee or a combination of these, the type of the project and its impact, other management measures to be implemented in the affected area and the organisation of fishing shall be taken into account. Carrying out the measures involved in a fisheries obligation shall not cause unreasonable costs to the party responsible for the project in relation to the benefit gained.

(3) A fisheries obligation may consist of a fish passage, a restoration measure concerning fisheries, stocking or another fisheries management measure, or a combination of these. If necessary, a fisheries obligation may include monitoring of the success of measures in the water area detrimentally affected by the project.

(4) The fisheries fee shall be used for planning and implementation of the measures referred to in subsection 1 and monitoring of their success in the water area detrimentally affected by the project. The permit authority may issue orders to fisheries authorities on how to use the fee.

#### **Section 15 – Implementation plan for a fisheries obligation and plan for using the fisheries fee**

(1) The party responsible for the project shall prepare a detailed plan for implementing the fisheries obligation provided in the permit (*implementation plan for a fisheries obligation*). The implementation plan for a fisheries obligation is approved by the fisheries authority. However, preparation of the plan is not necessary if the fisheries obligation is a minor one and its contents are specified in detail in the permit.

(2) The plan specifying the measures to be taken by means of the fisheries fee (*plan for using the fisheries fee*) is confirmed by the fisheries authority. A joint plan may be prepared on the use of fisheries fees imposed for preventing detrimental impacts in the same water area.

(3) The decision on approving an implementation plan for a fisheries obligation and confirming a plan for using the fisheries fee shall be made in accordance with the provisions laid down in the Administrative Procedure Act. The decision is issued after a public notice on it, and information on the decision shall be provided in accordance with the provisions on issuing a decision and providing information on it laid down in Chapter 11, section 22, of this Act. Provisions on a request for a revised decision are laid down in Chapter 15, section (1)(3). A decision may be amended *ex officio* or at the request of the party responsible for the project, supervisory authority, an authority protecting the public interest in the matter, a municipality or a party suffering harm.

#### **Section 16 – Authorisation for preparation**

(1) In the permit decision, the permit authority may for a justified reason authorise the applicant to take preparatory measures (*authorisation for preparation*) even before the decision becomes legally valid. Where necessary, the measures shall be identified in the permit decision. Another party's area may be used for the measures referred to above only if such a right is established in the permit or the holders of rights otherwise agree to this.

(2) Authorisation for preparation may be granted, if:

1) preparatory measures can be taken without causing considerable harm to other uses of waters or the natural environment and its functions; and

2) after carrying out the measures in question the conditions can be essentially restored in case the permit decision is repealed or permit conditions changed.

(3) With the same conditions, authorisation for preparation may be granted upon separate application within the appeal period or within 14 days from the end of the appeal period. Regarding the application, supervisory authorities and those having appealed against the permit decision shall be heard. Thereafter, the decision shall be made without delay. The administrative court and appellants shall be informed immediately about authorisation granted for preparation. An appellant having appealed against a decision made on the main matter may request that the decision on authorisation for preparation measures be reversed or amended by an administrative court without the appellant having to submit a separate appeal on the matter.

### **Section 17 – Decision on authorisation for preparation**

(1) Unless the applicant is the state, a municipality or federation of municipalities, the decision on authorisation for preparation shall oblige the applicant to lodge an acceptable security before taking any measures, unless this is manifestly unnecessary. The security shall cover compensation for any damage, nuisance and costs that may result from repealing the decision or amending the conditions of the permit. The provisions laid down in Chapter 11, section 20, apply to releasing the security.

(2) The permit authority shall order whether the compensations imposed in the permit decision or some of them are to be paid before taking the measures referred to in the authorisation for preparation. Compensation may be drawn against an acceptable security. The decision by the permit authority referred to in this subsection may not be appealed.

(3) A decision on authorisation for preparation may be put into effect regardless of appeal. An appellate court may order that the continuance of operations be suspended or restricted. An appeal against authorisation for preparation shall be processed as urgent.

### **Section 18 – Notification of completion**

The party responsible for the project shall submit a notification to the permit authority and state supervisory authority on the completion of a water resources management project or on the taking into use of a structure that is part of the project (*notification of completion*).

### **Section 19 – Suspending a project**

(1) A project involving alteration of the mean water level or regulation of a water body shall be completed if measures have been taken to implement the project.

(2) A permit authority may, upon application, authorise the suspension of a project referred to in subsection 1. Such authorisation may be granted on the condition that suspension of the project does not infringe on a public or private interest to any significant extent.

(3) In a decision on suspending a project the party responsible for the project shall be ordered to take the measures necessary to preventing any damage and nuisance caused by the suspension and to pay compensation for damage resulting from the suspension.

### **Section 20 – Periodic review of permit regulations**

(1) A permit decision on a permit valid until further notice may order a periodic review of the permit regulations regarding the aquatic environment and its use in case this is necessary in order to avoid significant harm caused by the project.

(2) In this case, the permit decision shall provide the time by which the permit holder shall present specific permit regulations for examination by the permit authority and the accounts to be provided at that time.

(3) The permit authority shall process the matter, as applicable, as a permit application. If the permit holder has not submitted an application within the specified time limit, the permit authority may, upon application by the state supervisory authority or a party suffering harm or damage, order the permit to expire and issue the necessary regulations at that time.

### **Section 21 – Other review of permit regulations and issuance of new regulations**

(1) Upon application, the permit authority may review the permit regulations and issue new regulations if:

1) implementation of the project in accordance with the permit regulations has detrimental impacts that were not foreseen when the permit regulations were issued and that cannot be sufficiently reduced by other means;

2) implementation of the project in accordance with the permit regulations has detrimental impacts on account of changes in conditions and these impacts cannot be sufficiently reduced by other means; or

3) this is required by safety reasons.

(2) Unless otherwise provided in the permit decision, an application for reviewing permit regulations or issuing new regulations under subsection (1)(1) shall be submitted within ten years of submitting the notification of completion under section 18.

(3) The review of permit regulations or issuance of new regulations under subsection 1(2) or (3) shall not significantly reduce the benefit gained from the project. The applicant shall be ordered to pay compensation in cases other than minor loss of benefit caused by reviewing or

issuing new regulations in compliance with the provisions laid down in Chapter 13, as applicable.

(4) An application for the review of permit regulations or issuance of new regulations may be submitted by the holder of a private benefit suffering detrimental impacts, municipality, supervisory authority or an authority supervising a public interest in the matter. The permit authority shall process the matter, as applicable, as a permit application.

### **Section 22 – Review of regulations concerning a fisheries obligation or fisheries fee**

(1) Upon application, the permit authority may amend the regulations concerning a fisheries obligation and fisheries fee if the conditions have fundamentally changed. In addition, an obligation that has proven impractical in terms of fisheries may be altered if the result of the obligation relating to fisheries can be improved without a significant increase in the costs of fulfilling the obligation.

(2) If the fisheries fee has been imposed so as to be paid annually and the cost level on which it is based has changed, the fisheries authority will collect the fee adjusted by the rise in cost level. The adjustment will be made to a full ten per cent and in other respects in compliance with the grounds provided by the permit authority.

(3) Should a disagreement arise over the adjustment of the fee, the matter may be submitted, upon application, to the permit authority for a decision. The fisheries authority shall refund without delay the part of the fisheries fee collected in excess of the amount of fee imposed later by a decision of the permit authority.

### **Section 23 – Amendment of permit regulations upon application by the permit holder**

If it is found appropriate to amend permit regulations while a water resources management project is being implemented, the permit authority may amend the permit regulations upon application by the permit holder. A condition for amendment is that the change is of minor significance and that it does not significantly involve the right or benefit of another party. The permit authority shall process the matter, as applicable, as a permit application.

### **Section 24 – Ordering a permit to expire**

(1) Upon application, a permit authority may order a permit to expire, if:

1) the permit holder no longer exists or the permit holder cannot be identified without difficulty;

2) the project has lost its original significance; or

3) this is requested by the permit holder.

(2) In the case referred to above in subsection 1(2) the permit holder shall, should he or she so request, be given the opportunity to repair structures or take another measure relevant to the project that may essentially restore the benefit gained from the project on the grounds of which the permit was granted. The measure shall be ordered to be carried out within a

reasonable time period subject to notice of expiry of the permit and the entry into effect of the obligations provided under section 25.

(3) The provisions laid down in Chapter 14, section 14, shall apply to the right to initiate an application in the case referred to in subsection 1(1) and (2). With the permit holder's consent another stakeholder may also act in the case referred to in subsection 1(3).

### **Section 25 – Decision on the expiry of a permit**

(1) A decision on the expiry of a permit shall include issuance of the required regulations on the removal of structures belonging to the project referred to in the permit, taking into account the provisions laid down in Chapter 2, section 9(2) and (3) and section 24(2) of this chapter. In addition, the provisions laid down in Chapter 14, sections 4, 5 and 8, shall apply to issuing an order concerning removal.

(2) In the case referred to above in section 24(1)(1), the decision may include granting the applicant a permit to retain a structure and the right to obtain the structure free of charge. A similar permit to retain a structure may also be granted in the case referred to in paragraph 2 of the subsection if the owner of the structure has conveyed the structure to the applicant.

(3) In a decision on the expiry of a permit it shall be ordered that the rights of use to the property of another party expire. The same applies to purchase unless proprietary rights have already been transferred to the permit holder.

## **Chapter 4 – Abstraction of water**

### **Section 1 – Scope of application**

(1) The provisions laid down in this chapter shall apply to abstraction of surface water and groundwater. In this chapter the abstraction of surface water means abstraction of water from a water body, a streamlet and a ditch.

(2) The provisions laid down in this chapter on abstracting groundwater shall apply to abstraction of artificial groundwater. In addition, when conducting surface water into the ground for producing artificial groundwater, the provisions laid down in sections 7, 8 and 28 of the Environmental Protection Act shall be taken into account.

(3) When conducting water from a water body to meet the needs of a community, the provisions laid down in and under the Water Services Act shall also apply.

### **Section 2 – Abstracting water from one's own area**

(1) The owner or possessor of a water area may, notwithstanding the provisions laid down in Chapter 3, section 2(2), abstract surface water for ordinary household use of the real estate without a permit from a permit authority.

(2) If there is not enough water in the water body for the needs of all users in accordance with subsection 1, the municipal environmental protection authority may, upon application, issue a decision to restrict the abstraction of water from a water area, taking into consideration the

needs of those using the water. The decision shall specify whether the regulations issued are valid until further notice or for a fixed period. Should the conditions change, the regulations may be amended by a new decision.

(3) The provisions laid down in subsection 1 shall also apply, as applicable, to the right of the owner and possessor of the area to abstract groundwater. The co-owner of a jointly owned real estate or area has the right, within the limitations provided in this Act, to abstract groundwater available in the area in a manner that does not cause harm or disturbance to other co-owners nor prevent them from using the groundwater available in the area in a similar manner.

### **Section 3 – Abstraction of surface water from the water area of another party**

(1) The real estate owner and possessor may abstract surface water from the water area of another party for ordinary household use on the real estate, provided that the abstraction does not result in consequences referred to in Chapter 3(2). Abstraction shall not cause harm to those abstracting water from the same water area on the basis of a permit issued by a permit authority or ownership or occupancy of the water area. Placement of devices in the area of another party is subject to the consent of the owner or possessor of the area.

(2) Upon application, the permit authority may grant the right to the abstraction of surface water other than abstraction referred to in subsection 1 and for the placement of devices necessary to such abstraction in the area of another party.

### **Section 4 – Abstraction of groundwater in the area of another party**

(1) Upon application, a permit authority may grant the right to abstract groundwater and to place the devices necessary for this in the area of another party, if such abstraction is not subject to a permit under Chapter 3, section 2 or 3.

(2) The right to abstract groundwater may be granted for the purpose of ordinary household use of the real estate, organising water supply for a community or some other public need, or for such industrial or economic activity for which access to groundwater is of particular importance. Such a right may be granted provided that there will be a sufficient amount of water for the needs of the owner or possessor of the area, those residing in the area and businesses located there as well as any expected future residents, and that the measure does not pose unreasonable disturbance or nuisance to them.

(3) The right to abstract water from the well or water abstraction facility of another party may only be granted with the owner's consent.

### **Section 5 – Coordinating the different needs for water abstraction**

(1) When deciding on a permit matter concerning abstracting water, the various needs for water abstraction from a water body shall be coordinated.

(2) If there is not enough water to meet the needs of all users, the following order of precedence shall apply:

- 1) abstraction of water for use in the proximity of the abstraction site for ordinary household use of real estates;
- 2) abstraction of water for the water supply of the local community;
- 3) abstraction of water for the use of local industry or otherwise for use in the locality and abstraction of water serving the water supply of a community outside the locality;
- 4) abstraction of water to be conducted or transported for use elsewhere for a purpose other than supplying water to a community.

## **Section 6 – Decision on water abstraction**

- (1) A decision on abstracting water shall determine the purpose of the water abstraction, water abstraction site and the maximum quantity of water to be abstracted.
- (2) In addition to the provisions laid down in Chapter 3 on permit regulations, the permit shall issue the regulations on the location of structures necessary for conveying the water or the abstraction site, monitoring the quantities of water abstracted and measures that may be taken to secure water supply in special situations in terms of water abstraction.
- (3) If the need for abstracting water has ended or substantially decreased on a non-temporary basis and it is necessary to grant another party the right to abstract water from the same water body, the permit authority may review the regulations of the decision on abstracting water. The matter shall be processed, as applicable, in accordance with the provisions laid down in Chapter 11 on the application procedure.

## **Section 7 – Validity of permit to abstract water**

In order to secure the uninterrupted water supply of a community, a permit to abstract water may be granted, completely or partly, without considering the provision referred to in Chapter 3, section 8(2), on the time period within which the abstraction of water must begin.

## **Section 8 – Placement of water mains and devices**

- (1) A decision on the abstraction of water may grant the right to place a water main for the purpose of abstracting water in an area of another party. The placement of the water main in the area of another party shall be done in a way that the nuisance caused by it is minimised. The area in which the water main is located shall not be used in a manner that may damage the water main or that may cause unreasonable difficulties to its maintenance.
- (2) The provisions laid down in section 161a of the Land Use and Building Act on the placement of a water main shall apply in cases other than those involving a decision on abstracting water.
- (3) The provisions laid down in this section on water mains shall also apply to minor devices and structures connected to a water main, a sewer placed in the same trench simultaneously with the water main and other conduits servicing the abstraction of water or conveying wastewater.

## **Section 9 – Deviation from a permit to abstract water**

- (1) In exceptional water abstraction situations the holder of a permit to abstract water may supply water on a temporary basis for purposes other than those referred to in the permit without an express permit from the permit authority if this is necessary to ensure the uninterrupted functioning of community water supply or another similar important reason.
- (2) The state supervisory authority shall be notified of any measure referred to above in subsection 1.

## **Section 10 – Restricting the abstraction of water**

- (1) If long-term drought or another similar reason causes a considerable decrease in the supply of water, the permit authority may, upon application, oblige the owner of the water abstraction facility to restrict the quantity of water taken from the facility for a fixed period to secure the abstraction of water required for ordinary household use of real estates or for community water supply.
- (2) If the restriction results in unreasonable loss of a benefit to the owner of the water abstraction facility or the permit holder, the permit authority may, upon application, order the applicant requesting the restriction and others gaining an essential benefit from the restriction to compensate for the loss of benefit.

## **Section 11 – Protected area around a water abstraction site**

- (1) The permit authority may, in a decision on the abstraction of water or separately, designate an area around a groundwater abstraction site as a protected area. A protected area may be designated if it is necessary to restrict the use of the area in order to secure the quality of water or yield of a groundwater body. The protected area may not be designated as larger than necessary. A claim or application for the purpose of designating a protected area may be filed by the party responsible for the project, the supervisory authority or an interested party.
- (2) Under the conditions laid down in subsection 1, an area surrounding a surface water abstraction site may also be designated as a protected area.
- (3) A decision on designating a protected area shall be complied with in spite of any appeal procedures.

## **Section 12 – Regulations for a protected area**

- (1) The decision on designating a protected area shall provide the regulations necessary for securing the water abstraction on protective measures, other restrictions on the use of the protected area and supervision of compliance with the regulations (*regulations for a protected area*). Such regulations may not be stricter than necessary. The owner or possessor of the water abstraction site shall compensate for any loss of a benefit to another party resulting from the regulations.
- (2) In individual cases, the permit authority may, upon application, grant an exemption from the regulations for a protected area. Provisions on granting an exemption in connection with

an environmental permit matter are laid down in section 39(4) of the Environmental Protection Act.

(3) The provisions laid down in Chapter 3, section 21, on reviewing permit regulations shall apply, as applicable, to regulations for a protected area.

### **Section 13 – Right to purchase in a protected area**

Upon application, a permit authority may grant the owner or possessor of a water abstraction site the right to purchase an area within the protected area, if it is necessary for the purposes of devices or structures serving the abstraction of water.

## **Chapter 5 – Ditch drainage**

### **Section 1 – Scope of application**

(1) The provisions laid down in this chapter shall apply to ditch drainage and the use and maintenance of a ditch. Ditch drainage means the following measures implemented in order to drain land or to remove water interfering with the use of an area in other ways:

- 1) digging a ditch;
- 2) enlarging or straightening a ditch, streamlet or brook; and
- 3) cleaning out of a streamlet or brook to which the provisions laid down in Chapter 6 do not apply.

(2) The provisions of this chapter shall also apply to conveying wastewater in the manner provided for in the Environmental Protection Act.

### **Section 2 – Definitions**

(1) In this chapter:

- 1) *drainage area* means the lands that benefit from the joint ditch drainage;
- 2) *benefit gained from ditch drainage* means the rise in the utility value of land in terms of the purpose for which the land is used or, in view of the circumstances, can mostly be used;
- 3) *beneficiary* means the owner or owners of a real estate gaining benefit from ditch drainage;
- 4) *joint ditch drainage* means ditch drainage where the drainage area covers real estates owned by several landowners;
- 5) *active partner* means a beneficiary who has demanded ditch drainage or participated in such a demand or who, in order to gain an additional benefit, has demanded a change in the ditch drainage plan; and
- 6) *passive partner* means a beneficiary who is not an active partner.

(2) If the sewerage of a water supply plant is used to convey stormwater or foundation drainage water and water is conveyed outside the sewer network of a water supply plant, the area covered by the sewer network or part of it shall be considered as a separate partitioning area of the drainage area. In this case, the water supply plant shall be regarded as the beneficiary.

### **Section 3 – Permit requirement for ditch drainage**

Ditch drainage and the use and maintenance of a ditch is subject to a permit by a permit authority under this Act if it may cause:

- 1) environmental pollution in a water area referred to in section 3(1)(1) of the Environmental Protection Act; or
- 2) consequences referred to in Chapter 3, section 2, unless it is solely a question of a change in the flow rate of a brook caused by ditch drainage in the area above the brook.

### **Section 4 – Need for ditch drainage proceedings**

(1) A matter concerning ditch drainage that is not subject to a permit by the permit authority under section 3 shall be handled in ditch drainage proceedings if:

- 1) the ditch drainage results in the elimination or reduction in the size of a flooded area or a considerable change in the direction of the water flow;
- 2) for the purposes of ditch drainage, it is necessary to build a protective embankment or pump station on the land of another party and the matter is not agreed on;
- 3) the ditch shall be dug under a public road, railway, cable, gas pipe, water main, heating pipe or sewer and the party responsible for road or railway management or the owner of the cable, gas pipe, water main, heating pipe or sewer has not given consent to the measure;
- 4) no agreement on joint ditch drainage can be reached and the number of beneficiaries is at least three; or
- 5) it is a question of changing a plan decided on previously in ditch drainage proceedings, when establishing or dissolving a ditch drainage corporation, or in a matter concerning the rights and obligations of members in the corporation.

(2) The provisions laid down in subsection 1(3) on digging a new ditch shall also apply to enlarging an existing channel.

### **Section 5 – Jurisdiction of the municipal environmental authority in a ditch drainage matter**

(1) A municipal environmental authority shall handle a dispute concerning ditch drainage if it is not subject to a permit under section 3 or if it is not handled in ditch drainage proceedings under section 4 and it is caused by:

- 1) digging a ditch on the land of another party or across the private road of another party;
- 2) diverting the direction of a ditch;
- 3) conducting water into a ditch or brook on the land of another party; or
- 4) another similar reason.

(2) The provisions laid down in Chapter 11 on the application procedure shall apply, as applicable, to processing a matter concerning a dispute.

### **Section 6 – Notification of ditch drainage**

(1) The party responsible for the project shall provide notification in writing to the state supervisory authority of other than minor ditch drainage no later than 60 days before undertaking ditch drainage. Such a notification need not, however, be submitted if the ditch drainage was provided for in a decision referred to in section 3–5, an engineering plan referred to in the Highways Act (*Maantielaki* 503/2005) or a railway plan referred to in the railways act (*Ratalaki* 110/2007). The notification shall include information on the party responsible for the project, a description of the project and its environmental impacts, and the area impacted by the project. Further provisions concerning the contents of the notification may be given by government decree.

(2) If necessary, the state supervisory authority shall request the party responsible for the project to apply for a permit issued by a permit authority referred to in section 3 or ditch drainage proceedings referred to in section 4.

### **Section 7 – Implementation of ditch drainage**

(1) Ditch drainage shall comply with the provisions laid down in Chapter 2, sections 7 and 8. In addition, ditch drainage shall be implemented in a way that causes no harm through waterlogging or other loss of benefit in an area owned by another party. If, however, waterlogging or other loss of benefit remains considerably lower than the costs which would be incurred to the party responsible for the project in preventing such a consequence, the party responsible for the project may provide monetary compensation for the loss of benefit.

(2) The stakeholders may agree on forming or expanding a wetland to reduce ditch drainage costs or to promote environmental protection or flood control, and on possible compensation for losses of benefit resulting from these measures.

(3) An area belonging to non-organised partners of a jointly owned area or part of such an area may, by a decision given in ditch drainage proceedings, be formed into a wetland or part of it if the measure will not cause significant harm to the use of the area.

### **Section 8 –Maintenance and use of a ditch**

(1) The beneficiary or beneficiaries shall maintain the ditch in accordance with the provisions laid down in section 7. When a ditch drainage corporation has been established for the purpose of managing issues resulting from ditch drainage, the corporation shall ensure the maintenance of the ditch.

(2) If, when viewed as a whole, the ditch can be regarded as having been transformed into a channel in a state similar to one in a natural state, the provisions laid down on ditch drainage shall apply to its maintenance and use, notwithstanding subsection 1.

(3) Land at the location of a pipe conveying drainage water or wastewater shall not be used in a manner that may damage the pipe or unreasonably hamper its maintenance.

### **Section 9 –Right to undertake ditch drainage in the area of another party**

(1) If no agreement is made on ditch drainage in the area of another party, the beneficiary may be granted the right to:

- 1) conduct water into the ditch of another party;
- 2) dig a ditch or a build a protective embankment or pump station necessary for the purposes of ditch drainage in the area of another party; or
- 3) undertake the cleaning out of a brook or streamlet in the area of another party.

(2) The right referred to above in subsection 1 may be granted if it is necessary for the appropriate drainage of the area or to prevent a consequence referred to in section 7(1). The right to conduct water into another party's pipe ditch may only be granted if it is not possible to conduct water away by other means without unreasonable costs. The municipal environmental authority shall decide on granting the right, unless the ditch drainage requires a permit by the permit authority or a decision under ditch drainage proceedings.

(3) The provisions laid down in section 161a(2) and (3) of the Land Use and Building Act shall apply to a matter concerning the granting of a right referred to in subsection 1(2) in areas covered by a local detailed plan unless:

- 1) it is a question of an area covered by a detailed shore plan referred to in Chapter 10 of the Land Use and Building Act;
- 2) ditch drainage serves the purposes of the drainage of land designated as agricultural and forestry areas in the local detailed plan;
- 3) ditch drainage is mainly located outside an area covered by a local detailed plan;
- 4) ditch drainage causes damage or results in the need to conduct water to a real estate owned by a third party; or
- 5) ditch drainage requires a permit granted by a permit authority or a decision under ditch drainage proceedings.

### **Section 10 – Implementation of ditch drainage in the area of another party**

(1) A ditch in the area of another party shall be placed at the boundary of the property, or otherwise at a place where it causes as little harm as possible to the real estate owner. An open ditch, unless situated at the boundary of the real estate, shall not be dug without the owner's

consent in the area of another party put to special use or, unless necessary, in the area of another party that has been drained using subsurface drainage. The ditch is considered to include a one-metre-wide margin on both sides of the channel unless ordered to be wider or the quality of soil requires a wider margin.

(2) The landowner has the right to use the soil material removed from a ditch. If the landowner does not want to use the soil material, the party responsible for the project shall place the soil material next to the ditch or in another place where it does not cause harm to the landowner or prevent water from draining into the ditch or cause the slope of the ditch to collapse, or shall take away the soil material.

(3) A ditch that serves to drain the real estate of another party's estate shall not be blocked without reason, nor may the water flow in the ditch be obstructed. When a ditch has been dug in the area of another party, the owner of the area may be granted the right to alter the position and direction of the ditch at his or her own expense, if the change does not diminish the benefit gained from the ditch or cause significant additional costs to the beneficiary of the ditch drainage.

### **Section 11 – Permanence of right to ditch drainage**

(1) The right to dig a ditch on land of another party and to conduct water to the ditch of another party, based on a written agreement between the stakeholders or a decision under section 9, remains valid regardless of later changes in real estate ownership.

(2) If a ditch already located in the area of one real estate will, on account of a change in real estate division, pass through areas belonging to several real estates and unless otherwise agreed or ruled, the ditch shall be considered as one dug on the land of another party on the basis of an agreement. The provisions laid down in subsection 1 shall apply to such a ditch.

(3) Amendments to earlier decisions based on the provisions laid down in this chapter or legal relationships that otherwise apply to ditch drainage can be made in a new decision on ditch drainage.

### **Section 12 – Compensation for losses of benefit and responsibility for conveyance of water**

(1) Any loss of benefit caused by ditch drainage and a right under section 9 shall be compensated for as provided in Chapter 13.

(2) If water is conducted into a brook in the area of another party, the landowner has the right to compensation for the area to be taken into use only insofar as a new channel has been made for the brook or the channel has been considerably expanded.

(3) Anyone conducting water into the ditch of another party or a brook cleaned out by another party is obliged to compensate for the costs incurred in digging the ditch or cleaning out the brook. In addition, the party conducting water is obliged to participate in the expansion and maintenance required for the ditch. This compensation shall be ordered in compliance with the provisions on joint ditch drainage laid down in this chapter.

(4) If a pipe ditch must be enlarged for the purpose of conveying water under a right in section 9, the party conveying water to the pipe ditch shall carry out this work, including any additional work.

### **Section 13 – Roads, railways and service conduit lines**

(1) If, for the purpose of ditch drainage, it is necessary to dig a new ditch under a public road, railway, cable or gas pipe, move a cable or gas pipe or enlarge a brook or ditch across a road, the party responsible for the project has the right to require that such a measure be performed so that the land above a public road, railway, cable or gas pipe can be drained in accordance with section 15(2) down to a determined depth.

(2) The party responsible for the project shall, at his or her own expense, dig the ditch referred to in subsection 1 and enlarge the water channel. The party responsible for road management or railway management or the owner of the cable or gas pipe shall, however, at his or her own expense, build or install and maintain a bridge or culvert with foundations or move the cable or gas pipe.

(3) If the costs referred to in subsection 2 become unreasonably high in comparison to the benefit to be gained from ditch drainage, the party responsible for road or railway management or the owner of the cable or gas pipe shall not be obliged to build or install a bridge or culvert or move a cable or gas pipe. However, he or she shall compensate for any loss of benefit resulting from preventing the drainage of land regarded as necessary, unless compensation has already been provided for the loss of benefit in another context.

(4) If, in order to implement ditch drainage under this chapter, it is necessary to dig a new ditch under a private road or enlarge a brook or ditch across a private road and a new bridge must be built or a culvert installed for that purpose or an existing bridge or culvert altered, the work shall be performed at the expense of the party responsible for the project so that after the work the bridge or culvert is in a condition at least comparable to its former state. The party responsible for road management is responsible for the maintenance of the bridge or culvert.

### **Section 14 – Use of the ditch of another party for a purpose other than drainage of land**

(1) Unless the matter is agreed on, a municipal environmental protection authority may, upon application, grant the right to conduct water into the ditch of another party for a reason other than draining of water that interferes with the use of the area. In connection with a matter pertinent to an environmental permit, the right shall, however, be granted by the authority referred to in section 31 of the Environmental Protection Act.

(2) The right may be granted if the conveyance of water does not cause unreasonable harm. A right cannot, however, be granted for conveying water to a ditch that crosses an area put to special use and owned by another party.

(3) The party granted the right is obliged to carry out work related to enlarging, repairing and maintaining the ditch necessary for the conveyance of water and to ensure that the measure does not cause damage or harm that could be avoided at reasonable cost. Regulations necessary for carrying out the work may be appended to the decision referred to above in subsection 1.

(4) If the measures referred to in subsection 3 provide a benefit to another party, the provisions laid down on ditch drainage shall apply to the obligation of this party to contribute towards the costs incurred by the measures and to proceedings in determining the contribution. If the benefit gained from conveying water has increased on account of a change in the conveyance of water, the division of responsibility for maintenance between beneficiaries may be revised to comply with the new situation.

### **Section 15 – Drawing up a ditch drainage plan**

(1) A ditch drainage plan shall be drawn up if ditch drainage is subject to a permit issued by a permit authority or a decision issued under ditch drainage proceedings or if the nature or extent of the matter otherwise so require.

(2) The ditch drainage plan shall include information on the project and its method of implementation and drainage depth, an account of the benefit to be gained from the project, and an assessment of the impacts of the project. When determining the drainage depth, account shall be taken of the soil type, gradient and need for drainage. Further provisions on the contents of a ditch drainage plan, determining the drainage depth and the division of the drainage area into partition areas may be given by government decree.

(3) The applicant or other beneficiary is responsible for drawing up a ditch drainage plan. Before the ditch drainage plan is confirmed, the permit authority or executing official shall make the amendments or additions to the plan deemed necessary under this Act. If a ditch drainage plan shall be drawn up in accordance with subsection 1 and no plan has been presented, the executing official or permit authority shall ensure that a ditch drainage plan is acquired.

### **Section 16 – Confirmation of a ditch drainage plan**

(1) The permit decision or decision made in ditch drainage proceedings shall confirm the ditch drainage plan, the related cost estimate and list of divisions, including the distribution of costs.

(2) When a ditch drainage plan is confirmed under ditch drainage proceedings, the necessary regulations for implementing the project and monitoring its impacts shall be appended to the decision in accordance with the provisions laid down in Chapter 3, section 10(1) and section 11(1), as applicable. The provisions laid down in Chapter 3, section 8(2) and (3), on the time limit for implementing a project and extending it shall apply, as applicable, to a ditch drainage plan confirmed under ditch drainage proceedings.

(3) Ditch drainage may be undertaken in accordance with a confirmed ditch drainage plan. When ditch drainage is undertaken, minor deviations from the confirmed ditch drainage plan are permitted without revising the plan, provided that this does not influence the costs and the benefit gained from ditch drainage in any significant respect.

### **Section 17 – Participation in joint ditch drainage**

(1) All beneficiaries have the right to participate in joint ditch drainage. Every beneficiary has the right to demand that ditch drainage be carried out so as to gain the maximum benefit for

his or her area without altering the original purpose of ditch drainage and causing any unreasonable rise in costs.

(2) Should a beneficiary so demand, other beneficiaries are obliged to participate in joint ditch drainage.

### **Section 18 – Ditch drainage plan for joint ditch drainage**

(1) A ditch drainage plan for joint ditch drainage shall be confirmed to the extent necessary for carrying out ditch drainage with respect to active partners.

(2) After the final meeting of ditch drainage proceedings, an active partner has no right to renounce the project. However, a ditch drainage plan shall not be confirmed if all active partners renounce their demand for ditch drainage.

### **Section 19 – Responsibility for costs**

(1) Drainage costs include the costs of the project incurred by:

- 1) planning, processing the matter and acquisition of funds;
- 2) running the day-to-day business of the ditch drainage corporation during implementation;
- 3) implementation and compensation for losses of benefit resulting from the project; and
- 4) other similar measures.

(2) Beneficiaries shall be responsible for ditch drainage costs of joint ditch drainage incurred from the drainage of land in the drainage area or partition area down to the depth referred to in section 15(2) or the conducting of water for another purpose in proportion to the benefit gained, unless otherwise provided below. The beneficiaries may agree on dividing the costs in a manner differing from the provisions laid down in this chapter.

(3) Beneficiaries are responsible for maintenance costs under subsection 2, unless special reasons require a different division of costs. If a joint ditch becomes useless for one of the parties involved because a new ditch has been dug or another change in conditions, this party shall be exempted from participating in the maintenance costs. If the benefit gained from conducting water has increased because of a change in the conducting of water, the division of the responsibility for maintenance between beneficiaries may be revised to comply with the new situation.

(4) If the drainage area is divided into partition areas and the position of one of the areas is such that digging a joint ditch there is not necessary to the drainage of another partition area, the extent to and proportion in which the beneficiaries of such a partition area are responsible for the costs of the drainage area shall be determined when dividing the ditch drainage costs.

### **Section 20 – Joint responsibility of beneficiaries**

(1) If a beneficiary does not pay his or her share of the ditch drainage costs, the other beneficiaries are obliged to pay that share. The share shall be divided between the beneficiaries in the same proportion as the ditch drainage costs.

(2) If the share allocated to the party who neglected to pay is collected later, the funds shall be divided among those who have made the payments on the same grounds.

### **Section 21 – Maximum amount of costs**

(1) An active partner shall be responsible for joint ditch drainage costs up to a sum equating to the cost of separate drainage of his or her area. If it is found when dividing costs between beneficiaries that the share to be paid by an individual beneficiary is higher than this, his or her share shall be limited to that level.

(2) A passive partner is liable to contribute to ditch drainage costs up to an amount corresponding to the benefit that joint ditch drainage brings to his or her area. A decision on ditch drainage may entitle a passive partner to pay his or her share within a time limit of up to ten years. In this case, the partner is liable to pay annual interest under section 3(2) of the Interest Act (*Korkolaki* 633/1982) on the amount that has not yet been paid.

### **Section 22 – Ditch drainage corporation**

(1) A ditch drainage corporation shall be established for the purpose of implementing joint ditch drainage when the number of beneficiaries is at least three and:

1) ditch drainage is subject to a permit by a permit authority;

2) an agreement on joint ditch drainage cannot be reached; or

3) one of the beneficiaries demands that a corporation be established and this is to be considered necessary for the purpose of implementing ditch drainage, maintenance of ditches or managing other issues resulting from ditch drainage.

(2) A ditch drainage corporation may also be established on the preconditions laid down in subsection 1 by the demand of a supervisory authority if the beneficiaries have not undertaken measures to establish a corporation and a corporation is still considered necessary for the management of issues resulting from ditch drainage.

### **Section 23 – Members of a ditch drainage corporation**

(1) Beneficiaries are members of a ditch drainage corporation.

(2) If a party later on wishes to conduct water into a joint ditch dug by a ditch drainage corporation and thus may be considered to benefit from the ditch drainage, he or she shall be accepted as a member of the corporation by a decision of a corporation meeting. The meeting shall determine his or her share of the ditch drainage costs.

(3) If the real estate division changes in the drainage area of joint ditch drainage, the owner of the new real estate becomes a member of the ditch drainage corporation insofar as the drainage area covers the area of his or her real estate.

## **Section 24 – Establishing a ditch drainage corporation and rules of the corporation**

(1) A ditch drainage corporation shall be established when the matter of ditch drainage is processed by a permit authority or under ditch drainage proceedings, unless the beneficiaries agree otherwise on the matter. If a ditch drainage corporation is established under section 22(2) by the demand of a supervisory authority, the matter shall be decided on through ditch drainage proceedings.

(2) The authority deciding on the ditch drainage matter shall confirm the rules of the corporation, shares of the members in the ditch drainage costs and voting rights, and elect the first officials.

## **Section 25 – Decision-making in a ditch drainage corporation**

(1) In a ditch drainage corporation, the voting rights of each member correspond to the proportional share of the ditch drainage costs payable by this member according to the ditch drainage plan.

(2) A meeting may only decide on the cancellation of a project if in the invitation to the meeting it has been indicated that such a matter will be considered and all active partners present are in favour of the decision.

## **Section 26 – Dissolution of a ditch drainage corporation**

(1) If a ditch drainage corporation is dissolved, the ditches shall be returned to a natural-like state, to the extent allowed by the circumstances.

(2) A matter regarding the dissolution of a ditch drainage corporation shall be processed under ditch drainage proceedings. The provisions laid down in Chapter 12, section 19, on the dissolution of a corporation shall apply, as applicable, to the processing of the matter.

## **Section 27 – Fees charged from members**

(1) To cover the costs of ditch drainage, members of a ditch drainage corporation are obliged to make payments in accordance with a decision of a corporation meeting.

(2) When ditch drainage has been implemented, the officials shall present a revised calculation of the division of costs for approval by a meeting of the corporation. If, on the basis of a revised calculation, the division of the benefit gained from ditch drainage by the members is found to differ considerably from the estimate according to which the share of the members in the corporation was previously determined, the division of costs shall be amended accordingly. The same procedure shall apply if the ditch drainage corporation accepts a new member.

(3) The owner of a new real estate referred to above in section 23(3) is obliged to contribute towards the costs of ditch drainage after the corporation meeting has established his or her partnership. A new real estate owner shall be separately informed of holding the meeting. However, the provisions laid down in section 30 shall apply to right of lien as regards costs to be paid before the change in the real estate division.

(4) Payments may be collected on the basis of a list of division approved by a meeting of the corporation. If payment cannot be collected from one of the members, the provisions laid down in section 20 shall apply.

### **Section 28 – Advance payments**

(1) A meeting of a ditch drainage corporation may decide to collect advance payments from members. A passive partner cannot be obliged to make advance payments.

(2) Should an advance payment be delayed, the partner is obliged to pay interest in arrears on the delayed amount under section 4 of the Interest Act, unless the corporation meeting decides on a lower interest rate.

### **Section 29 – Payments collected from other beneficiaries**

(1) If the ditch drainage implemented yields considerable benefit to a party other than a member of the ditch drainage corporation and the benefit is the result of something other than an improvement in the drainage of the real estate, the party is obliged to contribute towards the costs of ditch drainage by an amount that at most corresponds to the value of the benefit.

(2) Upon application by a ditch drainage corporation, an obligation imposed on another beneficiary referred to above in subsection 1 to contribute towards the costs of ditch drainage shall be decided under ditch drainage proceedings. The provisions laid down in this chapter on collecting the payments from a partner of a corporation shall apply, as applicable, to collecting the payment share.

### **Section 30 – Real estate lien**

(1) In accordance with the provisions laid down in Chapter 20 of the Code of Real Estate (*Maakaari* 540/1995), the beneficiary's real estate shall be security for:

1) the cost share in accordance with a confirmed ditch drainage plan or a decision by a corporation meeting;

2) the cost share determined under section 29 and shares of costs for maintenance;

3) other cost shares resulting from ditch drainage incurred after the processing of a ditch drainage matter has been concluded;

4) interest on shares of costs referred to in paragraphs 1–3.

(2) After issuing a decision on a ditch drainage matter, the permit authority shall inform the registration authority of the payment shares referred to in subsection 1(1) and (2), with interest, for entry in the land register and register of mortgages. If a decision on a payment share is appealed against, the permit authority shall inform the registration authority of this without delay. The permit authority shall inform the registration authority about any decision made on the issue when the decision gains legal force. The provisions laid down in this section on the permit authority shall apply to the state supervisory authority if the issue is decided under ditch drainage proceedings.

(3) Corporation officials shall inform the registration authority without delay of the cost shares with interest in accordance with the decision of a corporation meeting and cost shares, with interest, incurred from ditch drainage after the ditch drainage plan was decided on for entry in the land register and register of mortgages. In addition, corporation officials shall provide information on changes concerning cost shares, if the division of costs has been revised or amended under section 27(2) at a corporation meeting or changed on account of a complaint filed under Chapter 12, section 17.

### **Section 31 – Initiation of ditch drainage proceedings**

(1) An application for ditch drainage proceedings shall be submitted in writing to the competent state supervisory authority. The state supervisory authority shall issue an order on conducting ditch drainage proceedings to a person subject to liability for acts in office employed in environmental administration with sufficient expertise (*executing official*). Further provisions on the qualification requirements of the executing official may be given by government decree.

(2) The executing official shall invite two trustees to conduct the proceedings from among the trustees elected to conduct cadastral procedures in the municipality or municipalities that are mainly impacted by the project. Ditch drainage proceedings may be conducted without trustees if the use of trustees is manifestly unnecessary on account of the nature of the matter and none of the stakeholders demand that trustees be used.

(3) Ditch drainage matters concerning several drainage areas may be processed in the same ditch drainage proceedings if combining such matters is possible without causing a delay or other nuisance.

### **Section 32 – Ditch drainage to be processed by permit authority**

(1) If the executing official finds that ditch drainage or a measure to be implemented in connection with it is subject to a permit by the permit authority, the executing official shall request that the party having initiated the proceedings apply for such a permit.

(2) Any proposal for a ditch drainage plan drawn up at the proceedings or presented there shall be appended to the permit application.

### **Section 33 – Meeting to be held in ditch drainage proceedings**

(1) A meeting shall be held as part of the ditch drainage proceedings to handle all matters involved in the ditch drainage proceedings.

(2) The executing official shall invite those whose rights or benefits may be of concern in the ditch drainage matter to the meeting to be held in the ditch drainage proceedings. The executing official shall give the state supervisory authority, fisheries authority and municipal environmental protection authority the opportunity to issue a statement on the ditch drainage project.

### **Section 34 – Final meeting**

(1) In addition to the meeting to be held in the ditch drainage proceedings, a separate final meeting shall be held as part of the ditch drainage proceedings, if a ditch drainage plan must be approved as part of the proceedings and the application concerning the proceedings does not include an appropriate plan or it is a question of ditch drainage referred to in section 4(1)(1).

(2) The final meeting shall be held as soon as the proposal by the executing official and trustees for a ditch drainage plan has been completed. In other respects, the provisions laid down on the meeting to be held in ditch drainage proceedings shall apply to the final meeting.

### **Section 35 – Notification of meeting**

(1) The meeting to be held in ditch drainage proceedings and the final meeting shall be publicly announced no later than fourteen days before the meeting in municipalities whose areas are impacted by the ditch drainage. Within the same period of time, the ditch drainage plan shall be submitted to the authorities mentioned in section 33(2) and sent to the municipality concerned for public viewing. In addition, the landowners concerned by the ditch drainage shall be informed about the meeting to be held in ditch drainage proceedings and the final meeting by a letter sent to a known postal address. If ditch drainage involves a brook on the land of another party with a power plant or other structure, the letter shall also be sent to the owner of the plant or structure.

(2) If ditch drainage concerns partners to a jointly owned area, the partners shall be informed about the meeting to be held in ditch drainage proceedings and the final meeting in accordance with the provisions laid down in Chapter 11, section 11(2), as applicable.

(3) In ditch drainage matters of minor importance and ones in which a notification under subsections 1 and 2 is unnecessary on account of the nature of the matter, information on the meeting to be held in ditch drainage proceedings and the final meeting may be given in another way. If the matter does not involve the right or benefit of parties other than the applicant, no notification is necessary.

### **Section 36 – Decision in a ditch drainage matter**

(1) When the meeting to be held in ditch drainage proceedings or the final meeting has been held, a decision on the proceedings shall be issued and it shall include:

- 1) the ditch drainage plan handled in the proceedings;
- 2) the decision on objections raised and claims made;
- 3) orders on the implementation of ditch drainage and maintenance of the ditch;
- 4) an assessment of ditch drainage costs;
- 5) the division of expenses;
- 6) orders on compensation for losses of benefit on account of ditch drainage; and

7) the calculation of the costs of the ditch drainage proceedings and compensation of these to the state.

(2) If ditch drainage requires an exception referred to in Chapter 2, section 11(2), a decision may not be taken in the ditch drainage proceedings before the permit authority has decided on the matter concerning the granting of an exception.

(3) The provisions laid down above in subsection 1 on the contents of the decision taken under the ditch drainage proceedings shall apply to the decision of the permit authority on a ditch drainage matter.

### **Section 37 – Issuing a decision taken under ditch drainage proceedings**

(1) A decision taken under ditch drainage proceedings shall be given within 30 days of the meeting to be held in ditch drainage proceedings or the final meeting, unless a state supervisory authority extends this period on special grounds. The decision is given on the date specified in a public notice posted on the notice board of the state supervisory authority, when the stakeholders are regarded as having been notified.

(2) In addition, those concerned shall be informed at a known postal address. The decision shall be delivered to the applicant and a copy of it to any other stakeholder having requested it. A copy of the decision shall also be sent to the municipal environmental protection authorities of the relevant municipalities, to the state supervisory authority and to the fisheries authority.

### **Section 38 – Land reparcelling**

If on account of ditch drainage it may be necessary to conduct a land consolidation operation referred to in the Act on land reparcelling on account of water body projects (*Laki vesistöhankeiden johdosta suorittavista tilusjärjestelyistä* 451/1988), the party that made the decision on the ditch drainage matter shall submit the ditch drainage plan to the land survey office concerned when the decision concerning it has gained legal force.

### **Section 39 – Costs of ditch drainage proceedings**

(1) The applicant is liable to cover the costs incurred from ditch drainage proceedings. The costs incurred from holding meetings and the fees paid to trustees and assisting personnel are regarded as costs of the ditch drainage proceedings. The executing official's daily allowance and compensation for travel costs will be paid from state funds.

(2) If the permit authority or executing official of ditch drainage proceedings acquires the ditch drainage plan or if the plan presented by the applicant or other beneficiary needs to be considerably supplemented, the applicant shall cover the costs incurred to the state. Provisions on the amount of the payment are laid down by decree of the Ministry of Agriculture and Forestry in accordance with the criteria laid down in the Act on Criteria for Charges Payable to the State (*Valtion maksuperustelaki* 150/1992).

(3) An advance fee may be deemed payable for the costs of ditch drainage proceedings. The provisions laid down in Chapter 18, section 12(3), shall apply, as applicable, to the handling of the matter.

## **Chapter 6 – Permanent alteration of the mean water level**

### **Section 1 – Scope of application**

(1) The provisions laid down in this chapter shall apply to permanent alteration of the mean water level in a lake or pond by lowering it (*lowering the mean water level*) or by raising it (*raising the mean water level*). Provisions on the drainage of land by ditch drainage are laid down in Chapter 5, on regulating a water body in Chapter 7, and on alteration of the mean water level related to the utilisation of hydropower in Chapter 8.

(2) Sections 2–4, 7, 10 and 11 of this chapter shall also apply to shore embankments and cleaning out of rivers, even if they do not involve alteration of the mean water level.

### **Section 2 – Private benefit gained from lowering or raising the mean water level**

In this chapter, a rise in the utility value of the water area or waterfront property for the purpose for which it is used or can mainly be used, in view of the circumstances, is regarded as a private benefit gained from lowering or raising the mean water level.

### **Section 3 – Permit applicant**

Parties that may apply for a permit to lower or raise the mean water level include:

- 1) the owner of a real estate gaining a private benefit referred to in section 2;
- 2) a corporation formed by beneficiaries under this Act;
- 3) a partner or partners to a joint water area;
- 4) the competent state authority; or
- 5) a municipality.

### **Section 4 – Special conditions for altering the mean water level**

Unless the project in question is required to meet a public need, a permit shall not be granted for a project intending to raise or lower the mean water level that causes:

- 1) material deterioration in the possibility to use a waterfront real estate that causes unreasonable nuisance or damage to the owner or possessor of the area and the owner or possessor has not agreed to the project; or
- 2) considerable deterioration in a special nature conservation value.

### **Section 5 – Consent by the owners of the area**

(1) If the project aims to lower the mean water level of a lake or pond, a condition for granting the permit is that the owners of the water area representing at least three quarters of the area of the lake or pond have given their written consent to lowering the water level.

(2) If the project aims to raise the mean water level of a lake or pond, a condition for granting the permit is that the owners of the land area representing at least three quarters of the area that will be under water have given their written consent to raising the water level. A permit may also be granted if, by virtue of ownership or permanent right of use, the permit applicant controls more than one half of the area that will be under water.

(3) However, consent by the owners of the area is not needed if altering the mean water level is required to meet a public need or for another purpose important to the general public, such as community water supply, flood control, recreational use of the water body, or nature conservation.

### **Section 6 – Right of use to an area belonging to another party**

The party responsible for the project is granted right of use required for the project to the land area that will be under water by decision of a permit authority granting a permit to raise the mean water level. In other respects, the provisions laid down in Chapter 2, sections 12 and 13, apply to granting a right to the area of another party.

### **Section 7 – Contribution to the costs incurred from lowering the mean water level**

(1) If it is a question of a project intended to lower the mean water level whose supporters represent more than one half of the value of private benefit to be gained from the project, each party gaining benefit from the project shall contribute towards the costs incurred from the project.

(2) The provisions laid down on ditch drainage in Chapter 5, sections 19 and 20, as applicable, shall apply to allocating the costs between beneficiaries. Correspondingly, the provisions laid down in Chapter 5, section 30, shall apply to right of lien of the costs.

(3) If in the case referred to in subsection 1 lowering the mean water level yields other considerable benefit in addition to private benefit, the permit authority may in connection with granting the permit, upon application, oblige the party gaining such benefit to contribute towards the costs of the project. The amount for which the beneficiary is liable must be reasonable and at most equal to the benefit to be gained by the beneficiary.

### **Section 8 – Contribution to the costs incurred from raising the mean water level**

In the permit decision the permit authority may, upon application, oblige a party gaining a private benefit from a project intended to raise the mean water level to contribute towards the costs incurred from implementing the project. The amount to be paid by the beneficiary shall correspond to the beneficiary's share of the overall benefit gained from the project. However, this amount shall not exceed the private benefit gained by the beneficiary.

### **Section 9 – Corporation established for the purpose of raising the mean water level**

(1) If the number of permit applicants is more than one, a corporation shall be established in accordance with the provisions laid down in Chapter 12 for implementing the measures to raise the mean water level. The permit authority shall confirm the rules of the corporation by a permit decision in accordance with the provisions laid down in Chapter 12, section 5.

(2) All parties gaining benefit from the project may become members of the corporation. If the real estate division changes, the owner of new property will be a member of the corporation insofar as any area of the real estate is included in the area yielding the benefit.

### **Section 10 – Corporation established for the purpose of lowering the mean water level**

(1) If the number of permit applicants is more than one, a corporation shall be established in accordance with the provisions laid down in Chapter 12 for implementing the measures to lower the mean water level.

(2) The provisions laid down in section 9 on a corporation established for the purpose of raising the mean water level shall apply to this corporation. However, all parties gaining a private benefit from the project are obliged to participate in the corporation as members, if it is a question of a project whose supporters represent more than one half of the value of the private benefit to be gained from the project.

### **Section 11 – Decision-making in a corporation established for the purpose of lowering the mean water level**

In a corporation established for the purpose of lowering the mean water level, each member has voting rights that correspond to the proportion of the share allocated to him or her for payment in the plan drawn up for the project of the costs of the entire project.

### **Section 12 – Collection of payments**

The provisions laid down on a ditch drainage corporation in Chapter 5, sections 27 and 28, shall apply to collecting payments from members of the corporation.

## **Chapter 7 – Regulation of water bodies**

### **Section 1 – Scope of application**

The provisions laid down in this chapter shall apply to the continuous regulation of water flow and water levels other than of a minor nature and the continuous discharge of water from a water body or part of it to another (*regulation of a water body*).

### **Section 2 – Permit for regulation of water bodies**

(1) The benefit gained and losses incurred from regulation of a water body shall be assessed in accordance with the provisions laid down in Chapter 3, sections 6 and 7. The benefit gained from increasing the volume of hydropower shall, however, be assessed in accordance with the provisions laid down in Chapter 8, section 2(2).

(2) A permit decision on regulation shall, in addition to the provisions laid down in Chapter 3, sections 10–14, lay down provisions on the discharge of water.

(3) If regulations referred to in subsection 1 or Chapter 3, section 10(2), have been issued for projects implemented earlier in the water body or part of it that is subject to the regulation, these can be amended. Correspondingly, the regulations laid down in Chapter 3, section 21(3), apply to compensation.

### **Section 3 – Use of a structure**

(1) A permit concerning regulation of a water body may oblige the owner of a structure suitable for the regulation to use the structure in a manner required for the regulation.

(2) Loss of a benefit caused by use of the structure shall be compensated for. When required by the owner, a permit applicant may also be ordered to purchase the structure instead of paying compensation.

### **Section 4 – Application for public notice**

(1) If regulation of a water body yields apparent benefit to others, the permit applicant must offer beneficiaries the opportunity to participate in the regulation by filing an application for public notice to the permit authority. When the applicant is a state authority, an application for public notice need not be filed.

(2) The project plan, an account of beneficiaries and the estimated amount of benefit they will gain and a cost estimate of the project shall be appended to the application for public notice.

(3) The permit authority shall request beneficiaries to notify the permit authority, by public notice, of whether they intend to participate in the project. However, the application for public notice shall be rejected if on the basis of the plan appended to the application it is apparent that a permit cannot be granted for the project for which the application has been filed.

(4) If the application for a public notice has been filed in a connection other than permit application, the permit application concerning the project shall be filed within a year of the expiry of the notice period, unless the permit authority has extended the time limit upon application.

### **Section 5 – Participation in a regulation project**

(1) A party gaining significant benefit from a regulation project initiated by someone else has the right to participate in the project. The beneficiary shall provide notification to the permit authority of his or her participation in writing within the time limit specified in the public notice.

(2) If a beneficiary entitled to participate under subsection 1 has submitted notification of his or her participation in the project implementation, the permit authority shall, once the permit matter concerning water regulation is pending, instruct the applicant to undertake measures referred to in Chapter 12 for establishing a corporation for water regulation.

### **Section 6 –Corporation for water regulation**

A corporation shall be established for the water regulation project if the number of permit applicants exceeds one or if the beneficiary, in accordance with section 5(1), submits notification that he or she will participate in a project initiated by someone else. A corporation shall be established in accordance with the provisions laid down in Chapter 12. The permit authority confirms the rules of the corporation by a permit decision in accordance with Chapter 12, section 5.

### **Section 7 – Members of a corporation for water regulation**

(1) Members of a corporation for water regulation include permit applicants, those who have submitted notification of participation in a water regulation project under section 5, and the beneficiaries approved later as members by the corporation. Members of a corporation for water regulation may also include a ditch drainage corporation or another corporation under water rights legislation if a permit authority considers this appropriate.

(2) A beneficiary has the right to join an already established corporation for water regulation if there is a justified reason for him or her being accepted as a member.

(3) A member of a corporation for water regulation has the right to resign from the corporation if the benefit gained by the member is considerably lower than assessed when the corporation was established and the corporation is able to manage its obligations regardless of the resignation.

### **Section 8 – Decision-making in a corporation for water regulation**

The share of the members of a corporation for water regulation in the corporation and the right to exercise voting rights are determined proportionately in accordance with the benefit that the regulation yields for each of them.

### **Section 9 – Responsibility of a member of a corporation for water regulation for the costs of regulation**

(1) The responsibility of the members of a corporation for water regulation for the costs incurred from regulation is determined proportionately in accordance with the benefit that the regulation yields for each of them.

(2) Provisions laid down on ditch drainage in Chapter 5, sections 19, 27 and 28, apply to the costs of regulation and the payments to be made by members.

### **Section 10 – Responsibility of an outside beneficiary for the costs of regulation**

(1) In a permit decision the permit authority may, upon application, oblige a beneficiary who is unwilling to participate in a regulation project to contribute towards the costs of the project. The state is not regarded as a beneficiary unless the regulation yields direct benefit to state property or a state water regulation project.

(2) After issuing the public notice referred to in section 4, the permit applicant shall submit his or her claim and a copy of the public notice to the beneficiary in a verifiable way to oblige the beneficiary to contribute towards the costs.

(3) Upon application, the permit authority may order the party responsible for the project to provide an account of the use of the payment referred to in subsection 1. The account shall be submitted to the state supervisory authority, where it shall be available for inspection to the party that claimed the account.

### **Section 11 – Determining the cost share of an outside beneficiary**

(1) The cost share of an outside beneficiary shall be determined so that it corresponds within reason to the beneficiary's share of the overall benefit gained from the project. However, the cost share shall not exceed the benefit gained by the beneficiary.

(2) When determining the cost share, the following shall be taken into account:

1) costs incurred from work, devices and structures necessary for the purposes of water regulation;

2) costs incurred from compensation for loss of benefit; and

3) twenty-fold the estimated annual expenses incurred from the maintenance of devices and structures and implementing water regulation.

(3) A share of an outside beneficiary may be ordered to be paid as a lump-sum payment or at most in twenty annual instalments of the same amount.

## **Chapter 8 – Utilisation of hydropower**

### **Section 1 – Scope of application**

(1) The provisions laid down in this chapter shall apply to the utilisation of hydropower and construction of a hydroelectric power plant.

(2) Construction of a power plant also includes the cleaning out of a water body and making a new channel for the plant and other measures for the purpose of taking hydropower into use.

### **Section 2 – Conditions for granting a permit**

(1) In addition to the provisions laid down in Chapter 3, section 4, conditions for granting a permit to construct a power plant include:

1) the applicant, as the owner or holder of the right of use, has the right to the hydropower to be used in the project; or

2) the applicant gains the right to utilise the hydropower in the context of granting the permit.

(2) When assessing benefits and losses in accordance with Chapter 3, sections 6 and 7, the value of hydropower production shall be taken into account as a benefit gained from utilising hydropower. The value shall be at least twenty-fold the price of electricity produced every year on average. In addition, when determining the value of production, the water regulation

benefit gained from the plant and other benefits that can be specified may be taken into account.

### **Section 3 – Conveying the right to use hydropower**

(1) The right to use hydropower, or part of it, obtained in a certain area (*right of use to hydropower*) may be conveyed to another party for a fixed term or permanently. In order for the agreement on conveying the right of use to have the impacts referred to in this Act, it shall be concluded in writing in compliance with the provisions laid down in the Code of Real Estate on the form in which immovable property is conveyed.

(2) The right of use to hydropower belonging to a real estate conveyed to another party permanently or for a fixed term can be recorded in accordance with Chapter 14 of the Code of Real Estate.

### **Section 4 –Right to purchase of the applicant**

In addition to the provisions laid down in Chapter 2, sections 12 and 13, on granting the right to the area of another party, an applicant may be granted the right, under the same conditions, to purchase an area belonging to another party for the purpose of a power plant or its use.

### **Section 5 – Utilisation of joint hydropower**

(1) A party who, on the basis of a proprietary right, conveyance of a share in a water area or a permanent right of use to hydropower, owns at least one fifth of hydropower in a part of a water body that can be used in an appropriate manner in the same hydropower plant may initiate the construction of a power plant necessary for taking hydropower into use. An initiative may also be taken jointly by hydropower shareholders who own at least one fifth of the hydropower to be taken into use.

(2) If no agreement can be reached on taking hydropower into use, the party launching the initiative shall make an offer with the intent to participate, as provided in section 8, to the shareholders of hydropower to be taken into use who own at least one hundredth part of such hydropower.

(3) The party launching the initiative and those who, where entitled to it, wish to participate in the project may be granted a permit to construct a power plant and, in connection with this, a permanent right to utilise against compensation the shares of other shareholders of said hydropower, if the preconditions for granting a permit otherwise exist.

### **Section 6 – Initiative when a fixed-term right of use expires**

If the owner of hydropower does not wish to renew an agreement by which a water area has been leased for the purpose of utilising hydropower or a fixed-term right of use to hydropower referred to in section 3 has been conveyed on the basis of earlier terms or new terms that are to be considered reasonable, the holder of the lease or right of use has the right to offer the owner of hydropower and other hydropower shareholders the opportunity to participate in the project as provided in this chapter. The holder of the lease or right of use has this right even when his or her share of the hydropower is less than one fifth.

## **Section 7 – Establishing a limited liability company for the purpose of utilising joint hydropower**

(1) For the purpose of utilising joint hydropower referred to above in section 5 a limited liability company shall be established, unless otherwise agreed.

(2) Those participating in the project convey the right of use to their shares of hydropower to the company against shares. Shares shall be allocated to each hydropower shareholder in a proportion that corresponds to the ratio of his or her share of the hydropower to the hydropower belonging to those participating in the company in total. Those participating in the company shall also accept shares against the part of share capital paid out in monetary terms in the same proportion.

(3) In order to solve a dispute concerning the making of a partnership agreement or the articles of association of a limited liability company, a party participating in the project has the right to request a district court to appoint two arbitrators and a chairperson for these to resolve the disputes in compliance with, as applicable, the provisions laid down in the Arbitration Act (*Laki välimiesmenettelystä* 967/1992).

## **Section 8 – Offer to participate**

(1) The initiator shall offer others entitled to participate under section 5 the opportunity to participate in the construction of a power plant by filing a public notice application with the permit authority.

(2) A project plan, an account showing who are the owners of the hydropower to be taken into use, and a cost estimate of the project, including a notification of which part of the costs is intended to be funded by project participants, shall be appended to the public notice application. Further provisions on the contents of the application and the accounts to be appended to it may be given by government decree.

## **Section 9 – Public notice on constructing a power plant**

(1) The permit authority shall, in a public notice, request those entitled to participate to notify the permit authority in writing of their participation in the project and to present the required account of their right to participate no later than the date specified in the notice. However, the public notice application shall be rejected if on the grounds of the account appended to the application it is apparent that a permit cannot be granted for the project.

(2) For the period of public notice, the documents shall remain available for viewing by interested parties at the official premises of the permit authority or another location specified in the public notice. After the public notice has been issued, the initiator shall, without delay, submit a copy of the public notice in a verifiable manner to other shareholders of the hydropower to be taken into use who own at least a hundredth part of the hydropower to be taken into use.

(3) A hydropower shareholder who fails to submit a notification specified in subsection 1 within the time limit loses the right to participate in the project. The same applies to a partner who has submitted a notification within the time limit who does not, within 60 days of

receiving a verified request, sign the partnership agreement with the related articles of association, or submit a request specified in section 7(3).

## **Section 10 – Permit application**

(1) A permit application for a project shall be filed within one year of the end of the time limit specified in a public notice referred to in section 9 under the warning that the initiative shall otherwise be deemed as having expired. Upon application, the permit authority may extend the time limit.

(2) Unless otherwise agreed, the permit application shall be made under the name of the limited liability company established as provided in section 7. An account that the offer to participate has been notified as specified in section 9 shall be given in connection with the permit application.

## **Chapter 9 – Timber floating**

### **Section 1 – Scope of application**

The provisions laid down in this chapter shall apply to timber floating under the general right of use laid down in Chapter 2, section 3, and places of activity necessary for this purpose.

### **Section 2 – Definitions**

In this chapter:

1) *timber floating* means the transport of timber in water by towing it tied into bundles or in cribs;

2) *place of timber floating activity* means a timber drop, storage, separation or bundling site, or a harbour of refuge necessary for the purposes of timber floating;

3) *timber floater* means the party responsible for timber floating;

4) *private timber floating* means timber floating by the owner of the timber on his or her own account;

5) *joint timber floating* means timber floating carried out by several timber owners on their joint account; and

6) *timber floating damage* means a loss of benefit resulting from timber floating at the place of timber floating activity or elsewhere which could not be foreseen when deciding on a matter concerning the place of timber floating activity.

### **Section 3 – Entity composed of places of timber floating activity**

When deciding on a permit matter regarding a place of timber floating activity, the significance of the individual place as part of the entity composed of places of timber floating activity shall be taken into account as a benefit referred to in Chapter 3, section 6(1).

#### **Section 4 – Altering the purpose of use of a place of timber floating activity**

- (1) Upon application by the timber floater, a permit authority may grant the right to also use the place of timber floating activity for other transport of timber by water.
- (2) The necessary regulations on avoiding nuisance caused by use referred to in subsection 1, as provided in Chapter 2, sections 7 and 8, shall be appended to a permit decision on the place of timber floating activity.

#### **Section 5 – Rights of a timber floater**

- (1) A timber floater has the right to move traps and other movable objects in a water body if they obstruct timber floating. Traps and objects shall be placed in an easily visible place in the water body or on the shore or taken into safekeeping for delivery to the owner.
- (2) A timber floater may temporarily store timber on ice for the purpose of floating it if the owner of the water area and shore taken into special use has given consent to this. Upon application, a permit authority may grant the right to take the measures referred to in this subsection.
- (3) Any loss of a benefit resulting from measures referred to above in this section shall be compensated for as provided in Chapter 13.

#### **Section 6 – Use of areas and structures**

- (1) Everyone engaged in timber floating in a water body has the right to use:
  - 1) an area to which right of use has been granted under this Act for the purpose of timber floating;
  - 2) structures in the area ordered to be built for the purpose of timber floating; and
  - 3) devices made in the area for the purpose of moving timber into water or hoisting it from water.
- (2) The user shall agree on the details of use with the owner of the structures and devices. As compensation the user shall pay the owner a share of annual capital and maintenance costs corresponding to the use that is to be considered reasonable.

#### **Section 7 – Joint timber floating**

- (1) Floating on the joint account of timber owners shall be carried out as joint timber floating. However, upon application, the permit authority may grant a permit for private timber floating in a certain area if the private timber floating is, considering the transport costs of timber floated in a water body, less costly than joint timber floating and the private timber floating does not impede the general arrangements for timber floating or other use of the water body.
- (2) A timber owner has always the right to privately float timber intended for ordinary household use.

## **Section 8 – Compensation for timber floating damage**

(1) A timber floating corporation is liable for compensation for any timber floating damage caused by timber floating in its operating area. A timber floater is liable for compensation for timber floating damage caused by timber floating outside the operating area of a timber floating corporation.

(2) The claim concerning compensation for timber floating damage shall be submitted in writing to the party liable for compensation, no later than during the calendar year following the occurrence of the damage. If the stakeholders do not agree on the compensation for timber floating damage, the matter may be initiated with the permit authority as a separate compensation issue.

## **Section 9 – Floated logs left on a shore or in a water body**

(1) A timber floater shall collect floated timber left on a shore or in a water body after the completion of floating operations. If floated timber is left on a shore or in a water body, the owner or possessor of the shore or water area or a partner in a jointly owned water area has the right to recover it. Floated timber remaining in the water body that has sunk or is partially submerged may be recovered by the party that suffers harm from it.

(2) A party that has recovered floated timber is obliged to inform the timber floater within one month of the recovery of timber floated in the same calendar year. If there is no need to inform the timber floater of the recovery of floated timber or the timber floater does not take possession of the timber within three months of having been informed of it, the party that recovered the timber shall gain ownership over it. If the timber floater takes possession of the timber, he or she is liable for compensation for any costs incurred by the party that recovered the timber in relation to the recovery and notification.

(3) The provisions laid down in subsection 1 do not apply to timber stored in storage, separation or bundling site designated in the permit as a place of timber floating activity.

## **Section 10 – Removal of sunken logs causing harm from a water body**

(1) A permit authority may oblige a timber floater to clean sunken or partially submerged timber out of a water body or remove floating devices left behind after timber floating which obstruct the use of the water body. If the timber floater is not to be found, such an order may be issued to the party that last engaged in timber floating in the water body. An application for obliging the timber floater to clean out the water body may be filed by the state supervisory authority or the party suffering harm. The matter shall be processed, as applicable, in accordance with the provisions laid down in Chapter 14.

(2) When timber floating has ceased and there is no active timber floating corporation, the state supervisory authority may, notwithstanding subsection 1, remove from the water body any sunken logs and other timber-floating waste that pose a danger or harm, if the measures do not lead to a change or consequence referred to in Chapter 3, section 2.

(3) If the state supervisory authority has cleaned out the water body under subsection 1 or 2, the timber removed from the water body becomes state property.

## **Section 11 – Timber floating corporation and its tasks**

(1) If an active timber floating corporation does not exist in the area, a timber floating corporation shall be established in accordance with the provisions laid down in Chapter 12 for the purpose of joint timber floating. The task of the timber floating corporation is to carry out joint timber floating in the operating area specified in its by-laws and manage the corporation's property and other tasks vested in it under this Act.

(2) A timber floating corporation may also undertake other tasks related to timber floating. The corporation may use property acquired for timber floating for a gainful purpose provided that the actual tasks of the corporation do not suffer as a result of this. The corporation may not engage in any other activity.

## **Section 12 – Members of a timber floating corporation**

(1) The owners of the timber to be jointly floated are the members of a timber floating corporation.

(2) Forest owners are entitled to have a joint representative in the timber floating corporation. The timber floating corporation shall request the forestry centres in whose operating area the timber to be floated by the corporation originates to nominate a candidate as a representative of the forest owners. The permit authority shall appoint as the representative of forest owners the candidate among those nominated by the forestry centres who best represents the forest owners in the area.

(3) The representative of forest owners in a timber floating corporation is entitled to reasonable compensation for his or her task from the forestry centre that nominated the representative as its candidate. If the timber to be floated originates in the operating areas of several forestry centres, these forestry centres shall be responsible for paying compensation according to the proportion in which the area where the timber to be floated originates is divided between the operating areas of the forestry centres. If any disputes arise on the amount of compensation or how it should be divided between the forestry centres, the matter may be initiated with a permit authority as provided in Chapter 11.

## **Section 13 – Rules of a timber floating corporation**

In addition to the provisions laid down in Chapter 12, section 4, the rules of a timber floating corporation shall mention the following:

- 1) the operating area of the corporation;
- 2) how the timber-floating foreman is hired to the post; and
- 3) when and how timber owners shall provide notification of the timber to be floated.

## **Section 14 – Meeting of a timber floating corporation**

(1) Members of a timber floating corporation who in the year in question have provided notification of timber for floating or whose timber the timber floating corporation has floated

and the representative of the forest owners are entitled to participate in the discussion at a meeting of the timber floating corporation of matters regarding timber floating for that year.

(2) At the meeting of the timber floating corporation, the number of votes of the representative of the forest owners shall represent, except for the organisational meeting, one fifth of the joint number of votes of members participating in the vote.

### **Section 15 – Board of a timber floating corporation and timber-floating foreman**

The timber floating corporation shall have a board that comprises the members elected at the meeting of the corporation and the representative of the forest owners. The provisions laid down in section 12 shall apply, as applicable, to appointing the representative of the forest owners to his or her task and to the fee paid to the representative. In addition, the timber floating corporation shall have a timber-floating foreman. The provisions laid down in Chapter 12, section 13, on the board and officials shall apply to the board and timber-floating foreman.

### **Section 16 – Conveying immovable property and execution**

(1) A timber floating corporation may convey or mortgage as security for a debt immovable property in its ownership, if authorised to do so by the permit authority upon application. An application shall be rejected if it is essential for the continuous practice of timber floating that the property in question remains in the possession of the timber floating corporation.

(2) Property referred to above in subsection 1 with the related devices and structures shall not be taken in execution for a receivable other than one mortgaged to the property in question.

### **Section 17 – Funds**

(1) A timber floating corporation may have funds managed in accordance with confirmed rules that are to be kept separate from its other assets for the purposes of balancing the costs of acquiring and maintaining property, paying out pensions, providing other services for officials and employees, aftercare measures of timber floating and removal of sunken logs, and the payment of any taxes, compensations and other remittances that fall due after the year of timber floating.

(2) The timber floating corporation shall apply for confirmation by the permit authority of any decision by a meeting of the corporation on establishing a fund and approving its rules. The permit authority may introduce revisions to the rules of the fund that are necessary to securing the interests of the members of the corporation.

(3) The assets of the fund may only be taken in execution for such debts for whose payment the assets in the fund according to the rules are intended.

### **Section 18 – Fees collected from members of a timber floating corporation**

A timber floating corporation uses fees collected from members to cover the annual costs incurred from engaging in joint timber floating. These fees shall be equal, reasonable and in proportion to the amount of corporation services used by each member.

## **Section 19 – Dissolution of a timber floating corporation**

(1) A timber floating corporation shall be dissolved after the joint timber floating has ended in a water body or part of it. If the board of the timber floating corporation has not undertaken measures necessary to dissolving the corporation within five years of the termination of timber floating, the state supervisory authority shall file an application with the permit authority to dissolve the timber floating corporation and to oblige the board to take the necessary measures or to appoint liquidators. An application for the dissolution of a timber floating corporation and appointing liquidators may also be filed by the timber floating corporation's acting board or the one that was last active. Depending on the extent of the task, there may be one or several liquidators. When managing the task, the liquidators have the authority held by the timber floating corporation.

(2) Once the dissolution of the timber floating corporation has been undertaken, authority belonging to the meeting of the timber floating corporation is exercised by the board of the timber floating corporation or the liquidators appointed for the task. If it is a question of floating related to a certain year, however, the members of the corporation in that year will exercise the authority belonging to the meeting of the timber floating corporation.

## **Section 20 – Liquidation measures of a timber floating corporation**

(1) The movable and immovable property of a timber floating corporation whose retention is not necessary for the practice of continuing timber floating in the river basin shall be liquidated. The party responsible for the liquidation measures shall prepare a proposal on liquidating immovable property of the timber floating corporation and submit an application for this to a permit authority. The permit authority shall issue an order specifying what part of the immovable property shall be liquidated. Other parts of the immovable property shall be designated for transfer to the state.

(2) The debts of a timber floating corporation shall be paid off with the assets gained from selling the property of the timber floating corporation. Any remaining assets shall be used for timber floating aftercare measures in the river basin concerned. Upon application by the party responsible for liquidation measures or the state supervisory authority, the permit authority may order the assets to be transferred to the state supervisory authority concerned, if it assumes responsibility for the aftercare measures specified in section 21.

(3) The liquidators' tasks shall end when all of the assets and obligations of the timber floating corporation have been liquidated or its assets transferred to the state supervisory authority in accordance with subsection 2.

## **Section 21 – Aftercare measures**

(1) If timber floating has ended in a water body or part of it and there is no active timber floating corporation in the area in question, the state supervisory authority may apply to the permit authority to issue an order on the expiry of the permits regarding places of timber floating activity.

(2) The state supervisory authority shall undertake measures to remove or alter devices and structures built for the purposes of previous timber floating activity that may pose a hazard or cause harm when the water body is used, and to restore a channel that was cleared out. If the

measures cause a change or consequence referred to in Chapter 3, section 2, a permit for the measures shall be applied for. The matter may be processed simultaneously with the application referred to in subsection 1 or separately.

## **Chapter 10 – Channels and other navigation areas**

### **Section 1 – Scope of application**

(1) The provisions laid down in this chapter shall apply to public channels and other navigation areas.

(2) The provisions laid down on a water resources management project and the permit granted for such a project shall apply, as applicable, to designation as a public channel and to constructing and maintaining a channel, unless otherwise provided in this chapter.

### **Section 2 – Designation as a public channel**

(1) Upon application by the Finnish Transport Agency, the permit authority may designate as a public channel part of a water body that must be kept open for purposes of public ship or boat traffic.

(2) Upon application, the permit authority may designate as a public local channel part of a water body that does not form part of a public channel and that must be kept open for public ship or boat traffic. Leisure boating is also regarded as public boat traffic.

(3) A public channel or public local channel may also be designated in a water body in which a main channel is located.

### **Section 3 – Requirements for designation as a public channel**

(1) The part of a water body designated as a public channel shall fulfil the requirements that can reasonably be set on a public channel, taking account of traffic to be operated in the water body. A decision by the permit authority shall include provisions on the position of the public channel. If the position is confirmed to deviate, in some respects, from what is presented in the application, the applicant shall be given the opportunity to present a response before the decision is made.

(2) The decision concerning designation as a channel shall also include provisions on dredging and the placing of dredged material in the water area, or on other measures if they are necessary in order to construct the channel. However, depending on the scope of the matter or for another reason, the permit authority may issue separate provisions on the channel before a decision is made on the measures in question.

(3) In the decision on designation as a channel, the permit authority shall include provisions on when the public local channel is to be taken into use. Taking a public channel into use is subject to a decision by the Finnish Transport Agency.

### **Section 4 – Amending a decision on a public channel**

(1) Upon application, a legally valid decision on a public channel may be amended or the channel may be closed in accordance with the provisions on designation as a channel, as applicable. If the party maintaining the channel opposes the claim for amendment or closure, a further condition for such opposition is that the channel or its use causes a detrimental consequence which was not foreseen when designating the water area as a channel, or that the circumstances have since substantially changed.

(2) Notwithstanding the provisions laid down in subsection 1, the party maintaining a public channel may change the position or extent of the channel to a minor degree in order to maintain the safety of navigation or for another important reason, if this does not cause an infringement of public or private interests. The state supervisory authority shall be notified of such a change.

(3) The party maintaining the public channel may temporarily change the public channel, if necessary in order to maintain shipping safety or for another important reason.

### **Section 5 – Installation of navigational aids**

(1) A party maintaining a public channel may install edge marks and radar marks, floating navigational aids such as buoys and spar buoys, and other comparable aids of minor impact in the water area of another party. Likewise, the party maintaining a public channel may place in the water body or on its shore auxiliary structures and devices for navigational aids, such as spar buoy anchors, bolts, poles and other minor devices. The placement of structures and devices referred to in this subsection shall be done so as not to cause any considerable harm to the owner of the area or to other holders of rights.

(2) The permit authority may grant the maintainer of a public channel a permit to install a navigational aid other than that referred to in subsection 1 in a water body or on its shore, and to remove obstacles hindering the visibility of navigational aids if the matter has not been agreed on with the owner of the area. For an area taken into special use, such a permit shall not be granted without a compelling need.

(3) Under the conditions laid down in subsections 1 and 2, the Finnish Transport Agency has the right to install navigational aids outside a public channel that are necessary in order to mark a shallow or reef, or for another similar reason.

(4) In addition, the provisions laid down separately on navigational aids shall apply to constructing navigational aids in a public channel or on its shore.

### **Section 6 – Navigational aids for a private channel**

When necessary for the safety of waterborne traffic, a minor navigational aid may be placed in the water area of another party in order to mark a private channel, if the placement does not cause any significant harm to the owner of the area or other use of the area. The owner of the water area shall be informed in advance of the placement. Otherwise, provisions laid down separately on marking a private channel shall apply.

### **Section 7 – Right to a water area belonging to another party in certain cases**

(1) In addition to the provisions laid down in Chapter 2, sections 12 and 13, on granting a right to the area of another party, the permit authority may, upon application, grant right of access to a water area or a right to purchase it for the purpose of a public loading or anchorage area or for a public port or harbour related to the channel.

(2) Upon application, the permit authority may grant the right of use to the water area of another party for the purposes of a private loading or anchorage area related to the channel. Upon application by the owner of the shore, the permit authority may also grant right of use to a water area belonging to another party for the purposes of a private harbour, if the traffic in question can be regarded as important. The right of use referred to in this section may be granted under the same preconditions as a permit for a water resources management project in accordance with Chapter 3, section 4.

### **Section 8 – Certain rights necessary to the operations of the Defence Forces and Border Guard**

(1) For the purposes of official duties, the Defence Forces and Border Guard have the right to permanently install in the area of another party navigational aids referred to in section 5 in compliance with, as applicable, the provisions laid down in the section on the rights of a party maintaining a public channel. The same applies, as applicable, to bolts and similar devices necessary for the purpose of temporary anchorage or mooring of vessels. If such a device is minor, the provisions laid down in section 5(1) on an auxiliary device for a navigational aid shall apply to it, unless the area in question is one taken into special use.

(2) The permit authority may also grant the Defence Forces or Border Guard the right of use of an area or right to purchase it, if necessary to perform their duties, for the purpose of a loading or anchorage area or port in cases other than those referred to in section 7(1).

(3) The applicant shall provide the permit authority with a sufficient account of the necessity of the right or measure applied for.

### **Section 9 – Compensation for loss of benefit**

(1) Compensation must be paid for loss of benefit caused by measures undertaken in the land or water area of another party under the provisions laid down in this chapter or under the right to use or purchase the area of another party.

(2) The party maintaining the channel is obliged to undertake remedial action or compensate for any loss of benefit caused by designation as a channel or the ordinary use of a channel, where it cannot be considered reasonable to sustain such loss. A decision on the designation as channel shall lay down provisions on remedial action or compensation in case of foreseeable loss of benefit. A permit authority may also order that provisions given on remedial action or compensation shall be separately reviewed at a time specified in the decision. If losses of benefit cannot be foreseen, the permit authority may order the party maintaining the channel to initiate, within a fixed period, an application process concerning the compensation.

(3) In addition, the provisions laid down in Chapter 13, section 8(1), shall apply to compensation for unforeseen loss of benefit.

## **Section 10 – Use of channel subject to a charge**

(1) The use of a channel in a water body shall not be subject to a charge. If construction costs are considerable, the permit authority may upon application grant the party maintaining a private channel and the Ministry of Transport and Communications may grant the party maintaining a public local channel the right to charge a fee from users of the channel in order to receive compensation for construction costs. This decision shall specify the amount and grounds of the charge and the period for which the right to charge fees remains valid.

(2) The owner of a lock or other device in a private channel has the right to charge a moderate fee for services relating to using the device. The owner or the party whose right or benefit the matter may concern may apply to the permit authority for confirmation of the amount and grounds of the charge.

(3) Notwithstanding subsection 1, the provisions laid down separately on charging a fee for the use of public channels and ports and on fairway dues referred to in the Act on Fairway Dues (*Väylämäksulaki* 1122/2005) shall apply.

## **Section 11 – Purchase obligation of the state**

(1) When a private channel or a public local channel is converted into a public channel, the state shall purchase the devices in the channel at the current value if these are necessary for the use of the public channel.

(2) If the party maintaining the channel has otherwise spent funds on constructing or improving the channel, the state shall pay compensation to the party maintaining the channel for these costs insofar as they have not been covered by charging fees in accordance with section 10 or if no support has been granted for them from state funds.

## **Section 12 – Maintenance obligation**

The party holding the right to construct or improve a channel on the basis of a decision on designating a channel is obliged to maintain the channel and the devices installed in it in accordance with the provisions laid down in Chapter 2, section 9, as applicable.

## **Chapter 11 – Application procedure**

### **Section 1 – Scope of application**

In addition to the Administrative Procedure Act, the provisions laid down in this chapter shall apply to the consideration of application matters by permit authorities.

### **Section 2 – Initiating an application matter**

A matter is initiated by means of a written application to the permit authority.

### **Section 3 – Contents of a permit application**

(1) The permit application shall include:

- 1) information sufficient for deciding on the matter regarding the purpose of the project and the impacts of the project on public interests, private interests and the environment;
- 2) a plan for measures necessary to implement the project;
- 3) an estimate of the benefits derived from and losses of benefit incurred from the project by register units of the land and water area and their owners and by other stakeholders;
- 4) information on monitoring the impacts of operations.

(2) If the application concerns granting a permit for a project referred to in the Act on Environmental Impact Assessment Procedure (*Laki ympäristövaikutusten arviointimenettelystä* 468/1994), an environmental impact assessment report in accordance with the Act shall be appended to the application documents. Insofar as the report includes information on environmental impacts necessary to applying the provisions of this Act, such a report shall not be presented again. If necessary, an assessment referred to in section 65 of the Nature Conservation Act shall be appended to the application.

(3) Further provisions on the contents of the permit application and information to be appended to the application may be given by government decree.

#### **Section 4 – Qualifications of the party preparing the application**

(1) One who prepares the application shall have sufficient expertise for the work in hand, taking into account the nature, scope and impacts of the project.

(2) Further provisions on the expertise required from the party preparing the application may be given by government decree.

#### **Section 5 – Supplementing the application**

(1) If the application is inadequate or deciding on the matter requires specific information, an opportunity shall be reserved for the applicant to supplement the application within a deadline set by the authority under notice that the matter may otherwise be dismissed.

(2) If deciding on the matter is significant in terms of the public interest or if important reasons so require, the applicant may be obliged to supplement the application or to obtain information necessary to deciding on the application under notice that such information will be obtained at the applicant's expense.

#### **Section 6 – Statements**

(1) The state supervisory authority within whose area of operation the impacts of the project may occur and the authorities supervising the public interest shall be requested to submit a statement on the application, unless such a statement is manifestly unnecessary. The Government shall be requested to submit a statement on any project of importance to society and of national significance which may have considerable or extensive harmful impacts.

(2) In addition, the permit authority shall request a statement from the municipal environmental protection authority in municipalities where the impacts of the project referred to in the application may occur, and from a municipality within the project area referred to in the application and, if necessary, from municipalities in the area impacted by the project.

(3) If the project is located in the Sámi homeland or its impacts extend to the Sámi homeland and the project may affect the rights of the Sámi as an indigenous people, the permit authority shall reserve the Sámi Parliament the opportunity to submit a statement.

(4) The permit authority may also seek other necessary statements and information relevant to the matter.

### **Section 7 – Objections and opinions**

(1) Before deciding on the matter, the permit authority shall reserve for the parties whose rights, benefits or obligations the matter may involve (*stakeholders*) the opportunity to lodge an objection to the matter.

(2) Before deciding on the matter, parties other than the stakeholders shall be reserved the opportunity to express their opinions.

### **Section 8 – Clarification by the applicant**

Where necessary, the applicant and other stakeholders shall be reserved the opportunity to provide clarification in response to the statements and opinions on and objections to the application. The stakeholder may be reserved the opportunity to submit an explanation on account of the clarification.

### **Section 9 – Right of action of an authority**

In an application matter, state authorities supervising the public interest have the right to act as stakeholders within their mandates. This also applies to the municipal environmental protection authorities of the municipalities to whose territory the impacts of the project referred to in the application may extend.

### **Section 10 – Announcement of the application**

(1) The application shall be announced by public notice published on the notice board of the permit authority and the notice boards of municipalities within the area impacted by the project. The public notice shall indicate the matters to be complied with when lodging objections and expressing opinions and other matters to be specified by government decree.

(2) The public notice shall be displayed for viewing for 30 days from the date specified by the permit authority. However, the permit authority may decide, taking into account the matter in hand, that the public notice shall be displayed for viewing for a longer period, but not more than 45 days. For notification purposes, one copy of the application and its appendices shall be delivered to the municipality concerned to be displayed for viewing at the location mentioned in the public notice.

(3) The publication of the public notice shall be announced in at least one newspaper in general circulation within the area impacted by the project, unless the matter is of minor importance or the notification is otherwise manifestly unnecessary.

(4) If the application concerns a project implemented within Finland's exclusive economic zone, the public notice referred to in subsection 1 shall be published in the municipalities whose territories the project involves. In addition, the publication of the public notice shall be announced in the Official Journal of Finland.

(5) As regards application matters of minor significance and application matters in which announcement in accordance with subsection 1 or section 11 is unnecessary on account of the nature of the matter, the announcement of the application may be given in another way. If the matter does not involve the rights or benefits of any party other than the applicant, no announcement is necessary.

### **Section 11 – Separate provision of information**

(1) The interested parties whom the matter specifically concerns shall be individually informed about the public notice.

(2) Notwithstanding section 26 of the Act on jointly owned areas, partners to a jointly owned area may be informed about the application by means of a public notice on the notice board of a municipality in a manner specifically provided for. If the application concerns the right of partners to an extent other than minor, publication of the public notice shall be announced in at least one newspaper in general circulation within the area impacted by the operations.

### **Section 12 – Joint consideration of permit applications**

(1) If the project involves operations subject to a permit both under this Act and the Environmental Protection Act, permit matters are processed jointly, taking account of the provisions laid down in section 39 of the Environmental Protection Act.

(2) A permit application under this Act and an application under the Environmental Protection Act concerning the pollution of waters referring to the same operations shall be processed jointly and decided on by a single decision, unless this is to be considered unnecessary for a specific reason. However, joint processing is not necessary if, in addition to an environmental permit, the project only requires a permit under Chapter 4 for the purpose of water abstraction and the abstraction of water and its discharge back into a water body have no direct connection in terms of water resources and water quality.

(3) If, when processing an application matter in accordance with this Act, it becomes apparent that the project also requires an environmental permit under the Environmental Protection Act, the permit authority shall order the applicant to file an application for an environmental permit within a reasonable time, under notice that the pending permit application will otherwise be dismissed.

### **Section 13 – Joint consideration**

If the applications are closely related to one another, the permit authority may consider them jointly if this can be considered appropriate and joint processing does not unreasonably delay the processing of the matter or cause other harm.

#### **Section 14 – Inspection**

The permit authority or an official employed by it may conduct an inspection of the matter referred to in section 39 of the Administrative Procedure Act. An inspection report shall be appended to the documents.

#### **Section 15 – Testimony**

(1) In connection with a viewing under section 38 of the Administrative Procedure Act or otherwise where necessary the permit authority may hear a witness under oath and a stakeholder under affirmation of truth.

(2) In connection with an oral testimony, a stakeholder who the testimony concerns shall be reserved the opportunity to be present when a witness or a stakeholder is being heard.

#### **Section 16 – Obtaining a specific account**

(1) Once a notification has been given, the permit authority may order a specific account which cannot otherwise be obtained without difficulty to be obtained for the purpose of deciding on the matter. When obtaining the account, stakeholders shall, where necessary, be reserved the right to be heard.

(2) The account is to be obtained by a person employed by the environmental administration with sufficient expertise. If the account is obtained by a person other than one employed by the permit authority, this person shall be appointed as a part-time referendary for the permit authority for the purpose of preparing the account.

(3) The account shall be prepared as a statement. The statement and other documents shall be submitted to the permit authority within three months of the permit authority announcing the initiation of the procedure. Further provisions may be given by government decree concerning the procedure to be followed when obtaining a specific account.

#### **Section 17 – Consideration of decision**

(1) The authority deciding on the matter shall examine the statements submitted on the matter and objections lodged and the conditions for granting a permit in a permit matter.

(2) In a permit matter the permit will be granted if the project meets the requirements laid down in this Act and decrees issued under it.

(3) The permit or right will be granted to the applicant. If a corporation has been established for the purpose of implementing the project, the permit or right will be granted to it.

#### **Section 18 – Partial decision on a matter**

(1) For a specific reason, the permit authority may in an application matter make a decision with respect to an individual matter before deciding on the other aspects of the matter. In this case the provisions laid down in Chapter 13 shall apply to compensation.

(2) If a detailed investigation of loss of benefit resulting from the project would unreasonably delay reaching a decision on the matter and the prerequisites for implementing the project are manifestly in place, the matter may be decided on with respect to aspects other than those regarding compensation for loss of benefit resulting from the project. However, compensation for purchasing a property or for granting right of use shall be determined in connection with granting the permit.

(3) For a specific reason, a permit authority may order that compensation for damage caused by a measure in accordance with the application be decided on at a later date. When deciding on the matter, the permit authority shall oblige the party responsible for the project to obtain an account necessary for the purpose of deciding on the matter of compensation and to file an application within a certain deadline in order to supplement a decision on compensation given in the matter. A decision on assigning a compensation matter for a separate decision will not prevent the party suffering damage from applying for compensation under this Act.

### **Section 19 – Amendment of a previous decision**

(1) When making a decision on the matter later regarding the aspects which had not yet been decided on, the permit authority may only make amendments to its previous decision that are necessary in order to eliminate contradictory or manifestly impractical provisions.

(2) If new clarification has been received on the grounds of a fisheries obligation or fee imposed in a decision under section 18(2), the permit authority may accept a matter concerning the revision and supplementation of the obligation or fee for consideration *ex officio*. In this case the permit decision may be amended to comply with Chapter 3, section 14, notwithstanding the provisions on revising permit regulations laid down otherwise in this Act.

### **Section 20 – Security**

(1) If a permit is granted under section 18(2) to an applicant other than the state, municipality or federation of municipalities, the applicant shall lodge an acceptable security on compensating for the loss of benefit resulting from the operations. As applicable, the provisions laid down in Chapter 3, section 17(1), apply to lodging a security.

(2) The security shall be lodged with the regional state administrative agency which shall supervise the interests of the recipient of compensation in lodging the security and act, where necessary, in matters concerning converting the security into money and distribution of the funds. The amount of the security shall be adjusted, if necessary.

(3) The security shall be released once the liability to provide compensation has been met or when a decision on compensation has become legally valid and operations have not been initiated before this. If compensation is ordered to be paid in periodic instalments, the security shall, however, be released when the decision on determining the compensation becomes legally valid, if all instalments falling due by that time have been paid or deposited under another provision. A decision by a permit authority on releasing a security may not be appealed.

## **Section 21 – Contents of a decision**

- (1) The decision shall include the necessary regulations in accordance with Chapter 3, section 10–14, on the project as well as other regulations on how the project is to be implemented.
- (2) The purpose of the application shall be explained in the decision or the application shall be appended to the decision insofar as necessary. The decision shall provide responses to the individual requirements set out in statements and objections. If the project causes loss of benefit that is to be compensated for, the decision shall include regulations on compensations in accordance with the provisions laid down in Chapter 13.
- (3) If the application concerns a project referred to in the Act on Environmental Impact Assessment Procedure, the decision shall indicate how the assessment has been taken into account. In addition, the permit decision shall indicate how account has been taken of the river basin management plan under the Act on Water Resources Management.

## **Section 22 – Issuing a decision and notification of a decision**

- (1) A decision is issued after public notice of it has been given, and those entitled to appeal against it are deemed to have knowledge of it when it has been given. The issuing of a decision shall be announced on the notice board of the permit authority prior to the date of issue.
- (2) The decision shall be delivered to the applicant. A copy of the decision shall be provided to those who have requested it, to supervisory authorities and to authorities supervising the public interest in the matter.
- (3) A copy of the decision shall be sent to municipalities in the area impacted by the project to be displayed for public viewing. The permit authority shall announce the displaying of the decision in these municipalities by a public notice. The public notice shall specify when the appeal period ends. A copy of the public notice shall be sent to a known postal address of the stakeholders referred to in section 11, to the authorities referred to in section 9, and to those who filed an objection or expressed an opinion on the matter.
- (4) In addition, information on the decision shall be published in at least one newspaper in general circulation within the area impacted by the project, unless the matter is of minor importance or the publication is otherwise manifestly unnecessary.

## **Section 23 – Compensation for the costs of supervision of the interests of another party**

- (1) Stakeholders are responsible for their own costs in relation to the permit authority.
- (2) A stakeholder is entitled to compensation for costs if it has become necessary to undertake specific measures in order to prove that the project causes loss of a benefit subject to compensation, or if there is otherwise a specific reason for compensating for the costs.
- (3) If, upon application by a party suffering damage, the party inflicting damage is ordered to pay compensation or undertake a measure, the permit authority may order the party inflicting the damage to pay compensation to the party suffering damage for costs incurred in the clarification of the matter. If legal aid has been granted to the stakeholder under the Legal Aid

Act (*Oikeusapulaki* 257/2002), the permit authority shall, when deciding on the compensation matter, confirm the amount of the fee to the legal counsel and the amount of deductible of the party receiving legal aid, and oblige this party to pay the deductible to the legal counsel as provided in the Act.

## **Section 24 – Consideration of a matter by a municipal environmental authority**

The provisions laid down in sections 1–11, 13, 14, 17 and 21–23 on consideration of a matter by a permit authority shall apply to consideration of a matter by a municipal environmental authority.

## **Chapter 12 – Corporation under water law**

*The provisions of this Act shall also apply to corporations established under water law before the entry into force of this Act. See Chapter 19, section 13.*

### **Section 1 – Corporation under water law**

(1) A corporation under water law referred to in this chapter may be established for the joint implementation of the following water resources management projects:

- 1) ditch drainage under Chapter 5;
- 2) permanent alteration of the mean water level under Chapter 6;
- 3) regulation of a water body under Chapter 7;
- 4) timber floating under Chapter 9;
- 5) restoration of a water body requiring measures in accordance with this Act, or a water resources management project implemented for another similar purpose.

(2) In addition, the provisions laid down elsewhere in this Act shall apply to a corporation under water law.

(3) The establishment of a corporation under water law may be initiated by any of the potential members of the corporation.

### **Section 2 – Membership in a corporation and list of members**

(1) Members of a corporation under water law include the owners of property gaining a benefit from the project referred to in section 1, users of the structures related to the project, and other beneficiaries. In addition, other parties, as provided elsewhere in this Act, are members of the corporation.

(2) The board of directors or an official of the corporation shall maintain a list of corporation members in order to organise the activities of the corporation. The identification and contact information of members shall be entered in the list. Information concerning a member shall be

removed five years after the termination of membership. Provisions on the processing of personal data are laid down in the Personal Data Act (*Henkilötietolaki 523/1999*).

### **Section 3 – Organisational meeting**

(1) In order to establish a corporation under water law, the initiator shall invite all known beneficiaries and other possible members to the organisational meeting. The organisational meeting may be continued, without sending a new invitation, at a time determined by the meeting. At the organisational meeting rules shall be adopted for the corporation and one or several officials or a board of directors shall be elected. Each member has one vote at the organisational meeting.

(2) The invitation to the organisational meeting shall be announced in at least one newspaper in general circulation in the locality, and a letter of invitation shall be sent to the known members. The invitation to the association of partners to a jointly owned area may be delivered in accordance with section 26(3) of the Act on jointly owned areas or by sending the letter of invitation to all known partners. The invitation is considered as duly delivered when the letters have been posted and the announcement is published no later than 14 days before the meeting.

### **Section 4 – Rules**

The rules of a corporation under water law shall mention:

- 1) the name of the corporation and the municipality where it is domiciled;
- 2) the purpose of the corporation;
- 3) grounds for calculating the number of votes of corporation members at a corporation meeting;
- 4) the number of officials or board members to be elected at the annual general meeting of the corporation, and the number of deputy members, if any;
- 5) how the chairperson of the board and vice chairperson are elected, the length of their term in office and a specification of their fee;
- 6) vesting the authority in certain matters in one or two officials or members of the board;
- 7) convening of the officials or the board of directors and the decision-making procedure;
- 8) how the signature of the corporation is to be written;
- 9) the accounting period of the corporation and the time during which the financial statements are adopted and how accounts are audited;
- 10) when the general meeting of the corporation is to be held;
- 11) how and when invitations to corporation meetings and other notices are delivered to members;

12) grounds for dividing the costs to be collected from members;

13) organisation of the financing of activities.

### **Section 5 – Confirming the rules**

(1) The rules of a corporation under water law are confirmed by the permit authority unless otherwise provided in Chapter 5, section 24. The rules must be confirmed if they comply with the law and cause no harm to any members. Minor amendments to the rules may be adopted if necessary in order to confirm the rules.

(2) Matters pertaining to the corporation shall be managed in accordance with the approved rules even before they are confirmed. The confirmed rules shall be complied with even if the decision on confirmation is not legally valid.

(3) When amending the rules, the procedure shall comply with the provisions laid down in subsection 1.

### **Section 6 – Water corporation register**

(1) Corporations under water law are registered in the water corporation register. The water corporation register is part of the environmental protection database. The Ministry of the Environment maintains the water corporation register.

(2) The following shall be entered in the water corporation register:

1) basic information on the corporation;

2) the rules of the corporation;

3) information on the board of directors and officials of the corporation.

(3) Personal data concerning a corporation under water law shall be deleted from the register five years after the dissolution of the corporation.

(4) Further provisions on the information to be entered in the water corporation register may be given by government decree.

### **Section 7 – Legal consequences of registration**

A registered corporation under water law may act as a plaintiff and defendant in matters concerning the project. The corporation may obtain rights under its name and enter into commitments for the purpose of managing its duties referred to in this Act.

### **Section 8 – Registration of a corporation**

The permit authority enters an established corporation into the water corporation register. If the corporation was established and its rules confirmed in ditch drainage proceedings, the state supervisory authority that ordered ditch drainage proceedings shall be responsible for entering the information in the water corporation register.

## **Section 9 – Entering of information**

(1) A corporation under water law shall inform the state supervisory authority of any changes to the information referred to in section 6(2). The state supervisory authority shall enter these changes in the water corporation register.

(2) The state supervisory authority shall make entries based on a decision of the Administrative Court of Vaasa or the Supreme Administrative Court in the water corporation register.

## **Section 10 – Right to obtain information**

(1) The water corporation register is open to the public. Everyone has the right to obtain information from the water corporation register and the related documents in a way provided in the Act on the Openness of Government Activities (*Laki viranomaisten toiminnan julkisuudesta 621/1999*).

(2) The permit authority, state supervisory authority and municipal environmental protection authority have the right to obtain information necessary to managing the duties laid down for them under this Act from the water corporation register free of charge.

## **Section 11 – Corporation meeting**

(1) The corporation meeting exercises the power of decision of the corporation under water law. Decisions at the corporation meeting are made by a simple majority of votes.

(2) The annual general meeting of the corporation shall be held at the time specified in the rules of the corporation. If this has not been convened, every member has the right to demand that the meeting be held.

(3) An extraordinary meeting of the corporation shall be held if members representing at least one tenth of the total number of votes in the corporation so require for the purpose of processing a matter of which they have been informed in writing.

(4) If the activities of the corporation have ceased, a member of the corporation or supervisory authority may convene a corporation meeting to decide on appointing a board of directors or one or several officials to attend to the obligations vested in the corporation.

## **Section 12 – Matters to be decided at the corporation meeting**

(1) The corporation meeting shall decide on the following:

1) beginning and termination of membership;

2) acquisition, conveying or mortgaging of a real estate or conveying of other property significant in terms of the activity of the corporation;

3) imposition of fees to be paid by members;

4) election or dismissal of an official, the board of directors or a member of it, or an auditor;

5) approval of the financial statements and discharge from liability;

6) amendment of the rules of the corporation; and

7) dissolution of the corporation.

(2) The board of directors or an official may, notwithstanding the provisions laid down in subsection 1, decide on the selling, exchanging and mortgaging of property of the corporation on the grounds of a provision included in the rules of the corporation.

### **Section 13 – Board of directors and officials**

(1) The corporation shall have either a board of directors or one or several officials. The board of directors shall have a chairperson. A person who is legally incompetent or bankrupt cannot be a board member or official.

(2) It is the duty of the board of directors and officials to attend to the preparation and execution of decisions of the corporation and to other practical affairs. They shall manage the administration of the corporation with due care and take equal account of the benefits pertaining to each member of the corporation.

(3) The board of directors and officials exercise the right to be heard of the corporation in a court of law and represent the corporation in other respects. The corporation is considered to have been informed of a summons or other notification when a member of the board of directors or an official of the corporation has been informed of this in the proper legal order.

### **Section 14 – Quorum and decision-making of the board of directors**

(1) Unless otherwise provided in the rules of the corporation, the board of directors has a quorum when more than one half of the total number of its members are present.

(2) The decision of the board of directors is the position receiving the majority of votes cast. However, the rules may provide that the decision shall be made by a majority vote or unanimously. In the event of a tie, the position supported by the chairperson shall be adopted. If the vote in question is an election, in the event of a tie the matter shall be resolved by drawing lots.

### **Section 15 – Accounting**

(1) Documents concerning the corporation's revenues and expenses, receipts and correspondence concerning business transactions shall be retained for at least six years from the end of the year when the accounting period ended. The accounting records shall be organised so that the connection between receipts and entries can be established without difficulty.

(2) If the corporation is subject to an accounting obligation for business or professional activity under the Accounting Act (*Kirjanpitolaki* 1336/1997), accounting shall be organised in accordance with the provisions laid down in that Act.

(3) Members have the right to access accounting records of the corporation and other documents related to the activities of the corporation. Members have the right to use an assistant and to obtain copies of accounting records and other documents. The corporation has the right to receive compensation from members for costs incurred by the corporation in copying and sending documents.

### **Section 16 – Liability for damages**

(1) A member of the board of directors, an official and an auditor of a corporation is liable for compensation for any damage caused to the corporation in the course of their duties whether intentionally or through negligence. The same applies to damage caused to a member of the corporation by violating this Act or the rules of the corporation.

(2) Provisions on the adjustment of damages and allocation of liability between two or several liable parties are laid down in the Tort Liability Act (*Vahingonkorvauslaki* 412/1974).

(3) A claim for compensation for damage caused to a corporation or a member shall be submitted to a district court.

### **Section 17 – Contesting a decision**

(1) A member may contest a decision of the corporation meeting, board of directors or official if the decision has not been taken in the proper legal order or if it is contrary to the law or the rules of the corporation, or the decision violates the rights of the member concerned.

(2) A matter referred to above in subsection 1 shall be initiated by filing an application with the permit authority within 60 days of the date of the decision. If a request for a revised decision referred to in section 18 has been filed, the member has the right to initiate the matter within 30 days of receiving information on the decision issued in response to the request for a revised decision.

(3) Before the matter is finally settled, the permit authority may, for a specific reason, authorise the implementation of the decision if its implementation does not render the appeal worthless.

### **Section 18 – Request for a revised decision**

(1) A member whose right is affected by a decision of the corporation meeting, board of directors or official may, notwithstanding the provisions laid down in section 17, submit a request that the decision of the corporation meeting be revised. The request for a revised decision may be filed on the grounds that the decision was not made in the proper legal order, is contrary to the law or the rules of the corporation or violates the rights of the party requesting a revised decision. A request for a revised decision cannot be filed if confirmation of the decision shall be requested from the permit authority.

(2) The request for a revised decision shall be filed within 21 days of the date of the decision. The board of directors or an official of the corporation shall convene a meeting of the corporation within 30 days of the filing of the request for a revised decision to consider the request or decide, within the same period of time, that the request for a revised decision will not be submitted for consideration to a meeting of the corporation. The board of directors or

the official also has the right to decide, within the same period of time, on a request for a revised decision concerning a decision they have made.

## **Section 19 – Dissolution of a corporation**

(1) The corporation cannot be dissolved if it has obligations or responsibilities based on a permit or right granted with respect to a water resources management project. If the corporation is the permit holder in a project referred to in Chapter 3, section 19, the corporation may be dissolved if the permit authority has authorised the interruption of the project.

(2) When the corporation has decided upon its dissolution, the board of directors or officials of the corporation shall attend to the liquidation measures necessary for the dissolution, if the corporation has not elected one or several other liquidators to carry out this task. The financial operations of a corporation that has decided upon its dissolution may be continued to the extent necessary for arriving at an appropriate settlement.

(3) A corporation that has decided on dissolution shall pay the debts for which it is liable and attend to any obligations imposed upon it by the permit authority. If not all of the creditors of the corporation are known, the corporation shall issue a public summons to unknown creditors. If the assets of the corporation are higher than its debts and unless otherwise provided by the legal relationships between the members of the corporation, any surplus shall be divided between the members in accordance with the number of votes.

(4) The party responsible for liquidation measures under subsection 2 or one of the members of the corporation shall provide notification to the permit authority of the dissolution of the corporation within 45 days of the liquidation measures being completed. A final account indicating the matters provided in subsection 3 shall be appended to the notification. The permit authority shall examine the notification. If the liquidation measures related to the dissolution of the corporation have been performed as provided in subsection 3, the permit authority shall declare the corporation dissolved and make an entry on the matter in the environmental protection database.

## **Chapter 13 – Compensations**

### **Section 1 – Loss of benefit caused by a legal measure**

The party responsible for the project is liable for compensation for any loss of benefit resulting from an operation performed or to be performed under this Act or a permit based on it in the manner provided in this chapter, if the loss of benefit is caused by:

- 1) a water resources management project under a permit;
- 2) the right to use or purchase property belonging to another party;
- 3) a measure which is subject to a permit under Chapter 3, section 2, but for which a permit has not been applied for because it could not have been foreseen to lead to the consequences referred to in that section; and

4) a measure referred to in Chapter 2, sections 5 and 6; Chapter 5, section 9; Chapter 10, section 9; and Chapter 18, section 5; and event referred to in Chapter 9, section 8(1).

## **Section 2 – Joint liability**

(1) When several parties are responsible for a project, they are jointly liable for payment of the compensation referred to in this chapter. If a party has paid compensation in excess of the fair share, this party may recover the respective shares from the other liable parties.

(2) If one of the liable parties is manifestly insolvent, the place of residence of this party is unknown or the party fails to pay the share owed within one month of the claim being submitted by the party that has paid in excess, the other liable parties shall be responsible for the resulting deficit.

## **Section 3 – Loss of benefit caused by a special circumstance**

(1) Loss of benefit caused by the faulty operation of a water main, sewer or other such line, by a ditch, or by a device or structure built or being built in a water body or on its shore referred to in this Act shall be compensated for as provided in section 1, if the faulty operation is not caused by an exceptional external reason.

(2) The owner and possessor of a structure or device referred to above in subsection 1 are jointly responsible for compensation for the loss of benefit, regardless of the type of negligence involved. A loss of benefit other than one directly involving property shall, however, be compensated for only if the owner or possessor of the structure or device has acted intentionally or through negligence.

(3) Damage caused by the collapse of a structure or another unforeseen circumstance shall be compensated for as provided in section 1, notwithstanding the legal validity of the permit decision.

(4) If the loss of benefit concerns environmental damage referred to in the Act on Compensation for Environmental Damage (*Laki ympäristövahinkojen korvaamisesta* 737/1994), hereinafter the *Environmental Damage Act*, this Act shall apply to compensation for the loss of benefit.

## **Section 4 – Loss of benefit caused by passage in a water body**

(1) Unless otherwise provided in the Maritime Act (*Merilaki* 674/1994), the owner of a vessel is liable for compensation for loss of benefit caused by passage in a water body, if the loss of benefit results from intentional or negligent conduct. The compensation shall be determined as provided in this chapter. The provisions laid down in the Maritime Act shall apply to the restriction of the ship-owner's liability and maritime lien.

(2) Loss of benefit caused to an object placed illegally in a main channel or public channel shall not be compensated for. The same applies to a trap in a water body, unless the loss of benefit is caused intentionally or through gross negligence.

(3) If defective condition or poor management of the damaged property has contributed to the loss of benefit, this shall be taken into account when determining the compensation.

## **Section 5 – Loss of benefit caused by an illegal measure**

The Tort Liability Act shall apply to compensation for loss of benefit caused by a measure in violation of this Act or provisions or regulations issued under it and to compensation for personal damage caused by a measure under this Act. If the damage in question is environmental damage, the Environmental Damage Act shall apply to compensation for such damage.

## **Section 6 – Authorities and courts of law handling compensation issues**

(1) Unless otherwise provided in subsections 2 and 3, the permit authority shall decide on a matter concerning loss of benefit referred to in this chapter.

(2) Compensation for loss of benefit resulting from a matter processed in ditch drainage proceedings shall be decided on under the ditch drainage proceedings. The municipal environmental authority deals with compensation matters related to a right granted by it and matters referred to in Chapter 5, section 5, unless otherwise provided in subsection 3 of this section.

(3) The district court deals with:

1) matters concerning compensation for personal injury;

2) matters referred to in section 3(1), unless the matter shall be considered by the permit authority under section 72 of the Environmental Protection Act;

3) matters referred to in section 4, unless otherwise provided in the Maritime Act; and

4) matters referred to in section 5, unless otherwise provided in section 7(2) or unless administrative enforcement proceedings referred to in Chapter 14, section 4, are pending on the matter.

## **Section 7 – Compensation related to an application matter**

(1) When granting a permit or right under this Act, the authority shall *ex officio* order compensation for losses of benefit resulting from the project, unless otherwise provided in Chapter 11, section 18.

(2) When deciding on a matter referred to in subsection 1, the authority may also process a claim concerning compensation for a loss of benefit resulting from the same activity before the permit matter was decided on or one referred to in section 1, paragraph 3.

(3) An authority shall process the claim referred to in subsection 2, unless this results in a fundamental delay. If the claim cannot be processed in connection with a permit matter, a separate application for compensation shall be submitted to a permit authority. A decision on processing a claim for compensation separately may not be appealed.

## **Section 8 – Specific compensation matters**

(1) Notwithstanding a previous decision, an application may be filed with a permit authority for compensation for loss of benefit that was unforeseen when the permit was granted. If the loss of benefit has resulted from a matter processed in ditch drainage proceedings or by the municipal environmental protection authority, the municipal environmental protection authority shall decide on the matter.

(2) A separate application for compensation may also be submitted for loss of benefit:

1) caused by a measure not subject to a permit under this Act;

2) referred to in section 3(1) that is not subject to the proceedings of a district court; and

3) referred to in section 7(2) unless the claim for compensation cannot be processed in connection with the permit matter.

(3) Unless a longer period of time is defined in the permit, a matter referred to above in subsection 1 shall be initiated within ten years of the notification of completion being filed. If construction work has not been completed before the notification of completion is filed, the time shall be calculated from the time the construction work is completed. However, a claim for compensation for damage caused by the collapse of a structure or another unforeseen circumstance may be submitted regardless of the deadline.

## **Section 9 – Loss of benefit to be compensated for**

(1) Unless otherwise provided elsewhere in this Act, the following shall be compensated for as loss of benefit referred to in section 1:

1) loss of benefit resulting from right of use or the right to purchase ownership of immovable or movable property granted under this Act;

2) loss, damage or degradation of immovable or movable property or part thereof because of a reason other than one referred to in paragraph 1, prevention of or interference with the use of property, decrease in the return on it or in its value because of the aforementioned factors, and loss of another benefit with a net asset value based on right of ownership, including costs incurred from transferring and converting property;

3) a decrease in the utility value or value of other immovable or movable property belonging to the same owner resulting from a loss of benefit referred to in paragraph 1 or 2 or costs incurred from the transfer or reconstruction of a building or other property;

4) loss of easement or usufruct, right of use to hydropower, fishing right and another similar specific right, preventing or hindering its use as well as loss of another benefit with a net asset value based on such right; however, regarding a right based on lease only insofar as the tenant has no right to a reduction in the rental charge provided in section 21;

5) a building or other structure, device or fixture being rendered partly or completely useless as a result of loss of benefit referred to in paragraph 4;

6) prevention or considerable hindrance of a water supply needed by the beneficiary or other important possibility to use a water area or its shore which are based on a right other than ownership or a specific right referred to in paragraph 4;

7) prevention or hindrance of reindeer husbandry or commercial fishing also in cases other than those referred to above; and

8) interruption of business at a real estate falling subject to a measure and costs incurred from moving away from such a real estate.

(2) If loss of benefit to be compensated for under subsection 1 is the result of noise, vibration, radiation, light, heat, smell or another similar disturbance, the provisions laid down in section 12 of the Environmental Damage Act shall apply.

(3) The owner of an area is not entitled to compensation for water to be abstracted from the area. However, degradation of the access to water caused by water abstraction affecting the owner or party using groundwater on the basis of another specific right shall be regarded as loss of benefit subject to compensation if it is not to be considered minor. When determining the compensation to be paid for the right of use, the added value of the land based on the possibility to abstract groundwater shall be taken into account.

### **Section 10 – Prevention or hindrance of general use**

The prevention or hindrance of passage in a water body and timber floating shall not be regarded as loss of benefit subject to compensation under section 9 above, unless otherwise provided in section 9(1), paragraph 6 or 7.

### **Section 11 – Amount of compensation**

(1) Full compensation shall be imposed for loss of benefit referred to above in section 9(1), paragraphs 1–5, unless otherwise provided in subsection 4 or section 12. Compensation for the conveyance of immovable property or part thereof or right of use established with respect to immovable property shall be imposed as provided in the Act on the Redemption of Immoveable Property and Special Rights (*Laki kiinteän omaisuuden ja erityisten oikeuksien lunastuksesta* 603/1977), unless otherwise provided in this Act.

(2) If the party entitled to compensation derives a direct benefit to the property from the measure that caused loss of benefit and this party is not obliged to contribute towards the costs of the project on that basis, the benefit gained by that party, with reasonable adjustments, shall be taken into account when determining the compensation.

(3) Compensation for loss of benefit referred to above in section 9(1), paragraphs 6–8, shall be determined in accordance with the circumstances in question, taking account of the benefit directly resulting from the project to the party entitled to compensation, if that party is not obliged to contribute towards the costs of the project.

(4) Compensation for loss of benefit to the ground and to buildings, structures and devices on it shall be set at one-and-a-half times the loss of benefit, if the loss results from the right to purchase the land area of another party, take it into permanent use, or transform it into a water area. Compensation for an established right of use to hydropower or lost hydropower shall be

set at one-and-a-half times the loss of benefit. Loss of benefit resulting from the right of use or right to purchase an area required for the purposes of a ditch, water mains, water abstraction facility or sewer shall, however, be compensated for as provided in subsection 1.

### **Section 12 – Purchase obligation**

(1) If land area belonging to another party becomes permanently submerged under water as a result of a measure based on this Act or if it otherwise causes direct, considerable and permanent damage to the use of property of another party or an area belonging thereto, an order may be issued at the request of the owner for the purchase of the property or jointly-owned area in question or part thereof. If part of such an area is purchased from the owner or the owner loses the possibility to use the area and this causes permanent inconvenience to the use of the remaining part, an order may be issued at the request of the owner for the purchase of the area subject to such inconvenience.

(2) At the request of the owner, an order may be issued for the purchase of immovable or movable property which is rendered unusable and for which the owner is entitled to claim compensation under section 9(1), paragraph 3 or 5, if it cannot be considered fair for the owner to settle for the compensation for loss of benefit.

(3) The amount of compensation paid under this section is one and a half times the loss for property referred to in section 11(4).

### **Section 13 – Agreeing on compensation**

(1) The interested parties may agree on the payment and amount of compensation, as well as other aspects concerning the compensation. The agreement shall be made in writing.

(2) If the agreement concerns mortgaged immovable property or property covered by a corporate mortgage, the consent of the holder of such a right is required for the agreement.

### **Section 14 – Preventing or reducing loss of benefit through special measures**

If considered reasonable, instead of compensation the liable party shall be ordered to undertake measures necessary for preventing and reducing loss of benefit subject to compensation in accordance with this Act at his or her own expense, provided that the costs of such measures do not disproportionately exceed the amount of compensation to be paid for the loss of benefit.

### **Section 15 – Securing water supply**

(1) If a water resources management project subject to a permit prevents the abstraction of water or renders it considerably more difficult, the permit authority shall, at the request of the party entitled to compensation, order the liable party to undertake the measures necessary for securing water supply rather than providing compensation.

(2) The party entitled to compensation shall be responsible for the maintenance of devices and structures built under subsection 1, unless otherwise provided by the permit authority in view of the circumstances.

(3) If the loss of benefit referred to in subsection 1 is the result of installing or using a water abstraction facility, the permit authority may, instead of compensation, grant the party entitled to compensation the right to obtain an amount of water corresponding at most to the party's previous consumption from the facility. The granting of a right shall not incur unreasonable costs, nor may it endanger the purpose of use of the abstraction facility. Such a right will remain valid as long as the abstraction facility is used. For the water obtained, the holder of rights is liable to pay the corresponding share of the operating costs of the abstraction facility. The party liable for compensation is responsible for the installation and maintenance of the required water mains.

(4) If the benefit gained from the measure referred to in this section is higher than the loss of benefit referred to in subsection 1, the permit authority may, when deciding on the measure, oblige the party entitled to compensation to contribute, to the extent deemed reasonable, towards the costs of the measure, based at a maximum on a share corresponding to the benefit gained.

### **Section 16 – Payment of compensation**

(1) A decision on liability for compensation shall specify when and how the compensation is to be paid. Confirmed compensation shall be specified as payable in one instalment, unless specific reasons require payment at certain intervals. Upon the request of the party receiving the compensation, lodging a security approved by the permit authority may be required for the payment of compensation paid in instalments.

(2) The decision shall specify when the measures based on the decision for which compensation shall be paid may be undertaken.

(3) Lump sum monetary compensation shall be subject to payment or being duly deposited with the regional state administrative agency at a time specified by the permit authority before undertaking the measure that will lead to liability for compensation, unless otherwise agreed by the stakeholders or otherwise provided in Chapter 3, section 17, or Chapter 11, section 18(2). However, such compensation shall be paid within a year of the compensation decision becoming legally effective. Payment of compensation shall be required within 30 days from the compensation decision being issued in the situations referred to in section 1, paragraph 3, and cases referred to in Chapter 11, section 18(2), if the activities referred to in the permit have been initiated.

(4) Payment of compensation for loss of benefit referred to in section 8(1) and (2) shall be required within 30 days of the decision becoming legally effective. As regards compensation paid in instalments, the 30-day time limit shall, however, only apply to the instalments paid for the time preceding the compensation decision.

### **Section 17 – Interest paid on compensation**

(1) When determining compensation for loss of benefit referred to in section 8(1) and (2), annual interest of six per cent until the due date shall be imposed from the moment the claim for compensation was presented to the authority or the processing of a compensation issue regarding such a claim has otherwise been initiated.

(2) If a measure resulting in liability for compensation may be undertaken before the compensation is ordered, paid or deposited, or has already been undertaken in the manner referred to in section 1(3), annual interest of six per cent from the time the measure was undertaken until the due date shall be added to the compensation paid.

(3) As regards compensation paid in instalments, subsections 1 and 2 shall, however, only apply to instalments targeted at the time preceding the compensation decision.

(4) For the time elapsing after the due date, interest in arrears as provided in the Interest Act shall be added *ex officio* to the compensation to be paid.

### **Section 18 – Refunding compensation**

By means of an application addressed to the permit authority, the payer of compensation has the right to demand a refund of any compensation paid without cause or in excess. Considering the amount of compensation and the circumstances, the permit authority or appellate authority may order that the compensation need not be refunded.

### **Section 19 – Compensation to be paid for mortgaged property**

(1) If lump sum compensation is ordered to be paid for conveying a real estate or an area belonging to it, for right of use established with respect to immovable property or a measure otherwise targeted at it under this Act and a mortgage has been confirmed for the property in question, the permit authority shall simultaneously order that, once the decision has become legally valid, the compensation shall be deposited with the regional state administrative agency and distributed in accordance with provisions laid down on the sales price of property seized. The holder of a right of lien has the same rights to the deposited amount of compensation as to the property subject to right of lien.

(2) Depositing the compensation is not required if the lien holder agrees that it does not have to be deposited. Depositing of the compensation is also not required if, on account of the minor scale of the loss of benefit to be compensated for or another such reason, there has been no significant decrease in the value of the security.

(3) If compensation paid for loss of benefit is targeted at mortgaged immovable property and based on a measure that is for the benefit of another property belonging to the same owner or a project of an independent nature, compensation corresponding to the loss of benefit shall be confirmed when granting the permit for the measure and an order shall be issued that such compensation be deposited in accordance with the provisions laid down in subsections 1 and 2.

### **Section 20 – Compensation as a benefit belonging to the property**

The compensation to be paid in instalments required for loss of benefit caused to immovable property or a mortgageable plant belongs to the property in question as a benefit that cannot be separated from it.

### **Section 21 – Reduction of rental charge**

If a tenant loses possession of or the possibility to use part of an area held under leasehold because of a measure referred to in this Act, the tenant has the right to a reduction in the rental charge for the part corresponding to the loss suffered. Any matter concerning the reduction of a rental charge shall be dealt with by a district court.

## **Section 22 – Withdrawal of liability for compensation**

If the party to whom a permit is granted is liable to pay compensation or part thereof under section 16(3) before the measure is initiated and this party later announces its intention to rescind the project that has not been initiated, the permit authority may, when declaring the permit expired by application of the permit holder, withdraw the liability for compensation imposed by the permit.

## **Chapter 14 – Supervision and administrative enforcement**

### **Section 1 – Supervisory authorities**

(1) The state supervisory authority and the municipal environmental protection authority shall ensure the compliance with this Act and the provisions issued under it.

(2) Further provisions on procedures related to supervising compliance with the Act and the procedures related to organising it may be given by decree of the Ministry of the Environment.

### **Section 2 – Measures taken by the authority as a result of illegal conduct**

If this Act or provisions issued under it are not complied with, the supervisory authority shall, considering the nature of the matter:

- 1) advise that conduct in violation of provisions shall be terminated;
- 2) initiate administrative enforcement proceedings referred to in section 4;
- 3) report the matter to the police for pre-trial investigation purposes, unless the illegal conduct can be considered minor in view of the circumstances.

### **Section 3 – Access to information and right of inspection**

(1) For purposes of supervision the supervisory authority or a public official or local government officer appointed by it has the right to:

- 1) have access to necessary information from the authorities and operators, notwithstanding the secrecy obligation provided in the Act on the Openness of Government Activities (*Laki viranomaisten toiminnan julkisuudesta* 621/1999);
- 2) enter the area of another party;
- 3) conduct inspections and examinations, perform measurements and take samples;

4) access the site where operations are taking place;

5) monitor the impacts of operations.

(2) A person assisting the supervisory authority in its duty shall also have the right referred to above in subsection 1.

(3) The supervisory authority may perform a measure referred to above in subsection 1 on premises covered by domiciliary peace only if this is necessary in order to protect human life, human health, property or the environment, or if the supervisory authority has a justified reason to suspect the occurrence of conduct referred to in Chapter 16, section 1.

#### **Section 4 – Rectification of a violation or negligence**

(1) Should anyone violate this Act or a provision issued under it, the permit authority may

1) prohibit the party from continuing or repeating the procedure that violates the provision;

2) order the party to fulfil its obligations;

3) order the party to rectify what has been done contrary to the provisions.

(2) If action contrary to the provisions of this Act or the provisions issued under it has been taken in ditch drainage or the use of a ditch or if the maintenance of a ditch is neglected, the municipal environmental protection authority may issue a ban or order referred to in subsection 1. If issuing the permit or order involves a decision on the need for or compliance with a permit by a permit authority, the ban or order shall be issued by the permit authority. If, when processing a matter, it is found that the matter involves a project subject to a permit or compliance with a permit, the matter shall be referred to the permit authority for decision.

(3) A ban or order may also be issued to the new owner or holder of property, even if the new owner or holder was not personally responsible for the occurrence of the illegal circumstance.

#### **Section 5 – Procedure in administrative enforcement proceedings**

(1) Before issuing a ban or order, the party to whom the ban or order applies shall be given the opportunity to be heard. If necessary, other stakeholders, supervisory authorities, and authorities acting in the public interest shall also be heard.

(2) The provisions laid down in this Act on processing an application matter shall apply, as appropriate, to handling the administrative enforcement proceedings referred to above in section 4. A decision shall be issued to the party subject to the ban or order as a verifiable service, as provided in the Administrative Procedure Act.

(3) The provisions laid down in the Administrative Judicial Procedure Act (*Hallintolainkäyttölaki* 586/1996) shall apply, as applicable, to compensation for costs incurred by a stakeholder on account of the processing of the matter.

#### **Section 6 – Remediation of damage to protected species and natural habitats**

(1) If a measure related to damming or the abstraction of water contrary to this Act or provisions issued under it or neglect of obligations results or immediately threatens to result in considerable harmful change in the water body or groundwater or damage to protected species and natural habitats referred to in section 5a of the Nature Conservation Act, the permit authority shall, in addition to the provisions laid down in section 4 of this chapter, order the party having caused the harm to undertake the measures necessary for preventing or limiting harmful impacts to render such impacts as small as possible or to undertake remedial measures referred to in the Act on the Remediation of Certain Environmental Damages (*Laki eräiden ympäristölle aiheutuneiden vahinkojen korjaamisesta* 383/2009). Processing of the matter shall comply with the procedure provided in section 5 of this chapter.

(2) The provisions laid down in subsection 1 shall also apply to damage to protected species and natural habitats caused intentionally or through negligence by a measure or neglect other than that mentioned in subsection 1 that is contrary to this Act or provisions issued under it.

(3) When assessing the degree of significance of a harmful change in a water body and groundwater referred to above in subsection 1, what is stated in a river basin management plan under the Act on Water Resources Management on issues related to the status and use of waters in the area impacted by the project shall be taken into account, among other considerations.

(4) Further provisions on assessing the significance of harmful change and aspects to be taken into consideration in such an assessment are given by government decree.

### **Section 7 – Notification of damage to protected species and natural habitats**

Anyone having caused the harm or damage referred to above in section 6 or the immediate threat thereof shall notify the state supervisory authority of the matter without delay and undertake measures necessary to preventing the harm or damage or to rendering it as small in scale as possible.

### **Section 8 – Notice of a conditional fine, notice of enforced compliance and notice of enforced suspension**

(1) Unless such a course of action is manifestly unnecessary, the authority shall reinforce a ban or order issued under section 4 or 6 with a notice of a conditional fine or a notice that the activity that has been neglected shall be carried out at the expense of the negligent party or that the operations in question shall be suspended. The supervisory authority may be authorised to carry out the necessary measure.

(2) Unless otherwise provided in this Act, the provisions of the Act on Conditional Fines (*Uhkasakkolaki* 1113/1990) shall apply to matters concerning notice of a conditional fine, notice of enforced compliance and notice of enforced suspension. Section 17 of the Act on Conditional Fines shall apply to payment of the costs incurred from enforced compliance by the municipal environmental authority in the same way as in a matter where a municipal authority has decided on enforced compliance.

### **Section 9 – Structures without an owner**

(1) If the maintenance of a structure provided in Chapter 2, section 9(1), is neglected and the owner of the structure or another party responsible for it is unknown and cannot be identified without difficulty, the permit authority may, upon application, authorise the supervisory authority to undertake measures necessary to eliminating the harm or danger at the expense of the state. Upon application by the supervisory authority, the permit authority may order that the costs incurred by the state on account of the measures be entirely or partly collected from the party that neglected the maintenance, if the identity of such party is discovered later.

(2) As applicable, the provisions laid down in Chapter 11 shall apply to the processing of a matter regarding the elimination of danger or harm. The provisions laid down in Chapter 15, section 8, apply to the implementation of the decision.

### **Section 10 – Immediate measures by a supervisory authority**

(1) If a measure or neglect contrary to this Act or provisions issued under it causes immediate harm or poses an immediate hazard to safety, human health or another important public interest, or poses a considerable hazard to property of another party, the supervisory authority may undertake measures necessary to eliminating the harm or hazard.

(2) After a measure referred to in subsection 1, the supervisory authority shall, without delay, initiate administrative enforcement proceedings referred to in section 4(1), unless this is unnecessary.

### **Section 11 – Suspending operations**

(1) The supervisory authority may suspend operations referred to in Chapter 2, section 15, if they are manifestly illegal. After suspending such operations, the supervisory authority shall, without delay, initiate the administrative enforcement proceedings referred to in section 4(1), unless this is unnecessary.

(2) The supervisory authority may order a public official to issue the order referred to in subsection 1.

### **Section 12 – Executive assistance**

The police are obliged to provide executive assistance to ensure compliance with this Act and the provisions issued under it. The Customs and Border Guard authorities have the same obligation within their spheres of activity.

### **Section 13 – Measures in consequence of a completion notice**

(1) The state supervisory authority shall provide notification of receipt of a completion notice by posting a public notice thereof on the bulletin boards of municipalities within the area impacted by the project, if the project in question has significant or extensive environmental impacts. Posting of the notice shall be announced in at least one newspaper in general circulation within the area impacted by the project.

(2) As a consequence of the notice, the supervisory authority may conduct an inspection in accordance with section 39 of the Administrative Procedure Act or undertake other measures

referred to in section 3 of this chapter in order to determine whether the project was implemented in accordance with the permit regulations.

### **Section 14 –Initiating a matter**

Unless a matter referred to in section 4 or 6 has been initiated by the supervisory authority, the matter may be initiated in writing by:

- 1) a stakeholder;
- 2) a registered association or foundation whose purpose is to promote the protection of the environment, human health or nature conservation or a pleasant residential environment and in whose operating area, as specified in the applicable rules, the environmental impacts in question arise;
- 3) the municipality in which the water resources management project is located, or another municipality in the area of which the environmental impacts arise;
- 4) an authority protecting the public interest in the matter.

## **Chapter 15 – Appeal and implementation of a decision**

### **Section 1 – Appeal**

(1) A decision by the permit authority, state supervisory authority and municipal environmental protection authority issued under this Act and a decision issued under ditch drainage proceedings may be appealed to the Administrative Court of Vaasa as provided in the Administrative Judicial Procedure Act. Rulings on the processing fees to be charged are open to appeal in the same order as the principal claim.

(2) The appeal document, with appendices, concerning the permit decision and decision for the purpose of granting a right shall be submitted to the authority having made the decision within 30 days of the appellant having been informed about the decision. An appeal document, with appendices, concerning a decision issued under ditch drainage proceedings and in administrative enforcement proceedings shall, however, be submitted to the Administrative Court of Vaasa.

(3) A request for a revised decision with respect to the decision of the supervisory authority referred to in Chapter 3, section 11(3), and the decision by the fisheries authority referred to in Chapter 3, section 15(1) and (2), may be submitted to the permit authority in writing within 30 days of the decision being issued. After a public notice has been issued, the decision on the request for a revised decision shall be issued and information on it shall be provided in accordance with the provisions laid down in Chapter 11, section 22, on issuing and notification of a decision. A decision on a request for a revised decision may be appealed as provided in subsection 1.

### **Section 2 – Right of appeal**

A decision issued under this Act may be appealed by:

- 1) a stakeholder;
- 2) a registered association or foundation, whose purpose is to promote the protection of the environment, human health or nature conservation or the pleasantness of the living environment, and in whose operating area, as specified in the rules, the environmental impacts in question arise;
- 3) the municipality in which the water resources management project is located or another municipality in the area of which the environmental impacts arise;
- 4) the state supervisory authority and the municipal environmental protection authority of the municipality in which the project is located or of the impacted area;
- 5) another authority protecting the public interest referred to in Chapter 11, section 9;
- 6) the Sámi Parliament, if the water resources management project is located in the Sámi homeland or its impacts extend to the Sámi homeland and the project may affect the rights of the Sámi as an indigenous people.

### **Section 3 – Hearing in consequence of appeal**

- (1) The authority having issued the decision shall announce an appeal by posting a public notice thereof for at least 14 days on its bulletin board and on the bulletin boards of municipalities in the area impacted by the project. Appeal documents shall be available for viewing in the municipalities concerned throughout the period of public notice.
- (2) The authority shall reserve the permit applicant, stakeholders whom the matter particularly concerns, and authorities protecting the public interest the opportunity to respond to the appeal, unless this is manifestly unnecessary. The Sámi Parliament shall be reserved the opportunity to provide a response if the project is located in the Sámi homeland or its impacts extend to the Sámi homeland and the project may affect the rights of the Sámi as an indigenous people.
- (3) For the purpose of providing a response, information on the appeal shall be given as provided in the Administrative Procedure Act. At the same time, the authority shall announce where the appeal documents are available for viewing and where the response documents may be delivered within the period of time reserved for providing a response.
- (4) The authority having made the decision shall submit the appeal documents, responses, other decision documents and, if necessary, its statement to the Administrative Court of Vaasa without delay, but at least within 30 days of the end of the deadline reserved for submitting responses.
- (5) If the appeal concerns a decision issued under ditch drainage proceedings or administrative enforcement proceedings, the Administrative Court of Vaasa shall request the documents pertaining to the matter in order to process the appeal case. The Administrative Court shall reserve the stakeholders and authorities the opportunity to respond as provided in

subsections 2 and 3. The Administrative Court shall announce the appeal by posting a public notice thereof for at least 14 days on the bulletin boards of the municipalities concerned.

#### **Section 4 – Procedure at appellate court**

(1) The Administrative Court of Vaasa may, if necessary, reserve the permit authority or municipal environmental protection authority the opportunity to submit their statements on the appeal.

(2) In addition to the provisions laid down in the Administrative Judicial Procedure Act on viewing, the Administrative Court of Vaasa or, by order of the Administrative Court of Vaasa, the chairman or member of the assembly deciding on the matter or the rapporteur of the matter may conduct an on-site inspection.

(3) The provision in the second sentence of section 74(1) of the Administrative Judicial Procedure Act shall not apply to an appeal case concerning ditch drainage proceedings.

#### **Section 5 – Issuing of a decision**

(1) A decision by the Administrative Court of Vaasa on an application matter under this Act shall be given after the public notice of it has been issued. The stakeholders are considered to have been informed of the decision at the time when which the decision was given. In addition, the decision shall be posted without delay on the bulletin boards of the municipality in which the water resources management project is located and in those of the impacted area.

(2) The decision shall be delivered to the appellant. A copy of the decision shall be delivered to stakeholders having requested it and, in a case concerning a permit, to the party responsible for the project, unless this party is an appellant. Provisions on delivering a copy of the decision to the authorities may be given by government decree.

(3) A decision by the Administrative Court of Vaasa on administrative enforcement proceedings under this Act shall be communicated as a verifiable notice as provided in the Administrative Procedure Act.

#### **Section 6 – Appeal against a decision by the Administrative Court of Vaasa**

(1) A decision by the Administrative Court of Vaasa may be appealed to the Supreme Administrative Court as provided in the Administrative Judicial Procedure Act.

(2) An administrative court decision on a preparatory permit and an administrative court decision concerning only implementation that prohibits or suspends the enforcement of a decision against which an appeal is pending may be appealed to the Supreme Administrative Court with respect to the main issue only.

(3) The provisions laid down on the Administrative Court of Vaasa in section 4 and section 5(2) and (3) shall apply, as applicable, to processing of the matter by the Supreme Administrative Court.

#### **Section 7 – Enforcement of a decision that is not legally valid**

(1) A project may not be initiated before the decision authorising its implementation has gained legal force. An appeal regarding compensation shall not prevent the initiation of a project. The provisions laid down in section 31(2) on the enforcement of a decision before it has become final shall not apply to a decision issued under this Act.

(2) At the request of the applicant, the Administrative Court of Vaasa may rule that a project may be initiated in compliance with the permit decision regardless of an appeal. An order may be issued for the complete or partial enforcement of a decision, or its enforcement at a certain point of time. An order may be issued if a justified reason is provided for initiating the activity, the enforcement does not render an appeal ineffective, and the applicant lodges an acceptable security for compensating for any loss of benefit and costs that may result from overturning the decision or amending the permit regulations. The security shall be lodged to the regional state administrative agency. The requirement for lodging a security does not apply to the state or its institution or a municipality or federation of municipalities.

(3) The Supreme Administrative Court may order that a decision on enforcement ceases to be valid.

### **Section 8 – Enforcement of a decision on administrative enforcement**

(1) On account of the urgency of the matter or another special reason, the authority may order that a decision referred to in Chapter 14, section 4, be complied with regardless of appeal.

(2) Correspondingly, an appellate court may order that a decision subject to appeal shall, before the case is decided on, be enforced or that the enforcement order issued ceases to be valid.

### **Section 9 – Enforcement of a decision on supervision**

(1) When approving a supervision plan presented to it, an authority may order that the decision be complied with, regardless of any request for a revised decision and appeal.

(2) The provisions laid down in section 8(2) shall apply to the authority of the appellate court to decide on the enforcement of a decision.

## **Chapter 16 – Penal provisions**

### **Section 1 – Environmental offences and endangerment**

(1) Penal provisions for impairment of the environment in violation of this Act are laid down in Chapter 48, sections 1–4, of the Criminal Code of Finland.

(2) Penal provisions on committing criminal mischief, aggravated criminal mischief, negligent endangerment or gross negligent endangerment by causing a flood are laid down in Chapter 34, sections 1, 3, 7 and 8, of the Criminal Code of Finland.

### **Section 2 – Violation of a permit under the Water Act**

Anyone who intentionally or through negligence

- 1) undertakes a project referred to in Chapter 3, section 2 or 3, or Chapter 5, section 3, without a permit granted by the permit authority;
- 2) implements a project in violation of the permit or neglects to comply with a permit regulation;
- 3) endangers the natural state of an aquatic habitat referred to in Chapter 2, section 11(1), without an exception granted by the permit authority;
- 4) neglects to complete a project under a permit in such a way that this may cause harm or pose a hazard to another party or property of another party;
- 5) neglects a duty imposed under law or a permit to maintain a dam, structure, device or embankment in a water body or outside it;
- 6) neglects a duty imposed under law or a permit to maintain a ditch, water mains or sewer;
- 7) neglects a duty imposed under law or a permit to maintain a channel; or
- 8) undertakes a project referred to in Chapter 5, section 4, without a decision taken under ditch drainage proceedings or implements a project contrary to a decision taken under ditch drainage proceedings

shall be sentenced to a fine for *violation of a permit under the Water Act*, unless a more severe punishment is provided for elsewhere in law.

### **Section 3 – Violation of the Water Act**

Anyone who intentionally or through negligence

- 1) prevents the free flow of water in a streamlet or ditch contrary to Chapter 2, section 10, so that such an act constitutes a more than minor infringement of private interest;
- 2) abstracts surface water from the water area of another party contrary to Chapter 4, section 3, or groundwater from the area of another party contrary to Chapter 4, section 4;
- 3) without a legal right prevents passage in a water body, timber floating or any other use of a water or land area under this Act or on the grounds of a permit or right issued under this Act;
- 4) misuses the rights laid down in Chapter 9, section 5 or 6, for timber floaters or acts in breach of floating regulations;
- 5) acts in breach of a decision issued by a municipal environmental protection authority issued under Chapter 4, section 2, or Chapter 5, section 5 or 9;
- 6) travels on a water body, abstracts water from or places a structure in the water area of another party, or undertakes a measure referred to in Chapter 2, section 6, contrary to Chapter 2, sections 3–8; or

7) neglects to inform the state supervisory authority of a measure as provided in Chapter 2, section 15, or Chapter 5, section 6

shall be sentenced to a fine for *violation of the Water Act*, unless a more severe punishment is provided for elsewhere in law.

#### **Section 4 – Right to initiate criminal proceedings**

The public prosecutor may not press charges for an act referred to in sections 2 and 3, if the act has violated solely the interests or rights of a private party, unless the injured party announces that it will press charges with respect to the act.

#### **Section 5 – Right of the state supervisory authority to be heard**

If a criminal matter that is punishable under this chapter involves an infringement of the public interest, the right of the injured party to be heard is vested in the state supervisory authority.

### **Chapter 17 – Provisions related to real estate law**

#### **Section 1 – Notification of purchase**

(1) For the purpose of entry in the land register and register of mortgages, the permit authority shall inform the registration authority without delay of any decision granting the right or imposing the obligation to purchase a real estate or an unseparated parcel thereof, a jointly owned area of real estates or an unseparated parcel thereof, or an accessory area referred to in section 2(2) of the Real Estate Register Act (*Kiinteistörekisterilaki* 392/1985).

(2) Once the decision on purchase has gained legal force and the compensation specified in the decision has been paid to the owner or duly deposited, the permit authority shall inform the registration authority of the matter.

#### **Section 2 – Transfer of ownership**

(1) Ownership of an area subject to purchase under this Act is transferred to the party receiving the property once an entry in the land register and register of mortgages has been made on the completion of purchase.

(2) The registration authority shall inform the cadastral registry concerned of the entry referred to in subsection 1.

#### **Section 3 – Formation of a real estate from an area subject to purchase**

(1) An unseparated parcel of a real estate, a jointly owned area of real estates or an unseparated parcel thereof, or an accessory area that has been purchased is formed into a real estate through subdivision as provided in the Real Estate Formation Act (*Kiinteistönmuodostamislaki* 554/1995).

(2) The subdivision procedure is initiated when the notification by the registration authority referred to in section 2(2) has arrived at the cadastral registry.

#### **Section 4 – Right of lien and other rights**

(1) An area subject to purchase shall be freed from a right of lien to which it is subjected at the time referred to in section 2(1). The cadastral registry shall make entries on assignment or removal of mortgages.

(2) If another right to which the real estate is subjected to cannot be retained on account of the implementation of the project or exercising the right becomes considerably more difficult and the holder demands that the right be purchased, the permit authority shall, in the decision on purchasing the right, order that the right expires from the date that the decision gained legal force and that the compensation imposed for losing the right was paid or duly deposited.

#### **Section 5 – Entry of information in the Land Information System**

(1) The permit authority shall ensure that a decision having gained legal force is entered in the Land Information System, where such a decision grants the right to:

- 1) construct a channel or other structure on the land of another party;
- 2) submerge the land area of another party permanently under water;
- 3) use hydropower belonging to a real estate owned by another party or a jointly owned area;
- 4) otherwise benefit from immovable property of another party on a continuous basis.

(2) In addition, the following shall be entered in the Land Information System:

- 1) a decision having gained legal force that designates the area as a protection area or otherwise restricts its use;
- 2) an agreement specific to the real estate necessary for granting the permit under which the permit applicant has the right to permanently submerge the area of another party under water.

(3) An entry shall also be made of any decision having gained legal force by which the right of use or restriction on use has been amended.

(4) If the right involves the digging of a ditch, the placing of water mains or a sewer on the land of another party, keeping of a fairly small device or a structure in the area of another party, or some other right of use or restriction on use concerning only a minor part of the real estate, the decision is not entered in the Land Information System.

(5) A decision taken by the municipal environmental protection authority and a decision taken under ditch drainage proceedings may also be entered in the Land Information System. The state supervisory authority that issued the order for conducting ditch drainage proceedings shall ensure that a decision taken under ditch drainage proceedings is entered in the Land Information System.

## **Section 6 – Cadastral procedure**

(1) If the information referred to in section 5 cannot be entered in the Land Information System without a special account, the land survey office shall, upon application by the permit authority, issue an order to conduct a cadastral procedure. The provisions laid down in the Real Estate Formation Act on property definition shall apply to such a procedure.

(2) The party to whom the right entered in the Land Information System has been granted or by whose application the use of the real estate has been restricted shall be liable for the expenses of the procedure. If the cadastral procedure is necessary because of an account important to the public interest, the procedure shall be carried out at the expense of the state.

## **Section 7 – Rights and obligations in case of change of ownership**

(1) If a real estate or project for the benefit of which a permit or right referred to in this Act has been granted or on behalf of which a contribution has been made to a measure yielding benefit to the real estate or project is transferred to another party, the rights and obligations belonging to the party to whom the permit or right was granted or to the party contributing the measure shall also be transferred to this other party.

(2) A right gained under this Act to the real estate and other property of another party shall remain valid regardless of a change of ownership.

(3) If a permit or right concerning the regulation or abstraction of water is transferred to another party, the recipient shall inform the state supervisory authority of the transfer. In addition, notification shall be provided of the transfer if the permit includes a fisheries obligation.

## **Section 8 – Granting of right of use**

(1) Upon application, the permit authority may grant the applicant the right of use referred to in Chapter 2, section 12 and 13, if:

1) the applicant has been granted a permit under this Act;

2) the applicant has, by means other than under this Act, gained the right to the area required for the project but the area has, on account of a dispute, bankruptcy or debt recovery, or for another reason been removed from the party to whom it was considered to belong when the permit was granted; and

3) the right of use is considered necessary in view of the nature and significance of the project.

(2) If the right to hydropower taken into use in a power plant has been lost in the manner referred to in subsection 1(2), the permit authority may, upon application, grant the owner of the power plant permanent right of use to this hydropower, in accordance with Chapter 8, section 5. A permit to construct a power plant shall remain valid regardless of the loss of the right to hydropower taken into use in the power plant or the area either in full or in part in the manner referred to above.

(3) The party gaining the right of use referred to above in subsection 1 or 2 is liable to pay compensation for the right of use as provided in Chapter 13.

### **Section 9 – Protecting a right based on agreement**

(1) When the right to a measure for which a permit could be granted under this Act is based on agreement between the stakeholders, the permit may, nevertheless, be granted upon application in order to maintain the validity of the right in question even with respect to the new owner of the real estate.

(2) Provisions on the establishment of an easement are laid down in the Real Estate Formation Act.

### **Section 10 – Building and plant on the land of another party**

The provisions laid down in this Act on a real estate shall apply, as applicable, to a building or plant that is located on the land of another party and that can be conveyed together with the right of possession to the land without hearing the owner of the land.

### **Section 11 – Land consolidation**

(1) The permit authority shall submit a permit decision having gained legal force to the land survey office concerned, if:

1) the decision grants right of use in accordance with Chapter 6, section 6; or

2) implementation of the project in accordance with the decision causes fragmentation of or reduction in pieces of land referred to in the Act on land consolidation on account of water body projects or the obstruction or disruption of a transport connection or some other similar harm.

(2) If an area that will be under water referred to in Chapter 6, section 6, belongs to a real estate other than a public area or jointly owned area other than a jointly owned forest and it borders on a jointly owned water area that constitutes a separate register unit, the area that will be under water shall be considered a part of the adjacent water area.

(3) The provisions laid down in the Act on land consolidation on account of water body projects and sections 133(2), 133a and 134 of the Real Estate Formation Act shall apply to processing of the matter.

## **Chapter 18 – Miscellaneous provisions**

### **Section 1 – Information to be entered in the environmental protection database**

(1) Information on decisions issued by the permit authority, the Administrative Court of Vaasa and the Supreme Administrative Court under this Act shall be entered in the environmental protection database referred to in section 27 of the Environmental Protection Act.

(2) In addition, information on the following may be entered in the environmental protection database:

- 1) decisions issued by the municipal environmental protection authority under this Act;
- 2) decisions taken under ditch drainage proceedings;
- 3) notifications made to supervisory authorities;
- 4) decisions by the authorities issued under provisions in force before the entry into force of this Act.

(3) Identification and contact information of the stakeholders may be entered in the database.

(4) Further provisions on the information to be entered in the database may be issued by government decree.

## **Section 2 – Entering of information**

(1) The authority having decided on the matter shall make the related entries in the environmental protection database. If the matter is decided on under ditch drainage proceedings, the entry shall be made by the state supervisory authority that issued the order for the ditch drainage proceedings.

(2) The state supervisory authority shall also make an entry in the environmental protection database on any alteration of a public channel referred to in Chapter 10, section 4(2).

(3) The authority referred to in subsection 1 is responsible for making entries arising from decisions by the Administrative Court of Vaasa or the Supreme Administrative Court.

## **Section 3 – Right of an authority to obtain information free of charge**

(1) Notwithstanding the provisions laid down on the secrecy of information, the permit authority, state supervisory authority and municipal environmental protection authority have the right to obtain information necessary to managing their duties as provided in this Act from the environmental protection database free of charge.

(2) In order to maintain nautical charts, the Finnish Transport Agency has the right to obtain necessary information on a public local channel from the party maintaining the channel free of charge.

## **Section 4 – Measures for eliminating the risk of accident**

(1) If exceptional natural conditions or other force majeure event causes a flood or another such change in the water body or in its water conditions that may pose a general hazard to human life, safety or health or causes major damage to private or public interests, the permit authority shall order the state supervisory authority or the party responsible for a water resources management project to undertake the temporary measures necessary to eliminating the danger or minimising the damage. Such an order may be given notwithstanding the provisions laid down in this Act or in regulations in permits or decisions issued under it.

(2) If in order to implement a water resources management project for which a permit has been granted it is necessary to undertake temporary measures urgently on account of drought, flood, collapse, ice or another exceptional reason that poses a threat to the project, the permit authority may, upon application, grant the party responsible for the water resources management project the right to undertake the measures necessary to preventing such detrimental consequences.

(3) An application for issuing the order referred to in subsection 1 may be filed by the state supervisory authority. Should the urgency of the matter or another important reason so require, the application referred to in subsections 1 and 2 may be processed without complying with the provisions laid down in Chapter 11 on the processing of application matters. The decision by a permit authority referred to above in subsections 1 and 2 may be put into effect regardless of an appeal.

### **Section 5 – Preventing damage caused by ice**

(1) In order to prevent damage or harm caused by freeze-up or ice, the owner of an establishment or structure, timber floater and state authority have the right to use explosives to break up the ice, install temporary booms and undertake other necessary measures.

(2) When using explosives to break up an obstruction caused by ice, due caution shall be taken. The explosives shall be used so as not to cut off any public or publicly used winter road without a compelling need to do so or cause significant damage to the fish stock. The police and state supervisory authority shall be notified of any such use of explosives.

### **Section 6 – Loss of benefit on account of preventing danger and damage**

(1) Losses of benefit directly involving property resulting from the measures referred to above in section 4(1) shall be compensated for out of state funds. Losses of benefit caused by loss of hydropower are not considered damage subject to compensation. If a party entitled to compensation has gained benefits from an event or from measures taken to prevent danger referred to in section 4(1), the compensation may be adjusted as considered reasonable.

(2) Loss of benefit resulting from a measure referred to above in section 4(2) and section 5 shall be compensated for upon application. The party liable to pay compensation shall be the party undertaking such a measure.

### **Section 7 – Research permit**

(1) If no agreement is reached on the matter, the permit authority may, upon application, grant the right to conduct soil, water volume or other surveys in the area of another party necessary to assessing the impacts of a project or the possibility of implementing a project referred to in this Act or to analysing groundwater resources (*research permit*). Further provisions on the contents of the permit application and the accounts to be appended to it may be given by government decree.

(2) A survey shall be conducted so as to cause minimum damage to the owner and the use of the area. Unless there are special reasons for not doing so, the owner or holder of the property shall be informed about the survey in advance.

(3) The owner or holder of the area subject to a research permit application shall be heard on account of the application. A research permit is granted for a fixed period and shall include the provisions necessary to avoiding harm. Compensation shall be paid for any loss of benefit resulting from the survey.

(4) A decision on a research permit may be put into effect regardless of an appeal. An appellate court may order that the survey be interrupted or restricted. An appeal against a research permit shall be processed as urgent.

### **Section 8 – Dispute to be handled by permit authority**

(1) A dispute concerning the need for a permit, application of permit regulations, implementation of a project, maintenance obligation, removal of a plant or structure, or restoration to an earlier state where the resolution manifestly has impacts other than those on the plaintiff's or respondent's right or interest shall be handled by the permit authority. Such a matter shall be initiated by way of an application.

(2) If a matter referred to in subsection 1 is brought before a district court, the district court shall transfer the matter to the permit authority for handling as regards the points referred to in subsection 1. The district court shall not decide on a claim for compensation before the dispute referred to in subsection 1 has been resolved in a legally valid manner.

### **Section 9 – Dispute concerning right of use or proprietary rights**

(1) If a dispute arises between the stakeholders concerning the right of use or proprietary rights that are a prerequisite for granting the permit or right and this cannot be resolved as a preliminary question in connection with the application, the permit authority shall in its decision designate the stakeholder party to initiate proceedings at a district court by filing a claim on the matter or, if the matter is to be resolved by a cadastral procedure under section 281 of the Real Estate Formation Act, to apply for such a procedure.

(2) The decision referred to above in subsection 1 does not prevent the application from being processed further and a decision being made on the permit matter, unless the permit authority finds important reasons for postponing the processing of the application until the dispute has been resolved.

### **Section 10 – Statement by a permit authority**

If a civil or criminal matter is pending in a general court of law and a decision on it requires specific knowledge of water resource management issues, the court of law shall obtain a statement on the matter from the permit authority in the area of operation whose water conditions the matter concerns.

### **Section 11 – Implementation of a decision in certain cases**

If a legally valid decision issued under this Act lays down provisions on right of use or right of purchase or on compensation or obligations referred to in Chapter 13, the provisions laid down on the enforcement of a legally valid judgment shall apply, as applicable, to the implementation of these provisions.

## **Section 12 – Fees charged for the processing of a matter**

(1) A fee may be charged for processing a matter under this Act by the permit authority and municipal environmental authority. No fee shall be charged for processing matters initiated by authorities or a stakeholder suffering damage. A fee may be charged for the processing of a matter initiated at the request of the other parties, if the initiation is to be considered manifestly unjustified.

(2) The amount of a fee charged by the state shall be determined in accordance with the provisions laid down in the Act on Criteria for Charges Payable to the State and the government decree issued under it. The amount of a fee collected by the municipality shall be determined in accordance with a tariff approved by the municipality. The grounds of the tariff approved by the municipality shall comply, as applicable, with the Act on Criteria for Charges Payable to the State.

(3) The permit authority may order that an advance fee be paid for the costs of processing the matter, referred to in subsection 1, and at the same time order that the processing of the matter will not continue until the fee has been paid or an acceptable security has been lodged for payment of the fee. The advance fee shall be based on a calculation made by the permit authority.

(4) A fee may be charged as provided in subsection 1 for decisions referred to in Chapter 3, section 11(3) and section 15, of an authority designated by the permit authority.

## **Section 13 – Collection of certain fees**

(1) The following fees are directly subject to execution:

1) fisheries fee;

2) fees charged from the members of a ditch drainage corporation under Chapter 5, section 27;

3) fees charged from the members of a corporation established for the purpose of permanently altering the mean water level under Chapter 6, section 12;

4) advance fees referred to in Chapter 5, section 39(3), and section 12(3), of the present chapter.

(2) Collection of the fees referred to above in subsection 1 shall comply with the provisions laid down in the Act governing the enforcement of the collection of taxes and tax-like charges (*Laki verojen ja maksujen täytäntöönpanosta* 706/2007). However, a material appeal for enforcement of the fee shall be filed with the Administrative Court of Vaasa.

## **Section 14 – Provision of information related to protection of the seas**

(1) The Ministry of the Environment or an authority designated by it shall provide information on permits related to protection of the sea issued under this Act and accounts concerning them, as provided in section 13(1) of the Act on the protection of the sea (*Merensuojelulaki* 1415/1994).

(2) Correspondingly, the provisions laid down in section 13(2) and (3) of the Act on the protection of the sea shall apply to other notifications as concerns Finland's territorial waters and exclusive economic zone.

### **Section 15 – Measures under the Fish Water Directive**

(1) Provisions are laid down by government decree for implementing the Council Directive on the quality of fresh waters needing protection or improvement in order to support fish life (78/659/EEC) on the grounds for designating fish waters, quality requirements and monitoring of the water quality of fish waters, and on the action plans to be prepared for improving the status of waters.

(2) The Ministry of the Environment designates areas that are to be regarded as fish waters, confirms the analysis methods applied in the monitoring, and decides on terminating the monitoring. The environmental administration is responsible for organising the monitoring and preparing action plans.

### **Section 16 – Transboundary waters**

(1) The provisions laid down in this Act shall also apply to water bodies and waters on the national border, unless otherwise provided on the basis of an agreement concluded with a foreign state.

(2) When applying this Act, the impacts of a water resources management project on a water body or groundwater in another state shall be taken into account in the same manner in which account would be taken of a corresponding impact in Finland, unless otherwise provided by an agreement concluded with the state in question.

### **Section 17 – Exchange of information between authorities**

The state supervisory authority shall inform the municipal environmental authority in whose area the measure in question is to be implemented or whose area is to be impacted by the measure of a notification submitted to it referred to in Chapter 2, section 15.

### **Section 18 – Defining the boundary line of a water area**

(1) If the boundary line between a water area and dry land referred to in Chapter 1, section 5, is difficult to determine on account of variation in water levels resulting from the regulation of a water body, the permit authority may, where necessary, order in a permit decision or upon separate application where the boundary line should be considered to run.

(2) If it is allowed to keep the water at the same designated highest level for a considerable part of the growing season, the boundary line between the water area and dry land may be determined in accordance with this level. In other cases, the permit authority shall, when determining the boundary line, take due account of the time and permanence of the highest water levels allowed during regulation.

## **Chapter 19 – Entry into force**

## **Section 1 – Entry into force**

- (1) This Act enters into force on 1 January 2012.
- (2) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

## **Section 2 – Statutes issued previously**

- (1) This Act repeals the Water Act (*Vesilaki 264/1961*), hereinafter, *the former Water Act*.
- (2) Decrees issued under the former Water Act and decisions of the Government and the Ministry of the Environment shall remain in force until otherwise provided under the present Act.
- (3) If in another act reference is made to the Water Act in force when that act entered into force, the present Act shall apply instead.

## **Section 3 – Pending cases**

- (1) The provisions in force when this Act entered into force shall apply to a matter pending with administrative authorities or in courts of law when the present Act entered into force, unless otherwise provided in this chapter.
- (2) If an appellate court reverses a decision to which provisions in force are to be applied at the time of this Act entering into force and remits the matter in full for reconsideration, the matter shall be handled and decisions made in compliance with the provisions laid down in this Act.

## **Section 4 – Application of provisions previously in force**

- (1) The provisions in force before the entry into force of this Act shall apply to a project or measure referred to in this Act whose implementation had legally begun before the entry into force of this Act, unless otherwise provided in this chapter.
- (2) A permit valid when this Act entered into force concerning a project or measure referred to in this Act shall be complied with. The provisions laid down in the permit, as well as the provisions valid before the entry into force of this Act, shall apply to implementing the project and measure and reviewing the permit, unless otherwise provided in this chapter. The provisions laid down in Chapter 2, section 9, shall apply to the maintenance and removal of a project and measure.
- (3) The provisions laid down in subsection 2 on a permit shall also apply to any other decision of an authority on a project or measure referred to in this Act which was valid when this Act entered into force. The provisions laid down in Chapter 5, section 8, apply to the maintenance and use of a ditch.

## **Section 5 – Review of provisions included in a decision**

(1) If it has been ordered in a permit or a decision similar to a permit concerning a water resources management project issued before the entry into force of this Act that the regulations are to be reviewed, the provisions laid down in Chapter 3, section 21, shall apply to such a review.

(2) Unless otherwise provided in this chapter, the permit authority may, upon application, review regulations included in a permit or a decision by an authority that is similar to a permit issued before the entry into force of this Act or issue new regulations in accordance with the provisions laid down in Chapter 3, section 21, as applicable.

(3) If the review of permit regulations or issue of new regulations reduces the benefit to be gained from the project and the project cannot be implemented in another manner suitable for the purpose, the permit holder has the right to obtain compensation from the applicant for a higher than minor loss of the opportunity to benefit from the project in accordance with a permit or decision or to demand that the project be transferred to the applicant against compensation.

## **Section 6 – Supervision and administrative enforcement**

The provisions in Chapter 14 of this Act on supervision and administrative enforcement shall also apply to water resources management projects for which a permit or right has been granted or which were initiated before the entry into force of this Act.

## **Section 7 – Regulation**

(1) If a regulation project for which a permit was issued before 1 May 1991 has considerable detrimental impacts on the aquatic environment and its use, the competent state supervisory authority shall investigate the possibilities to reduce the detrimental impacts of the regulation. The investigation shall be carried out in sufficient cooperation with the permit holder, the parties benefiting from the regulation, municipalities in the impacted area, and relevant authorities. If necessary, the state supervisory authority shall also hear other stakeholders.

(2) Once the investigation referred to in subsection 1 has been carried out, the state supervisory authority, the fisheries authority or the municipality may apply for a review of the permit regulations or impose new regulations, if the detrimental impacts cannot otherwise be reduced to a sufficient extent.

(3) A prerequisite for such a review is that the benefit to be gained from it in terms of the public interest is significant in view of the circumstances. Furthermore, the review shall not considerably reduce the overall benefit gained from regulation nor fundamentally change the original purpose of regulation, unless such a purpose has already lost its significance. If the prerequisites for a review manifestly exist, the permit authority may, if the application documents do not provide sufficient clarification, also order the permit holder to submit the required additional clarifications to the permit authority. Such a decision by the permit authority is not subject to separate appeal. If the permit holder has not submitted the additional clarification to the permit authority within the given deadline, the clarification may be obtained at the permit holder's expense. The provisions laid down in Chapter 3, section 21, apply to the review, as applicable.

(4) The applicant shall be ordered to compensate for any losses of benefit resulting from the review, unless these are minor, in accordance with the provisions of Chapter 13, as applicable. Compensation shall, however, be paid from state funds if the review is not primarily of local significance. Compensation paid for loss of benefit gained from regulation may be adjusted, taking into account the benefits to be gained and the losses of benefit resulting from the review, and the time which has been at the disposal of the beneficiary to benefit from the regulation.

### **Section 8 – Permit regulations affecting the water level or water flow**

Permit regulations affecting the water level or water flow in a permit granted for a water resources management project other than a regulation project may be reviewed or new regulations may be issued in accordance with the provisions laid down in section 7, as applicable.

### **Section 9 – Monitoring obligation**

Upon application by the state supervisory authority, the permit authority may impose a monitoring obligation under Chapter 3, section 11, also with respect to a project for which a permit has been granted under provisions in force before the entry into force of this Act. The provisions laid down in Chapter 3, section 11, shall apply to imposing and amending a monitoring obligation.

### **Section 10 – Fisheries obligation and fisheries fee**

(1) In accordance with Chapter 3, section 22, the permit authority may, upon application, amend the regulations concerning a fisheries obligation or fisheries fee imposed under provisions in force before the entry into force of this Act.

(2) A condition for amendment is that it can be considered necessary in terms of a public or important private interest. In its decision the permit authority shall take account of the time that has passed since the fisheries fee was imposed and other factors that influence the matter.

### **Section 11 – Channels**

(1) The provisions laid down in Chapter 10, section 4, shall apply, as applicable, to any legally valid decision concerning a public channel issued before the entry into force of this Act.

(2) Decisions of the National Board of Navigation confirming public channels before 1 September 1992 shall remain valid. The provisions laid down on public channels in this Act shall apply to such channels.

### **Section 12 – Previously built structures**

(1) If a permit for construction in a water body has been granted under the provisions in force before the entry into force of the former Water Act, the permit authority may, upon application, oblige the owner of a structure built under such a permit to allow the building of devices necessary to preserving the fish stock, securing traffic, engaging in timber floating or

securing the status of the water body, and to convey the quantity of water necessary for the use of such devices.

(2) The loss of benefit incurred by the owner of the structure through the obligation referred to in subsection 1 shall be compensated unless it is minor. However, if the owner of the structure would have been liable to remove the structure free of charge under the legislation referred to in subsection 1 and the owner does not wish to remove it, the permit authority may oblige this party to build the necessary devices and structures at his or her own expense.

### **Section 13 – Corporations under water rights legislation**

(1) The provisions of this Act on corporations under water rights legislation shall apply to corporations under water rights legislation established before the entry into force of this Act.

(2) If the rules of the corporation include a provision contrary to this Act, the provision of this Act shall apply instead.

### **Section 14 – Conducting wastewater**

If a measure referred to in Chapter 10 of the former Water Act has been undertaken before the entry into force of this Act or a channel or structure intended for conducting wastewater was taken into use before 1 April 1962, the provisions laid down in section 103c of the Environmental Protection Act shall apply.

### **Section 15 – Applying for a new permit**

(1) Anyone who was granted a permit for a water resources management project before the entry into force of this Act or who has otherwise legally implemented a measure under the provisions in force before the entry into force of this Act may, upon application, be granted a permit under this Act.

(2) The permit may be granted by simultaneously issuing regulations necessary to protecting the public or private interests that do not significantly reduce the benefit to be gained from the project and that do not result in unreasonable costs relative to the benefit yielded by the project.

### **Section 16 – Clarification of a previously issued decision**

(1) If a permit or right has been granted to a water resources management project by a decision of an authority under provisions valid before the entry into force of this Act and the contents of the permit or right or the holder are unclear, the permit authority may clarify such a decision or replace it with a decision under this Act.

(2) The decision shall include provisions necessary for securing public and private interests based on the previously issued decision or clarifying the decision in question for avoiding harm as provided in Chapter 3, sections 10–14. The provisions may not significantly reduce the benefit to be gained from using the permit or right or result in costs that are unreasonable relative to the benefit yielded by the project.

(3) An application on a matter referred to in subsection 1 may be filed by the holder of the permit or right, the supervisory authority, the owner of the area directly subject to the project, or the holder of another right involving the area. The permit authority may accept the matter for processing on its own initiative if this is necessary to the processing of another matter pending with the permit authority.

(4) The provisions laid down above in this section shall also apply, as applicable, to any other measure legally implemented under provisions in force before the entry into force of this Act.

### **Section 17 – Order for the expiry of a previously granted permit or right**

An order may be issued for the expiry of a permit or right that is based on a decision issued under provisions in force before the entry into force of this Act in compliance with the provisions laid down in Chapter 3, sections 24 and 25.

### **Section 18 – Right of use to hydropower**

(1) The owner of a power plant who was granted a permit to construct a power plant under legislation in force before the entry into force of the former Water Act and who was also granted the related fixed-term right to utilise hydropower belonging to another party may, as an initiator, offer other shareholders of hydropower the opportunity to participate in the project as provided in Chapter 8, section 8. The owner of the power plant has this right even if his or her share of the hydropower is less than one fifth.

(2) The public notice application shall be submitted before the termination of the fixed-term right when at least four fifths of the fixed period has passed. The initiator and the parties entitled to participate in the project and who are willing to do so may be granted a new permit and permanent right of use to hydropower belonging to others, in compliance with the provisions laid down in Chapter 8, sections 2, 5 and 7.

### **Section 19 – Using hydropower belonging to another party**

(1) If a power plant for which a construction permit was granted under the legislation in force before the entry into force of the former Water Act also uses hydropower belonging to another party and the right to hydropower of the power plant owner has not been specified or agreed on insofar as is known, the owner of the plant has the right provided in section 18.

(2) Anyone who is able to prove his or her right to hydropower taken into use in a power plant referred to in subsection 1 may, upon application, request the permit authority to specify the time during which the owner of the power plant shall undertake the procedure referred to in Chapter 8, section 5. The provisions laid down in Chapter 14 on administrative enforcement shall apply to processing of the matter, as applicable.

### **Section 20 – Right to participate in the construction of a power plant**

Anyone who has been granted a permanent right of use to hydropower on the basis of a share as a partner to a jointly owned area before the entry into force of this Act shall, notwithstanding the provisions of the Act on jointly owned areas, have the right to participate in the construction of a power plant as provided in Chapter 8, section 5.

## **Section 21 – Register of decisions under the Water Act**

The register of decisions under the Water Act, referred to in Chapter 12, section 11, of the former Water Act shall be integrated into the environmental protection database.