

DECREE NO. 2001/164/PM OF 8 MAY 2001 TO SPECIFY THE TERMS AND CONDITIONS FOR TAPPING SURFACE WATER OR GROUNDWATER FOR INDUSTRIAL OR COMMERCIAL PURPOSES

THE PRIME MINISTER, HEAD OF GOVERNMENT,

- Mindful of the Constitution;
- Mindful of Law No.96/12 of 5 August 1996 relating to environmental management
- Mindful of Law No.98/005 of 14 April 1998 on the water regime;
- Mindful of Law No.92/089 of 4 May 1992 to specify the duties of the Prime Minister, amended and supplemented by Decree No.95/145 of 4 August 1995;
- Mindful of Decree No.97/205 of 7 December 1997 to organize the Government, amended and supplemented by Decree No.98/067 of 28 April 1998;
- Mindful of Decree No.97/206 of 7 December 1997 to appoint a Prime Minister.

HEREBY DECREES AS FOLLOWS:

Chapter I

GENERAL PROVISIONS

Article 1:

This Decree lays down the terms and conditions for tapping surface water or groundwater for industrial or commercial purposes.

Article 2:

Prior authorization shall be obtained before surface water or groundwater can be tapped for industrial or commercial purposes.

Article 3:

(1) Shall be considered as intended for domestic purposes and dispensed from authorization, the tapping of surface or underground water to satisfy the needs of natural persons who are owners of tapping facilities as well as those of persons living habitually under their roofs, within the limits of the quantities of water required for human consumption, for hygienic requirements and for plant or animal productions reserved for family consumption.

(2) However, the administration in charge of water resources may, as necessary, request the persons referred to in paragraph (1) above to provide information on their water tapping systems.

Article 4:

The tapping of surface water or groundwater for industrial or commercial purposes shall require payment of a fee. The fee amount, basis and method of water extraction shall be fixed by the Finance Law.

Chapter II

AUTHORIZATION FOR TAPPING WATER

Article 5 :

- (1) Any person wishing to set up and/or operate a facility comprising one or more structures for tapping surface or underground water for industrial or commercial purposes, shall apply for authorization to the Minister in charge of water resources.
- (2) The original of the application for authorization, stamped at the current rate shall be submitted in four (4) copies to the competent divisional delegation in charge of water resources.

The application file shall include:

- (a) an impact assessment accompanied by the relevant decision of the administration in charge of environment**
- (b) information and documents appended to this Decree**
- (c) any other additional information required by the administration in charge of water resources**
- d) a receipt of payment to the intermediate revenue officer of the Ministry in charge of water resources attesting to the payment of opening fees and for the study of file of a sum of:**
 - 50 000 (fifty thousand) CFA Francs for tapping of less than 100 (one hundred) cubic meters of water per day
 - 200 000 (two hundred thousand) CFA Francs for tapping of between 100 (one hundred) and 500 (five hundred) cubic meters of water per day
 - 300 000 (three hundred thousand) CFA Francs for tapping of between 500 (five hundred) and 1000 (one thousand) cubic meters of water per day and
 - 500 000 (five hundred thousand) CFA Francs for tapping that exceeds 1000 (one thousand) cubic meters of water per day.

Article 6:

When the installation of a water tapping facility for industrial or commercial purposes requires prior obtaining of a building permit, the said permit must be included in the application for authorization.

Article 7:

(1) Within 1 (one) month from the date of submission of the application, the Minister in charge of water resources may, as necessary, open a public inquiry. For this purpose, he shall appoint investigating commissioners.

(2) The opening of this inquiry shall be published through:

- the Senior Divisional Officer of the Division of location of the tapping facility
- the Sub-divisional Officer of the sub-division concerned, and
- the Mayor of the Council of location of the said installation.

Article 8:

- (1) The notice to the public shall be posted at the expense of the applicant. Execution of this posting shall be certified by the authorities mentioned in Article 7 above.
- (2) The notice shall specify the nature of the tapping facility, the direct or indirect impact of the proposed tapping on the ecological balance, the setting and the population's quality of life, the environment in general, duration of the investigation, as well as the names and addresses of the investigating commissioners.
- (3) After examining the relevant file, an investigation register shall be opened at the Sub-divisional Office or town hall of the location of the proposed tapping, in which the public may make observations.

Article 9:

Before opening the investigation, the Minister in charge of water resources shall communicate for opinion, a copy of the request for authorization to the administrations in charge of environment, public health and, if necessary, agriculture, livestock, industrial and commercial development and public water resources service managers operating in the area. The aforementioned administrations and bodies must take a decision within 30 (thirty) days from the referral date. After this period, their observations shall no longer be taken into consideration.

Article 10:

The duration of the public inquiry shall be 30 (thirty) days. After this period, the administrative authorities referred to in Article 7 (2) above shall send to the Minister in charge of water resources a certificate of posting and non-opposition by the populations, or oppositions of the public concerned regarding the planned water tapping project.

Article 11:

- (1) The investigation register shall be closed and signed by the investigating commissioners. At closing of the investigation, the investigating commissioners shall convene the applicant within 8 (eight) days and communicate to him on the spot, the observations recorded in their report and invite the latter to produce a brief in reply within 15 (fifteen) days.
- (2) The investigating commissioners shall forward the record of the inquiry to the Minister in charge of water resources within 8 (eight) days after the submission of the applicants' response to the observations or expiry of the period referred to in paragraph (1) above.
- (3) The Minister in charge of water resources shall decide within 30 (thirty) days from the date of receipt of the investigation file in his services.

Article 12:

If the tapping facility includes several structures, a single investigation shall be conducted and an order shall rule on all of these facilities.

Article 13:

The costs of the public inquiry shall be borne by the applicant for authorization. Their amount shall be fixed by order of the Minister in charge of water resources.

Article 14:

- (1) The authorization for tapping shall be granted by order of the Minister in charge of water resources, subject to respect of the rights of third parties, for a period of 5 (five) years renewable.
- (2) The authorization shall be personal and non-transferable.

- (3) Renewal of the authorization shall be subject of an application in the same forms and procedures as those followed for its granting, 6 (six) months before the expiry of the current authorization.

Article 15:

The Order authorizing the tapping of surface or underground water for industrial or commercial purposes shall specify the conditions for establishing and operating the tapping facilities and, where appropriate, the water outflow and its destination.

Article 16:

In case of modification resulting in a significant change in the information of the initial application or in case of interruption of activities for more than 6 (six) months, the owner of the tapping facilities must request a new authorization to continue or resume activities.

Article 17:

- (1) The authorization may be:
 - suspended for non-compliance with the standards and conditions laid down in the authorization document;
 - withdrawn;
 - in the case of performance of the works of public interest, without prejudice, if any, to the right of compensation of the owner of the tapping facility;
 - in the case of conviction of the authorization holder for infringement on the provisions of the law on water resources and its implementation instruments;
 - in the case of a repeated infringement on the provisions leading to the suspension of the authorization.
- (2) The non-renewal of the authorization shall mean its cancellation.

Chapter III

SURFACE WATERS AND CONTROL OF TAPPING FACILITIES

Article 18 :

Any water tapping plant for industrial or commercial purposes must have an effective device to measure the volumes collected. The device must conform to a model approved and authorized by the Minister in charge of water resources, after consulting the administration in charge of checking measuring instruments.

Article 19:

- The operator or the person in charge of a water tapping facility must note, on a monthly basis, in a register specially opened for this purpose:
- the volumes tapped;
 - - the number of tapping hours;
 - - the usage and conditions of use of the water tapped;

- - any variation in the quality of the water tapped;
- - the conditions for discharging the water tapped;
- - incidents occurring in the operation of the facility or the tapping of water, especially
- - stoppages in tapping.

Article 20:

- (1) Monitoring and control of water tapping facilities shall be exercised under the authority of the Minister in charge of water resources by sworn-in officials commissioned for this purpose.
- (2) The operators or the persons in charge of the water tapping facilities shall ease access for sworn-in officials and put at their disposal the register referred to in Article 19 above, in which they shall make their observations.

Article 21:

The Minister in charge of water resources can call upon the owner or the person in charge of the tapping facility in question to comply, within a specified period, with the conditions fixed by the deed of authorization and standards of the monitoring devices.

Article 22:

- (1) Any violation found during a check shall be reported in an adversarial manner and immediately forwarded to the Minister in charge of water resources for the latter to notify the offender.
- (2) The offender shall have 20 (twenty) days from the date of receipt of the notice to comply.
- (3) In case of protest, the claim shall be examined by the Minister in charge of water resources. If the protest is well-founded, the report is dismissed. Otherwise, in the absence of a final settlement or arbitration within the time limit set in paragraph (2) above, the Minister in charge of water resources shall refer the case before the competent court.

Chapter IV

WATER TAPPING FEES

Article 23 :

- (1) Any natural or legal person who owns or operates a facility for tapping surface or groundwater for industrial or commercial purposes shall pay a fee.
- (2) The water tapping fee shall be calculated on the volumes of water tapped, according to a unit rate of taxation fixed annually by the Finance Law.

Article 24:

The following shall be exempted from the payment of tapping fee:

- public service concessionary companies that exploit and distribute drinking water, without prejudice to the provisions of the related specifications;
- operators who tap water for pastoral, agricultural or piscicultural uses and whose daily drawn quantities are less than those of the 5 000 (five thousand) man equivalent;
- operators who tap water for the council or for a village water supply project.

Article 25:

- (1) Any person liable to pay the fee shall be required to communicate to the Minister in charge of water resources all information necessary to calculate the volume of water tapped.
- (2) The information referred to in paragraph (1) above shall be reported quarterly on a form provided by the water resources authority.
- (3) The completed form must be sent to the water resources authority by the twentieth day of the month at the end of each quarter. In case of cessation of activity, declaration thereof must be made within 45 (forty-five) days.

Article 26:

- (1) Any error or omission in the taxable person's declaration shall be automatically rectified by the water resources authority using the control elements at its disposal. The adjustment shall be notified to the liable person within 60 (sixty) days from the date of receipt of the declaration.
- (2) In the event of a late declaration or non-declaration, the water resources authority shall calculate and fix the fee amount using the information available to it and, where appropriate, by on-the-spot check.
- (3) The water resources authority shall notify the taxpayer concerned of the reasons for the automatic tax assessment and shall send him a notice of payment 30 (thirty) days after such notification.

Article 27:

- (1) The fee amount, corrected if necessary, shall be notified quarterly to the person liable in the form of a payment notice.
- (2) The taxpayer must pay the fee amount within the time limit set in the payment notice, until subsequent modification.

Article 28:

Any delay noted in the transmission of the declaration or payment of the fee shall entail, without prejudice to the other penalties provided for by Law No.98/005 of 14 April 1998 referred to above, an increase of:

- 25% of the fee amount for a delay of between 1 (one) and 3 (three) months;
- 50% of the fee amount for a delay of between 3 (three) and 6 (six) months;
- 75% of the fee amount for a delay of between 6 (six) and 9 (nine) months; and
- 100% of the fee amount for a delay of more than 9 (nine) months.

Article 29:

- (1) The water tapping fee shall be collected by the revenue officer of the Ministry in charge of water resources.
- (2) The proceeds of the water tapping fee and subsequent fines shall contribute to the trust fund for financing sustainable water and sanitation projects.

Chapter V

MISCELLANEOUS AND FINAL PROVISIONS

Article 30 :

The owners and operators of the land on or under which the water tapping facilities are located shall facilitate access for sworn-in officials responsible for monitoring and control.

Article 31:

Previously established water tapping facilities must, within 1 (one) year from the date of signature of this Decree, comply with its provisions.

Article 32:

Orders issued by the Minister in charge of water resources shall specify, as necessary, the methods for implementing this Decree.

Article 33:

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

Yaounde, 8 May 2001

Peter Mafany Musonge
Prime Minister, Head of Government

II.15

DECREE NO. 2001/165/PM OF 8 MAY 2001 TO LAY DOWN THE TERMS AND CONDITIONS FOR PROTECTING SURFACE WATER AND GROUNDWATER AGAINST POLLUTION