

Water Legislation in the Kurdistan Region of Iraq

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The Kurdistan Region of Iraq (the “KRI”), a semi-autonomous region in Northern Iraq, is an arid part of the world with exceedingly limited water resources. Regional politics, policy shortcomings, excessive water consumption, decreasing water reserves, and reduced water quality threaten the water security of the KRI. In this article we explore historic and more recent legislative measures adopted by the KRI to implement water saving measures and establish/secure irrigation systems.

The primary law governing irrigation matters in the KRI is the Irrigation Law No. 6 of 1962 (as amended) (the “**Irrigation Law**”). Pursuant to the Irrigation Law, Public Irrigation is defined as:

1. The lakes, marshes and streams of natural water used for irrigation or to drain the excess water or water drainage; and/or
2. The man-made sewerage systems established by the State to store, distribute or discharge water and waste water/sewage including infrastructure within or around these sewerage systems or water courses to control, arrange, distribute and balance the water or to collect scientific and technical information for irrigation and drainage purposes.

In addition to this the KRI Ministry of Water Resources (the “**Ministry**”) has the discretion to classify other works as Public Irrigation works.

The Irrigation Law divides the responsibilities of the state and land owners as follows:

1. The state is responsible for the establishment, renovation, maintenance and preservation of public irrigation works;
2. The land owner is responsible for the establishment, renovation, maintenance, preservation and supervision of irrigation on his/her own land.

In addition to the above, the Ministry is responsible for the assignment, distribution, and supervision of water resources. A special license from the Ministry is required for the installation of water pumps or any water extraction machinery. Any such licenses are non-transferrable and exclusive to the location specified by the terms of the license. An official fee is also payable by the license applicant.

The Ministry has the discretion to cancel licenses for water extraction machinery in the event that:

1. the terms of the license are violated;
2. a need arises for the land area to be reduced in which the pumping machinery is being used;
3. the use of the pumping machinery results in the damage of irrigation works; or
4. in the event the pumping machinery is unused at the licensed location six (6) months from the date the license is issued.

Pursuant to the Irrigation Law, the following acts (non-exhaustive list) are punishable by a jail period not exceeding six (6) months and/or fines:

1. Acts which damage irrigation projects (see below for more detail on irrigation projects);
2. Neglecting the control of water allocated for irrigation purposes, in the event such neglect results in damage to a main road or infrastructure;

3. Using irrigation water for purposes other than agricultural purposes without the required approvals;
4. Spoiling any water resources to the extent that the water is unusable;
5. Failing to abide by irrigation instructions issued by the Ministry;
6. Selling agricultural pumps and other relevant equipment without the appropriate permissions.

The Law No. 138 of 1971 on the execution of irrigation projects (the “Irrigation Projects Law”) is another key law for water management in the KRI. Irrigation projects pursuant to this law are defined as:

“the projects and actions directly executed by the irrigation department or through contractors, such as the establishment, maintenance, expansion or improvement of rivers, streams, drains, locks, dams and buildings, in addition to operation of these projects.”

Pursuant to the Irrigation Projects Law, a special committee at the Ministry shall be formed to oversee the licensing and supervision of private and public irrigation projects, including the appropriate compensation of land owners whose interests in the land are negatively affected by government agricultural/irrigation reforms.

The Law No. 59 of 1987 on the exploitation of river and lake beaches (the “Beaches Law”) is another key legislation on water management in the KRI. The Beaches Law regulates the human exploitation of land adjacent to bodies of water , which include the main rivers, streams, lakes and reservoirs. The Ministry has the authority pursuant to this law to remove facilities and other obstacles which hinder the flow of water. Failure to abide by this law or related Ministerial instructions will result in administrative penalties.

It is important also to highlight the Instructions No. 1 of 2015 on water well drilling in the KRI (the “**Well-Drilling Law**”). These instructions aim to monitor groundwater extraction and impose regulations on water well drilling. In recent years, the KRI has experienced a dramatic increase in the un-authorised drilling of wells. This has resulted in the decline and depletion of groundwater. Unlike some of the previous laws discussed, this law contemplates modern-day technology. Most importantly this law establishes a strict licensing regime for well-drilling in the KRI.

It is evident that some of the existing legislation on water resources in the KRI is significantly outdated and requires a major legislative overhaul by the KRI government. To this effect the KRI Parliament is presently in the process of considering draft legislation on water resource management in the jurisdiction. Water issues in the KRI are a humanitarian and national-security risk and must be addressed with the utmost urgency.