



**LAW ON WATER RESOURCES 2023 – FEE ON WATER
RESOURCE EXPLOITATION SHALL BE APPLIED
FOR DOMESTIC AND AGRICULTURAL WATER**

Water is one of the precious natural resources, playing a crucial role in the sustainable development of each nation and locality. In the context of global climate change and the country's socio-economic development, population growth, and urbanization, the demand for water for production and daily activities is increasing in quantity and quality, leading to overexploitation and excessive use of water resources. Recently, numerous areas have been facing challenges such as pollution and depletion of clean water, particularly concentrated in major cities in our country, significantly impacting the lives of citizens and business activities.

In response to this situation, the amended Law on Water Resources of 2023 was issued to address and rectify shortcomings in regulations, ensuring their alignment with practical situations.

It legalizes certain sub-law provisions and introduces new policies to enhance water resource restoration and development measures, ensuring efficient management and utilization for socio-economic development. The law aims to safeguard the national water security and the rights and interests of citizens and businesses.

Therefore, under the legal topic "**LAW ON WATER RESOURCES 2023 – FEE ON WATER RESOURCE EXPLOITATION SHALL BE APPLIED FOR DOMESTIC AND AGRICULTURAL WATER**", ATA Legal Services will compile key and noteworthy points of the Law on Water Resources 2023. Additionally, an assessment will be provided regarding the impact of these regulations on citizens and businesses.

1. LAW ON WATER RESOURCES 2023 EMPHASIZES WATER COORDINATION AND RESTORATION

1.1. Coordination and restoration issues highlighted in the scope of the Law on Water Resources 2023

In defining the regulatory scope of the Law on Water Resources 2023, legislators have supplemented new provisions addressing water coordination and restoration alongside regulations on the management, protection, exploitation, and use of water resources. These regulations specifically focus on the issues of regulation, distribution, restoration, and development of water resources, becoming prominent throughout the new law.

1.2 Supplementing several fundamental definitions related to the management, coordination, and restoration of water resources

The Law on Water Resources 2023 supplements several key definitions that hold significant importance, highlighting the role of water coordination and restoration. These definitions include:

- **Water Source Functionality:** This refers to the ability to provide value and benefits of water sources for various purposes. Defining water sources by functionality from the outset enhances efficiency in management, exploitation, and use.
- **Water Restoration:** This involves measures to improve the quantity and quality of water, aiming to restore flow, and water source functionality, and enhance economic, ecological,

cultural, and historical values associated with water.

- **Water Reuse:** This encompasses the reuse of treated wastewater meeting national technical standards for specific water-use purposes.
- **Water Recycling:** This denotes the process of reusing water in a production cycle.

1.3 Amending and supplementing numerous policies to encourage and attract investments in the water resources sector, particularly in coordination and restoration efforts

The Law on Water Resources 2023 supplements provisions to incentivize organizations and individuals participating in water resource-related activities, including:

- Prioritizing water storage and restoring depleted, exhausted, and polluted water sources; providing preferential policies for investment projects extracting water for domestic use and production in regions with scarce freshwater, ethnic minority areas, mountainous regions, border areas, islands, and economically challenging regions; facilitating access to domestic water for the poor, women, children, persons with disabilities, and other vulnerable groups.
- Encouraging, favoring, and supporting organizations and individuals engaged in basic water resource surveys, protection,

development, water storage, and restoration activities; regulating and distributing water resources; preventing and mitigating water-related harms.

- Encouraging organizations and individuals to build, apply standards, conduct research, transfer technology, and apply advanced science and technology in managing, protecting, restoring, and developing water resources; the efficient water exploitation and use, water recycling, and reuse practices; treat seawater to freshwater; rainwater harvesting, and artificial groundwater replenishment; restore water sources facing depletion, exhaustion, and pollution; prevent, control, and remedy harms caused by water.

Organizations and individuals participating in water resource management, protection, coordination, distribution, restoration, development, exploitation, and use will enjoy benefits, support, or exemptions from or reductions in water resource exploitation fees as stipulated by this law and related regulations. Detailed cases eligible for fee exemptions or reductions are outlined in Section 4 of this legal topic.

In summary, the Law on Water Resources 2023 introduces these policies to diversify resources, attract investment, and provide incentives and support when engaging in activities funded by socialized capital related to protecting, developing, renovating, and restoring water resources and water storage facilities.

1.4. Supplementing of prohibited acts in water resource coordination and restoration

In Article 8 of the Law on Water Resources 2023, several prohibited acts have been added, including

- Encroachment and filling of rivers, streams, canals, ditches; placement of obstacles, structures, unauthorized planting of trees obstructing flood discharge, water flow in rivers, streams, lakes, canals, and ditches without mitigation measures.
- Unauthorized exploitation of mud, soil, and other minerals on rivers, streams, canals, ditches, and reservoirs, within water source protection corridors.
- Destruction of water regulation and storage works.
- Manipulation of information and data on water resources.
- Construction of water regulation, storage works, development of water sources against water resource planning, provincial planning, and other relevant plans.

1.5. Planning for the restoration of depleted, polluted water sources and response to pollution incidents

The restoration of depleted, exhausted, and polluted water sources, as well as responding to and addressing water pollution incidents, must be planned through comprehensive programs and projects. The activities for compiling a list and planning water restoration are guided in the following sequence:

- Compilation of a list of water sources requiring restoration due to depletion, exhaustion, or pollution.
- Development of plans, programs, and projects for the restoration of water sources listed, prioritizing restoration of rivers, especially those with depleted or stagnant flow, and severe pollution within the list.
- Adjustment of operation regimes, addition, and upgrade of water regulation and storage works, construction of dams, reservoirs, pumping stations, water conveyance structures, dredging to regulate water levels, improve flow, and enhance the quantity and quality of water sources. This includes artificial groundwater replenishment, pollution control, wastewater treatment, water reuse, and recycling.

The Ministry of Natural Resources and Environment is responsible for compiling the list of water sources requiring restoration and developing plans for their restoration. These plans need approval from the Prime Minister.

1.6. Encouraging projects to exploit, recycling and reuse water

Currently, water sources for both domestic and industrial use are facing increasing serious pollution. Faced with this reality, to ensure sustainable water supply and protect water resources, the development of a comprehensive strategy for managing a sustainable water system

with the goal of ensuring safety in water supply, environmental protection for socio-economic development, and adaptation to climate change is a crucial requirement.

In the Law on Environmental Protection 2020, policies regarding resource recycling in general and water resources, in particular, have been encouraged. Therefore, the Law on Water Resources 2023 has initially introduced content related to the use of recycled water, emphasizing it as one of the measures for efficient and economical water use, and aligning with relevant legal regulations.

a. The law encourages projects to exploit and reuse water, categorizing them into three levels:

- Encouraged application: Projects involving water extraction and discharge are encouraged to apply water recycling and reuse solutions during the project construction phase.
- Mandatory application with scheduled implementation: Depending on the socio-economic development conditions in each locality, provincial People's Committees will plan and schedule the implementation of water recycling and reuse solutions for projects in areas prone to drought and water scarcity.
- Immediate mandatory application: Projects involving water extraction and discharge in areas where surface water sources are no longer sustainable must implement water

recycling, reuse solutions, or have a wastewater treatment plan meeting environmental standards before discharge into water sources.

b. Incentives for efficient water use:

- Projects implementing water recycling and reuse solutions may be considered for a reduction in the water extraction rights fee;
- Organizations and individuals investing in water recycling, reuse, rainwater harvesting, and advanced water-saving technologies are eligible for incentives according to the law.

2. DISTINGUISH THE FUNCTIONS OF WATER SOURCES AND SUPPLEMENT REGULATIONS ON WATER RESOURCE MANAGEMENT ACCORDING TO THE FUNCTIONS OF WATER SOURCES.

2.1. Clearly define the functions of water sources

The functions of water sources are a basis for selecting solutions to protect water sources, improve and restore depleted, exhausted, and polluted water sources. They also determine the approval, authorization, and licensing of projects discharging wastewater into water sources as prescribed. The Law on Water Resources 2023 specifies the functions of water sources as follows:

- Providing water for daily life;
- Supplying water for agricultural production, aquaculture;
- Supplying water for industrial production, business, and services;
- Providing water for hydropower;
- Preserving religious, spiritual activities, and cultural values;
- Inland waterway transport, maritime transport;
- Landscape creation, environment development; tourism development; protecting the development of aquatic ecosystems; preserving biodiversity; flood storage and drainage.

2.2. Authority for zoning the functions of water sources

The zoning of water source functions for surface water is determined in the overall inter-provincial river basin planning for inter-provincial surface water and in provincial planning for intra-provincial surface water.

Simultaneously, the Law on Water Resources 2023 clearly defines responsibilities for Ministries, sectors, and localities in organizing the implementation as follows:

- Ministry of Natural Resources and Environment: Organize the review of water source functions during the review of inter-provincial river basin planning;
- People's Committees at the provincial level: Organize the review of water source functions in provincial planning.
- For cases where there is no planning or planning that does not express water source functions:
- The Ministry of Natural Resources and Environment determines and announces the functions for inter-provincial surface water;
- People's Committees at the provincial level determine and announce the functions for intra-provincial surface water.

Furthermore, the functions of water sources will be reviewed and adjusted in two cases: (i) There is a change in the requirements for protecting water sources

to serve socio-economic development;
(ii) There is a significant change in the water source's capacity without remedial measures.

2.3. New regulations on water source protection according to each function

a. For domestic water sources

The Law on Water Resources 2023 supplements that, in the case of particularly important domestic water supply projects approved by the Prime Minister, coordination with the Ministry of Construction and the Ministry of Public Security is required to develop protection plans for domestic water supply projects. Additionally, organizations and individuals are responsible for protecting the quality of domestic water sources, detecting behaviors that pollute domestic water sources, and promptly reporting to the nearest People's Committee, instead of the previous general regulation of reporting to the competent authority, leading to confusion in implementation.

b. For water sources in agricultural production, aquaculture, mineral exploitation, and other activities

Specifically, the Law on Water Resources 2023 adds responsibilities for the Ministry of Agriculture and Rural Development and People's Committees at the provincial level as follows:

- The Ministry of Agriculture and Rural Development manages state control

over the use of fertilizers and plant protection chemicals in agricultural production activities as regulated by the law to ensure no pollution of water sources and no impact on the functions of water sources;

- Provincial People's Committees review and decide on the conversion of land use purposes for mining areas, after ceasing exploitation, to create lakes for regulation, water storage, water supply, landscape when meeting all conditions as regulated by relevant laws. They also update and add to the list of intra-provincial surface water sources and the list of lakes, ponds, reservoirs, and abandoned pits that are not allowed to be filled.

c. For water sources with the function of preserving religious and cultural activities

Concerning water source protection related to religious and cultural activities, high biodiversity value, and cultural preservation, the Law on Water Resources 2023 adds new provisions for sources with these functions. It clearly defines water sources related to these activities, including:

- Water sources associated with important flooded land, biodiversity conservation areas, and water sources with high biodiversity values as regulated by the law;
- Water sources linked to religious and cultural activities, scenic spots, historical-cultural relics that have been ranked or protected areas as regulated.

Moreover, the law also stipulates strict control and monitoring of activities related to water resource exploitation and wastewater discharge into water sources and activities within the water source protection corridor mentioned above. These activities should not adversely affect the function of preserving religious and cultural activities, values, biodiversity, and the development of tourism related to the water source.

Furthermore, to achieve the goal and policy of restoring and protecting water resources in general and water sources with the function of preserving religious and cultural activities in particular, the Law on Water Resources 2023 adds provisions stating that the state prioritizes protecting and restoring these water sources when they are degraded, exhausted, or polluted.

3. SUPPLEMENTING CONTENT ON WATER RESOURCE PROTECTION TAILORED TO EACH WATER SOURCE, WITH A FOCUS ON PROTECTING GROUNDWATER

In addition to adding regulations on water resource management by function, the Law on Water Resources 2023 also supplements various content on water resource protection tailored to each water source, with a particular emphasis on issues related to protecting groundwater.

3.1. Emphasizing the crucial role of groundwater extraction limits in water resource management

Specifically, groundwater extraction limits are one of the bases to consider in the process of appraising and deciding, approving the following tasks:

- a) Planning for water resources; provincial plans and technical, specialized plans with content on groundwater extraction and use; issuing prohibited and restricted zones for groundwater extraction;
- b) Plans for regulating and distributing water resources in river basins; restoring depleted, exhausted, or polluted groundwater sources;
- c) Issuing permits for exploration and extraction of groundwater;
- d) Projects, artificial groundwater supplementation solutions.

3.2. Detailed regulations on groundwater protection measures

- The protection of groundwater must be uniformly implemented by the Provincial People's Committee (PPC);
- The PPC must issue and implement a groundwater protection plan. The groundwater protection plan must be issued within a period not exceeding 3 years from the effective date of this Law and reviewed, adjusted, or amended every 5 years to meet the requirements of socio-economic development and water source protection.
- The PPC defines prohibited and restricted zones for groundwater extraction. In cases where organizations or individuals have been granted permits for groundwater extraction within restricted zones, they are allowed to continue extraction until the expiration of the permit and can be granted, extended, adjusted, or reissued a permit if they meet the conditions but do not exceed the permitted water extraction quantity.
- All drilling wells serving the exploration of water, geological and mineral resources must be sealed when damaged or no longer in use.

All activities involving drilling or digging into the ground must ensure compliance with groundwater protection requirements.

4. WATER EXTRACTION FOR DOMESTIC AND AGRICULTURAL USE MUST ALSO PAY FEES FOR THE RIGHT TO EXPLOIT WATER RESOURCES

4.1. Supplementing regulations on fees for the right to exploit water resources for domestic and agricultural use

Cases added to the list of those required to pay fees for the right to exploit water resources include:

- Extraction of surface water and groundwater for domestic use;
- Extraction of surface water and groundwater for agricultural use.

This addition may increase the cost of water for water supply units because water prices are determined based on the correct and complete consideration of all cost factors during the extraction, production, distribution, and consumption processes. In the current socio-economic situation with many difficulties, this regulation may add pressure to both production enterprises and consumers. However, in the long run, this regulation is necessary to contribute to raising awareness and responsibility of the public in the extraction and use of water, ensuring efficiency, savings, and protecting water resources that are at risk of depletion.

4.2. Clarifying cases exempt from paying fees for the right to exploit water resources

- Extraction of seawater.

- Extraction and use of water resources for domestic use, agricultural production, aquaculture, industrial production, hydropower, irrigation, sports, tourism, business, services, creating sources, preventing salinity intrusion, preventing flooding, and landscaping, in cases not subject to declaration, licensing, or registration for the extraction and use of water resources. Also, exempting cases where households extract groundwater for their domestic use.

Temporary exemptions from paying fees for the right to exploit water resources are also specified:

- Extraction of surface water and groundwater for domestic use that has been permitted before the effective date of this Law must pay the fees for the right to exploit water resources for domestic use by December 31, 2025, at the latest.
- Extraction of surface water and groundwater for agricultural use that has been permitted before the effective date of this Law, but is not subject to the fee for the right to exploit water resources according to the Water Resources Law 2012, is exempt from paying the fees for the right to exploit water resources until the expiration of the permit stated in the water resource permit.

4.3. Supplementing cases exempted or reduced fees for the right to exploit water resources

a. Cases exempt from fees for the right to exploit water resources

- Extraction of water for domestic use in border areas, islands, economically and socially difficult areas, and areas with particularly difficult economic and social conditions.
- Projects with water extraction works that have been guaranteed by the Government of Vietnam according to the Government's guarantee.
- During the time the water extraction works are damaged due to uncontrollable incidents and cannot

continue or must temporarily stop extraction.

b. Cases eligible for reduced fees for the right to exploit water resources

- Water extraction projects must reduce or cut the water extraction quantity according to the requirements of the competent state authority;
- Projects in production, business, and services that implement solutions for water reuse and recycling;
- Reservoirs must adjust and supplement the flood control capacity lower than the approved task;
- Water extraction for agricultural production during periods of drought, water scarcity, and saltwater intrusion.

5. STRENGTHENING THE MANAGEMENT OF DECLARATION, REGISTRATION, AND LICENSING OF WATER RESOURCE EXPLOITATION.

5.1. Households extracting groundwater for domestic use must declare

According to the regulations in the Law on Water Resources 2012, the extraction and use of water for domestic purposes by households do not require registration or permits. However, the Law on Water Resources 2023 mandates that households extracting groundwater for domestic use must declare to facilitate management. This is a new provision in the Law on Water Resources 2023 that is expected to impact many households, especially those in rural areas relying on self-drilled wells for daily water use.

The declaration of groundwater extraction for domestic use by households will be received and postponed by the commune-level People's Committees, extending the deadline until July 1, 2026, giving more time to establish appropriate implementation guidelines.

5.2. Addition of cases requiring permits for water resource exploitation

The issuance of water resource permits is one of the measures to manage and control the water extraction activities of organizations and individuals. It helps assess the demand for water extraction, use, and implement appropriate management and protection measures for water resources. Additionally, the issuance of water resource permits and the collection of fees for the right to exploit water resources contribute to raising awareness of efficient water use and avoiding the waste of water resources.

a. Cases requiring a water exploitation permit: Organizations and individuals

extracting water for domestic use, agricultural production, aquaculture, industrial production, hydropower, irrigation, sports, tourism, business, services, creating sources, preventing salinity intrusion, preventing flooding, landscaping, and other purposes must obtain a corresponding water exploitation permit according to the type of water source extraction, except for cases as follows:

- Organizations and individuals not required to declare, permit water exploitation, or register for water resource use.
- - Households extracting groundwater for their domestic use, which must declare for management.
- - Cases where organizations and individuals register for water resource exploitation and use.
- - Cases of groundwater exploitation requiring a permit for exploration before constructing works.

b. Cases requiring registration for water resource exploitation and use:

- Extraction of surface water on a medium scale for agricultural production, aquaculture.
- Small-scale extraction of groundwater for purposes other than those specified in point a, sections 3 and 4 of this Article.
- Use of natural flowing groundwater in mineral exploitation mines for ore selection or pumping water to

drain the self-flowing water in mineral exploitation mines.

- Medium-scale extraction of seawater for production, business, services, aquaculture, and landscaping on islands and mainland.
- Construction of river, stream, canal, drain, ditch works with medium and small scales for creating sources, preventing salinity intrusion, preventing flooding, and landscaping.
- Use of river, stream, canal, drain, ditch, reservoir surfaces for aquaculture, business, services, with a scale not falling under the regulations of small scale in this provision; use of reservoir surfaces for solar power production.
- Dredging rivers, streams; digging lakes, ponds, canals, drains, ditches for creating space for water collection, storage, drainage, and landscaping, with a scale not falling under the regulations of small scale in this provision.

5.3. Obligations to register and permit water resource exploitation and use for cases not required to register and

permit according to the Law on Water Resources 2012

- In the case of existing irrigation works that were constructed and exploited before January 1, 2013, without registration or permits for water resource exploitation, they must complete the procedures for registration and permitting water resource exploitation by June 30, 2027.
- Organizations and individuals falling into one of the following cases (1) having lakes, ponds, canals, drains, ditches for creating space for water collection, storage, drainage, and landscaping; (2) using river, stream, canal, drain, ditch, reservoir surfaces for aquaculture, business, services, with a scale not falling under the regulations of small scale; (3) using reservoir surfaces for solar power production before the effective date of this Law, must complete the procedures for registering water resource use according to the regulations of this Law by June 30, 2026

5.4. Extension of the duration of water resource licenses

Type of License	Law on Water Resources 2012	Law on Water Resources 2023

<p>Surface Water Exploitation License</p>	<p>- Maximum duration of 5 years, minimum of 5 years;</p>	<p>- Maximum duration of 10 years, minimum of 5 years; - Can be renewed multiple times, with each renewal lasting 5 years.</p>
<p>Seawater Exploitation License</p>	<p>- Can be renewed multiple times, with each renewal lasting a minimum of 3 years and a maximum of 10 years.</p>	<p>- Maximum duration of 15 years, minimum of 10 years; - Can be renewed multiple times, with each renewal lasting 10 years.</p>
<p>Groundwater Exploration License</p>	<p>- Duration of 2 years; - Can be extended once, with the extension period not exceeding 1 year.</p>	
<p>Groundwater Exploitation License</p>	<p>- Maximum duration of 10 years, minimum of 3 years; - Can be renewed multiple times, with each renewal lasting a minimum of 2 years and a maximum of 5 years.</p>	<p>- Maximum duration of 5 years, minimum of 3 years; - Can be renewed multiple times, with each renewal lasting 3 years.</p>

These adjustments in the Law on Water Resources 2023 aim to provide a more

flexible and adaptable framework for managing water resource licenses,

considering the specific characteristics and requirements of each type of water resource exploitation.

6. REMOVING DISPUTE RESOLUTION PROCEDURES FOR WATER RESOURCES AT MANAGEMENT AGENCIES

Under the current regulations, when disputes arise concerning water resources, the parties involved must resolve them at the respective management agencies, including the People's Committee at the district level, the People's Committee at the provincial level, and the Ministry of Natural Resources and Environment. Only if the parties do not agree with the dispute resolution decision can the case be brought to the competent People's Court.

However, in the Law on Water Resources 2023, the provisions regarding dispute resolution mentioned above have been eliminated. Dispute resolution related to water resources will now be handled by the competent People's Court to ensure consistency with legal provisions on civil procedure.

It can be said that the enactment of the Law on Water Resources has established a

comprehensive, unified, and suitable legal framework to ensure the security of water sources. The law focuses on the prevention, control, and restoration of water sources that are degraded, depleted, and polluted. It clearly defines responsibilities and strengthens unified management of water resource management, operation of water exploitation projects, and water use. The law introduces many positive aspects such as promoting water recycling and reuse, increasing benefits and incentives for coordination, and water source restoration activities. It also specifies additional obligations and responsibilities for management agencies, organizations, and individuals involved in water exploitation, use, and protection. These provisions are expected to bring new perspectives and innovative approaches to water resource management, leading to more efficient, effective, and secure practices in water exploitation and use by agencies, organizations, and individuals.

ABOUT US

ATA Global Legal Limited Company (**ATA Legal Services**) is established and operated by acknowledged and experienced lawyers. Our operational goal is to become a law firm providing flexible and comprehensive legal services to both organizations and individuals, and both local and international clients. Of which, one of our core service is in-depth corporate consultancy.

All partners, lawyers, advisors, consultants, and even paralegals of ATA Legal Services are well-trained and have years of experience in the areas they are in charge of. In particular, the partners of ATA Legal Services have all consulted for and worked with renowned economic groups, banks or securities companies such as Vingroup, FLC, DNP, Tasco, Techcombank, SHB, SHS, VPS, etc.

With a serious and professional working attitude along with the dedication of the team always trying to put ourselves in the position of clients to understand their needs and aspirations, we are committed to bringing the most effective and appropriate services for Valued Clients.



-
- Hotline: 091.4645.112
 - Email: contact@ata-legal.com
 - Website: <https://ata-legal.com>
 - Address: 184 Nguyen Tuan street, Nhan Chinh ward, Thanh Xuan district, Hanoi

**ATA
LEGAL
SERVICES**