
Act on the survey and utilisation of ground resources

1998 No. 57 10 June

Effective as of 18 June 1998. Amended by Act No. 5/2006 (entered into force on 18 February 2006).

Chapter I. Scope and Definitions.

Article 1 This Act covers resources in the ground, at the bottom of rivers and lakes and at the bottom of the sea within netting limits. [The Act also covers surveys of hydropower for the generation of electricity.]¹⁾

The term resource in this Act applies to any element, compound and energy that can be extracted from the earth, whether in solid, liquid or gaseous form, regardless of the temperature at which they may be found.

Survey and utilisation pursuant to this Act are subject also to the Nature Conservation Act, Planning and Building Act and other acts relating to the survey and utilisation of land and land benefits.

¹⁾Act No. 5/2006, Article 1

Article 2 *Private land* in this Act means an area of land, including areas within netting limits in lakes and the sea, which is subject to private property rights, i.e. the owner holds all normal ownership control within the limits of current law;

Public land in this Act means land outside private land, even though natural persons or legal persons may have restricted ownership rights.

Netting limit in this Act means a water bottom 115 metres from the shores of a lake adjacent to a property, and a sea bottom 115 metres from the low water line of a property.

Mineral in this Act means all volcanic substances and other mineral substances, metals, metal blends and metallic rock, coal, petroleum, natural gas and other extractable substances that may be found in the ground.

Geothermal energy in this Act means, on the one hand, reserves of energy in the bedrock, and, on the other hand, a constant flow of heat from the bowels of the earth which does not constitute groundwater.

Groundwater in this Act means water that is below the ground in a contiguous mass, immobile or flowing and generally fills all openings in the stratum in question and which is extracted for purposes other than to transmit heat to the surface of the earth or to utilise its potential energy.

Chapter II **Ownership rights to resources**

Article 3 To private land is attached ownership of resources in the ground, while on public land resources in the ground are the property of the State of Iceland,¹⁾ unless other persons can prove their right of ownership.

¹⁾*Regulation No. 514/1995*

Chapter III **Surveys and prospecting**

Article 4 The Minister of Industry is permitted to take the initiative in and/or give instructions on surveying and prospecting for resources in the ground anywhere in the country, regardless of whether the owner of the land has himself or herself begun such surveying or prospecting or permitted such surveying or prospecting to others, unless the party in question holds a valid prospecting licence pursuant to this Act. In the same way, the Minister may permit other persons to survey or prospect, in which case a prospecting licence shall be issued to such other persons.

If prospecting or surveying is carried out by the landowner a licence is not needed from the Minister. However, the landowner is required to send to *Orkustofnun* [the Icelandic National Energy Authority] a plan and description of any proposed drilling, blasting, tunnelling or other significant works for such purpose. With the consent of the Minister for Industry, *Orkustofnun* may impose conditions on landowners as necessary for safety or technical reasons, or if it is regarded as probable that prospecting or surveying could interfere with mining already in progress or possibilities of later utilisation.

Article 5 A prospecting licence pursuant to this Act confers the right to search for the resource in question within a specific area during the term of the licence, survey extent, quantity and potential yield and to observe in other respects the terms which are laid down in this Act and which the Minister considers necessary. The granting of a licence, its substance and revocation are subject to Chapter VIII of this Act.

[A prospecting licence shall be granted to a single party in each area. However, it is permitted to grant such licences to more than one party jointly if they have jointly submitted an application for a prospecting licence and entered into an agreement on the division of prospecting costs.]¹⁾

The Minister is authorised, in a prospecting licence, to grant assurances of precedence to a utilisation licence [to a heating utility]¹⁾ for up to two years from the expiry of the term of the prospecting licence and that another party will not be issued a prospecting licence during such time.

The opinion of *Orkustofnun* and the Ministry of the Environment shall be obtained before a licence is granted.

¹⁾*Act No. 5/2006, Article 2*

Chapter IV **Utilisation of resources**

Article 6 The utilisation of resources in the ground is subject to a licence from the Minister of Industry, whether it involves utilisation on private land or public land, with the exceptions provided for in this Act. A landowner does not have precedence to a utilisation licence for resources on his or her land, unless such owner has previously been issued a prospecting licence.

A utilisation licence pursuant to this Act permits the licence holder to extract and use the resource in question during the term of the licence in the quantity and on the terms which are laid down in this Act and which the Minister regards as necessary. The granting of a licence, its substance and revocation are subject to Chapter VIII of this Act.

The opinions of *Orkustofnun*, the Ministry of the Environment and the local government in question shall be obtained before a licence is granted.

Article 7 Before the holder of a utilisation licence begins extraction on private land the holder needs to reach an agreement with the landowner on compensation for the resource or obtain permission for expropriation and request assessment pursuant to the provisions of Article 29. In the event that neither an agreement has been made on compensation nor expropriation requested within 60 days immediately following the date of issue of a utilisation licence, the licence shall be cancelled. The same applies if utilisation on the basis of the licence has not begun within three years from the issue of the licence. This provision applies also to the utilisation of resources in public land.

If a landowner has himself or herself had resources surveyed on his or her private land, or has granted such permission to another party, but has not been granted a utilisation licence for the resource in question on his or her land, the landowner, or the party who conducted the survey, may claim from the utilisation licence holder the verifiable cost of usable surveys against the surrender of their conclusions. In the event of dispute concerning such payment, the dispute shall be resolved by assessment pursuant to Article 29.

[If a party other than the holder of the prospecting licence is granted a licence to utilise the resource in question, the party who funded the survey may claim from the holder of the development licence or utilisation licence the verifiable cost of the survey, or its market value, if any, against surrender of the conclusions of the survey, provided that these are of use to the licence holder. In the event of a dispute concerning such payment, the dispute shall be resolved by the assessment of court-appointed assessors.]¹⁾

¹⁾*Act No. 5/2006, Article 3*

Chapter V Minerals

Article 8 Notwithstanding the provisions of chapters III and IV, it is permitted, without a licence, to survey and utilise on private land **rocks, stones, gravel, clay, sand, pumice, tephra** and other volcanic and mineral material, as well as soil, peat and brown coal.

Article 9 A landowner may not separate from his or her private land the right to minerals, except with the specific permission of the Minister.

Chapter VI Geothermal energy

Article 10 Notwithstanding the provisions of Articles 6 and 7, a landowner may, without permission, utilise geothermal energy on his or her private land for household and agricultural use, including for greenhouse cultivation, **industry and cottage industry**, up to 3.5 MW based on the heat extracted from the ground within private land. However, landowners must notify the Energy Authority of proposed drilling and other major undertakings for such purposes. With the consent of the Minister for Industry, the Energy Authority may impose conditions on the landowners as necessary for safety or technical reasons.

Permission to utilise geothermal energy for the generation of electricity is subject to the provisions of the Electricity Act.

Article 11 If a landowner does not wish to engage in utilising geothermal energy under his or her control the tenant is permitted to use the geothermal energy for his or her own purposes at his or her own cost, provided that no spoilage of other land benefits results.

A tenant shall not take action to utilise geothermal energy pursuant to paragraph 1 until assessors have confirmed that there will be no resulting damage and the tenant has, as applicable, notified his or her plans pursuant to paragraph 2 of Article 4, paragraph 1 of Article 10 and Article 14.

If a tenant has exercised permission pursuant to paragraph 1, a landowner is not required, on the tenant's departure, to buy any structures erected for the purpose of utilising geothermal energy for use other than household or agricultural needs. Assessment of the buying price shall be subject to the Tenancy Act.

Article 12 A landowner may not separated from his or her private land the right to geothermal energy, except with the specific permission of the Minister. However, the sale of state-owned land or lands owned by public agencies and foundations is subject to the Land Act.

The sale of lands with attached geothermal energy rights is subject to the provisions of the Land Act, with the exception that the State Treasury shall have the right of first refusal after the parties possessing such rights under the cited Act or in the case of the sale of a land by a municipality.

Article 13 A municipality shall have pre-emptive rights to utilisation licences for geothermal energy within the boundaries of the municipality for the needs of a heating utility operated in the municipality.

Chapter VII **Groundwater**

Article 14 Notwithstanding the provisions of Articles 6 and 7, a landowner may, without a licence, utilise groundwater on his or her private land for household and agricultural use, including for fish farming, industry and cottage industry, up to 70 litres per second. However, landowners must notify the Energy Authority of proposed drilling and other major undertakings for such purposes. With the consent of the Minister of Industry, *Orkustofnun* may impose conditions on a landowner as necessary for safety or technical reasons, or if it is probable that drilling could interfere with utilisation already in progress or possibilities of later utilisation.

Article 15 A municipality shall have pre-emptive rights to utilisation licences for groundwater within the boundaries of the municipality for the needs of a water utility operated in the municipality.

Chapter VIII **Conditions for the issue of licences, their substance and revocation**

Article 16 Applications for prospecting and utilisation licences shall reveal in a clear manner the purpose of the application and contain detailed information concerning the proposed operations of the applicant, as further decided by the Minister.

Article 17 In granting utilisation licences care should be taken that the utilisation of ground resources is carried out in a manner which takes account of environmental viewpoints, that the utilisation of the resources is efficient from a macro-economic point of view, and that account is taken of any utilisation already begun in the vicinity. If the Minister is of the opinion that the applicant for a utilisation licence does not meet these requirements, the Minister may refuse to grant the licence or insert special conditions in the licence.

Article 18 A prospecting and/or utilisation licence shall specify:

1. That the articles of association of the licence holder, in the case of a company, are approved by the Minister;
2. The term of the licence, special provisions on when work should be begun, at the latest, and when it should be concluded;
3. The boundaries of the area;
4. What resources under this Act the licence covers, provisions on quantity and rate of utilisation;

5. That *Orkustofnun* approves of the preliminary drawings of any proposed structures;
6. The obligation of the licence holder to inform and notify, including the obligation to provide samples and documents and how this obligation should be met;
7. Safety and environmental protection measures.
8. Purchase of insurance for any potential liability of the licence holder for damages;
9. Monitoring and payment of cost of monitoring;
10. Payment of licence fee to meet the cost of the preparation and issue of the licence;
11. The manner of disposal of extracting structures and extracting equipment following the end of the licence term;
12. Cleanup of work areas and land that has been altered in the course of prospecting or utilisation.

Article 19 The Minister of Industry may post a single advertisement for applications for utilisation licences pursuant to Article 4 in a specified area. Also, the Minister may post an advertisement for applications for a utilisation licence pursuant to Article 6.

Article 20 The Minister may revoke licences pursuant to this Act if their conditions are not fulfilled. If a licence holder does not comply with the conditions established in the licence or contracts relating to the licence, the Minister shall issue a written warning and provide time limits for rectification. Should the licence holder not comply with such a warning, the licence shall be revoked.

A licence may be revoked if the estate of the licence holder is subjected to insolvency proceedings or if the licence holder seeks composition with creditors.

Chapter IX Protection and monitoring of extraction areas, disclosure requirements, handling of information etc.

Article 21 *Orkustofnun* is responsible for monitoring mineral prospecting or extraction areas and geothermal areas, as well as utilisation areas of groundwater where a licence has been issued pursuant to Article 4 or Article 6. *Orkustofnun* will report to the Minister of Industry on the conduct of exploration, prospecting, and extraction in accordance with further instructions issued by the Minister in a regulation. The protection and monitoring of prospecting and extraction areas is also subject to the Nature Conservation Act.

Article 22 The holder of a prospecting or utilisation licence shall at least once a year, and at the end of the licence term, submit to *Orkustofnun* a report containing information on the results of exploration and prospecting, information on the nature and extent of resources, total quantity and assessment of the value of a resource that has been utilised and further matters, as further provided in the licence in question. Furthermore, the licence holder shall submit geological samples at the request of *Orkustofnun*.

In the case of drilling carried out pursuant to this Act, including drilling by landowners, a journal shall be kept which provides information on the location of the hole, strata, their type and depth, the time at which water or steam enters the hole, temperature and other matters to be further decided in rules issued by the Minister following proposals from *Orkustofnun*. A copy of the journal must be submitted to *Orkustofnun* no later than one month after the end of the drilling. *Orkustofnun* may require the preservation of rock and soil samples. If *Orkustofnun* so instructs, the holder of a drilling licence is required to notify the Agency immediately of any appearance of or increase in hot water or steam in a borehole. If valuable minerals are found in the course of drilling *Orkustofnun* shall be notified immediately.

Article 23 Information provided to *Orkustofnun* or any other public agency pursuant to this Act, as well as any results of analyses of submitted samples, shall be subject to confidentiality during the effective term of a licence and any extensions thereof and during the effective term of any right of precedence as determined in [paragraph 3 of Article 5. gr.],¹⁾ and during the effective term of an extraction licence granted to a prospecting licence holder following the term of the prospecting licence, except as otherwise stipulated in the licence.

Data provided by a licence holder to *Orkustofnun* pursuant to this Act shall remain in the custody of *Orkustofnun*. When the confidentiality requirement pursuant to paragraph 1 has expired, *Orkustofnun* may disclose such data or use them for the purpose of issuing further licences.

¹⁾Act No. 5/2006, Article 4

Article 24 Geothermal areas and groundwater shall not be damaged by filling, draining or other means. The course of water flowing from a geothermal area shall not be altered except as necessary for the protection of land or for land use, or for utilisation of geothermal energy as permitted by law. In the event of any dispute in this regard, an assessment shall be sought from court-appointed assessors.

All structures for the utilisation of resources shall be so constructed that they pose no danger or significant inconvenience for traffic or damage to the property of any other party, unless such party is required to submit to such damage pursuant to law or contract.

When a borehole is no longer in use, the licence holder or its owner shall seal it and mark it.

Article 25 Parties extracting geothermal energy or groundwater from the ground shall conduct such extraction so as to maximise long-term efficiency. This includes not extracting more geothermal energy or water than necessary. Drilling shall be conducted in a manner that will cause the minimum possible inhibition of further utilisation later.

Article 26 A landowner or land administrator is required to grant to prospecting licence holders pursuant to this Act unrestricted access to the private land involved. Furthermore a landowner and land administrator is required to grant to utilisation licence holders access to the land covered by the utilisation licence, but not until the licence holder has reached an agreement with the landowner on

compensation for resources, or until expropriation has taken place and control of the land has been transferred accordingly.

The landowner or administrator pursuant to paragraph 1 is required to submit to any use of land, restriction of control and inconvenience necessary for the prospecting or utilisation of a resource pursuant to the licence in question.

In utilising or prospecting for ground resources, landowners and licence holders under this Act shall take care that their work does not cause danger or damage to persons, **moveable property** or livestock. Furthermore, landowners and licence holders shall take care not to cause pollution and damage to the biosphere. The same applies to the condition in which the utilisation site is left if its utilisation is discontinued.

Article 27 In the event of a dispute between right holders concerning the use of a resource which cannot be settled, e.g. if the boundaries of two or more right holders are situated so that the utilisation of a resource cannot be kept separate, an assessment shall be obtained from court-appointed assessors as to the most efficient means of utilising the resource and the proportional rights of each party to the utilisation.

Chapter X **Provisions on Expropriation and Compensation**

Article 28 If the Minister of Industry grants to a party other than the landowner a licence to explore and prospect for a resource on private land, the landowner may claim compensation for any damage demonstrably suffered as a result of the disruption of or damage to land and structures. In the event that no agreement is reached on compensation, the compensation shall be decided by an expropriation appraisal.

Article 29 If the Minister of Industry has granted to a party a utilisation licence for resources on private land, but the licence holder cannot reach an agreement with the landowner concerning the matters covered by the utilisation licence, including compensation for the resource, the Minister can then expropriate the resources, together with the necessary land, structures, facilities for the extraction of the resources and other rights of the landowner to the extent necessary for the licence to be of use. The Minister shall deliver the expropriated property to the licence holder. The licence holder shall bear the entire expense of the expropriation.

The Minister may decide that the State expropriate ground resources pertaining to private land together with the needed land and structures if this is necessary for their utilisation or to prevent their utilisation from compromising the utilisation of the same resource outside the property.

The Minister may permit a municipality to expropriate resources attached to private land, together with the necessary land and structures, in the event of urgent need in the public interest in the municipality.

If an expropriation pursuant to paragraphs 1 - 3 of part of private land causes a significant reduction in value of the property in other respects, the landowner may request that the expropriation be extended to the entire land.

Article 30 When a decision on expropriation pursuant to Article 29 has been made, the landowner shall indicate within 45 days whether he or she wants payment for the resources to be assessed as compensation to be paid as a lump sum or as an annual payment during the time that the utilisation of the resource pursuant to the licence is in progress. Compensation other than payment for the resource shall be assessed separately.

If a landowner requests to have the compensation paid as an annual payment, such payment shall be decided by expropriation assessment as a specific percentage or as another fixed unit based on value at a specified processing stage. The compensation may be fully or partly based on the results of the utilisation in question. The assessment shall include a decision on the due dates of the payment and whether, and in such case how, the payment should be adjusted or reviewed. The landowner may request security for the annual payment, in which case the assessment shall include a ruling on this request and the form of the security.

The procedure of expropriation under this Act shall be subject to general rules. The determination of compensation for expropriation shall take particular account of uncertainty in respect of the resource and the expense of prospecting and development.

Chapter XI **Miscellaneous Provisions**

Article 31 The Minister of Industry may negotiate with utilisation licence holders on remuneration for resources in lands owned by the State after consulting with the party administering the property.

Utilisation of resources on public land requires, in addition to a licence pursuant to this Act, a licence pursuant to the provisions of the Act on public land etc. Agreements concerning payment for resources on public land and rent for the necessary land, as well as other rights needed by a licence holder to utilise a resource on public land covered by the licence, are subject to the rules of the Act on public land etc.

Article 32 Licences pursuant to this Act are non-transferable and cannot be used as security for financial obligations except with the permission of the Minister.

Article 33 The Minister of Industry may, by a regulation, provide in further detail for the enforcement of this Act.

Article 34 This Act shall apply, as applicable, to the investigation and utilisation of micro-organisms that may be processed in geothermal areas. The investigation and utilisation of micro-organisms in geothermal areas without a licence from the Ministry of Industry is prohibited. Licences pursuant to this Article shall be granted following consultation with the Minister of the Environment. The Icelandic

Institute of Natural History is responsible for monitoring prospecting and utilisation pursuant to this Article.

The Minister of Industry shall establish further rules¹⁾ on the enforcement of this Article in consultation with the Minister of the Environment.

The term “micro-organism” refers to a microbiological unit, formed by cells or not, which is capable of reproduction or the transfer of genetic matter.

¹⁾*Regulation No. 234/1999*

Article 35 Violation of this Act s subject to fines unless more severe sanctions apply pursuant to other legislation. Both legal persons and natural persons may be fined for violations of this Act. Legal persons may be fined irrespective of whether the liability of an employee of the legal person can be proved.

Article 36 This Act is effective immediately. ...

Licences issued pursuant to Act No. 24/1973 which are still in effect on the entry into force of this Act, shall remain in effect. Agreements on fees for the utilisation of resources which were concluded prior to the entry into force of this Act shall remain in effect.

The provisions of Article 34 of the Act shall be reviewed before 1 January 2001.