

ENVIRONMENT LAW^{(1) (2)}

Law No : 2872
Ratification Date : 9/8/1983
Official Journal Published : Date: 11/8/1983 No: 18132
Code Published : Setting: 5 Volume: 22 Page 499

*

**

For the annulled articles of this Law
see "Annulled Articles of Some Laws in Force"
Volume: 2 Page 1233

*

**

SECTION ONE

Objective, Definitions and Principles

Objective:

Article 1 - The objective of this Law is to protect and improve the environment which is the common asset of all citizens; make better use of, and preserve land and natural resources in rural and urban areas; prevent water, land and air pollution; by preserving the country's vegetative and livestock assets and natural and historical richness, organize all arrangements and precautions for improving and securing health, civilization and life conditions of present and future generations in conformity with economical and social development objectives, and based on certain legal and technical principles.

Definitions:

Article 2 - The definitions of the following terminology of this Law are;

- a) "Environmental Protection": Entire efforts to protect ecological equilibrium, to prevent air, water, land pollution and degradation and improving the environment,
- b) "Ecological Equilibrium": Entire conditions enabling individuals and other living beings to sustain their existence and developments,
- c) "Environmental Pollution": Adverse developments occurred in air, water and land due to all kinds of human activities and, the undesired consequences occurred at the environment due to stink, noise and wastes emerged from destruction of the ecological equilibrium and similar activities,

¹ Article 25 of Government Decree Enforceable as Law dated 19/10/1989, No. 383 puts the authorities granted to the Undersecretariat of Environment with this law under Special Environmental Protection Institution.

² The wordings of "Undersecretariat of Environment" and "The State Ministry Responsible from Environment" which are stated in Government Decree Enforceable as Law dated 9/8/1991, No. 443 and in various legislation have been amended as "The Ministry of Environment", "The State Minister Responsible from Environment", and the wording "Undersecretary of Environment" have been amended as "The Minister of Environment".

- d) "Polluting Party": Real and legal persons causing environmental pollution directly or indirectly due to their actions,
- e) "Wastes": Harmful materials diffused or left in the environment as a result of any activity,
- f) "Recipient Environment": Adjacent or remote environment where wastes are left.

Principles:

Article 3 - General principles regarding environmental protection and preventing environmental pollution are as follows:

- a) Protecting the environment and preventing environmental pollution are the duties of the real and legal persons and citizens and they are obliged to obey the corresponding measures and specified principles.
- b) In taking decisions and measures for environmental protection and pollution; short and long term assessments should be made by considering the protection of human and other living beings' health, the impact of those measures on development efforts and their cost efficiency.
- c) Authorized agencies taking decisions on land and resource utilization and conducting project assessments should give care for not to cause negative impact on development efforts and aim the protection of environment and prevent pollution.
- d) Most appropriate technologies and procedures on economical activities and production methods will be selected and implemented for preventing and limiting environmental issues.
- e) **(Amendment: 3/3/1988 - 3416/art.1) In principle, all the costs concerning the prevention, limiting and combatting pollution will be borne by the polluting party. All the necessary expenditures made by public institutions and agencies due to the polluting party's failure in taking necessary measures for preventing, eradicating and alleviating the pollution or due to direct action of the authorized public institutions and agencies for taking those precautions will be collected from the polluting party under the**

provisions of the Law Regarding the Collection of Public Receivables, No 6183.

However, the polluting party can refrain from these payments concerning prevention and limitation of the pollution by justifying that all precautions have already been taken for preventing the said pollution.

f) (Amendment: 3/3/1988 - 3416/art.1) The lowest possible pollution level will be determined and the fees indicated in Article 18, para (i) of this Law for pollution above this level will be further collected.

g) It is an essence for all precautions that will be taken for environmental protection and preventing pollution be determined and implemented in integrity.

SECTION TWO

Central and Local Administrative Divisions and Their Functions

Central Environmental Board

Article 4 - (Annulled: 9/8/1991 - DEL³ - 443/art.43)

Provincial Environmental Board

Article 5 - (Annulled: 13/3/1990 - DEL - 409/art. 12)

³. [Translator's Note: DEL is "Decree Enforceable as Law"]

Article 6-7 (Annulled: 8/6/1984 - DEL - 222/art. 30)

SECTION THREE

Precautions and Prohibitions Regarding Environmental Protection

Prohibition on Pollution

Article 8 - It is prohibited to diffuse, directly and indirectly, all kinds of waste and scraps into recipient environment, store, transport, avert, and conduct similar activities by violating the standards and methods determined by corresponding regulations, and causing damage to the environment.

In cases of a potential pollution, concerning authorities are responsible for preventing the pollution, and in cases of pollution occurrence, the polluting parties are responsible to prevent the pollution, eradicate its impact or take necessary precautions.

Environmental Protection

Article 9 - (Amendment: 3/3/1988 - 3416/art.4)

Protected areas that have been determined in conformity with land utilization resolution within the rural and urban areas, and the protection and utilization principles that will be implemented in these areas, are determined by a regulation.

Within the framework of these principles, overexploitation and misconduct; degradation of the country's fundamental ecological equilibrium, endangering livestock and vegetative varieties and destruction of the natural richness integrity due to importation of all kinds of wastes and scraps are prohibited.

The Council of Ministers is authorized to declare the areas vulnerable to environmental pollution and degradation that have country wide and world wide ecological importance, as "Special Environmental Protection Area" enabling the necessary arrangements for securing natural elegance for the access of future generations, and to specify which Ministry will be responsible for preparing and implementing the protection and utilization principles, and plans and projects that will be implemented in these areas.

Concerning Ministry can establish provisional organization in accordance to Article 17, para 2 (g) of Law No 3046 dated 27.9.1984 for accomplishing the implementation mentioned above para. Article 9 of Law No 3194 dated 3.5.1985 will not be applicable in preparing plans and projects for these areas.

Assessment of Environmental Impact

Article 10 The institutions, agencies and establishments that can lead to environmental issues due to their planned activities will prepare an "Environmental Impact Assessment Report". In this report all impacts on the environment will be considered and the methods for eliminating the harmful impacts of wastes and scraps that may cause environmental pollution and the corresponding precautions will be specified.

The issues concerning the type of projects that this "Environmental Impact Assessment Report" will be required, its contents and the endorsement authority will be specified in a regulation.

Operational License and notification obligation

Article 11 All institutions, agencies and enterprises are obliged to establish waste treatment facilities or systems individually or collectively that are indicated in the legislation. Operational and utilization licenses will not be granted unless waste treatment facilities or systems are established.

Any institution, agency and enterprise that have operational license planning to make changes in its field of activity and plan to expand its facilities, should beforehand notify the highest public authority in the region This authority will immediately notify the Undersecretariat of Environment and the corresponding Ministry.

All institutions responsible for treatment, averting and eliminating harmful impacts of all kinds of wastes and scraps take necessary precautions to prevent possible harms to the environment during their operations.

Technical methods to be applied for diffusing wastes and scraps directly or indirectly into the recipient environment will be specified in the regulations by considering the features of the environment and the possibilities to benefit from that environment.

Inspection

Article 12 (Amendment: 3/3/1988 - 3416/art.5)

The inspections for treatment, averting, eliminating harmful impacts and importation of wastes, scraps and fuels will be conducted by the General Directorate of Environment. The procedures and the qualifications of the inspectors will be specified in the regulation.

The institutions and agencies should regularly determine and document all the information regarding the specifications and quantities of the fuel used and wastes and scraps extracted and report to the General Directorate of Environment.

Harmful Chemicals

Article 13 Environmental principles will be taken into consideration for the importation, transportation, storing and utilization of the chemicals that have the imperishability features in air, water or land and degrade the ecological equilibrium. The restrictions regarding importation, transportation, storing and utilization of such materials will be specified in the regulation.

Noise

Article 14 Generation of noise above the standards specified in the regulation that would destruct the tranquility and peace, physical and mental health of the individuals is prohibited. Necessary precautions will be taken to minimize noise in plants, workshops, business locations, recreation locations, service buildings, dwellings and transportation vehicles.

Cessation of Activities

Article 15 The highest public authority in the region shall grant an adequate time, of which the principles be specified in the regulation, to the institutions, agencies and enterprises violating the prohibitions indicated in this Law or fail to fulfill the obligations specified in the Law, to modify the controversy activities and to fulfill the obligations.

No further penalty will be applied for violating the prohibitions and fail to fulfill the obligations during this period.

At the end of this period the activities of the institutions, agencies and enterprises that fail to accomplish these will be ceased for a period of time or indefinitely, partly or wholly depending to the nature and type of the obligation failed.

Cessation in Dangerous Cases

Article 16 The Ministry of Health, by direct initiative, or after the requisition made by the Undersecretariat of Environment of the Prime Ministry can decide to cease temporarily the activities leading this pollution, partly or wholly and demand from the highest authority of the region to implement the decision.

These said activities can also be ceased by the highest authority of the region. This decision will immediately be reported to the Ministry of Health and to the Undersecretariat of Environment of the Prime Ministry.

SECTION FOUR

Environmental Pollution Prevention Fund

Establishment of the Fund and utilization

Article 17 "Environmental Pollution Prevention Fund" has been established for preventing the environmental pollution and improving the environment.

Upto 45% of the expenditures for preventing the environmental pollution and improving the environment will be supported by the Environmental Pollution Prevention Fund with credits of maximum twenty years due.

The Revenues of the Fund

Article 18 (Amendment: 3/3/1988 - 3416/art.6)

- a) **Amounts collected as one fifth of the technical inspection fee during each technical inspection of the vehicles, and one fourth of the vehicle procurement tax collected for one time;**
- b) **Hundred Liras (hundredandfiftyliras) per gross tons collected every year from all types of sea vessels above 18 (included) gross tons that are registered in the vessel registry in accordance to Turkish Commercial Code(*),**
- c) **0.5 % of the domestic ticket fare of air transportation and five hundred liras (sevenhundredandfifty liras) per tons annually for airfreight(*),**
- d) **Amounts allocated in the budget of the General Directorate of Environment for this purpose,**
- e) **Interest acquired from credits granted from the Fund and from bank interests,**
- f) **Donations and relieves,**
- g) **Participation shares, indemnities and other incomes that have been specified to be collected in this Law,**
- h) **Incomes from the sale of tools and equipments produced by the facilities owned by the Fund,**
- i) **The following participation shares to be collected from the enterprises that have been determined as pollution generator by the Central Environmental Board,**

<u>Enterprises causing Environmental pollution</u>	<u>Monthly participation fee</u>		
	<u>Grade I</u>	<u>Grade II</u>	<u>Grade III</u>
Group 1	600 000TL	400 000TL	200 000TL
Group 2	400 000TL	200 000TL	100 000TL
Group 3	200 000TL	100 000TL	50 000TL
Group 4	100 000TL	50 000TL	25 000TL
Group 5	50 000TL	25 000TL	12 500TL

j) Fines applied in accordance to this Law.

The Council of Ministers is authorized to increase the monthly participation fees indicated in this tariff for each group and/or grade individually or collectively upto by 10 times or lower down to the amounts indicated in the Law, furthermore to lower fixed and relative rates other than indicated in para (i) of this article down to zero (0) or to increase upto 50%.

The revenues of the Fund will be consolidated in an account opened in a state bank.

The revenues collected in accordance to paras (a), (b), (c) should be deposited by the responsible officers to the Fund's account in the state bank latest by 15th day of the following month. The Fund Administration will request from the tax office of which the Fund payer are registered to apply the Law Regarding the Collection of Public Receivables, No 6183 to the ones that fail to deposit the collected revenues and participation fees in time. The Ministry of Finance and Customs will determine the agency which will collect the amounts from the parties that are not registered in a tax office.

The tax office transfers the collected amounts concerning the fund to the Fund's account in the state bank in accordance to the principles determined by the Ministry of Finance and Customs.

In metropolitan areas the participation fees in accordance to para (i) of this Law will be collected by the metropolitan municipalities against a receipt and will be deposited into the highest excise department of the location. In other locations the highest public authority is authorized to collect these participation fees. These participation fees will be collected by the excise department in accordance to Law Regarding the Collection of Public Recievables, No 6183.

30% of the participation fees collected by the highest public authority and by the metropolitan municipalities will be transferred to the Provincial Administration where collection has been accomplished or to the collecting metropolitan municipalities to be used for meeting the collection expenditures and for the projects regarding environmental protection in the region, 70 % will be transferred to the Environmental Pollution Prevention Fund latest by 15th day of the month following the collection.

Corresponding institutions that fail to accomplish this in time will pay additional 10%. Legal actions will be taken for individuals causing delay.

The fund administration and the Fund itself are exempted from corporation tax; from death duties due to donations and relives; from stamp duty due to all transactions; and interests are exempted from banking and insurance transaction taxes.

Utilization of the Fund

Article 19- The Environmental Pollution Prevention Fund is used through the Undersecretariat of Environment of the Prime Ministry.

The payment authority of the Fund is the State Minister of whom the Undersecretariat of Environment is attached.

The expenditures that will be made from this Fund are not subject to the General Accountancy Law, No 1050 and Competitive Bidding Law No 2490.

The documents regarding the revenues and expenditures of the Fund will be submitted to the Court of Accounts within three months following the termination of the budget year.

Fund will only be used for the following purposes:

- a) Research activities on preventing environmental pollution
- b) Environmental cleansing

- c) Training activities preventive to environmental pollution
- d) Staff training
- e) Procurement of technology and project
- f) Organizing project competitions
- g) Credit assistance to real and legal persons constructing purification facilities
- h) (Amendment 3/3/1988 - 416/art. 7) Procurement of all kinds of vehicles and equipments for environmental pollution prevention and improving environment, facilities and sites for the maintenance, repair and manufacturing of these vehicles and equipments,**
- i) Afforestation,
- j) Activities for the rehabilitation of livestock and plant races

The matters and principles concerning the collection, depositing into a determined state bank, utilization of the Fund revenues will be specified in the regulation by having the consideration of the Ministry of Finance.

SECTION FIVE *Penal Provisions*

Administrative Fines

Article 20 - Real persons who violate:

a) **(Amendment: 4/6 1986 - 3301/art. 2)** prohibition indicated in article 8 para one will be fined with 100 thousand liras; the obligations in para two in spite

of the appropriate notification made by the corresponding authorities will be fined with 500 thousand liras.

b) **(Amendment: 4/6 1986 - 3301/art. 2)** prohibition indicated in article 9 para 2 by actions against protection and utilization principles shown in the regulation will be fined with 100 thousand liras.

c) **(Amendment: 4/6 1986 - 3301/art. 2)** prohibition indicated article 13 by actions against the restrictions shown in the regulation will be fined with 1 million liras.

d) **(Amendment: 4/6 1986 - 3301/art. 2)** article 14 and fail to take precautions will be fined with 50 thousand liras.

If above actions are taken by the agencies and enterprises; the penalties indicated in this article will be tripled for agencies and enterprises, and applied five times more for agencies and enterprises having balance sheet accountancy in accordance to article 182 of the Tax Procedures Law, No 213.

Administrative fines for Agencies and Enterprises

Article 21 - Agencies and enterprises that fail to accomplish:

a) **(Amendment: 4/6 1986 - 3301/art. 3)** the obligations indicated in article 11 para one will be fined with 1 million liras; the precautions indicated in para three of the same article will be fined with 500 thousand liras.

b) **(Amendment: 4/6 1986 - 3301/art. 3)** the obligations of notification indicated in para two of article 11 will be fined with 300 thousand liras.

c) **(Amendment: 4/6 1986 - 3301/art. 3)** the obligations indicated in para two of article 12 will be fined with 500 thousand liras.

If above actions are taken by the agencies and enterprises having balance sheet accountancy in accordance to article 182 of the Tax Procedures Law, No 213, these fines will be tripled.

Fines to be Applied for Vessels

Article 22 - All vessels and sea transportation instruments that violate the prohibitions indicated in para one of article 8 of this Law operating in all our coasts and inner seas of Marmara, Bosphorus and Dardanelles, ports and bays, natural and artificial lakes and rivers:

a) (**Amendment: 4/6 1986 - 3301/art. 4**) Tankers upto 1000 (included) gross tons discharging ballast will be fined with 5 million liras, tankers between 1000-5000 (included) gross tons will be fined with 10 million liras and tankers above 5000 gross tons will be fined with 50 million liras.

b) (**Amendment: 4/6/1986 - 3301/art. 4**) All vessels including tankers between 18 (included) and 1000 (included) gross tons which discharge all kinds of wastes and scraps and discharge bilge will be fined with 5 million liras and tankers above 1000 gross tons will be fined with 10 million liras.

c) (**Amendment: 4/6/1986 - 3301/art. 4**) All kinds of sea transport instruments upto 18 (excluded) gross tons that do not match with the vessel and vessel definition which pollute sea or discharge bilge (excluding exhaust-pipe pollution of the crafts having two-stroke, rear mounted engine operating with gasoline-oil combination) will be fined with 300 thousand liras.

Recurrence of the actions

Article 23 - If actions indicated in articles 20, 21 and 22 recur, the fines will applied in double.

Authority in administrative fines

Article 24 - (Amendment: 4/6/1986 - 3301/art. 5)

Fines indicated in above articles will be directly applied by the highest authority of the location. These fines will be collected by the excise office in accordance to the Law Regarding the Collection of Public Recievables, No 6183. However, for the fines indicated in article 22:

a) In our coasts, in the Straits and in ports and bays, in lakes and rivers that are within the boundaries of metropolitan municipalities, the fines will be applied by the metropolitan municipalities. All vessels and other sea transportation instruments that do not pay the fine immediately and all in once and do not provide warranties and bails will be ceased from operation.

If fines are not paid then it will be collected under the Law Regarding the Collection of Public Receivables, No 6183.

The fines applied by the metropolitan municipalities will be collected against a receipt and will be deposited to the highest excise office in the location. 20% of them will be transferred to the metropolitan municipality and 80% to the Environmental Pollution Prevention Fund. Upto 50% of the amount transferred to the Environmental Pollution Prevention Fund will be used for environmental rehabilitation activities suggested by the Ministry of Health.

b) In seas outside the boundaries of the metropolitan municipalities the fines will be applied directly by the coast guard boat commander. The vessels and other sea transport instruments that do not pay the fine immediately and all in once will be taken to the nearest port and handed over to the public prosecutor and provisions in para (a) will be applied for these vessels.

Necessary proceedings will be recorded for sea instruments that are not self propelled and the nearest coastal provincial or district public prosecutor will be advised.

c) The penalty rights of the public authorities for the pollution occurred outside the boundaries of the metropolitan municipalities and pollution occurred in sea, ports, all lakes and rivers are reserved. They perform the necessary inspection in conformity with above principles.

Fines collected against receipts will be deposited to the highest excise office of the location.

The determination of the offense, the procedures of fine application and the forms, distribution and controlling of the receipts to be used in fine collection will be specified by the regulations.

Appeal in Administrative Fines

Article 25 - Appeal application can be made to the competent administrative court against administrative fines latest within seven days following the official fine notification.

Appeal will not cease the implementation of the fines.

Unless deemed necessary, appeal application will be resolved in the shortest time possible by performing examination on the documents.

Fines after the appeal application will be the final.

Penalties by the court

Article 26 - Parties who arrange misleading documents while performing documentation obligations indicated in article 12 will be imprisoned from one to three years, unless the action is subject to a more heavy punishment.

Parties who provide wrong and misleading information to the authorities while performing the obligations indicated in article 12 will be imprisoned from six months to two years.

Penalties indicated in other laws

Article 27 - The fines in administrative nature to be applied by this Law will not impede the application of penalties for these actions indicated in other laws

SECTION SIX *Miscellaneous Provisions*

Responsibility of the polluting party

Article 28 - (Amendment: 3/3/1988 - 3416/art. 8)

Parties polluting the environment and parties causing environmental destruction will be held responsible from pollution and degradation regardless of the existence of any misconduct.

Indemnity responsibility of the polluting party due to the damage caused is reserved in conformity with general provisions.

Incentives

Article 29 - The activities regarding the prevention and eradication of pollution will benefit from the encouragement measures. New principles will be included into the encouragement system which are determined at the beginning of each year by taking the considerations of the Undersecretariat of Environment of the Prime Ministry.

The principles of the encouragement measures will be determined by the regulation. Real and legal persons whose actions lead to the fines indicated in this Law can not benefit from the encouragement measures indicated in this Article and the encouragement measures which have been previously applied to them will be halted unless they accomplish their obligations within the granted period.

Application to administrative bodies

Article 30 - Real and legal persons who are confronted with injury due to any activity causing environmental pollution or degradation or have any acknowledge on such activities can apply to the administrative bodies and demand cessation of that activity.

Regulations

Article 31 - (Amendment: 3/3/1988 - 3416/art. 9)

The regulations to be issued concerning the implementation of this Law will be prepared by the General Directorate of Environment by taking the considerations of the corresponding ministries. Regulations will be put into force by publishment in the official journal latest within five months following the enforcement of the Law.

Non-applicable Provisions

Article 32 - (Amendment: 3/3/1988 - 3416/art. 10)

The penalty provisions that are in force due to articles 4 and 11 of the Ports Law, No 618, and provisional article 1 of Water Products Law, amended by Law No 3288 concerning the prevention of sea pollution, will not be implemented following the publication of the regulations that will be put into force in accordance to this Law.

Supplementary Article 1 - (The supplementary provision from 4/6/1986/art. 6 that has been numbered for sequencing)

The Council of Ministers is authorized to increase the fund participation shares indicated in the paras (a), (b), (c) and (d) of the article 18 of this Law and the fine amounts indicated in the articles 20, 21 and 22 by upto 10 times.

Provisional Article 1 - (The unnumbered provisional article of Law No 2872 that has been numbered for sequencing).

The vessels and other sea transportation instruments will be fined for sea pollution in accordance to Ports Law No 618 until the regulations indicated in this Law are in force.

Provisional Article 2 - (Supplementary: 3/3/1988 - 3416/art. 11)

The importation of all kinds of fuels, wastes, scraps and chemicals will be subject to the State Minister's approval until the corresponding regulations indicated in the articles 12 and 13 of this Law are in force.

Enforcement

Article 33 - This Law will be in force at the date of publication.

Implementation

Article 34 - The provisions of this Law will be implemented by the Council of Ministers.

*

**

PROVISIONAL ARTICLES
 THAT CAN NOT BE INCLUDED INTO THE MAIN LAW
 NO 2872 DATED 9/8/1983

1- *The Provisional Article of the Law No 3416 Dated 3/3/1988*

Provisional Article 1 - The amount to be paid to the Fund in accordance to para (b) of the article 18 of the Environmental Law No 2872 amended by article 6 of this Law, will be collected from ten liras in 1986.

**LIST INDICATING THE PROVISIONS ANNULLED BY
 THE LEGISLATION AMENDING AND SUPPLEMENTING LAW NO 2872**

<u>Laws or Provisions Annulled</u>	<u>Date</u>	<u>Annulling Legislation</u>	
		<u>No</u>	<u>Article</u>
Article 4, 5, 6, 7 of the Law No 2872 And adverse provisions of other laws To this DEL	8/6/1984	DEL-222	30
Article 5 of the Law No 2872	13/3/1990	DEL-409	12
Article 4 of the Law No 2872	9/8/1991	DEL-443	43

**LIST INDICATING THE ENFORCEMENT DATES OF
 THE LEGISLATION AMENDING AND SUPPLEMENTING LAW NO 2872**

<u>Law No</u>	<u>Articles enforced in different dates</u>	<u>Enforcement Date</u>
DEL-222	—	18/6/1984
3301	—	19/6/1986
3362	—	26/5/1987
3416	—	11/3/1988
DEL-409	—	10/4/1990
DEL-443	—	21/8/1991