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NEW URBAN WETLANDS LAW

On January 23, 2020 Law No. 21,202, which modifies various legal bodies in order to protect urban wetlands, entered into force with its publication in the Official Gazette.

Object

The Law seeks to protect urban wetlands declared by the Ministry of the Environment, either ex officio or at the request of the respective municipality. Wetlands are understood to be all those extensions of marshes, swamps and peat bogs, or surfaces covered with water, whether natural or artificial, permanent or temporary, stagnant or flowing, fresh, brackish or salty, including extensions of sea water, whose depth at low tide does not exceed six meters and which are totally or partially within the urban boundary.

Wetlands can also be defined as an area of land, usually flat, whose surface is permanently or intermittently flooded. When regularly covered with water, the soil becomes saturated, deprived of oxygen and giving rise to a hybrid ecosystem between purely aquatic and terrestrial.

Target group

1. Owners of projects that could potentially affect urban wetlands.
2. Owners of real estate on whose land an urban wetland is totally or partially located.

Procedure

The Ministry of the Environment must issue a regulation (also signed by the Ministry of Public Works) which will define the minimum criteria for the sustainability of urban wetlands, in order to protect them and maintain their hydrological regime, both surface and underground. This must be done within six months of the publication of this law in the Official Gazette.

Deadlines

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The text stipulates that in the event that a municipality asks the Ministry of the Environment to declare the protection of an urban wetland, the latter must give its opinion within six months.

Practical relevance

The law incorporates into the catalogue of projects or activities susceptible to cause environmental impact in any of its phases and, therefore, required to be submitted to the Environmental Impact Assessment System (Art. 10, Law No. 19,300) the execution of works or activities that may mean a physical or chemical alteration to the biotic components, to their interactions or to the ecosystemic flows of wetlands that are totally or partially within the urban limit; the execution of works, programs or activities in urban wetlands and the massive application of chemical products in urban areas or rural zones near wetlands.

Likewise, regarding the General Law of Urbanism and Construction, the new law adds that any instrument of territorial planning must include the existing urban wetlands. This is for the purposes of conditions under which urbanization or construction permits will be granted. In addition, in urban areas, national public use assets corresponding to riverine wetland lands, will be used in accordance with the provisions of the Regulatory Plan and its Local Ordinance

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