

Gazette No 25367

GOVERNMENT NOTICE

DEPARTMENT OF WATER AFFAIRS AND FORESTRY

NO 1228

29 August 2003

INVITATION TO SUBMIT WRITTEN COMMENTS ON PROPOSED GENERAL AUTHORISATIONS IN TERMS OF SECTION 39 OF THE NATIONAL WATER ACT, 1998 (ACT NO 36 OF 1998)

The Director General of the Department of Water Affairs and Forestry intends making the General Authorisations contained in the Schedule hereto in terms of section 39 of the National Water Act read with section 21 of the said Act, for a person to use water relating to the impeding or diverting the flow of water in a watercourse; altering the bed, banks, course or characteristics of a watercourse; and removing, discharging or disposing of water found underground if it is necessary for the efficient continuation of an activity or for the safety of people.

In terms of section 39(4)(a)(ii) interested parties are invited to submit written comments in connection with the proposed general authorisations by 31 October 2003. Comments must be submitted to the Director-General, Department of Water Affairs and Forestry, Private Bag X 313, Pretoria; Fax: (012) 336- 7193; email: deo@dwaf.gov.za and marked for the attention of Dr Cornelius Ruiters, Manager: Water Use.

SCHEDULE ON PROPOSED GENERAL AUTHORISATIONS

1. IMPEDING OR DIVERTING THE FLOW OF WATER IN A WATERCOURSE

[Sections 21(c)]

Purpose of this authorisation

1.1. The authorisation permitted in terms of this Notice replaces the need for a water user to apply for a licence in terms of the National Water Act for a water use provided that the use is within the conditions set out in this Notice.

Exclusion

1.2. This authorisation does not-

- (a) replace or limit any existing authorisation that is recognised under the National Water Act;
- (b) apply to any wetland or any water resource within a distance of 500 meters upstream or downstream from the boundary of any wetland.

Information on the delineation of a wetland can be obtained from the Department upon written request; or

- (c) apply to any estuary or any water resource within a distance of 500 meters upstream from the salt water mixing zone of any estuary.

Information on the salt water mixing zone of an estuary can be obtained from the Department upon written request.

Compliance with National Water Act and other laws

1.3. This authorisation does not exempt a person who uses water from compliance with any provision of the National Water Act unless stated otherwise, or any other applicable law, regulation, ordinance or by-law.

Area of applicability

1.4. This authorisation is applicable throughout the Republic of South Africa except as excluded in

- (a) paragraph 1.2 above; and
- (b) the areas set out in Table 1.1 below.

TABLE 1.1 Areas excluded from General Authorisation

| Primary drainage region (*) | Excluded water resources |
|---|---|
| C | Lower Vaal River downstream of the Kimberley waterworks to the confluence with the Orange River |
| D | Current well-points in the Orange River downstream of Augrabies Falls |
| J | Current well-points in the Buffels River |
| * NOTE: Information regarding the drainage regions can be obtained from the Department upon written request. | |

Duration of authorisation

1.5. This authorisation will be valid for a period of five years from the date of publication of this notice, unless-

- (a) it is amended at any review period, which period shall be at intervals of three years from the date of publication of this notice;
- (b) the period is extended by a further notice in the *Gazette*; or
- (c) the water user is required to apply for a licence in terms of the National Water Act.

Definitions

1.6. In this General Authorisation, unless the context otherwise indicates, any expression to which a meaning has been assigned in terms of the National Water Act, shall have the meaning so assigned, and-

- (i) **"diverting flow"** means the temporary or permanent diversion of flow for-
 - a) prospecting, mining and quarrying;
 - b) agriculture;
 - c) management of waste disposal sites including landfills; and
 - d) construction and maintenance purposes of infrastructure such as-
 - i) railways, roads, footpaths, bridges, culverts, and other access routes;
 - ii) artificial recharge structures;
 - iii) boreholes and well-points;
 - iv) structures for water abstraction;
 - v) structures for routing water supply and other pipelines and conveyors;
 - vi) structures for creation of pools, bays and peninsulas;
 - vii) structures in irrigation areas;
 - viii) telecommunication cables;
 - ix) recreational camp sites, mooring sites, other anchorage facilities and slipways; and
 - x) structures for slope stabilisation and erosion protection,

but excludes any structure built for the purpose of storing more than 10 000 cubic metres of water in terms of the Schedule to Government Notice No 1911 published in Government Gazette No. 20526, dated 8 October 1999 and as may be amended from time to time;

- (ii) **"hydrological monitoring"** means those structures necessary for taking measurements of flow in

a water resource according to the norms and standards of practice set down by the Department from time to time (obtainable from the Department upon written request);

- (iii) **"impeding flow"** means the temporary or permanent obstruction or hindrance to the flow of water in a watercourse by structures built either fully or partially in or across a watercourse including-
- a) bridges and culverts;
 - b) weirs which are capable of impounding, containing or storing up to **10 000 cubic metres** of water;
 - c) artificial recharge structures;
 - d) boreholes and well-points;
 - e) structures for water abstraction;
 - f) structures for routing water supply and other pipelines and conveyors;
 - e) telecommunication cables; and
 - f) mooring sites, other anchorage facilities and slipways.

Impeding and diverting the flow in a watercourse

1.7.(1) A person who-

(a) owns or lawfully occupies property registered at the Deeds Office as at the date of this notice; or

(b) lawfully occupies or uses land that is not registered or surveyed,

may on that property or land impede or divert the flow of water in a watercourse, if-

(i) the impeding or diverting of flow-

(aa) does not impact on another person's water use, property or land; and

(bb) is not detrimental to the health and safety of communities in the vicinity of the activity;

(ii) the natural migration patterns of aquatic biota are not interfered with;

(iii) any structure spanning a watercourse does not -

(aa) exceed a height of **2 metres**, measured from the natural level of the bed of the watercourse on the downstream face of the structure to the crest of the structure;

(bb) exceed a foundation width of **15 metres**;

(cc) exceed a length of **20 metres**, measured from one side of the watercourse to the other; or

(dd) occur within a distance of **500 meters** upstream or downstream of another structure that impedes or diverts flow on the same watercourse, measured along the watercourse.

(iv) the volume of flow is not reduced except for natural evaporative losses;

(v) the water quality is not detrimentally affected;

(Vi) no erosion of the bed or banks of a watercourse takes place due to the diversion structure; and

(Vii) all necessary measures are taken to stabilise the diversion structure and surrounding area.

1.7.(2) A provincial or local authority may for its own purpose and within its area of its jurisdiction impede or divert the flow in a watercourse subject to the conditions set out under paragraphs 1.7(1) above for-

- (a) the control of stormwater;
- (b) construction, maintenance and development of infrastructure;
- (c) dredging of a watercourse;
- (d) removal of alien vegetation;
- (e) ensuring the safety of residents, livestock and property;
- (f) hydrological monitoring; or
- (g) flood management and potential damage.

Registration

1.8.(1) A person who uses water in terms of this authorisation must submit a registration form for the registration of the water use if the impedance or diversion occurs within a distance of 1 000 meters from any other impedance or diversion, measured along the watercourse.

(2) A person who impedes or diverts water for hydrological monitoring purposes in terms of paragraph 1.7.(2)(f) above must submit a registration form for the registration of the water use.

(3) On receipt of a registration certificate from the Department, the person will be regarded as a registered water user.

(4) All forms for registration of water use are obtainable from the Regional offices of the Department as well as from the Departmental web-site at <http://www.dwaf.gov.za>

Precautionary practises

1.9.(1) All reasonable measures must be taken to ensure-

- (a) the stability of the watercourse is not detrimentally affected by impeding or diverting the flow;
- (b) scouring, erosion or sedimentation of the watercourse is prevented; and
- (c) rehabilitation of the watercourse, including riparian and instream habitat, is undertaken after any impedance or diversion of flow.

Inspections

1.10. Any property in respect of which a water use has been authorised in terms of this Notice must be made available for inspection by an authorised person in terms of section 125 of the National Water Act.

Offence

1.11. Any person who contravenes any provision of this authorisation is guilty of an offence and is subject to the penalty set out in section 151(2) of the National Water Act.

2 ALTERING THE BED, BANKS OR CHARACTERISTICS OF A WATERCOURSE

[Section 21(i)]

Purpose of this authorisation

2.1. The authorisation permitted in terms of this Notice replaces the need for a water user to apply for a licence in terms of the National Water Act for a water use provided that the use is within the conditions set out in this Notice.

Exclusion

2.2. This authorisation does not-

- (a) replace or limit any existing authorisation that is recognised under the National Water Act;
- (b) apply to any wetland or any water resource within a distance of 500 meters upstream or downstream from the boundary of any wetland; or
- (b) apply to any estuary or any water resource within a distance of 500 meters upstream from the salt water mixing zone of any estuary.

Note: Information on the delineation of a wetland or the salt water mixing zone of an estuary can be obtained from the Department upon written request

Compliance with National Water Act and other laws

2.3. This authorisation does not exempt a person who uses water from compliance with any provision of the National Water Act, unless stated otherwise or any other applicable law, regulation, ordinance or by-law.

Area of applicability

2.4. This authorisation is applicable throughout the Republic of South Africa except-

- (a) as set out in paragraph 2.2 above; and
- (b) the areas set out in Table 2.1 below.

TABLE 2.1 Areas excluded from General Authorisation

| Primary drainage region (*) | Excluded water resources |
|---|---|
| C | Lower Vaal River downstream of the Kimberley waterworks to the confluence with the Orange River |
| D | Current well-points in the Orange River downstream of Augrabies Falls |
| J | Current well-points in the Buffels River |
| * NOTE: Information regarding the drainage regions can be obtained from the Department upon written request. | |

Duration of authorisation

2.5. This authorisation will be valid for a period of five years from the date of publication of this notice, unless-

- (a) it is amended at any review period, which period shall be at intervals of three years from the date of publication of this notice;
- (b) the period is extended by a further notice in the *Gazette*; or
- (c) the water user is required to apply for a licence in terms of the National Water Act.

Definitions

2.6. In this General Authorisation, unless the context otherwise indicates, any expression to which a

meaning has been assigned in terms of the National Water Act (Act 36 of 1998), shall have the meaning so assigned, and-

- (i) **"altering the bed, banks or characteristics of a watercourse"** means the temporary or permanent alteration of a watercourse for-
- a) prospecting, mining and quarrying;
 - b) agriculture;
 - c) management of waste disposal sites including landfills; and
 - d) construction and maintenance purposes of infrastructure such as-
 - i) railways, roads, footpaths, bridges, culverts, and other access routes;
 - ii) artificial recharge structures;
 - iii) boreholes and well-points;
 - iv) structures for water abstraction;
 - v) structures for routing water supply and other pipelines and conveyors;
 - vi) structures for creation of pools, bays and peninsulas;
 - vii) structures in irrigation areas;
 - viii) telecommunication cables;
 - ix) recreational camp sites, mooring sites, other anchorage facilities and slipways; or
 - x) structures for slope stabilisation and erosion protection,

but excludes any structure built for the purpose of storing more than 10 000 cubic metres of water in terms of the Schedule to Government Notice R.1191 published in Government Gazette No. 20526, dated 8 October 1999 and as may be amended from time to time ;

- (ii) **"hydrological monitoring"** means those structures necessary for taking measurements of flow in a water resource according to the norms and standards of practice set down by the Department from time to time (obtainable from the Department upon written request).

Altering the bed, banks or characteristics of a watercourse

2.7.(1) A person who-

- (a) owns or lawfully occupies property registered at the Deeds Office as at the date of this notice; or

- (b) lawfully occupies or uses land that is not registered or surveyed,

may on that property or land alter the bed, banks or characteristics of a watercourse, if-

(I) the alteration-

- (aa) does not impact on another person's water use, property or land; and

- (bb) is not detrimental to the health and safety of communities in the vicinity of the activity;

(ii) the natural migration patterns of aquatic biota are not interfered with;

(iii) the alteration activity does not extend for more than **50 metres** continuously or a cumulative distance of **100 metres** on that property or land, measured along the watercourse; and

(iv) the volume of flow is not reduced except for natural evaporative losses;

(v) no erosion of the river bed or banks takes place due to the diversion structure;

(vi) the water quality is not detrimentally affected;

(vii) any structure spanning a watercourse does not exceed-

- (aa) a height of **10 metres**, measured from the natural level of the bed of the watercourse on

the downstream face of the structure to the crest of the structure;

(bb) a width of **10 metres**, measured at the widest part of the structure; or

(cc) a length of **50 metres**, measured from one edge of the watercourse to the other; or

(dd) occur within a distance of **500 meters** upstream or downstream of another structure that alters the bed, banks or characteristics of the same watercourse, measured along the watercourse.

2.7.(2) A provincial or local authority may for its own purpose and within its jurisdiction alter the bed, banks or characteristics of a watercourse subject to the conditions set out under paragraphs 2.7(1) above for-

- (a) control of stormwater;
- (b) construction, maintenance and development of infrastructure;
- (c) canalisation and dredging of a watercourse;
- (d) removal of alien vegetation;
- (e) ensuring the safety of residents, livestock and property;
- (f) hydrological monitoring; or
- (g) flood management and potential damage.

Registration

2.8.(1) A person who uses water in terms of this authorisation must submit a registration form for the registration of the water use if the impedance or diversion occurs within a distance of 1 000 meters from any other alteration, measured along the watercourse.

(2) A person who alters the bed, banks or characteristics of a watercourse for hydrological monitoring purposes in terms of paragraph 2.7.(2)(f) above must submit a registration form for the registration of the water use.

(3) On written receipt of a registration certificate from the Department, the person will be regarded as a registered water user.

(4) All forms for registration of water use are obtainable from the Regional offices of the Department as well as from the Departmental web-site at <http://www.dwaf.gov.za>

Precautionary practises

2.9. All reasonable measures must be taken to ensure-

- (a) the stability of the watercourse is not detrimentally affected;
- (b) scouring, erosion or sedimentation of the watercourse is prevented; and
- (c) rehabilitation of the watercourse, including riparian and instream habitat, is undertaken after any alteration of the bed, banks, course or characteristics of a watercourse.

Inspections

2.10. Any property in respect of which a water use has been authorised in terms of this Notice must be

made available for inspection by an authorised person in terms of section 125 of the National Water Act.

Offence

2.11. Any person who contravenes any provision of this authorisation is guilty of an offence and is subject to the penalty set out in section 151(2) of the National Water Act.

3 REMOVING, DISCHARGING OR DISPOSING OF WATER FOUND UNDERGROUND IF IT IS NECESSARY FOR THE EFFICIENT CONTINUATION OF AN ACTIVITY OR FOR THE SAFETY OF PEOPLE

[Section 21(j)]

Purpose of this authorisation

3.1. The authorisation permitted in terms of this Schedule replaces the need for a water user to apply for a licence in terms of the National Water Act provided that the water use is within the limits and conditions set out in this authorisation.

Exclusion

3.2. This authorisation does not replace or limit any existing authorisation that is recognised under the National Water Act.

Compliance with National Water Act and other laws

3.3.(1) This authorisation does not exempt a person who uses water from compliance with any provision of the National Water Act unless stated otherwise, or any other applicable law, regulation, ordinance or by-law.

(2) A person who uses water in terms of this authorisation is exempt from compliance with section 22(2)(e) of the National Water Act.

Area of applicability

3.4 This authorisation is applicable throughout the Republic of South Africa.

Duration of authorisation

3.5. This authorisation will be valid for a period of five years from the date of publication of this notice, unless-

- (a) it is amended at any review period, which period shall be at intervals of three years from the date of publication of this notice;
- (b) the period is extended by a further notice in the *Gazette*; or
- (c) the water user is required to apply for a licence in terms of the National Water Act.

Definitions

3.6. In this authorisation, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in terms of the National Water Act (Act 36 of 1998), shall have that meaning, and-

- (i) "**monitoring programme**" means a programme for taking regular measurements of the quantity and/or quality of a water resource and water removed from underground at specified intervals and at

specific locations to determine the chemical, physical and biological nature of the water resource and water removed from underground; and

- (ii) "**water found underground**" means water that enters a mine workings, basement, tunnel or other construction through seepage or runoff and does not refer to water found in an aquifer.

Removing water found underground

3.7.(1) A person who-

- (a) owns or lawfully occupies property registered at the Deeds Office as at the date of this notice; or

- (b) lawfully occupies or uses land that is not registered or surveyed,

may on that property or land remove up to 100 cubic meters of water found underground on any given day, if-

- (i) the removing of water-

- (aa) does not impact on another person's water use, property or land; and

- (bb) is not detrimental to the health and safety of communities in the vicinity of the activity;

- (cc) does not detrimentally impact-

- (aA) on any other-persons water use;

- (bB) on another person's property or land;

- (cC) the stability of the surrounding land; or

- (dD) the health and safety of communities in the vicinity of the activity; and

- (ii) the removal of water is not harmful or potentially harmful to human health, or to any water resource.

(2) The water found underground must be-

- (a) discharged to-

- (i) a waste collection network such as a sewer or stormwater drainage system; or

- (ii) a water resource in terms of General Authorisation No. 3 of Notice No. 1911 promulgated in Government Gazette No. 20526 dated 8 October 1999 and as may be amended from time to time; or

- (b) disposed of in terms of General Authorisation Notice No. 4 of Notice No. 1911 promulgated in Government Gazette No. 20526 dated 8 October 1999 and as may be amended from time to time.

Registration of removal of underground water

3.8.(1) A person who uses water in terms of this authorisation must submit a registration form for the registration of the water use if more than **50 cubic metres** of water are removed on any given day.

(2) On receipt of a registration certificate by the Department, the person will be regarded as a registered water user.

(3) A person who uses water in terms of this Notice **need not** register the water use as contemplated in Regulations R.1352 published in Government Gazette 20606 dated 12 November 1999.

(4) All forms for registration of water use are obtainable from the Regional offices of the Department as well as from the Departmental web-site at <http://www.dwaf.gov.za>

Monitoring requirements

3.9.(1) Where it is deemed necessary, or upon the written request of the Responsible Authority, the registered user must ensure the establishment of any monitoring programmes for monitoring the water use.

(2) Upon the written request of the Responsible Authority the registered user must appoint an external auditor to assess the water use in terms of this General Authorisation, and to submit the findings to the Responsible Authority for evaluation.

Precautionary practises

3.10.(1) The registered user must follow acceptable construction, maintenance and operational practises to ensure the consistent, effective and safe performance of the underground water removal system.

(2) Reasonable measures must be taken to provide for mechanical, electrical, or operational failures and malfunctions of the underground water removal system.

Inspections

3.11. Any property or land in respect of which a water use has been authorised in terms of this Notice must be made available for inspection by an authorised person in terms of section 125 of the National Water Act.

Offence

3.12. Any person who contravenes any provision of this authorisation is guilty of an offence and is subject to the penalty set out in section 151(2) of the National Water Act.