

(18 December 2009 – to date)

NATIONAL WATER ACT 36 OF 1998

(Gazette No. 19182, Notice No. 1091. See Act for commencement dates)

**GENERAL AUTHORISATION IN TERMS OF SECTION 39 OF THE NATIONAL WATER ACT, 1998
(ACT NO 36 OF 1998) IN TERMS OF SECTION 21(c) AND (i) FOR THE PURPOSE OF REHABILITATING
A WETLAND FOR CONSERVATION PURPOSES**

*Published under Government Notice 1198 in Government Gazette 32805. Commencement date: 18
December 2009.*

I, Nobubele Ngele in my capacity as Acting Director-General of the Department of Water Affairs and duly authorised in terms of section 63 of the Act, do hereby generally authorise in terms of section 39(1) of the Act the use of water in respect of section 21(c) and (i) of the Act for the purpose of rehabilitating a wetland for conservation purposes to the category of persons as contained in the Schedule hereto.

Signed

Acting Director-General

Date: 7-12-09

SCHEDULE

IMPEDING OR DIVERTING THE FLOW OF WATER IN A WATERCOURSE

[Section 21 (c)]

and

ALTERING THE BED, BANKS, COURSE OR CHARACTERISTICS OF A WATERCOURSE

[Section 21 (i)]

1. Purpose of Notice

This Notice relieves a water user from the need to apply for a licence for impeding or diverting the flow of water in a watercourse in terms of section 21 (c) or altering the bed, banks, course or characteristics of a watercourse in terms of section 21 (i) of the Act for the purpose of rehabilitating a wetland for conservation purposes (a wetland being regarded as a watercourse under the Act), provided that the use is within the provisions set out in this Notice, but does not exempt the water user from compliance with any other provision of the Act or from any other applicable legislation, regulation, ordinance or by-law.

2. Definitions

In this Notice any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates –

“altering the bed, banks, course or characteristics of a watercourse” means any change affecting the resource quality or flow components within the riparian habitat or 1 :100 year floodline, whichever is the greater distance from the watercourse at the date of commencement of this Notice;

"Constitution" means the Constitution of the Republic South Africa, 1996 (Act No. 108 of 1996);

"diverting the flow" means a temporary or permanent structure causing the flow of water to be rerouted in a watercourse for any purpose;

"impeding the flow" means the temporary or permanent obstruction or hindrance to the flow of water in a watercourse by a structure built either fully or partially in or across a watercourse;

"NEMA" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"rehabilitation" means the process of reinstating natural ecological driving forces within part or the whole of a degraded watercourse to recover former or desired ecosystem structure, function, biotic composition and associated ecosystem services;

"the Act" means the National Water Act. 1998 (Act No. 36 of 1998); and

"water user" means the category of persons contemplated in paragraph 5 of this Notice.

3. Duration of Notice

This Notice is valid from the date of publication for a period of 20 (twenty) years unless –

- (a) the period is extended for a further period by a Notice in the *Gazette*;
- (b) it is replaced by another general authorisation; or
- (c) the water user is required to apply for a licence in terms of the Act.

4. Area of applicability of Notice

This Notice applies throughout the Republic of South Africa.

5. To whom Notice is applicable

This Notice is applicable to the category of persons who are organs of state in terms of the Constitution and who are undertaking water use 21 (c) and (i) of the Act for the purpose of rehabilitating a wetland for conservation purposes.

6. Exclusions to Notice

This Notice does not apply –

- (a) if the water user must make an application for a licence for any other water use in terms of section 21 of the Act; and
- (b) to any activity that may have a potential to impact a wetland in terms of NEMA.

Conditions for impeding or diverting the flow or altering the bed, banks, course or characteristics of a watercourse for the purpose of rehabilitating a wetland for conservation purposes in terms of this Notice

7. General

- (1) The water user referred to in paragraph 5 must not cause a potential, measurable or cumulative detrimental impact on –
 - (a) the welfare, health or safety of human beings;
 - (b) any aquatic or non-aquatic organisms;
 - (c) the resource quality;
 - (d) property; or
 - (e) the socio-cultural and heritage value,of a wetland.

Authority to enter onto land

- (2) Prior to the commencement of the water use, the water user must obtain lawful –
 - (a) authority to enter upon land owned or controlled by the State; and
 - (b) access to enter upon private owned or controlled land,

on which the proposed water use is to be undertaken.

Rehabilitation planning process

- (3) The water user must compile and maintain an initial Planning Report consisting of –
 - (a) identification of all persons potentially affected by the rehabilitation of the wetland;
 - (b) documentation on the appraisal of the stakeholders to be engaged on the proposed process;
 - (c) an assessment of the ecological status, importance and sensitivity (including socio-cultural and heritage) of the wetland;
 - (d) identification of the work to be undertaken;
 - (e) identification of rehabilitation interventions;
 - (f) design of rehabilitation interventions;
 - (g) design of draft rehabilitation plans;
 - (h) rehabilitation plans; and
 - (i) establishment of a monitoring and evaluation process of work that is to be undertaken.

- (4) The water user must –
 - (a) identify all legal requirements that must be complied with in the rehabilitation process;
 - (b) maintain a copy of all published notices; and,
 - (c) establish and maintain an Issues and Comments Register.

Rehabilitation plan

- (5) A rehabilitation plan must contain the following information –
 - (a) rehabilitation objectives;
 - (b) rehabilitation problems;
 - (c) rehabilitation strategy;

- (d) wetland assessment report;
 - (e) draft rehabilitation design drawings;
 - (f) final rehabilitation plans;
 - (g) rehabilitation intervention;
 - (h) maintenance details;
 - (i) monitoring and evaluation data;
 - (j) construction notes;
 - (k) environmental authorisation, If applicable under NEMA; and
 - (l) authorisation, if applicable under any other legislation.
- (6) Copies of all designs and rehabilitation plans must be submitted to the responsible authority for approval prior to the commencement of any activity under this Notice.

Completion of water use

- (7) Upon completion of the activity relating to the water use –
- (a) all disturbed areas must be re-vegetated with indigenous vegetation suitable to the area;
 - (b) an active campaign for controlling new exotic and alien vegetation must be implemented within the disturbed areas;
 - (c) a habitat assessment study must be undertaken annually for three years to ensure that the rehabilitation is stable, failing which, remedial action must be taken to rectify any impacts; and
 - (d) structures must be inspected regularly for the accumulation of debris, blockages, instabilities and erosion with concomitant remedial and maintenance actions.
- (8) A report under subparagraph (7)(c) must be submitted to the responsible authority for approval within 6 months after completion of the work undertaken.

8. Budgetary provisions

- (1) The water user must ensure that it has a sufficient budget to complete and maintain the rehabilitation as set out in this Notice.
- (2) The Department may at any stage of the process request proof of budgetary provisions.

9. Registration

- (1) A person who uses water as contemplated in this Notice, must register such water use with the Department.
- (2) Upon completion of registration, the Department will provide a certificate of registration to the water user.

<p>NOTE: Forms can be obtained from Regional Offices of the Department or from the Departmental website: http\\www.dwaf.gov.za</p>
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10. Inspection

Any property in respect of which a water use has been registered In terms of this Notice is subject to inspection in terms of sections 124 and 125 of the Act.