



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

Enquiries: Mihloti Malandula
Telephone: 012 336 7825
Reference: 27/2/7/1

ACTING DIRECTOR-GENERAL

SUB-DELEGATIONS OF POWERS AND DUTIES PERTAINING TO THE RESERVES, WATER USE AUTHORISATION AND EXISTING LAWFUL WATER USE(S) IN TERMS OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

1. PURPOSE

- 1.1 To request the Acting Director-General's approval of the sub-delegations of powers and duties pertaining to water use authorisation and existing lawful use(s) in terms of Section 75 of the National Water Act, 1998 (Act No. 36 of 1998) (**Annexure A**).
- 1.2 To request the Acting Director-General to sign the attached letter addressed to Mr Trevor Balzer in respect of sub-delegations of powers and duties with respect to the water use authorisation and existing lawful water uses, in terms of the National Water Act, 1998, should the Acting Director-General agree with the content (**Annexure B**).

2. BACKGROUND AND DISCUSSION

- 2.1. Section 63 of the National Water Act, 1998 (hereinafter referred to as the 'Act') provides, that the Minister may, in writing and subject to conditions, delegate a power and duty vested in the Minister. The delegation by the Minister to an official of the Department by name; the holder of an office in the Department; a water management institution; an advisory committee established under section 99; or a water board.
- 2.2. Section 75 provides that the Director-General (DG) may, for the purposes of this Act, in writing and subject to conditions, delegate a power, including a power granted or delegated to the Director-General under this Act, to an official of the Department by name; the holder of an office in the Department; or a water management institution.
- 2.3. The delegations dated 12 December 2015 (**Annexure C**), are the current delegations used by the Department for inter alia functions involving water resource management. The delegations in the said document are structured in line with the Chapters appearing on the National Water Act. Specifically, this submission deals with the request to amend delegations in Chapter 3 (Protection of Water Resources) and Chapter 4 (Use of Water) of the National Water Act. Of particular importance, is the decision pertaining to the determination of reserves, water use authorisations, and verification and validation of existing lawful water use(s).
- 2.4. The Minister has signed a set of delegations on the 12 December 2015 (**Annexure D**). In terms of the amended delegations, the Acting Director-General can sub-delegate the



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powers pertaining to water use authorisation and existing lawful use(s) in terms of the National Water Act to the Deputy Director-General: Special Projects.

- 2.5. We have drafted a letter for the Acting Director-General's signature sub-delegating the duties and powers to the Deputy Director-General: Special Projects. We have also drafted a set of sub-delegations to be signed by the Acting Director-General in terms of the amended delegations as we are of the view that the Acting Director-General should rather do a set of sub-delegations instead of a letter to each sub-delegate.

3. IMPLICATIONS

3.1. Personnel

- 3.1.1 There are no personnel implications on the delegations.

3.2. Financial

- 3.2.1 None.

3.3. Legal

- 3.3.1 None.

3.4. Communication

- 3.4.1 None

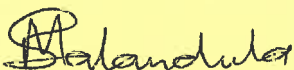
4. OTHER COMPONENTS CONSULTED

- 4.1. None.

5. RECOMMENDATIONS

It is recommended that:

- 5.1. The Acting Director-General approve the sub-delegations of powers and duties pertaining to water use authorisation and existing lawful use(s) in terms of Section 75 of the National Water Act, 1998 (Act No. 36 of 1998) (**Annexure A**); or
- 5.2. The Acting Director-General sign the attached letter addressed to Mr Trevor Balzer in respect of sub-delegations of powers and duties with respect to the water use authorisation and existing lawful water uses, in terms of the National Water Act, 1998, should the Acting Director-General agree with the content (**Annexure B**).



CHIEF DIRECTOR: LEGAL SERVICES (ACTING)

DATE: 02/07/2018

6. RECOMMENDATIONS

It is recommended that:

- 5.3. The Acting Director-General approve the sub-delegations of powers and duties pertaining to water use authorisation and existing lawful use(s) in terms of Section 75 of the National Water Act, 1998 (Act No. 36 of 1998) (**Annexure A**); or
- 5.4. The Acting Director-General sign the attached letter addressed to Mr Trevor Balzer in respect of sub-delegations of powers and duties with respect to the water use authorisation and existing lawful water uses, in terms of the National Water Act, 1998, should the Acting Director-General agree with the content (**Annexure B**).

RECOMMENDATIONS IN PAR 5.1 SUPPORTED/ NOT SUPPORTED
RECOMMENDATIONS IN PAR 5.2 SUPPORTED/ NOT SUPPORTED



DEPUTY DIRECTOR GENERAL: CORPORATE SERVICES

DATE: 2018/07/03

RECOMMENDATIONS IN PAR 5.1 APPROVED / NOT APPROVED
DELEGATIONS SIGNED/ NOT SIGNED
LETTER SIGNED/ NOT SIGNED



ACTING DIRECTOR-GENERAL
DATE: 03/07/2018



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

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BY HAND

Mr Trevor Balzer
Deputy Director-General: Special Projects
Department of Water and Sanitation
Private Bag X313
PRETORIA
0001

Dear Mr Balzer

DELEGATION OF POWERS AND DUTIES IN TERMS OF SECTION 75 OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

The above mentioned matter has reference.

By virtue of the powers vested in me by Section 75 of the National Water Act, 1998 (Act No 36 of 1998), in my capacity as the Acting Director-General of the Department of Water and Sanitation, hereby sub-delegate the powers and duties set out in Section 22 (3), 30, 40, 47(2), 49, 50, 51 and 52, and 158.

I reserve the right, at any time, to amend or withdraw any sub-delegation and at any time exercise directly the powers in terms of the sections indicated above.

The sub-delegation is effective from the date of signature of this letter.

Yours sincerely


Ms Deborah Mochotlhi
ACTING DIRECTOR-GENERAL
DATE: 03/07/2018



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

AMENDMENT OF DELEGATION OF POWERS AND DUTIES IN TERMS OF SECTION 63 (1)(C) OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

By virtue of the power vested in me by section 63 (1)(c) of the National Water Act, 1998 (Act No 36 of 1998) , I Gugile Ernest Nkwinti, in my capacity as Minister of Water and Sanitation, hereby amend Chapter 3 (Protection of Water Resources), and Chapter 4 (Use of Water) of the delegation of powers and duties dated 12 December 2015.

I reserve the right at any time to amend or withdraw any delegation and at any time exercise directly the powers vested in the delegated and may at any time give a directive to the delegate as to the performance of any function.

These delegations amend the delegations dated 12 December 2015 as approved by the Minister and repeals the interim delegations 10 June 2016 as approved by the Director General.

MR NKWINTI GE, (MP)

MINISTER OF WATER AND SANITATION

DATE: 26/06/2018

ANNEXURE A: AMENDMENT OF DELEGATION OF POWERS AND DUTIES IN TERMS OF SECTION 63 (1)(C) OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

| SECTION OF THE ACT | DELEGATED POWERS AND FUNCTION | PRINCIPAL FUNCTIONARY | DESIGNATION/POST DELEGATED TO | THE DG CAN SUB-DELEGATE TO |
|--------------------|--|-----------------------|-------------------------------|--|
| 13 | Determination of class of water resources and resource quality objectives | Minister | Director-General | Chief Director: Ecosystems |
| 14 | Preliminary determination of or resource quality objectives | Minister | Director General | Chief Director: Ecosystems |
| 16 | Determination of Reserve | Minister | Director-General | Chief Director: Ecosystems |
| 17 | Preliminary Determination of Reserve | Minister | Director General | Chief Director: Ecosystems |
| 33(1) | On an application of any person to declare, subject to subsection 3, a water use which is not one contemplated in section 32(1)(a) to be an existing lawful water use. | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 33(2) | To declare on its own initiative, subject to subsection 3, a water use which is not one contemplated in section 32(1)(a) to be an existing lawful water use. | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 35(1)-(3) | Issue a written notice to any person claiming to have entitlement to an existing water use to apply for a verification of that water use | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 35(4) | Determine the extent and lawfulness of a water use pursuant to an application under this section 35(1); | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area |

| SECTION OF THE ACT | DELEGATED POWERS AND FUNCTION | PRINCIPAL FUNCTIONARY | DESIGNATION/POST DELEGATED TO | THE DG CAN SUB-DELEGATE TO |
|--------------------|--|-----------------------|-------------------------------|---|
| 35(5) | Issue a directive to a person who failed to apply for verification within the specified date by or after the verification has been refused by the responsible authority in respect of an existing lawful, to cease using water | Minister | Director-General | concerned Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 35(6) | Condone late application and charge reasonable additional fee for processing the late application | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 43 (1) – (3) | Issue a notice requiring persons to apply for licences for one or more types of water use contemplated in section 21 | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 44 | Condone a late application and charge a reasonable fee for a late application | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 45(1) – (4) | Proposed Allocation Schedules | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 46(1) – (2) | Preliminary Allocation Schedules | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 47(1)(b) | Publishing a notice in a gazette stating that a preliminary allocation schedule has become a final allocation schedule | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |

| SECTION OF THE ACT | DELEGATED POWERS AND FUNCTION | PRINCIPAL FUNCTIONARY | DESIGNATION/POST DELEGATED TO | THE DG CAN SUB-DELEGATE TO |
|--------------------|--|-----------------------|-------------------------------|--|
| 47(2) | Issue licences in accordance with the final Allocation schedule | Minister | Director-General | Deputy Director-General: Special Projects |
| 22 (3) | Dispense with the requirement for a licence for water use | Minister | Director-General | Deputy Director-General: Special Projects |
| 25 (2) | To surrender an entitlement in order to facilitate a particular | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 25 (3) | The annual report of a water management institution or a responsible authority, as the case may be, must, in addition to any other information required under this Act, contain details in respect of every permission granted under S 25 (1) or every application granted under S 25 (2). | Minister | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 30 | Security by applicant in respect of any obligation or potential obligation arising from a licence to be issued under this Act. | Minister | Director-General | Deputy Director-General: Special Projects |
| 40 | Make a decision on water use licence applications. Receive all, process and make | Minister | Director-General | Deputy Director-General: Special Projects Chief Executive Officer or the |

| SECTION OF THE ACT | DELEGATED POWERS AND FUNCTION | PRINCIPAL FUNCTIONARY | DESIGNATION/POST DELEGATED TO | THE DG CAN SUB-DELEGATE TO |
|----------------------------|---|-----------------------|-------------------------------|--|
| 49, 50, 51 and 52, and 158 | <p>recommendations on water use licence applications.</p> <p>Review, amendment, licences, Successors-in-title, procedure for earlier renewal of licences and substitution of instruments</p> <p>Make recommendations on the review and amendment of a licence condition, formal amendment or substitution of a licence condition, and on the application for the renewal or amendment of the licence</p> <p>Adjudicate and make recommendations on the conflicting claims between a licensee and a successor-in-title or between different successors-in-title in respect of claims for the amendment or substitution of licence conditions</p> | Minister | Director-General | Regional Head where there is no CMA established for an area concerned |
| 53 | Rectification of contraventions | Minister | Director-General | Deputy Director-General: Special Projects |
| | | | | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| | | | | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
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DELEGATION OF POWERS AND DUTIES IN TERMS OF SECTION 75 OF THE NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

By virtue of the powers vested in me by section 75 of the National Water Act, 1998 (Act No 36 of 1998), I Deborah Mochotlhi, in my capacity as the Acting Director-General of Water and Sanitation, hereby delegate the powers and duties fully described in **Annexure A** to persons or institutions listed in **Column C of Annexure A**.

I reserve the right at any time to amend or withdraw any delegation and at any time exercise directly the powers vested in the delegate and may at any time give a directive to the delegate as to the performance of any function.

These delegations repeal all previous delegations and interim delegations issued.

These delegations shall be effective from the date of approval by the Director-General.


MS DEBORAH MOCHOTLHI
ACTING DIRECTOR-GENERAL
DATE: 03/07/2018

**ANNEXURE A: DELEGATION OF POWERS AND DUTIES IN TERMS OF SECTION 75 OF THE NATIONAL WATER ACT, 1998
(ACT NO. 36 OF 1998)**

| SECTION OF THE ACT | A DELEGATED POWERS AND FUNCTION | B DELEGATED TO | C SUB-DELEGATED TO |
|--------------------|--|-------------------|--|
| 13 | Determination of class of water resources and resource quality objectives | Director-General | Chief Director: Ecosystems |
| 14 | Preliminary determination of or resource quality objectives | Director General | Chief Director: Ecosystems |
| 16 | Determination of Reserve | Director-General | Chief Director: Ecosystems |
| 17 | Preliminary Determination of Reserve | Director General | Chief Director: Ecosystems |
| 22 (3) | Dispense with the requirement for a licence for water use | Director-General | Deputy Director-General: Special Projects |
| 25 (2) | To surrender an entitlement in order to facilitate a particular | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 25 (3) | The annual report of a water management institution or a responsible authority, as the case may be, must, in addition to any other information required under this Act, contain details in respect of every permission granted under S 25 (1) or every application granted under S 25 (2). | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 30 | Security by applicant in respect of any obligation or potential obligation arising from a licence to be issued under this Act. | Director-General | Deputy Director-General: Special Projects |

| A | | B | | C | |
|--------------------|--|------------------|--|---|--|
| SECTION OF THE ACT | DELEGATED POWERS AND FUNCTION | DELEGATED TO | SUB-DELEGATED TO | | |
| 40 | <p>Make a decision on water use licence applications.</p> <p>Receive all, process and make recommendations on water use licence applications.</p> | Director-General | Deputy Director-General: Special Projects | | |
| 33(1) | On an application of any person to declare, subject to subsection 3, a water use which is not one contemplated in section 32(1)(a) to be an existing lawful water use. | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned | | |
| 33(2) | To declare on its own initiative, subject to subsection 3, a water use which is not one contemplated in section 32(1)(a) to be an existing lawful water use. | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned | | |
| 35(1)-(3) | Issue a written notice to any person claiming to have entitlement to an existing water use to apply for a verification of that water use | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned | | |
| 35(4) | Determine the extent and lawfulness of a water use pursuant to an application under this section 35(1); | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned | | |
| 35(5) | Issue a directive to a person who failed to apply for verification within the specified date by or after the verification has been refused by the responsible authority in respect of an existing lawful, to cease using water | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned | | |

| SECTION OF THE ACT | A DELEGATED POWERS AND FUNCTION | B DELEGATED TO | C SUB-DELEGATED TO |
|----------------------------|---|-------------------|---|
| 35(6) | Condone late application and charge reasonable additional fee for processing the late application | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 43 (1) – (3) | Issue a notice requiring persons to apply for licences for one or more types of water use contemplated in section 21 | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 44 | Condone a late application and charge a reasonable fee for a late application | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 45(1) – (4) | Proposed Allocation Schedules | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 46(1) – (2) | Preliminary Allocation Schedules | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 47(1)(b) | Publishing a notice in a gazette stating that a preliminary allocation schedule has become a final allocation schedule | Director-General | Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| 47(2) | Issue licences in accordance with the final Allocation schedule | Director-General | Deputy Director-General: Special Projects |
| 49, 50, 51 and 52, and 158 | Review, amendment, licences, Successors-in-title, procedure for earlier renewal of licences and substitution of instruments Make recommendations on the review and amendment of a licence condition, formal amendment or substitution of a licence condition, and on the application for the renewal or amendment of the licence | Director-General | Deputy Director-General: Special Projects Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned |
| | | | Chief Executive Officer or the Regional Head where there is no CMA established for an area |

| SECTION OF THE ACT | A DELEGATED POWERS AND FUNCTION | B DELEGATED TO | C SUB-DELEGATED TO |
|--------------------|---|-------------------|--|
| 53 | <p>Adjudicate and make recommendations on the conflicting claims between a licensee and a successor-in-title or between different successors-in-title in respect of claims for the amendment or substitution of licence conditions</p> <p>Rectification of contraventions</p> | Director-General | <p>concerned</p> <p>Chief Executive Officer or the Regional Head where there is no CMA established for an area concerned</p> |