

**DEPARTMENT OF WATER AFFAIRS AND FORESTRY
DEPARTEMENT VAN WATERWESE EN BOSBOU**

No. R. 206

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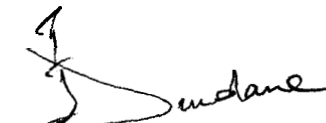
NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

**DRAFT REGULATIONS ON FINANCIAL ASSISTANCE TO RESOURCE POOR
FARMERS**

The Minister of Water Affairs and Forestry, under the powers vested in her by section 62 read together with section 61 of the National Water Act, 1998 (Act No. 36 of 1998), intends to make the regulations as set out in the Schedule hereto.

The Director-General, Water Affairs and Forestry, by the powers vested in him by sections 69(1)(a) and (b), hereby invite interested parties to submit written comments in connection with the proposed Regulations to the Director-General, Water Affairs and Forestry, Private Bag X313, Pretoria, 0001; Fax No (012) 336 7302; email qfi@dwaf.gov.za, for the attention of Mr. Tshilidzi Mathobo (Deputy Director: Agricultural Water Use Development Finance) by 10 April 2007

IsiZulu version of the regulations is posted on the Department's website, <http://www.dwaf.gov.za/>.



DEPARTMENT OF WATER AFFAIRS AND FORESTRY

Date: 22/02/07

EXPLANATORY NOTES

The Minister of Water Affairs and Forestry, acting on behalf of National Government must ensure that water is protected, used, developed, conserved, managed, and controlled in a sustainable and equitable manner. It is thus necessary to address the need to promote social and economic development through the use of water in an equitable manner and to provide different forms of financial assistance. To promote these objectives, and to provide different forms of assistance, These regulations are to contribute towards the responsibilities of National Government to promote self sufficiency and sustainability of different water management institutions.

SCHEDULE

REGULATIONS ON FINANCIAL ASSISTANCE TO RESOURCE POOR FARMERS

1. Definitions

In these regulations, any expression to which a meaning has been assigned in the National Water Act, 1998, shall have the meaning so assigned, unless the context indicates otherwise-

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

"Applicant" means a party that initiates the application for financial assistance;

"Committee" means the Coordinating Committee on Agricultural Water, a Committee established to serve as a forum (clearing house) for technical and administrative issues regarding agricultural water use planning and implementation. To enable- cooperative governance among relevant departments and widen participation by relevant role players with a broadened focus on agricultural water use (not only irrigation);

"Public Finance Management Act, 1999" means Public Finance Management Act No. 1 of 1999, as amended;

"Resource poor farmer" means a farmer who is a citizen of South Africa and is a member of the historically disadvantaged population groups;

"Minister" means the Minister of Water Affairs and Forestry or any person delegated by the Minister to perform a specific function relating to the financial assistance in terms of these regulations;

"The Department" means the Department of Water Affairs and Forestry

2. Eligibility for financial assistance

(1) For the purpose of these regulations, financial assistance will be made available to resource poor farmers in support of agricultural water use development.

(2) Financial assistance packages offered:

The Department financial assistance may be used for:

(a) Capital cost of water distribution and/or storage infrastructure;

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- (b) Operation and Maintenance, Water Resource Management and Depreciation charges;
 - (c) Acquisition of Water Entitlement for irrigation;
 - (d) Socio-Economic viability studies and investigations;
 - (e) Training of management committees of the Water User Associations or any Legal Entity approved by the Minister or his/her delegated official;
 - (f) Rainwater tanks for household productive uses by the poor.
- (3) This financial assistance is meant to assist those who in the first instance-
- 3.1 have land or access to land;
 - 3.2 except for financial assistance required for purposes of regulations under 2 (2) (c) (9) above, have a water use license, including an authorization to use water under a general authorization or schedule 1 of the Act, and
 - 3.3 have agricultural water use development needs.
- (4) Where mainly land, agricultural inputs and infield irrigation equipments is sought, application should be directed by the applicant to another, more appropriate institution, such as the Department of Agriculture or Department of Land Affairs.
- 5 An applicant may apply for the Department's financial assistance more than once, provided:
- 5.1 Each additional application is accompanied by a letter confirming that the current application is for a different farm entity.
 - 4.1 A copy of any previous financial assistance approved by the Department for the applicant *is* included with the new application.
- (4) Except for financial assistance for operation and maintenance use, a beneficiary may receive financial assistance for each of the six financial assistance packages offered once only per specific use or property
- (5) Being eligible does not ensures awarding of the financial assistance. Rather, eligibility determines whether an application will be considered. The award of the financial assistance will depend upon the approval of the application and availability of funds, including a project proposal where required by the Minister or his/her delegated official.

3. Terms and conditions applicable for the Department financial assistance

(1) General conditions

- (a) The requirements of the "National Guidelines on Integrated Management of Agricultural Water Use" are applicable to this financial assistance.
- (b) Financial assistance depends on the availability of funds on the Department budget.
- (c) A recommendation by the relevant committee or letter of support and commitment from other relevant *regional/local* government institution is required before the financial assistance application can be considered.
- (d) The committee may make recommendations to the Department for appointment of consultant to do a feasibility study before financial assistance is considered.
- (e) Work must be done according to approved plans and specifications to the satisfaction of the Minister or Minister's delegated official.
- (9) Granting of the financial assistance is subject to the submission of certified claims of actual expenditure by a project manager or facilitator where applicable. The project manager may be appointed by the Department and the facilitator may be any government official attached to the project.
- (g) Financial assistance will only be paid after confirmation has been obtained from other role-players responsible for the financing of the scheme that the conditions set by them for the financing of the project, have been met.
- (h) Applications for financial assistance in terms of this regulations, should be to the Department and other relevant government departments' satisfaction, display their ability to sustain and maintain the proposed infrastructure development and other relevant activities. This includes collection of revenue from the users of the communal infrastructure in case of group of farmers.
- (i) The resource poor farmer should show the ability to generate income to pay for operation and maintenance and water use charges where applicable.

(2) Conditions applicable to each of the financial assistance offered by the Department

1. Conditions of financial assistance for capital costs of water distribution and/or storage infrastructure.
 - (a) The only financial assistance to be considered under these regulations is for bulk water distribution and/or storage infrastructure on schemes that directly supply water to resource poor farmers, or for which the water supply to resource poor farmers form an integral part of any bigger scheme. On-farm and in-field infrastructure and equipment, serving only the owner or occupier of the land does not qualify for this financial assistance. However, water management measures like sluice gates, water meters etc. installed at off-take points to individual farmers may be regarded as communal infrastructure and may qualify for financial assistance.
 - (b) The Minister will consider financial supporting for the development of appropriate training plans upon the advice of the committee. Such training plans will be developed in consultation with role-players benefiting from the proposed scheme together with the relevant committee. The Minister may require among others the utilization of applicable Sector Education Training Authority accredited training courses, if available. Between half and one percent (0.5 - 1%) of the total infrastructure grant may be budgeted for annually for the first five years after the completion of the project.
 - (c) The financial assistance must be approved before construction of infrastructure can commence, except where the resource poor farmers are settled after construction or upgrading of the infrastructure. Any increase in the costs above the approved amount may be considered subject to special approval by the Minister.
 - (d) Payment of the financial assistance to the Water Users Association or approved legal entity is to be made after resource poor farmers have been established and constituted as members of the Water Users Association or approved legal entity.
 - (e) The Department must ensure that a signed agreement between the Water Users Association or the approved legal entity and the resource poor farmers are in place, to protect the rights of the resource poor farmers.
 - (f)** The financial assistance must be used to directly cover the proportional cost of resource poor farmers' share of the proposed project.

- (g) To prevent the sale of farming units given financial assistance to established farmers, a financial assistance repayment condition may be imposed in collaboration with other State departments.
2. Conditions of financial assistance for Operation and Maintenance, Water Resource Management and depreciation charges.
- (a) Proof of real Operation and Maintenance costs of the Water Users Association or an approved legal entity should be supplied to the Department regional office.
- (b) Financial assistance in these regulations is to be used to cover these Operation and Maintenance costs for resource poor farmers only.
- (c) Operation and Maintenance financial assistance is paid only when the funds are available on the budget for this purpose.
3. Conditions of financial assistance to acquire water use **entitlements** for irrigation.
- (a) The socio-economic impact resulting from the surrender of the existing water use entitlement in respect of workers and tenants must be evaluated in line with section 27 of the Act.
- (b) The conditions stipulated in the Policy for Surrendering of Water Use Entitlements must be adhered to.
- (c) An applicant for financial assistance must, before the application is considered, sign an agreement with the Department to repay the Applicable Portion of the financial assistance plus interest, calculated according to the interest as announced from time to time by the National Treasury, if the relevant water use entitlement or land with a water use entitlement is sold within a period of five (5) years from the date of approval of the financial assistance.
- (d) The monetary value of the water use entitlement, together with the value of any bulk water supply infrastructure on developed land must be determined in consultation with Department, the Department of Land Affairs, the Department of Agriculture and any other relevant departments.
- (e) The financial assistance must be used as direct payment towards the acquisition of a water use entitlement or farm with an existing water use entitlement, or the redemption of debt accrued upon the water use entitlement by a previous entitlement holder as a result of unpaid charges for water.

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4. Conditions of financial assistance for socio-economic viability studies and investigations.
 - (a) The financial assistance only applies to Water Users Associations or approved legal entities.
 - (b) The socio-economic and Agri-economic investigation must be performed by guidelines laid down by the relevant provincial committee in order to investigate the financial, social, and environmental sustainability of an irrigation scheme.
 - (c) In cases where the viability study is for a project jointly owned by commercial and resource poor farmers, the financial assistance will be limited to the resource poor farmers' financial obligation for the study.

 5. Conditions of financial assistance to train management committees
 - (a) The contents of the courses to be given, are subject to the recommendation of the committee and the approval of the Department, and should be based on proper training needs assessment in the Water Users Association or approved legal entity.
 - (b) The application must include a description of an applicable needs assessment done or to be done, the steps to be taken at the inception of the project to achieve full stakeholder participation and community involvement, and how capacity building and empowerment of the broader community will be promoted through the implementation of the project.

 6. Conditions of financial assistance for rain-water tanks for household productive uses by the poor
 - (a) The entity to be responsible for the management of the project or a portion of the project must be an approved legal entity and must further be specifically approved by the Minister for this purpose. The approval of such legal entity can be withdrawn by the Minister at any stage, if the legal entity does not comply with conditions set out in these regulations.
 - (b) The Department will perform a needs assessment, determine the steps to be taken at the inception of the project to achieve full stakeholder participation and community involvement, and endeavor to build capacity and empower the broader community through the implementation of the project.

- (c) There must be sufficient evidence that beneficiary households have developed clear plans on how to utilize the water for productive use.
- (d) The financial assistance does not cover the digging of the holes of underground tanks or the preparation of the terrain for **tanks** above ground level, except where physical soil condition require expert intervention.
- (e) The tanks must be built according to plans, guidelines or specifications approved by the Department.
- (f) Responsibility for the safety of people, especially children, rests on the owner or occupier of the property on which the tank is erected. The Minister does not take any responsibility for loss, injury or death as a result of the design, construction or usage of the structures erected through this financial assistance.
- (g) The legal entity approved by the Minister for managing the project, must oversee the construction and erection of the tanks and related rain-water harvesting works.
- (h) In order to claim payment, the legal entity responsible for the management of the project must provide reports of every structure, containing the following which are verifiable during an inspection, to the Minister:
 - (i) name and identity document number of the head of the household and the address of the house;
 - (ii) a basic "As built" plan; and
 - (iii) certified claims of actual expenditure on materials, labor, transport and other relevant expenses.

(4) The procedure of applying for financial assistance

1. Application procedure

- (a) An applicant may make application at the nearest Department offices on the forms made available to the Applicant to that office
- (b) On receipts of an application from the Applicant, Department's regional office will inform the local committee about the application received; the application will then be assessed by the committee which also includes officials from the Department's national and regional offices.

- (c) Based on the information supplied to the Department about the proposed project, the committee will consider the pre-feasibility of the proposed project. Depending on the size of the project, the committee may consider independent assessment of the project by a private consultant looking at identifying pillars of sustainable irrigation development. This exercise may take time and it can also be costly, and therefore should only be used if the expected benefits will exceed the cost of assessment.
- (d) Based on the report on the feasibility assessment of the project, the committee may recommend the project to the Department to either approve if the report suggests that the project is likely to be viable or turndown the application. If the project is assessed to be unviable, the chairperson of the committee will write a letter to the Department informing them about the outcome of the assessment and the reasons.
- (e) Recommendations of the project by the Department' regional office will be informed by the decision taken by the relevant committee. If the project is assessed to be viable, the Department's regional office will recommend the project *for* approval to the Minister or the Minister's delegated official. If the project is considered to be unviable, the Department's regional office will inform the applicant that the application was unsuccessful and provide reasons for the decision. **If** the problem identified can be corrected, the applicant is free to re-apply after correcting the shortcomings identified.
- (f) With recommendations from the relevant committee and the Department's regional office accompanied by the necessary documents, a submission would be prepared for consideration and final approval by the Minister.

6. Short title and commencement

These regulations are the Regulations on Financial Assistance to Resource Poor Farmers.