

No. 542

15 May 2009

**REPLACEMENT OF GENERAL AUTHORISATION IN TERMS OF SECTION 39 OF THE NATIONAL
WATER ACT, 1998 (ACT NO. 36 OF 1998)**

I, Pamela Bulelwa Yako in my capacity as Director-General: Water Affairs and Forestry intend to replace general authorisations 1 and 2 to the Schedule of Government Gazette Notice No. 398 dated 26 March 2004 as published in Government Gazette No 26187 relating to water use section 21(c) and (l) of the Act, with the general authorisation to the Schedule hereto which is published for comment under section 39(3) of the said Act.

Interested persons are hereby invited to submit written comments on the proposed Notice to the Director-General of the Department of Water Affairs and Forestry within 60 days of the publication of this Notice in the following manner:

- (a) Post: Private Bag X 313
Pretoria
0001:
- (b) Fax No (012) 336-6608
- (c) E-mail: vduplessis@dwaf.gov.za

Comments must be addressed to the Chief Director: Water Use, marked for the attention of Ms V du Plessis.



Ms Pam Yako

Director-General: Water Affairs and Forestry

SCHEDULE

Explanatory Note

The use of a general authorisation does not require a licence. The existing general authorisation is now replaced with the general authorisation contained in this Schedule. Those water users who exercised their entitlements under the existing general authorisation and are unable to proceed with that use under this Notice, must apply for a licence under the Act. Those water users whose water use falls within this Notice may continue with such use.

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)]

Purpose of Notice

1. This Notice replaces the need for a water user to apply for a licence for water use section 21(c) and (i) of the Act provided that the use is within the conditions set out in this Notice, but does not exempt the water user from compliance with any other provision of the Act unless stated otherwise, or from any other applicable legislation, regulation, ordinance or by-law.

Definitions

2. 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;

"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;

“mine” used as a noun or verb is as defined in section 1 of the Mineral and Petroleum Resources Act, 2002 (Act No. 28 of 2002);

“mining operations” means an operation as defined in section 1 of the Mineral and Petroleum Resources Act, 2002 (Act No. 28 of 2002);

“mining related activities” means—

- (a) any mining related process on the mine including the operation of washing plants, mineral processing facilities, mineral refineries and extraction plants; and
- (b) the operation and use of mineral loading and off-loading zones, transport facilities and mineral storage yards, whether situated at the mine or not—
 - (i) in which any substance is stockpiled, stored, accumulated or transported for use in such process; or
 - (ii) out of which process any residue is derived, stored, stockpiled, accumulated, dumped, disposed of or transported;

“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 person contemplated in paragraph 5 of this Notice.

Duration of Notice

3. This Notice is valid for an indefinite period from the date of this publication unless—

- (a) it is replaced by another Government Notice;
- (b) it is replaced by a general authorisation in relation to a specific water resource or within a specific area or to any category of persons; or
- (c) the water user is required to apply for a licence in terms of the Act.

Area of applicability

4. This Notice applies throughout the Republic of South Africa except in the areas set out in Table 1 below.

TABLE 1. Areas excluded from Notice

PRIMARY DRAINAGE REGION	AREA
C (for section 21(c) of the Act)	Vaal River downstream of the Kimberley waterworks to the confluence with the Orange River
C (for section 21(i) of the Act)	Riet River downstream of Kalkfontein Dam to Vaal River confluence
D (for section 21(i) of the Act)	The whole of the Kraai River downstream of the Orange River confluence
D (for section 21(c) and (i) of the Act)	Lower Orange River downstream of the Augrabies Falls in respect of mines, mining operations and mining related activities

NOTE: Information regarding the drainage regions is available on the Department's website <http://www.dwaf.gov.za> under the National Water Resource Strategy

To whom applicable

5. (1) This Notice is applicable-

- (a) to all persons using water or who intend to use water in terms of section 21(c) and (i) of the Act; and
- (b) to all persons having lawful access to the land on which the proposed water use is to take place.

(2) This Notice is also applicable where the section 21(c) and (i) water use has a measurable positive impact or change on the physical, chemical or biological properties of a watercourse.

(3) Any water user who used water in terms of general authorisation 1 and 2 to the Schedule of Government Notice 398 published in *Government Gazette* 26187 dated 26 March 2004 must, if they are unable to comply with the terms of this Notice, apply for a licence in terms of section 40 of the Act for that water use.

Exclusion

6. This Notice does not—

- (a) apply to any water use within a 500 metre radius from the boundary of any wetland;

NOTE: Information on the method of delineation of a wetland is contained in the Department of Water Affairs and Forestry, 2005 publication: A Practical Field Procedure for Delineation of Wetlands and Riparian Areas, which is available on the Department's website <http://www.dwaf.gov.za>

- (b) apply if the water user must make an application for any other water uses in terms of section 21 of the Act;
- (c) apply to any sewerage pipelines, pipelines carrying hazardous materials and to water and wastewater treatment works;
- (d) allow for the storage of water as a result of the impeding or diverting the flow or altering the bed, banks, course or characteristics of a watercourse;
- (e) apply to a structure built for the purpose of storing water in terms of Government Notice No. 1199 published in Government Gazette No. 20526 dated 8 October 1999 as amended;
- (f) apply to activities contemplated in Government Notice 704 published in Government Gazette No. 20119 dated 4 June 1999 as amended; or
- (g) apply to the areas set out in Table 1 of paragraph 4.

Conditions for impeding or diverting the flow or altering the bed, banks, course or characteristics of a watercourse

General

7. (1) The water use must not cause a foreseeable or measurable detrimental impact or change on the physical, chemical or biological properties of a watercourse.

(2) The water user must ensure that the design of any proposed structure or hardened surface associated with the water use—

- (a) does not have a detrimental effect on another person's lawful water use or land; and
- (b) is not detrimental to the health and safety of the public.

Structures and hardened surfaces

(3) Proposed structures and hardened surfaces associated with the water use must not—

- (a) be erosive;
- (b) be structurally unstable;
- (c) induce any flooding; or
- (d) be a safety hazard.

Instream and riparian habitat

(4) Measures must be taken to ensure that the water use does not result in a detectable or cumulative—

- (a) change in the stability of a watercourse;
- (b) change in the physical structure of a watercourse;
- (c) scouring, erosion or sedimentation of a watercourse; or
- (d) decline in the diversity of communities and composition of the natural, endemic vegetation.

Flow and hydraulics

(5) The water use must not result in a detectable or cumulative change in the flow regime or the limnology of a watercourse.

Water quality

- (6) The water use must not result in a detectable or cumulative change—
- (a) in the water quality of the watercourse and that pollution is prevented from occurring, continuing or recurring; or
 - (b) detectably decrease the quality of the water to downstream water users.

Biota

- (7) The water use must not detrimentally impact on the—
- (a) breeding, feeding and movement patterns of aquatic biota, including migratory species; or
 - (b) level of composition and diversity of biotopes and communities of animals and microorganisms.

Rehabilitation

- (8) Upon completion of the activity relating to the water use—
- (a) a systematic rehabilitation programme must be undertaken;
 - (b) all disturbed areas must be re-vegetated with indigenous vegetation suitable to the area; and
 - (c) an active campaign for controlling new invasive exotic and alien vegetation must be implemented within a disturbed zone.

Monitoring and reporting

8. (1) Upon completion of the activity—
- (a) a habitat assessment study must be carried out annually for three years to ensure that the rehabilitation is stable, failing which, remedial action must be taken to rectify any impacts;
 - (b) the habitat assessment study referred to in subparagraph (a) must be made available upon written request to the responsible authority; and
 - (c) structures must be inspected regularly for the accumulation of debris, blockages, instabilities and erosion with concomitant remedial and maintenance actions.

(2) A final report must be submitted to the responsible authority upon completion of the work contemplated under subparagraph (1).

(3) Copies of all designs, rehabilitation plans and reports must be made available upon written request to the responsible authority.

Registration

9. (1) A person who uses water as contemplated in this Notice, must register such water use with the responsible authority.

(2) Upon completion of registration, the responsible authority will provide a certificate of registration to the water user.

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

Inspection

10. Any property in respect of which a water use has been registered in terms of this Notice is subject to inspection as contemplated in section 125 of the Act.