

DEPARTMENT OF WATER AND SANITATION


NO. 3204

24 March 2023

**REGULATIONS RELATING TO ACCESS AND USE OF GOVERNMENT
WATERWORKS AND SURROUNDING STATE-OWNED LAND FOR
RECREATIONAL PURPOSES IN TERMS OF THE NATIONAL WATER ACT, 1998
(ACT. NO 36 OF 1998)**

I, Edward Senzo Mchunu, Minister of Water and Sanitation intends, in terms of section 116 of the National Water Act, 1998 (Act No. 36 of 1998) to make regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations on the proposed amended Regulations to the Director-General, Department of Water and Sanitation, Private Bag X313, Pretoria, 0001; Email: muira@dws.gov.za (for the attention of Ms. Anet Muir) within two months of the date of publication of the notice.


MR EDWARD SENZO MCHUNU, MP
MINISTER OF WATER AND SANITATION
DATE: 24/03/23

SCHEDULE

Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned, and, unless the context indicates otherwise—

"accommodation" means facilities of any nature for the accommodation of day and overnight visitors;

"access point" means an authorised place of entry, including, but not limited to access gates;

"bioprospecting" means bioprospecting as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

"commercial fishing" means spearfishing, crossbow fishing, gill netting or any method used for revenue generation at a government waterworks;

"commercial activities" means recreational water use for revenue generation, including organised sporting activities and events;

"competent authority" in relation to the control over recreational, conservation and tourism use of the relevant government waterwork or portion thereof, includes the Director-General or any person designated by the Minister to carry out recreational, conservation and tourism use management functions;

"dangerous object" means any explosive or incendiary material, any explosive or incendiary device, any firearm, and any gas, material, weapon or other article, object or

instrument which may be employed to cause bodily harm to a person, or to render a person temporarily paralysed or unconscious, or to cause damage to property, as well as anything which the Minister of Police may by notice in the *Gazette* declare to be a dangerous object in terms of the Control of Access to Public Premises and Vehicles Act, 1985(Act No. 53 of 1985);

"event" means competitions, sporting, entertainment, educational, recreational, religious, cultural, exhibitional, organisational, or similar activities hosted at a government waterwork;

"event organiser" means any person who plans, is in charge of, manages, supervises or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event;

"hunt", in relation to all species, includes—

- (a) to intentionally kill such species by any means, method or device whatsoever;
- (b) to capture such species by any means, method or device whatsoever with the intent to kill or breed;
- (c) to search for, lie in wait for, pursue, shoot at, tranquillise or immobilise, such species with the intent to kill; or
- (d) to lure by any means, method or device whatsoever, such species with the intent to kill, but excludes the culling of a listed threatened or protected species in a protected area or on a registered game farm or for culling of a listed threatened or protected species that has escaped from a protected area and has become a damage causing animal;

"introduction", in relation to a species, means introduction of species as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

"night" means the period of time between sunset and sunrise;

"operational plan" means documents which provide detailed information on the manner, purpose and extent of the operation of recreational water use as approved by the Minister contained in Annexure A1, A2 and A3;

"recreational water use" means the use of government waterworks for recreational purposes and includes all activities that require the use of water, including the surface of water for—

- (a) events, including but not limited to sport, tourism and leisure;
- (b) personal use including, but not limited to, subsistence fishing, religious and cultural practices;
- (c) activities which contribute to the general health, well-being and skills development of individuals and society;
- (d) the purposes of research and education; and
- (e) commercial activities including, but not limited to, bioprospecting, aquaculture, inland fisheries, film production, photography and advertising;

"resource management plan" means a written plan, for the management of and control over the water surface and water body of a water resource including a water surface and water body of a government waterworks and the surrounding state-owned land, approved by the Minister and, in the absence of this resource management plan

includes historic zoning plans, sustainable utilisation plans or any recreational use plans approved by the Department;

"restricted area" means any area, building or place at a government waterwork in which public access is prohibited and access is limited only to designated personnel for management purposes;

"species" means a species as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

"surface water sport" means water skiing, including kite-surfing and parasailing, tubing, or other water sport in the water, on the water or under the water;

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

"vessel" means any conveyance floating on, in, or over water and designed for navigation on or in water, howsoever propelled and includes any canoe, floating platform, decked vessel, carrier vessel, or any vessel equipped with an inboard or outboard motor or any other craft, whether surface craft or submarine.

Application of Regulations

2. These Regulations are, unless specified otherwise, applicable to all government waterworks.

Control over government waterworks

3. (1) The Minister may, in writing and for a period of time, designate a competent authority, and assign to it the necessary powers to manage and control government waterworks and surrounding state owned land.

(2) The powers contemplated in subregulation (1) must be exercised subject to the provisions of these Regulations and terms and conditions the Minister may deem fit.

(3) The competent authority must keep records of aspects relating to water use, such as the nature of recreational activities, number of visitors and incidents.

(4) The competent authority must make the records referred to in subregulation (3) annually available to the Minister.

Access to government waterworks

4. (1) No person may enter a government waterwork without the written approval of the competent authority.

(2) Any person entering a government waterwork or any part thereof must, if requested by the competent authority, furnish his or her full personal and contact details.

(3) Any person who wishes to enter any part of a government waterwork, where an access point does not exist, must get written approval from the competent authority.

(4) Any person who wishes to enter a government waterwork in any vessel must ensure that he or she and the vessel comply with the requirements of the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published under Government Notice No.R. 705 of 2007 of 8 August 2007.

(5) The competent authority must refuse any person who fails to produce any required documentation in terms of the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, and to provide safety appliances and equipment for the specific vessel access to the government waterwork.

(6) The competent authority may search any vehicle or person, who seeks to enter a government waterwork, for dangerous objects and may refuse access to the government waterwork if such dangerous objects are found.

Use of government waterworks

5. (1) A person who engages in recreational water use must comply with rules and standards which apply to the activity he or she engages in.

(2) The person contemplated in subregulation (1) must, when engaged in water use—

- (a) exercise due care to other users;
- (b) cooperate with any authorised personnel, including, but not limited to the Department's personnel, implementing agencies, safety officers, wash bay operators, the South African Police Services or any other emergency personnel; and
- (c) obey, respect and not tamper with any applicable safety rules and notices, warnings, navigational aids and signals.

(3) A person who is in control of any vessel in or under the water surface area or engages in surface water sport must—

- (a) not be under the influence of alcohol or a drug having a narcotic effect; and
- (b) exercise reasonable care for the safety of any passengers.

(4) No person other than a person on official duty may be in possession of any dangerous object in a government waterwork.

Application and approval of recreational water use

6. (1) A person who intends to engage in any activity on a government waterwork, must apply in writing for the approval of an operational plan for such recreational water use to the competent authority before commencing with the activity.

(2) A person who engages in any activity on a government waterwork, under the auspices of a lease agreement or any other appropriate permit, must apply in

writing for approval of an operational plan for such recreational water use within 60 days of the date on which he or she is notified in writing by the competent authority to do so.

(3) If upon expiry of the 60 days period, a person does not submit the operational plan contemplated in subregulation (2), the competent authority may order that person not to continue with the recreational activity at a government waterwork.

(4) The application forms contemplated in subregulation (2) are contained in Annexure A1 and A2 giving full details of information required for the competent authority to make the decision.

(5) The competent authority may request additional information from the person who engages in water use for recreational purposes contemplated in subregulations (1) and (2) above.

(6) The competent authority may direct that the operational plan in question be adjusted in the way that the competent authority may deem necessary.

(7) The competent authority must, as soon as reasonably practicable but not more than 90 days after the submission of the operational plan by the applicant, consider that plan for approval.

(8) The operational plan must demonstrate the measures put in place to mitigate and manage negative impacts on the water resource.

(9) If the competent authority deems the recreational activity unfit for the government waterwork, it may refuse the proposed activity or require that an existing activity be terminated.

(10) Any person who engages in commercial activities at a government waterwork, state land, or on private land using the water surface of the government

waterwork, must comply with Treasury Regulation 16, issued under the Public Finance Management Act, 1999 (Act No. 1 of 1999) which deals with Public-Private Partnership agreements where a private party acquires the use of state land for its own commercial benefits.

Application and approval of events, photography, film production and advertising

7. (1) Events, photography, film production and advertising at a government waterwork may take place only with the written permission of the competent authority.

(2) An application for a permission contemplated in subregulation (1) must be made to the competent authority by using the form contained in Annexure A3.

(3) The competent authority or an event organiser must adhere to the requirements set out in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010) to ensure the physical safety and security of persons and the property at an event.

Hygiene and waste management

8. (1) No person may, in a government waterwork, deposit or leave any litter, bottle, broken glass, pottery, plastic article, rubbish, refuse, seeds, fruit or vegetable matter or any other waste material, except in an area or receptacle provided for that purpose.

(2) No person may dump or discharge in any place on land or into the water of a government waterwork any refuse, waste, waste water or material of any kind whatsoever.

(3) All effluent from boats and accommodation facilities must be contained and disposed of to a licensed facility or a designated area.

Camping and accommodation

9. (1) No person may stay overnight in a government waterwork except in official accommodation or on sites reserved or available for that purpose.

(2) No activities are allowed at night on the water surface of a government waterwork.

(3) Licensed vessels providing accommodation must be moored at night at designated areas.

Damage to property

10. A person who intentionally or negligently causes damage to any government waterwork or other property within a government waterwork is liable for the damage.

Protection of biodiversity

11. (1) Any person entering a government waterwork may not hunt, kill, injure, capture or disturb any fauna or destroy the nest or eggs of any fauna without written permission from the competent authority.

(2) Any person entering a government waterwork may not cut, uproot or destroy or remove any flora from such area, unless permitted to do so by the competent authority.

(3) Any person who wishes to access any part of a government waterwork for bioprospecting or breeding of any species must obtain prior approval from the competent authority.

(4) Introduction of plant or animal species at a government waterwork without written approval from the competent authority is prohibited.

(5) Any person who intends to engage in activities contemplated in subregulations (1), (2), (3) and (4), must undertake such activities in compliance with the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).

Rules and prohibited activities

12. (1) The competent authority may make general or specific rules for the safety of the public in a specific government waterwork in accordance with the powers assigned to it in terms of regulation 3(1).

(2) The rules contemplated in subregulation (1) must be posted up at the entrance of that government waterwork or must be placed in an area where they can be seen by every person accessing and using the government waterwork.

(3) Where an electric or mechanical driven infrastructure is sited on a government waterwork, recreational activities may occur only outside the demarcated areas.

(4) No person may undertake or pursue any activity which endangers the safety operation or interferes with the safety of the infrastructure at a government waterwork.

(5) Access to and use of a government waterwork for commercial fishing is prohibited, unless prior approval is obtained from the relevant government department.

(6) An activity at night at a government waterwork is allowed only for special approved recreational water use.

(7) No person may make a fire at a government waterwork except in a designated area.

(8) Only authorised personnel may enter a restricted area at a government waterwork.

(9) When making a decision and rules regarding access and use of a government waterwork for recreational use, the competent authority must take cognisance of the diversity, including, but not limited to religious and cultural practices.

Implementation of resource management plan on access and use of government waterwork

13. (1) Where the Minister has developed a resource management plan for the recreational use of a government waterwork, a person who engages in water use for recreational purposes must comply with the resource management plan information and any conditions of the government waterwork before accessing that government waterwork.

(2) The resource management plan for a prioritised government waterwork must be accessed from the Department's website or may be requested from the Department or the competent authority.

(3) The Minister may reserve, as part of a resource management plan, an area in a government waterwork, whether on land or on water, for use by specified persons.

(4) No person may enter the area reserved for the use by specified persons contemplated in subregulation (3), except with the approval of the competent authority.

(5) The approval contemplated in subregulation (4) is subject to a zoning plan provided for in a resource management plan.

Suspension and withdrawal of access and use permission

14. (1) The competent authority may, by notice in writing to any person permitted to access and use a government waterwork for recreational purposes under these Regulations, suspend or withdraw the permission, for a period of time, if the person fails to comply with—

- (a) any conditions of the permission;
- (b) the Act; or
- (c) these Regulations.

(2) Before effecting the suspension or withdrawal contemplated in subregulation (1), the competent authority must give the person to be affected by such suspension or withdrawal an opportunity to make a written representation, within a reasonable specified period, as to why the suspension or withdrawal should be effected.

(3) The competent authority may, for good cause shown, reinstate the permission suspended or withdrawn under subregulation (1).

(4) The competent authority may effect the suspension or withdrawal to access and use of a government waterwork for recreational purposes without notice to the permission holder, if the competent authority has reason to believe that the activity undertaken by the permission holder contravenes sections 19 and 20 of the Act.

Appeal

15. (1) An applicant who is aggrieved by the decision of the competent authority may lodge an appeal to the Minister within 30 days of becoming aware of the decision or after being provided with reasons for the decision.

(2) The Minister must, within 90 days of receiving the appeal contemplated in subregulation (1), make and communicate his or her decision to the applicant.

Offences and Penalties

16. Any person who contravenes or fails to comply with any provisions of these Regulations is guilty of an offence and liable, on conviction, to a fine or imprisonment not exceeding a period of five years.

Repeal

17. The Regulations published under Government Notice No. R.654 of 1 May 1964 are hereby repealed.

Application of other laws

18. Any person who has been granted permission by the Minister to access and use a government waterwork is not exempted from having to comply with the provisions of any other laws.

Commencement

19. These Regulations come into effect on the date of publication thereof in the *Government Gazette*.

Index

| No. | Form Name | Forms to be completed for; |
|-----|---|--|
| 1. | <p data-bbox="336 476 496 504"><u>Annexure A1</u></p> <ul data-bbox="336 527 584 640" style="list-style-type: none"> • Application form for operational plan for a caretaker /grazing agreement. <p data-bbox="336 663 496 691"><u>Annexure A2</u></p> <ul data-bbox="336 715 584 827" style="list-style-type: none"> • Application form for operational plan for a lease agreement. <p data-bbox="336 829 496 857"><u>Annexure A3</u></p> <ul data-bbox="336 880 584 1015" style="list-style-type: none"> • Application form for operational plan for events at government waterworks. | <ul data-bbox="614 527 1238 938" style="list-style-type: none"> • Caretaker agreement where there is no exchange of money. • Grazing agreement for domestic use and for commercial use. • Lease agreement for recreational water use for commercial activities. • All events including photography, film production and advertising. |

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**water & sanitation**
 Department:
 Water and Sanitation
 REPUBLIC OF SOUTH AFRICA

ANNEXURE A1: APPLICATION FORM FOR OPERATIONAL PLAN FOR A CARETAKER/GRAZING AGREEMENT^{1,2}

1. BACKGROUND INFORMATION

| | | | |
|--|-----|--------------|-----|
| Name of the applicant/company/organization: | | | |
| Identity Number/company/organization Registration Number | | | |
| Postal/Physical Address: | | | |
| | | | |
| | | Postal code: | |
| Telephone: | () | Cell: | |
| E-mail: | | Fax: | () |

2. SITE LOCATION AND PROPERTY DESCRIPTION

| | | | |
|--|---|---|---|
| Dam/Scheme Name: | | | |
| Coordinates: | | | |
| Latitude (S) | ° | ' | " |
| Longitude (E) | ° | ' | " |
| Municipality | | | |
| Closest City/Town | | | |
| Farm/Erf name(s) & number(s) including portion) (if available) | | | |
| Property size(s) in square metres (m ²) | | | |
| Development footprint size(s) in m ² | | | |
| Locality map | | | |
| Site layout plan | | | |
| Current land use | | | |

¹ Provide information where applicable and if not applicable specify accordingly

² The required information must be typed within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. It is in the form of a table that will expand itself as each space is filled with typing.

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3. OPERATIONAL PLAN

| | |
|--|--|
| Describe in detail the proposed activity and associated infrastructure not limited to the following aspects: | |
| Proposal (in addition kindly stipulate if the proposal is for personal or commercial use) | |
| Type of livestock | |
| Number of livestock (capacity) per hectare | |
| Water provision for watering the livestock | |
| Describe the type of fencing to be erected | |
| Any structures to be erected (if any provide details) | |
| Describe potential risks or environmental impacts as a result of the proposal including the proposed management measures thereof | |
| Specify other information relevant to the proposal | |
| Attachments such as maps, plans and any other additional information must be attached in the Appendix section below | |
| Official company/organizations' letter must accompany this application form | |

4. DECLARATIONS**The applicant**

I _____ in my **personal capacity or duly authorised** by _____ (name of the company/organization) thereto hereby declare that I regard the information contained in this form to be true and correct.

Signature of the applicant:

Name of the company/organization:

Date:

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APPENDIX

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**water & sanitation**

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

ANNEXURE A2: APPLICATION FORM FOR OPERATIONAL PLAN FOR A LEASE AGREEMENT^{1,2}**1. BACKGROUND INFORMATION**

| | | | |
|--|-----|--------------|-----|
| Name of the applicant/company/organization: | | | |
| Identity Number/company/organization Registration Number | | | |
| Postal/Physical Address: | | | |
| | | | |
| | | Postal code: | |
| Telephone: | () | Cell: | |
| E-mail: | | Fax: | () |

2. SITE LOCATION AND PROPERTY DESCRIPTION

| | | | |
|---|---|---|---|
| Dam/Scheme Name: | | | |
| Coordinates: | | | |
| Latitude (S) | ° | ' | " |
| Longitude (E) | ° | ' | " |
| Municipality | | | |
| Closet City/Town | | | |
| Farm/Erf name(s) & number(s) including portion) (if available) | | | |
| Property size(s) in square metres (m ²) | | | |
| Development footprint size(s) in m ² | | | |
| Locality map | | | |
| Current land use | | | |
| Describe socio-economic context of the area and its immediate surrounds | | | |

¹ Provide information where applicable and if not applicable specify accordingly

² The required information must be typed within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. It is in the form of a table that will expand itself as each space is filled with typing.

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3. DETAILED PROPOSAL: OPERATIONAL PLAN

| | |
|---|--|
| Describe in detail the proposed activity and associated infrastructure not limited to the following aspects: | |
| Proposed development / activity | |
| Site layout plan | |
| Availability of services such as water, electricity, waste refusal, etc. | |
| Accessibility to the site (road infrastructure) | |
| Describe types of waste (general, hazardous and effluent) including the estimated amount/volume likely to be generated. Waste management must be described in detail | |
| Provision of water (source) and the estimated volume required | |
| Describe potential risks or environmental impacts as a result of the proposal including the proposed management measures thereof | |
| Describe the emergency response management plan or system | |
| Describe the institutional management structures or systems with regards to the management of the proposal/activity | |
| Attach business plan including estimated financial projections | |
| Indicate if the club is affiliated to a sporting body recognised by the South African Sports Confederation and Olympic Committee (SASCOC). Club's constitution and the joining fee must be provided | |
| Insurance liability cover regarding the proposal and associated activities must be attached | |
| Indicate the involvement of local communities in terms of participation and beneficiation (job creation and empowerment) | |
| Specify other information relevant to the proposal | |
| Attachments such as maps, plans and any other additional information must be attached in the Appendix section below | |
| Official company/organizations' letter must accompany this application form | |

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4. DECLARATIONS

The applicant

I _____ in my **personal capacity or duly authorised** by
_____ (name of the company/organization) thereto hereby declare that I
regard the information contained in this form to be true and correct.

Signature of the applicant:

Name of the company/organization:

Date:

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APPENDIX

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**water & sanitation**

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

ANNEXURE A3: APPLICATION FORM FOR OPERATIONAL PLAN FOR EVENTS AT GOVERNMENT WATERWORKS^{1,2}

1. BACKGROUND INFORMATION

| | | | |
|--|-----|--------------|-----|
| Name of the applicant/company/organization: | | | |
| Identity Number/company/organization Registration Number | | | |
| Postal/Physical Address: | | | |
| | | | |
| | | Postal code: | |
| Telephone: | () | Cell: | |
| E-mail: | | Fax: | () |

2. SITE LOCATION AND PROPERTY DESCRIPTION

| | | | |
|---|---|---|---|
| Dam/Scheme Name: | | | |
| Coordinates: | | | |
| Latitude (S) | ° | ' | " |
| Longitude (E) | ° | ' | " |
| Municipality | | | |
| Closet City/Town | | | |
| Farm/Erf name(s) & number(s) including portion) (if available) | | | |
| Property size(s) in square metres (m ²) | | | |
| Development footprint size(s) in m ² | | | |
| Locality map | | | |
| Current land use | | | |
| Describe socio-economic context of the area and its immediate surrounds | | | |

¹ Provide information where applicable and if not applicable specify accordingly

² The required information must be typed within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. It is in the form of a table that will expand itself as each space is filled with typing.

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3. OPERATIONAL PLAN

| | |
|---|--|
| Describe in detail the proposed event and associated infrastructure not limited to the following aspects: | |
| Describe the proposed event in details | |
| Date of the event | |
| Site layout plan | |
| Availability of services such as water, electricity, waste refusal, etc. | |
| Accessibility to the site (road infrastructure) | |
| Describe types of waste (general, hazardous and effluent) including the estimated amount/volume likely to be generated. Waste management must be described in detail | |
| Provision of water (source) and the estimated volume required | |
| Describe potential risks or environmental impacts as a result of the proposal including the proposed management measures thereof | |
| Describe the emergency response management plan or system | |
| Describe the institutional management structures or systems with regards to the management of the event | |
| Attach estimated financial projections of the proposed event | |
| Insurance liability cover regarding the proposed event must be attached | |
| Classification of the event by the South African Police Services (SAPS) in terms of the Safety at Sports and Recreational Events Act, 2010 (Act No 2 of 2010) must be provided and attached | |
| Indicate the involvement of local communities in terms of participation and beneficiation (job creation and empowerment) | |
| Specify other information relevant to the proposed event | |
| Attachments such as maps, plans and any other additional information must be attached in the Appendix section below | |
| Official company/organizations' letter must accompany this application form | |
| Event programme must be attached | |

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4. DECLARATIONS

The applicant

I _____ in my personal capacity or duly authorised by
_____ (name of the company/organization) thereto hereby declare that I
regard the information contained in this form to be true and correct.

Signature of the applicant:

Name of the company/organization:

Date: