

## **WA: GENERAL AUTHORISATIONS I.T.O OF SECTION 39 OF THE NATIONAL WATER ACT 36 OF 1998 FOR WATER USES AS DEFINED IN SECTION 21(c) OR SECTION 21(i)**

Hi there

The Director-General of the Department of Water and Sanitation, and duly authorised in terms of section 63 of the National Water Act 36 of 1998, Generally Authorised all persons or any category of persons to use water in terms of section 39(1) of the National Water Act 36 of 1998, read together with section 21(c) or section 21(i); subject to the provisions contained in the Notice.

### **More information:**

**IMPEDING OR DIVERTING THE FLOW OF WATER IN A WATERCOURSE [Section 21(c)]**

Or

**ALTERING THE BED, BANKS, COURSE OR CHARACTERISTICS OF A WATERCOURSE [Section 21(1)]**

#### **Purpose of Authorisation**

This General Authorisation replaces the need for a water user to apply for a licence in terms of section 40 of the National Water Act 36 of 1998 (NWA), provided that the water use is within the limits and conditions of this General Authorisation.

#### **Exclusion to this Notice**

The Notice does not apply—

(a) to the use of water in terms of section 21 (c) or (i) of the Act for the rehabilitation of a wetland as contemplated in General Authorisation 1198 published in Government Gazette 32805 dated 18 December 2009,

(b) to the use of water in terms of section 21 (c) or (i) of the Act within the regulated area of a watercourse where the Risk Class is Medium or High as determined by the Risk Matrix (Appendix A). This Risk Matrix must be completed by a suitably qualified SACNASP professional member;

(c) in instances where an application must be made for a water use license for the authorisation of any other water use as defined in section 21 of the Act that may be associated with a new activity;

(d) where storage of water results due to the impeding or diverting of flow or altering the bed, banks, course or characteristics of a watercourse;

(e) to any section 21 (c) or (i) water use associated with construction/installation or maintenance of main or bulk sewerage pipelines, French drains, pipelines carrying hazardous materials. Notwithstanding this requirement, conservancy tanks of not more than 1 (One) tank per hectare and internal sewerage reticulation in residential and mixed-use developments including minor sewerage connections to main sewers are not excluded from this Notice provided that the maximum flow in the pipelines are below the 120 l/s threshold;

(f) to any section 21 (c) or (i) water use associated with construction of water- and wastewater treatment works including package plants and septic tanks;

(g) to any section 21 (c) or (i) water use associated with any hazardous material within the regulated area of a watercourse; and

(h) to any section 21 (c) or (i) water use associated with mining activities and associated infrastructure unless it falls within appendix D1 or D2.

Notwithstanding the abovementioned exclusions, Emergency incidents or accidents related to sewerage and hazardous material infrastructure or any of the abovementioned exclusions can be dealt with in terms of section 6 (vii) of this notice. Where the water use falls within paragraph 3 (b)-(h) a water use licence will be required.

### **Duration of Notice**

This Notice is valid from the date that this notice comes into effect for a period of 20 (twenty) years unless—

- (a) it is replaced or amended by another general authorisation; or
- (b) the period is extended for a further period by Notice in the Gazette.

### **Area of applicability of Notice**

This Notice applies throughout the Republic of South Africa to the use of water in terms of section 21 (c) or (i) within the regulated area of a watercourse as defined in this Notice.

### **To whom this Notice is applicable**

Impeding or diverting the flow or altering the bed, banks, course or characteristics of a watercourse

(1) A person who -

- (a) owns or lawfully occupies property registered in the Deeds office as at the date of this Notice;
- (b) lawfully occupies or uses land that is not registered or surveyed; or
- (c) lawfully has access to land on which the use of water takes place;

May on that property or land -

- (i) exercise the section 21 (c) or (i) water use activities set out in Appendix D1 without being subject to the requirement of a Risk Matrix assessment in terms of this notice and subject only to conditions (4) to (12) listed under section 7 of this Notice;
- (ii) All SOE's and other institutions specified in Appendix D2 having lawful access to that property or land may on that property use water in terms of section 21(c) or (i) as specified under each of the relevant institution without being subject to a Risk Matrix assessment and subject only to conditions (4) to (12) listed under section 7 of this Notice.
- (iii) use water in terms of section 21(c) or (i) water uses if it has a low-risk class as determined through the Risk Matrix (Appendix A). (This Risk Matrix must be completed by a suitably qualified SACNASP professional member).
- (iv) do maintenance work associated with their section 21(c) or (i) Existing Lawful Use that has a low-risk class as determined through the Risk Matrix (Appendix A). (This Risk Matrix must be completed by a suitably qualified SACNASP professional member).
- (v) conduct rehabilitation of wetlands (read together with General Authorisation 1198 published in Government Gazette 32805 dated 18 December 2009) and/or rivers where such rehabilitation activities have a low-risk class as determined through the Risk Matrix (Appendix A). (This Risk Matrix must be completed by a suitably qualified SACNASP professional member).
- (vi) conduct river and storm water management activities including maintenance of infrastructure as contained in a river management plan or similar management plan. Appendix B contains minimum requirements for such a plan to be approved by the relevant regional office or Catchment Management Agency (CMA). Once approved by the regional office or CMA these plans can be implemented in terms of this GA subject only to conditions (7) to (12) listed under section 7 of this Notice;
- (vii) conduct emergency work arising from an emergency situation and or incident associated with the persons' existing water use entitlement, provided that all work is executed and reported in the manner prescribed in the Emergency Protocol contained in Appendix C and subject only to conditions (7) to (12) listed under section 7 of this Notice.

In the instances referred to in section 6 (i) and (ii) herein, there is no requirement for compliance to all the conditions of this notice other than section 7(4)-(12) of this Notice.

In the abovementioned instances referred to in section 6 (vi) and (vii) herein, there is no requirement for compliance to all the conditions of this notices other than section 7(7)-(12) of this Notice.

(2) A water user who used water in terms of General Authorisation 1 and 2 to the Schedules of Government Notice 398 published in Government Gazette 26187 dated 26 March 2004, General Authorisation 1199 published in Government Gazette 2805 dated 18 December 2009, and General Authorisation 509 published in Government Gazette 40229 dated 26 August 2016 may, continue with such water use without the requirement of re-registering.

It is required that the following documents must be submitted as a minimum for the registration process:

- (a) Master Layout plan indicating all proposed activities in relation to delineated watercourses
- (b) Relevant registration forms

- (c) Completed Risk Matrix (Appendix A of this Notice) signed off by suitably qualified SACNASP professional member
- (d) Any applicable information to substantiated assessment

The following spread sheets and tools must be used during the Risk Assessment:

1 - A Practical Field Procedure for Delineation of Wetlands and Riparian Area (2008) which is available on the Department's website <http://www.dws.gov.za>, under section 21 (c) and (i) water use authorization.

2- The Risk Matrix (Excel Spreadsheet) and information regarding the method used in the Risk Matrix is contained in the Department of Water and Sanitation 2015 publication: Section 21 c and I water use Risk Assessment Protocol, which is available on the Department's website <http://www.dws.gov.za>, under section 21 (c) and (i) water use authorization, or as amended from time to time.

3- Guideline: Assessment of activities/developments affecting wetlands, which is available on the Department's website <http://www.dws.gov.za>, under section 21 (c) and (i) water use authorization.

4- Guideline for the determination of buffer zones for rivers, wetlands and estuaries, which is available on the Department's website <http://www.dws.gov.za>, under section 21 (c) and (i) water use authorization.

5 - Wet-Health series and others.

**CONDITIONS FOR IMPEDING OR DIVERTING THE FLOW OF WATER OR ALTERING THE BED, BANKS, COURSE OR CHARACTERISTICS OF A WATERCOURSE IN TERMS OF THIS NOTICE**

(1) The water user must ensure that:

(a) Impeding or diverting the flow and/or altering the bed, banks, course or characteristics of a watercourse do not detrimentally affect the on-site and surrounding environment or other up- stream and down-stream water users, property, health and safety of the general public, or the resource quality.

(b) The existing hydraulic, hydrologic, geomorphic and ecological functions of the watercourse in the vicinity of the structure is maintained or improved upon.

(c) Upon written request of the responsible authority, the water user must implement any additional management measures and/or monitoring programmes that may be reasonably necessary to determine potential impacts on the water resource and/or management measures to address such impacts.

(2) Prior to the carrying out of any works, the water user must ensure that all persons entering on- site, including contractors and casual labourers, are made fully aware of the conditions and related management measures specified under section 7(1)-(12) of this Notice.

(3) The water user must ensure that -

(a) any construction camp; storage of vehicles; any storage, washing and maintenance of equipment, and any storage of construction materials and/or chemicals; as well as any sanitation and waste management facilities,

(i) is located outside the 1 in 100-year flood line or riparian habitat of a river, spring, lake or dam and or outside any drainage area feeding any delineated wetland or pan, and

(ii) must be removed within 30 days after the completion of any works.

(b) The water user must ensure that the selection of a site for establishing any impeding or diverting the flow or altering the bed, banks, course or characteristics of a watercourse works:

(i) is not located on a bend in the watercourse;

(ii) avoid high gradient areas, unstable slopes, actively eroding banks, interflow zones, springs, and seeps;

(iii) avoid and/or minimise realignment of the course of the watercourse;

(iv) minimise the footprint of the alteration, as well as the construction footprint so as to minimise the effect on the watercourse.

(c) The water user must ensure that a maximum impact footprint around the works is established, clearly demarcated, that no vegetation is cleared or damaged beyond this demarcation, and that equipment and machinery is only operated within the delineated impact footprint.

(d) The water user must ensure that measures are implemented to minimise the duration of disturbance and the footprint of the disturbance of the beds and banks of the watercourse.

- (e) The water user must ensure that measures are implemented to prevent the transfer of biota that is not indigenous to the environment at the site.
- (f) The water user must ensure that all works, including for emergency alterations and/or the rectification of incidents, start upstream and proceed in a downstream direction where feasible, to ensure minimal impact on the water resource.
- (g) The water user must ensure that all material excavated from the bed or banks of the watercourse are maintained in a usable and unpolluted state and stored at a clearly demarcated location until the works have been completed, upon which the excavated material must be backfilled to the locations from where it was taken (i.e. material taken from the bed must be returned to the bed, and material taken from the banks must be returned to the banks).
- (h) The water user must ensure that adequate erosion control measures are implemented at and near all alterations, including at existing structures and/or activities, with particular attention to erosion control at steep slopes and drainage lines.
- (i) The water user must ensure that alterations and/or hardened surfaces associated with such structures and/or works -
- (i) are structurally stable;
  - (ii) do not induce sedimentation, erosion or flooding;
  - (iii) do not cause a detrimental change in the quantity, velocity, pattern, timing, water level and assurance of flow in a watercourse;
  - (iv) do not cause a detrimental change in the quality of water in the watercourse;
  - (v) do not cause a detrimental change in the stability or geomorphological structure of the watercourse; and
  - (vi) do not create nuisance condition, or health or safety hazards.
- (j) The water user must ensure that measures are implemented at alterations, including at existing structures and/or activities, to -
- (i) prevent detrimental changes to the breeding, nesting and/or feeding patterns of aquatic biota, including migratory species;
  - (ii) allow for the free up\* and downstream movement of aquatic biota, including migratory species; and
  - (iii) prevent a decline in the composition and diversity of the indigenous and endemic aquatic biota.
- (k) The water user must ensure that no substance or material that can potentially cause pollution of the water resource is being used in works, including for emergency alterations and/or the rectification of reportable incidents.
- (l) The water user must ensure that measures including storm water measures are implemented to prevent increased turbidity, sedimentation and detrimental chemical changes to the composition of the water resource as a result of carrying out the works, including for emergency alterations and/or the rectification of reportable incidents.
- (m) During the carrying out of any works, the water user must take dated photographs one week before, weekly during and weekly for 4 weeks after the completion of such works including for emergency structures and rectifications of reporting incidents. These photographs must be made available to the responsible authority, upon request.

#### **Rehabilitation**

- (4) (a) For rehabilitation as contemplated under paragraph 6(1)(v); the rehabilitation must be conducted in terms of a rehabilitation plan and implementation of the plan must be overseen by a suitably qualified SACNASP professional member or SACLAP professional. This includes rehabilitation being done for emergency alterations and/or the rectification of reportable incidents.
- (b) For all other construction or maintenance activities upon completion of the construction activities related to the water use—
- (i) systematic rehabilitation must be undertaken to restore the watercourse to its condition prior to the commencement of the water use;
  - (ii) all disturbed areas must be re-vegetated with indigenous vegetation suitable to the area or according to a plant species plan;
  - (iii) active alien invasive plant control measures must be implemented to prevent invasion by exotic and alien vegetation within the disturbed area; and
  - (iv) The Master Layout Plan as was used during the risk assessment must ensure "Design with nature" principles by excluding sensitive area, provide erosion protection, upkeep and maintenance of structures.
- (c) Following the completion of any works, or during any annual inspection to determine the need for maintenance at any impeding or diverting structure, the water user must ensure that all disturbed areas are –
- (i) cleared of construction debris and other blockages;
  - (ii) cleared of alien invasive vegetation;
  - (iii) reshaped to free-draining and non-erosive contours, and
  - (iv) re-vegetated with indigenous and endemic vegetation suitable to the area.

(d) Upon completion of any works, the water user must ensure that the hydrological functionality and integrity of the watercourse, including its bed, banks, course (flow regime), riparian habitat and aquatic biota is equivalent to or exceeds that what existed before commencing with the works.

### **Monitoring and Reporting**

(5) (a) The water user must determine the in-stream baseline water quality for pH, EC, TSS, Turbidity, Temperature and Dissolved Oxygen ("DO") weekly for 1 month before commencement of the water use. This must include dated photographic records of all the sites. Thereafter in-stream water quality (same parameters) must be measured on a weekly basis during construction both upstream and downstream from the activities and continue until baseline values have been achieved. Baseline water quality levels and other resource quality characteristics must be reached and be maintained after construction and rehabilitation.

(b) The water user must ensure the establishment and implementation of a monitoring program as required to measure the impacts on the resource quality as mentioned in 7(3)a-m.

(c) Upon the written request of the responsible authority the water user must:

(i) Ensure the establishment of any additional monitoring programmes or plan; and

(ii) Assess the water use measurements made in terms of this notice and submit the finding to the responsible authority for evaluation; and

(iii) Ensure environmental audits are conducted; and

(iv) Submit electronically as indicated under Record Keeping and Disclosure of Information under section 7(8) of this notice;

(d) Upon completion of construction activities related to the water use, the water user must undertake an Environmental Audit by a suitably qualified person within 6 months of completion of the activities to ensure that the rehabilitation is stable. Should the Environmental Audit find that further remedial work is required to rectify any impacts it must be implemented.

(e) Rehabilitation structures must be inspected monthly for the accumulation of debris, blockages, instabilities and erosion with concomitant remedial and maintenance actions until it is stable.

(f) Copies of all designs, method statements, rehabilitation and monitoring plans and any other relevant reports as considered in the Risk Matrix, must be made available to the responsible authority as per section 141 of the Act as per request under paragraph (5)(c)iii.

### **Budgetary provisions**

(6) (a) The water user must ensure that there is a budget sufficient to complete, rehabilitate, monitor and maintain the water use as set out in this Notice.

(b) The Department may at any stage of the process request proof of budgetary provisions.

### **Registration**

(7) (a) Subject to the provisions of this General Authorisation, a new water user must submit the relevant registration forms to the responsible authority.

(b) The responsible authority must provide confirmation of registration to the water user within 30 working days of the responsible authority being satisfied that the submission complies to all the requirements of this notice.

(c) On written receipt of a registration certificate/letter from the Department, the person will be regarded as a registered water user and can only then commence with the water use as contemplated in this Notice.

(d) Upon change of ownership the successor in title must notify the region or CMA within 3 months to have the existing entitlement registered in his/her name.

### **Record-keeping and disclosure of information**

(8) (a) Subject to paragraph (5)(a) and (5)(c) above, the water user must, for at least the first five years, keep a written record of monitoring results and any other supporting documents related to the activity and its related risks and must be made available upon inspection or written request.

(b) Water users are further required to register on [www.dws.gov.za/dir\\_ws/wsmenu](http://www.dws.gov.za/dir_ws/wsmenu) and upload all documents applicable to the full project lifecycle including baseline water quality data and monthly monitoring data against baseline as required in terms of paragraph (5) on the departmental Integrated Regulatory Information System (see information box below).

NOTE: The water user shall register on the Integrated Regulatory Information System on <http://ws.dwa.gov.za/IRIS.aspx>

### Inspection

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

### Offences

(10) A person who contravenes any provision of this authorisation is guilty of an offence as set out in section 151 (1) of the Act and is subject to the penalty set out in section 151(2) of the Act.

### Compliance with this Notice, the Act, Regulations under the Act, and other laws

(11) The responsibility for complying with the provisions of this authorisation is vested in the water user and not any other person or body.

(12) This authorisation does not exempt a person who uses water from compliance with any provision of the Act unless stated otherwise in this Notice, or any other applicable law, regulation, ordinance or by-law.

## Publication details:

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## Where do I access this information?

[https://implex.co.za/wp-content/uploads/2024/01/General\\_authorisation\\_ito\\_s39\\_of\\_the\\_NWA-\\_Impeding\\_or\\_diverting\\_the\\_flow-of\\_water\\_in\\_a\\_watercourse\\_or\\_altering\\_the\\_bed\\_banks\\_course\\_-characteristics\\_of\\_watercourse\\_.pdf](https://implex.co.za/wp-content/uploads/2024/01/General_authorisation_ito_s39_of_the_NWA-_Impeding_or_diverting_the_flow-of_water_in_a_watercourse_or_altering_the_bed_banks_course_-characteristics_of_watercourse_.pdf)

We trust that this information will serve to be of some assistance to you, and look forward to your positive feedback!

Implex regards,  
Marlize



"Innovation comes only from readily and seamlessly sharing information rather than hoarding it." Tom Peters