


No. 1199

18 December 2009

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

I, Nobubele Ngele in my capacity as Acting Director-General of the Department of Water Affairs and duly authorised in terms of section 63 of the Act, do hereby replace from 1st January 2010 the general authorisation contained in Schedules 1 and 2 of Government Notice No. 398 dated 26 March 2004 published in Government Gazette No 26187 in respect of section 21(c) and (i) of the Act as set out in the Schedule hereto.



Acting Director-General:
Date: 7-12-09

SCHEDULE**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 Government Notice No. 398 dated 26 March 2004 as published in Government Gazette No 26187 for water use 21(c) and (i) as set out in this Notice, but does not exempt the water user from compliance with any other provision of the Act 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 within the riparian habitat or 1:100 year floodline, whichever is the greater distance 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" means any "mine" as defined in the Mineral and Petroleum Resources Act, 2002 (Act No. 28 of 2002);

"mining operations" means any "operation" as defined in the Mineral and Petroleum Resources Act, 2002 (Act No. 28 of 2002);

"activity" means any "activity" as defined in Government Notice No. 704 published in Government

Gazette No. 20119 dated 4 June 1999;

“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 from the 01 January 2010 for a period of 20 (twenty) years unless—
- (a) the period is extended for a further period by a Notice in the *Gazette*;
 - (b) it is replaced by another general authorisation; or
 - (c) the water user is required to apply for a licence in terms of the Act.

Area of applicability of Notice

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
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 activities
A & D41A (for section 21(c) and (i) of the Act)	Crocodile (West) & Marico WMA
C (for section 21(i) of the Act)	Harts River upstream of the Taung Dam in the Middle Vaal WMA

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 Notice is 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 (j) 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) 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 may subject to the provisions of this Notice, continue with such water use.

Exclusion to Notice

6. This Notice does not—

- (a) apply to the use of water in terms of section 21(c) and (j) for the rehabilitation of a wetland;
- (b) apply to the use of water in terms of section 21(c) and (j) 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>

- (c) apply if the water user must make an application for a licence for any other water use in terms of section 21 of the Act;
- (d) apply to any sewerage pipelines, pipelines carrying hazardous materials and to water and wastewater treatment works;
- (e) 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; and
- (f) 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 in terms of this Notice**General**

7. (1) The water use must not cause a potential, measurable or cumulative detrimental impact on the characteristics of a watercourse.

(2) The water user must ensure that the water use—

- (a) does not have a detrimental impact 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) 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 health and safety hazard.

Instream and riparian habitat

- (4) The water use must not result in a potential, measurable or cumulative detrimental—
- (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.

Hydraulics and Hydrology

- (5) The water use must not result in a potential, measurable or cumulative detrimental change in the quantity, velocity, pattern, timing, water level and assurance of flow in a watercourse.

Water quality

- (6) The water use must not result in a potential, measurable or cumulative detrimental change in the water quality characteristics of the watercourse.

Biota

- (7) The water use must not result in a potential, measurable or cumulative detrimental change on the—
- (a) breeding, feeding and movement patterns of aquatic biota, including migratory species;
 - (b) level of composition and diversity of biotopes and communities of animals and microorganisms; or
 - (c) condition of the aquatic biota.

Rehabilitation

- (8) Upon completion of the water use—
- (a) a systematic rehabilitation programme must be undertaken to restore the watercourse to its condition prior to the commencement of the water use;
 - (b) all disturbed areas must be re-vegetated with indigenous vegetation suitable to the area; and

- (c) an active campaign for controlling new exotic and alien vegetation must be implemented within a disturbed area.

Monitoring and reporting

(9) Upon completion of the water use, the water user must undertake a habitat assessment study annually for three years to ensure that the rehabilitation is stable, failing which, remedial action must be taken to rectify any impacts.

(10) Rehabilitation structures must be inspected regularly for the accumulation of debris, blockages instabilities and erosion with concomitant remedial and maintenance actions.

(11) Copies of all designs, risk assessments, rehabilitation plans and any other reports required must be made available upon written request to the responsible authority.

Authority to enter onto land

8. Prior to the commencement of the water use, the water user must obtain lawful—

- (a) authority to enter upon land owned or controlled by the State; and
(b) access to enter upon private owned or controlled land,
on which the proposed water use is to be undertaken.

Budgetary provisions

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

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

Registration

10. (1) Subject to subparagraph 10(2), a person who uses water as contemplated in this Notice must register such water use with the responsible authority.

(2) A water user who carries out more than 20 (twenty) water uses in terms of this Notice over a one year period need only register such uses on an annual basis.

(3) 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

11. 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.

