

A Layman's Guide to Water Entitlements on the Farm

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Water use on the farm

- The National Water Act and the the irrigation sector.
- Different water uses.
- Permissible use of water:
 - without a licence
 - with a licence
- Registration and verification.
- Transfer of a water use entitlement.
- Procedure for licence applications.

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The National Water Act and the irrigation sector

- National Water Act (Act 36 of 1998).
- For the irrigation sector: Chapter 4, namely sections 21 to 55.
- Key aspects to the irrigation sector:
 - "Taking water from a water resource" and "storing water" (s 21).
 - Permissible water use (s 22).
 - Registration (s 26)
 - Verification of existing lawful use (s 35).
 - Transfer of water use entitlements (s 25).
 - Procedure for licence applications (s 41).

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Water uses

NATIONAL WATER ACT
Act No 36 of 1998
CHAPTER 4
USE OF WATER
Part 1: General Principles

Water use

- 21.** For the purposes of this Act, water use includes -
- (a) **taking water from a water resource;**
 - (b) **storing water;**
 - (c)

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Water uses

- Taking water from a water resource. A water resource includes a river, stream, dam, weir, lake, pan, spring, borehole, aquifer, wetland or any surface run-off.
- Abstracting water from an off-channel dam having no catchment (for example a balancing dam), a canal, or a pipeline is not taking of water from a resource. The Minister may however require a person to have a licence to take water from a government waterwork through a canal or pipeline.

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Permissible use of water

Permissible water use

- 22. (1)** A person may only use water -
- (a) without a licence -
 - (i) if that water use is permissible under Schedule 1;
 - (ii) if that water use is permissible as a continuation of an existing lawful use; or
 - (iii) if that water use is permissible in terms of a general authorisation issued under section 39;
 - (b) if the water use is authorised by a licence under this Act; or
 - (c) ...

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Permissible use of water

Schedule 1

Schedule 1 entitles a person to take water for reasonable domestic use in the person's household, for small gardening not for commercial purposes and for watering of animals grazing on the land. *(No need to register)*

Existing lawful use

A water use that was lawfully exercised in the two years before the commencement of the NWA on 1 October 1998, subject to the conditions under which it was lawfully exercised. Under certain circumstances, water uses that do not qualify may be 'declared' as existing lawful use as described in section 33 of the NWA. *(Must be registered by the user)*

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Permissible use of water

General authorization

In certain areas, specific relatively small uses are generally authorized, meaning that while staying within the limitations provided in Government Gazette Notice 398 of 26 March 2004, a licence is not necessary. *(Must in specified cases be registered by the user)*

Licence

In the absence of any of the previous three types of authorization, water may not be used without a licence issued under Chapter 4 of the NWA. *(Is automatically registered)*

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Registration and Verification

- Registration is the process of officially notifying the Department of a lawful water use, but a registration certificate is not an entitlement or an authorisation to use water.
- Before it gets the status of an entitlement, the use should be verified according to section 35 of the NWA.
- In verification two questions are asked:
 - Did the water use take place during the qualifying period? (1 Oct 1996 to 30 Sept 1998)
 - Was it lawful at that time, according to the relevant legislation?

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How to verify an existing use

- Water users who want to confirm that a specific water use complies with the requirements of existing lawful use, can at any stage apply for verification (s 35).
- The application should be submitted at the relevant Water Affairs regional office.
- The Department may require the applicant, at the applicant's expense, to obtain and provide all necessary information, in order to take a decision.

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Transfer of water use entitlements

- Temporary transfers - section 25 (1).
- Permanent transfers - section 25 (2):
 - An entitlement to use water may be surrendered in order to facilitate a particular licence application.
 - That particular licence application should be submitted at the relevant Water Affairs regional office.
 - The surrender only becomes effective if and when such application is granted.

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Procedure for a water use licence application

- A person who wishes to obtain a licence to use water, must apply to the relevant regional office for a licence.
- The contact information of the regional offices as well as all documentation are provided on the Departmental web site: www.dwaf.gov.za

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Thanks!

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