

GUIDELINES TO WATER USE:

authorisation and registration for dairy farmers



"By accepting responsibility, we take effective steps toward our goal: an inclusive human society on a habitable planet, a society that works for all humans and for all nonhumans. By accepting responsibility, we move closer to creating a world that works for all." – Sharif M. Abdullah

Now, more than ever, South Africans realise that our scarce water resources are under increasing pressure. If we wish to build a sustainable future, the effective and wise use of water is essential. The agricultural sector is not only a major role player in South Africa's economy but also uses up to 60% of the country's water supplies. Agriculture plays a pivotal role in maintaining the quality of both surface and groundwater resources and must take steps to improve water use efficiency.

1. Legal framework

The National Water Act (NWA, 36 of 1998), provides the legal framework for the effective and sustainable management of our water resources. The Act recognises that while water is a natural resource that belongs to all people,

discriminatory laws and practices of the past have prevented equal access to and use of water. The Act gives the national government overall responsibility for and authority over the nation's water resources: to manage the use of water; protect water quality; allocate water and promote the integrated management of water resources with the participation of all stakeholders.

The Department of Water and Sanitation (DWS) is the custodian of South Africa's water resources. The Minister of Water and Sanitation is the public trustee of water resources on behalf of the national government and has overall responsibility for all aspects of water resource management in South Africa. The DWS is responsible for establishing how much water is used, by whom and where, in order to measure how much water is actually available for use.



2. Categories of water use

There are four categories of water rights which form the basis of legal entitlement to water.

➔ 2.1 Schedule 1

Schedule 1 water uses are generally low-volume, low-impact activities that are consistent with domestic use, livestock watering, recreational use and the use of water for emergencies. This water use is permissible and does not require licensing or registration.

➔ 2.2 Existing lawful use

Before the NWA was promulgated in 1998, water use was governed by the Water Act (54 of 1956). As a general rule, all water use

commencing before 1998 is deemed to be existing lawful use (ELU) in terms of the NWA. However, relevant records such as irrigation infrastructure designs need to be in place to prove the water use occurred before 1998 and the existing lawful use must be verified and validated by the DWS. All existing lawful uses need to be registered.

➔ 2.3 General authorisation

There is a Government Notice (GN) for each water use activity which sets the limits and conditions for which a water use is permissible under general authorisation (GA). A general authorisation replaces the need for a water user to apply for a licence in terms of Section 21 of the NWA. A general authorisa-

Water use	GN No and date
<p>Storage and irrigation of wastewater <i>Note - the general authorisation allows the disposal of wastewater from dairy farming activities into on-site or off-site slurry ponds and irrigation with wastewater from slurry ponds under specific conditions, for example:</i> <i>The slurry pond must be more than 100 m away from a stream and 500 m from a wetland; irrigation must be more than 500 m from a wetland.</i></p>	<p>GN 665, September 2013 <i>Revision of general authorisations in terms of Section 39 of the NWA.</i> extwprlegs1.fao.org/docs/pdf/saf126916.pdf</p> 
<p>Abstraction of surface water and groundwater <i>Note - different volumes are allowed to be abstracted under general authorisation, depending on the quaternary catchment within which the farm is found.</i></p>	<p>GN 538, 2 September 2016 <i>Revision of general authorisation for the taking and storing of water.</i> www.kwanalu.co.za/wp-content/uploads/2016/11/40243_gen538.pdf</p> 
<p>Impeding/diverting flow within the watercourse or catchment area <i>Note - this GN extends the water use licence requirement to all developments of medium to high risk within 500 m of a wetland.</i></p>	<p>GN 509, 26 August 2016 <i>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(i)) of the NWA.</i> www.gov.za/sites/www.gov.za/files/40229_gen509.pdf</p> 
<p>Storage of clean water (dams) <i>Note - different volumes are allowed to be stored under general authorisation, depending on the quaternary catchment within which the farm is found.</i></p>	<p>GN 538, 2 September 2016 <i>Revision of general authorisation for the taking and storing of water.</i> www.kwanalu.co.za/wp-content/uploads/2016/11/40243_gen538.pdf</p> 



tion is specific to location, with different limits set per quaternary catchment. The general authorisations that may apply to dairy farmers are listed on page 2:

➔ 2.4 Water use licence

Section 21 of the NWA lists all water use activities that require a water use licence (WUL) and are subject to a water use licence application (WULA) process and is required if:

- the water use exceeds the parameters of Schedule 1;
- the water use took place or is planned to take place after 1998 (new water use);
- the water use exceeds the parameters set out in the General Authorisation Government Notice.

The following agricultural activities are examples of water uses that may require a water use license:

The water use license application process includes a public participation process, strong B-BBEE motivation and specialist studies (e.g. geohydrological, hydrological, floodline, watercourse delineation, offset studies) to determine the sustainability of the proposed water use. A comprehensive report must be submitted to the DWS for their approval, subject to the availability of free water in the catchment. The applicant is responsible for all costs incurred during the water use license application process.



Water use activity under NWA	Potential relevance
Section 21 (a) Taking of water from water resource.	Abstraction from a river, borehole or dam in significant volumes, as required for commercial agriculture.
Section 21 (b) Storage of water.	Storage in dams (clean water) in significant volumes, as required for commercial agriculture.
Section 21 (c) Impeding or diverting the flow of water in a watercourse.	Construction of on-stream dams; construction of bridges and weirs.
Section 21 (d) Engaging in a streamflow reduction activity.	Afforestation (commercial timber).
Section 21 (e) Engaging in a controlled activity.	Irrigation with wastewater outside the limits outlined in the General Authorisation Government Notice.
Section 21 (g) Disposing of waste in a manner that may detrimentally impact a water resource.	Construction of septic tanks and soakaways associated with dairies, staff housing, offices, et cetera.
Section 21 (i) Altering the bed, banks, course or characteristics of a watercourse.	Construction of on-stream dams; construction of bridges and weirs.



3. Registration of water uses

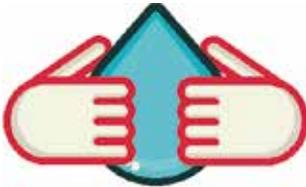
All water rights/approvals as explained above (except those under Schedule 1) must be registered with the DWS. This forms the basis of the administration and record-keeping system of the national water allocation.

Note that a registration does not equate to a water right or approval! That is, illegal water use (i.e. water use not under Schedule 1, existing lawful use, general authorisation nor licensed) can still be registered. The registration document will state 'lawfulness still to be determined'. These documents must not be mistaken as conferring water rights!

→ 3.1 Registration process

The process of registration is determined by the type of water use but generally consists of the following steps:

- Submission of registration application on the applicable forms to DWS.
- DWS conducts assessment of application.
- Registration of water use is recorded on the basis of:
 - existing lawful use;
 - general authorisation;
 - water use licence; or
 - lawfulness still to be determined.

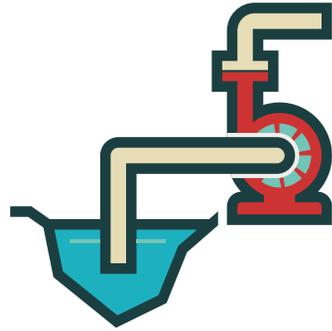


All persons or bodies required to register can contact any of the regional offices of the DWS at the following link: www.dwa.gov.za/Projects/WARMS/contacts.aspx



Projects/WARMS/contacts.aspx.

There is no fee for registration. Once completed, a signed registration certificate will be issued to water users who have been successfully registered and payment for water use will commence.



4. Verification and validation process

The DWS is currently undertaking a verification and validation (V&V) process, proceeding from one catchment to the next across South Africa. The purpose of the verification and validation is to verify all existing lawful uses, determine water use vs water registrations, as well as determine the legality of new water uses (post-1998). Any discrepancies between use and legal allocation will be highlighted.

5. Concluding remarks

Farmers are encouraged to engage fully in the verification and validation process as a means of securing their on-farm existing lawful use. The DWS website has several informative brochures should you require further clarity on the above. Moreover, specialist consultants can be contacted to assist with the process.

While the legal framework to secure legal water allocation is far from simple, its importance cannot be overemphasised. Greater pressure on water resources and increased compliance monitoring by the DWS are certainties of the future.

6. Enquiries

Dairy farmers who need assistance with the authorisation and registration of water use can contact Barbara Bieldt at 012 843 5600 or send an e-mail to barbara@mpo.co.za.

