

GOVERNMENT NOTICE

DEPARTMENT OF WATER AND SANITATION

No. R.....

2025

NATIONAL WATER ACT, 1998 (ACT NO. 36 OF 1998)

PROPOSED REGULATIONS FOR THE MANAGEMENT AND CONTROL OF GOVERNMENT WATERWORKS AND SURROUNDING STATE-OWNED LAND

I, Pemmy C. Majodina, Minister of Water and Sanitation hereby consult on the intention to make regulations for the management and control of government waterworks and surrounding state-owned land for recreational purposes in terms of section 116 of the National Water Act, 1998 (Act No. 36 of 1998) (hereinafter "NWA") as set out in the Schedule hereto.

Members of the public are invited to submit written comments or inputs within 60 days after the publication of this notice in the Gazette, to any of the following addresses:

By post to: Department of Water and Sanitation
The Director-General
Attention: Mrs Anet Muir
Private Bag X 313
PRETORIA
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By hand at Reception: Sedibeng Building, 185 Francis Baard Street, Pretoria

By E-mail at gww@dws.gov.za

MISS PEMMY C. MAJODINA, MP
MINISTER OF WATER AND SANITATION

SCHEDULE

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Abbreviations

ATNS –	Air Traffic and Navigation Services
AtoN –	Aids to Navigation
CA –	Competent Authority
CAMU –	Central Airspace Management Unit
CoC –	Certificate of Competency
CoF –	Certificate of Fitness
DWS –	Department of Water and Sanitation
IA –	Implementing Agent
IALA –	International Association of Marine Aids to Navigation and Lighthouse Authorities
LGSC –	Local General Safety Certificate
NSVS –	National Small Vessel Safety
NWA –	National Water Act
NEMBA –	National Environmental Management: Biodiversity Act
NWRIA –	National Water Resource Infrastructure Agency
RMP –	Resource Management Plan
R-VLOS –	Restricted visual line of sight
SACCAA –	South African Civil Aviation Authority
SAMSA –	South African Maritime Safety Authority
SAPS –	South African Police Services
SASCOC –	South African Sports Confederation and Olympic Committee
SAS –	South African Sailing
UA –	Unmanned Aircraft

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—

"access point" means an authorised place and / or point of entry, including, but not limited to access gates.

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

"accounting officer" means the head of the Department.

"adjacent landowner" means a person owning property adjacent to a government waterwork but has no direct legal access to the land on which the government waterworks is situated.

"aquaculture" means the farming of aquatic organisms in a controlled aquatic freshwater environment involving—

- (a) a degree of human intervention in the rearing process to enhance production which includes propagation, breeding, regular stocking, feeding, protection from predators and harvesting of cultured aquatic organisms; and
- (b) individual or corporate ownership of the stock being farmed and includes ranching and stock enhancement.

"authorised person" the Minister or a Water Management Institution may, in writing, appoint any suitable person as an authorised person to perform the functions contemplated in sections 124 and 125(1), (2) and (3) of the National Water Act (NWA).

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

"commercial fishing" means fishing for the purpose of generating revenue from the sale of the fish at a government waterwork.

"commercial activities" means activities utilising the water stored or land upon which the government waterworks are situated for revenue generation, including organised sporting and tourism activities as well as events.

"competent authority" in relation to the control over recreational, conservation and tourism use of the relevant government waterworks or portion thereof, includes the Director-General or any person designated by the Minister, the National Water Resource Infrastructure Agency (NWRIA) or Implementing Agent (IA) to carry out recreational, conservation and tourism use management functions.

"damage causing animal" means an individual of a listed threatened animal species of which, when interacting with human activities, there was substantial proof that-

- (a) it caused losses to stock or to the wild specimens,
- (b) caused excessive damage to cultivated trees, crops, natural flora or other property,
- (c) presented a threat to human life, or
- (d) was present in such numbers that agricultural grazing was materially depleted.

"dangerous object" means any explosive and/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).

"Department" means the Department of Water and Sanitation (DWS).

"Director-General" see NWA 1(1)(vii).

"enforcement officer" means a member of the South African Police Service, a safety officer or any person designated as an enforcement officer by the South African Maritime Safety Authority (SAMSA) or the Department.

"event" means organised exhibitions, competitions, sporting, entertainment, educational, recreational, religious, cultural, or similar activities hosted at a government waterwork that exceeds more than 50 persons (participants and or spectators). Also includes commercial photography, film production and advertising activities.

"event organiser" means any person, Club, or State land user 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.

"fish" refers to the freshwater living resources found in inland water bodies, including all aquatic plants, fish, molluscs, crustaceans, as well as their eggs, larvae, and juvenile stages.

"fishing" means an act of searching for, catching, taking fish or an attempt to engage in such activity, regardless of method employed.

"government waterworks" means a dam owned or controlled by the Minister and includes the land on which it is situated as defined in section 1 of the NWA. For these regulations, the focus is on National Departmental dams with their available water surface and adjacent land and excludes the following:

- (a) rivers,
- (b) canals, and
- (c) pipelines.

"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.
- (e) excludes fishing for the purposes of these regulations.

“houseboat” means any vessel, irrespective of whether or not it is propelled under its own power, capable of being occupied by more than one person, which is equipped with facilities for night accommodation and on which food preparation facilities and toilet or washing facilities have been provided but exclude a sailing vessel and a day vessel equipped with a toilet facility.

“Implementing Agent” means the appointment of an organ of state or non-profit entity through a Memorandum of Agreement to manage a specific government waterwork.

“incident” means an isolated event that is either of risk, of serious nature, unpleasant or unusual and can be of the following nature:

- (a) criminal,
- (b) life-threatening,
- (c) accident or incident involving vessels,
- (d) drowning or near-drowning,
- (e) fire in non-designated areas or veld fires,
- (f) structural failure,
- (g) flooding,
- (h) pollution,
- (i) unlawful land occupation,
- (j) civil unrest,
- (k) unruly people or nuisance,
- (l) entering the “No access or limited access” zones of the waterworks or Security Area, or
- (m) non-compliance to these regulations.

“inland fisheries” means the capturing of living aquatic organisms from a government waterwork including small-scale and recreational fisheries, the associated value chains and service industries, but excludes activities at aquaculture facilities.

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

“landowner” means a person that owns land upon which the Department has constructed a government waterworks and where the Department has a servitude to either occupy land belonging to this landowner with the waterworks or where the Department occupies land belonging to this landowner by submerging it under water. The servitude agreement sets out conditions for the landowner in terms of access and use of the government waterwork.

“lease agreement” means an agreement entered into between a prospective lessee and the lessor.

“lessee” means a person appointed by the Lessor and thereby given the right to use State property for a fixed period at a market related rental, without transfer of ownership, based on a written lease agreement and subject to the Departmental lease policy.

“Lessor” means the Department of Water and Sanitation or the National Water Resource Infrastructure Agency (NWRIA) if the government waterworks has been transferred in ownership.

“Minister” means the Minister of the Department of Water and Sanitation.

“National Water Resources Infrastructure Agency” means a State-Owned Company of the Department established under the South African National Water Resources Infrastructure Agency SOC Limited Act, Act No. 36 of 2024 (which will come into effect on a date determined by the President by Proclamation in the Gazette) assented to 2 September 2024.

“night” means the pre-determined times between sunset and sunrise in which restrictions on certain activities might be in effect.

“National Small Vessel Safety” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published under Government Notice. 705 of 2007.

“person” includes a natural person, a juristic person, an unincorporated body, an association, and an organ of state.

“Private operation of unmanned aircraft operations” means the use of an Unmanned Aircraft (“Drones”) for an individual’s personal and private purposes where there is no commercial outcome, interest or gain.

“recreational fisheries” means all value chain activities and institutions associated with recreational fishing, including services and supplies, commercial angling charters, lodges and guides, and angler organisations.

“recreational water use” means the use of government waterworks for recreational purposes and includes all activities that require the use of state-owned land, 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) Tourism activities but not limited to nature conservation, camping and hiking.

“resource management plan” means approved management document for a specific State Dam that describes and regulates functional, workable sustainable access and utilisation plans (zoning) for water and land resources of the State Dam through a process based on the attainment of harmony within the natural and cultural environment, while addressing the needs and expectations of both the community, users and visitors based on sound business principles combined with a representative institutional structure to take charge of the management of the resource in an equitable manner, thus ensuring that the process will be consultative with interested and affected parties playing an essential role in the success of the final plan and implementation thereof.

“restricted area” means any area, building or place at government waterworks in which public access is prohibited and access is limited to authorised person for management, security maintenance and operational purposes.

“South African Maritime Safety Authority” means the entity established under the SAMSA Act No. 5 of 1998 under the Department of Transport to ensure amongst others the administration of the Merchant shipping (National Small Vessel Safety) Regulation, 2007, as amended.

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

"State" means the Government of the Republic of South Africa, acting directly or through its lawfully designated representatives, which for government waterworks is the Department and the National Water Resource Infrastructure Agency.

"water sport" means water skiing, including wing foiling, kite-surfing, windsurfing, 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).

"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.

"vessel incident" means any vessel, on a government waterwork –

- (a) which has been lost, abandoned or stranded.
- (b) which has been seriously damaged or has caused serious damage to any vessel.
- (c) on which any casualty resulting in loss of life or serious injury to any person, or an accident has occurred.
- (d) which has been in a position of great peril either from the action of some other vessel or for any other reason.

Application of Regulations

2(1) These Regulations are, unless specified otherwise, applicable to all government waterworks.

(2) Government waterworks that are closed are deemed not safe for public access and use and a list shall be published by the Minister on the Departmental website within 6 months of the publication of the regulations and updated when required.

Control, access and use at government waterworks

3(1) The Minister may, in writing and for a period, 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 regulation 3(1) must be exercised subject to the provisions of these Regulations and terms and conditions the Minister may deem fit.

(3) A person may enter a government waterwork with the approval of the Competent Authority. The Competent Authority must:

(a) keep records of aspects relating to water use, such as, number of visitors and incidents including reports received from landowners and leases as per sub-regulation 3(5)(b) and 3(6)(b).

(b) must submit a summary report of its records and the records referred to in regulation 3(5)(a) annually to the Minister by registering and uploading required information on the departmental Integrated Regulatory Information System <https://ws.dws.gov.za/IRIS/programmes.aspx> .

(4) The Competent Authority must take reasonable measures to ensure all persons accessing the waterworks are familiar with the rules and regulations as referred to in these regulations.

(5) A person may enter a government waterwork with the approval of a landowner for purposes set out in regulation 6 to 9 (where the Department has a registered servitude of submersion, aqueduct and abutment as defined in the Act) over their land subject to the specific conditions of the servitude. The landowner must take reasonable measures to ensure all persons accessing the waterwork through their property are familiar and adhere to the conditions of the servitude, any Resource Management Plan and rules for the specific government waterwork (as provided under Regulation 4) and these regulations. Such landowners, subject to the specific conditions of the servitude, must:

- (a) keep records of aspects relating to water use, such as, number of visitors and incidents.
- (b) must submit the records referred to in regulation 3(5)(a) annually to the Competent Authority.

(6) A person may enter a government waterwork with the approval of the Lessee of State Land subject to its lease conditions. The Lessee must take reasonable measures to ensure all persons accessing the waterwork through leased state land are familiar and adhere to the conditions of their lease, any Resource Management Plan and rules for the specific government waterworks (as provided under Regulation 4) and these regulations. Such Lessee, subject to the lease conditions, must:

- (a) keep records of aspects relating to water use, such as, number of visitors and incidents.
- (b) must submit the records referred to in regulation 3(5)(a) annually to the Competent Authority.

(7) Any person accessing the government waterworks does so at their own risk and the department accepts no responsibility for any injuries, loss or damage sustained.

(8) Any person entering a government waterworks or any part thereof must, if requested by the Competent Authority, landowner, lessee, enforcement officer or an official of the department, furnish his or her full personal and contact details. Emergency service responders are exempted from this requirement when responding to an incident at the government waterworks.

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

(10) The Competent Authority may search any vehicle or person, who seeks to enter a government waterworks, for dangerous objects and may refuse access to the government waterworks if such dangerous objects are found or if the person does not consent to such a search.

(11) The landowner and Lessee subject to regulations (5) and (6) respectively may search any vehicle or person, who seeks to enter a government waterworks, through their private property or leased property for dangerous objects and may refuse access to the government waterworks if such dangerous objects are found or if the person does not consent to such a search.

(12) Any person who wishes to enter any part of a waterworks, which is not open for the public, must get written approval from the Competent Authority.

(13) The Competent Authority, an official of the department, South African Police Services (SAPS), South African Maritime Safety Authority (SAMSA), Enforcement Officer or lessee may request any person, who seeks to enter a government waterworks, for required licences, permits and equipment needed for certain activities at the waterworks and may refuse access to the government waterworks if request is denied or required licenses, permits or equipment can't be provided.

(14) A person who accesses the waterworks (dam wall, water surface and surrounding state land) must comply with:

- (a) the Acts, regulations and Resource Management Plans relevant to a government waterwork.
- (b) where relevant, the rules, development programmes and activity standards as prescribed by the relevant South African Sports Confederation and Olympic Committee (SASCOC) recognised national body / federation of the activity being engaged in, must be adhered to.
- (c) the rules and standards of the lessee / landowner.

(15) Any commercial activity where the government waterwork is being used to generate a revenue will require in a commercial lease agreement between the Department and the owner of the commercial activity prior to the activity commencing

(16) Where such activity has already commenced prior to these regulations such persons will have six (6) months from date of publication of the final regulations to conclude such agreements the to enable the continuation of such activities.

Resource Management Plan

4(1) The Competent Authority must implement and manage an approved Resource Management Plan (RMP), unless the government waterworks will be closed for secondary use

- (2) If there is no Resource Management Plan in place, the Competent Authority must commence with the compilation of a RMP, based on the format as required by the department within one year from the date of the publication of these regulations, and must be submitted for approval by the Minister within two years.
- (3) A Competent Authority may make 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) These rules must form part of the RMP consultation process.
- (4) Prior to finalising the RMP, the Competent Authority must consult any landowners, existing lessees and relevant catchment management agency.
- (5) The rules contemplated in regulation (3) must be posted up or provided at the entrance of that government waterworks or must be placed in an area where they can be seen by every person accessing and using the government waterworks and the Resource Management Plan and rules must be placed on any relevant electronic media including the Departments webpage.

Duty of Care

5(1) Any person accessing a government waterwork must -

- (a) adhere to the rules including navigational aids and demarcation markers on the water surface, navigational / zonal maps displayed or provided upon entry and these regulations.
- (b) exercise due care to other users and the safety of any passengers.
- (c) cooperate with any authorised person, including, but not limited to the Department's personnel, implementing agencies, safety officers, enforcement officers, wash bay operators, the South African Police Services or any other emergency personnel.
- (d) adhere, respect and not tamper with any applicable safety rules and notices, warnings, navigational aids and signals.

(2) A person who is in control of any vessel or engages in water sport must —

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

- (c) must adhere to any vessel movement monitoring process put in place by the Department or Competent Authority.

Application and Approval of Events

- 6(1) Events, photography, film production and advertising on state land or the water surface of the government waterwork may take place only with the written permission of the Competent Authority.
- (2) An application for permission contemplated in regulations 6(1) must be made to the Competent Authority by using the form referred to in Annexure A.
- (3) It is the responsibility of the landowner and lessee (where there is a lease agreement and its conditions enables the hosting of an event) and event organiser who wants to host an event at a government waterworks, to adhere to the requirements set out in the Safety at Sports and Recreational Events Act, 2010 (Act no. 2 of 2010) and to conclude all relevant administrative procedures of the mentioned Act and any other relevant legislation by all event participants. Must also ensure the physical safety and security of persons at the event as well as the property on which the event is hosted.
- (4) The Competent Authority is not liable for any injury, loss of life or damage caused at or during an event. The liability remains with the landowner, lessee and the event organiser.
- (5) Events must be scheduled with the Competent Authority to ensure minimal impact on the day-to-day activities at the waterworks and on other users.
- (6) The event organiser and the host (competent authority, lessee or private landowner) who hosts an event shall also take responsibility for the waste management of the event.

Accommodation and night-time activities

- 7(1) No person may stay overnight on state-owned land of a government waterworks except in official accommodation or on sites reserved and serviced for that purpose:
- (2) No person may make a fire at a government waterwork except in a designated area.
- (3) No activities are allowed at night on the water surface of a government waterwork except when authorised through an event application (see regulation 6(2)).

- (4) The Competent Authority of each government waterwork will determine its own nighttime schedule based on seasonal changes to prevent uncertainty regarding when activities on the water surface must stop before sunset and start after sunrise. The two seasonal periods are:
 - (a) Summer (1 October till 31 March)
 - (b) Winter (1 April till 30 September)
- (5) All lawful land activities like shore fishing, is allowed at night-time.

Accommodation on the surface of the water

- 8(1) A person may only overnight inside designated overnight areas on vessels with overnight accommodation facilities that are authorised by the Competent Authority through a commercial lease on a government waterwork.
- (2) No person may use a vessel on the waterworks as a place of permanent abode.
- (3) Vessels with sanitation facilities must be able to safely contain and retain effluent in a holding tank and must be disposed of in an approved sewerage network onshore.
- (4) The owner of a lawful houseboat or pleasure boat shall retain accurate records relating to the removal and disposal of effluent for a period of four years and shall provide such records to the department for inspection upon demand thereof.

Fishing

- 9(1) All fishing at a government waterworks must be done at designated areas set out for fishing and must adhere to the "catch and release" or "catch and destroy" rule of a specific alien, threatened or protected fish species relevant at a specific waterwork.
- (2) No fishing with gill nets or nets that can catch a high volume of fish at once or commercial fishing will be allowed at a government waterwork without a water use authorisation and consent from the relevant environmental competent authorities.
- (3) No live fish or other aquatic life may be released into a government waterwork without a water use authorisation issued under the National Water Act (NWA) and a permit obtained from the Department responsible for the environment or its agency responsible for conservation.

- (4) No spearfishing or crossbow fishing is allowed at a government waterwork.
- (5) Any person intending to do recreational fishing or small-scale fishing at a government waterwork must produce a valid fishing license obtained from the Department responsible for the environment or its agency responsible for conservation.
- (6) Access to and use of a government waterwork for aquaculture / inland fisheries are subject to a water use authorisation issued under the NWA and consent from the landowner and relevant Competent Authority.

Vessels

- 10(1) The owner of a travelling vessel to a waterworks must report to a wash bay at a waterworks. Should there be no wash bay, the Competent Authority, lessee or landowner will ensure that the vessel and trailer are clean with no visible plant material on the vessel or trailer prior to launching. The landowner, lessee or enforcement officer may not allow the launch of a vessel and trailer if it is not compliant.
- (2) Any person who wishes to enter a government waterwork with any vessel must ensure that he or she and the vessel comply with the requirements of the National Small Vessel Safety Regulations, of the South African Maritime Safety Authority.
- (3) The Competent Authority, lessee or landowner must refuse access to the government waterworks to any person who fails to produce any required documentation in terms of the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, and necessary safety appliances and equipment for the specific vessel.
- (4) An enforcement officer may, to verify and ensure compliance with the National Small Vessel Safety (NSVS) Regulations –
 - (a) board and inspect a small vessel and its appliances and equipment, ask any pertinent questions of, and obtain all reasonable assistance from, the owner or skipper, or any person who is in charge or appears to be in charge, of the vessel; and
 - (b) require the owner or skipper or other person who is in charge or appears to be in charge of the vessel to produce –
 - (i) personal identification; and
 - (ii) any document or certificate required by the NSVS Regulations.

(iii) Indicate location where skipper and vessel launched from.

- (5) An enforcement officer may, to ensure compliance with the NSVS Regulations and in the interests of public safety, direct the movement or prohibit the operation of the vessel.
- (6) Every person must comply with the valid instructions of an enforcement officer while performing functions under the NSVS Regulations or enforcing the provisions of these Regulations.
- (7) No substance such as petrol, oil or anything similar used in engine-driven craft, may be disposed of in the water.
- (8) No person shall leave a vessel unattended in the water area, unless it has been properly anchored or moored in approved designated areas or moved to dry land at a safe height above the water level.
- (9) No vessel is allowed to anchor at night outside designated mooring or overnight areas unless with prior approval from the competent authority.
- (10) All vessels the lessee or landowner wants to be moored inside relevant designated areas, must be approved by the Competent Authority (CA) and the lessee or landowner must keep record of each vessel being moored,
- (11) All Pontoon Party Boats, Passenger Vessels, House Boats, Floating Restaurants, moored and/or utilizing any Government Waterworks must be approved by the Competent Authority prior to a Commercial Lease Agreement (regulation 3(17)) and prior to the South African Maritime Safety Authority and its Authorized Agents issuing a Certificate of Fitness or Local General Safety Certificate.

Aids to Navigation

- 11(1) A person who wants to deploy Aids to Navigation (AtoN), Demarcation Markers and moorings according to the DWS Navigational and Zonal map / chart of a government waterwork must obtain prior approval from the Competent Authority.
- (2) Deployment of any AtoN & Demarcation Markers must adhere to the Departmental standards, which are in accordance with International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) and South African Maritime Safety Authority recommendations and guidelines.

- (3) Vessels to stay at least 20 m clear from any AtoN or Safety Buoy Line.
- (4) It is an offence to tamper with any deployed Fixed or Floating AtoN or Demarcation markers.

Open water swimming and diving

- 12(1) Where there is no designated swimming area as identified in the Resource Management Plan and there is boating activity, a swimmer must swim attached to an approved open water swimming buoy and be accompanied by a vessel with a skipper e.g. canoe, stand up paddle, boat, etc.
- (2) Divers / snorkelers must inform the relevant landowner before entering a waterworks for monitoring purposes. The divers / snorkelers must dive with an identification buoy and a vessel with skipper.
- (3) Persons intending on scuba diving must provide recognised scuba diving certification.

Fixed or rotary wing aircraft capable of landing and taking off on water and hovercraft

- 13(1) No amphibian aircraft shall be permitted to land on any waterwork without the prior permission of the Competent Authority. When such permission is given, special areas for landing, mooring and taking off may be demarcated and the amphibian aircraft shall keep within such areas and the person or persons in control thereof shall comply with all other conditions attached to the said permission.
- (2) Hovercraft must get approval to operate from the Competent Authority and must be piloted by a certified trained person. The hovercraft must stay within relevant designated areas and can enter / exit the waterworks only at designated areas.

Unmanned Aircraft

- 14(1) A person shall not operate an Unmanned Aircraft directly overhead any person or group of people or within a lateral distance of 50 m from any person, unless approved by the Competent Authority and where needed, South African Civil Aviation Authority.
- (2) No flights of an Unmanned Aircraft are allowed to fly over National Key Points or key security points at a waterworks without approval from the Competent Authority and South African Civil Aviation Authority. Key security points at the government waterworks are the following:

- a) Dam wall
- b) DWS houses and offices.
- c) Dam security zone

(3) No commercial unmanned aircraft may fly over a water works without approval from the Competent Authority Air Traffic and Navigation Services and the South African Civil Aviation Authority.

(4) Private unmanned aircraft operations may be flown day and night within restricted visual line of sight (R-VLOS) – means an operation within 500m of the remote pilot and below the height of the highest obstacle within 300m of the unmanned aircraft, which the remote pilot maintains direct unaided visual contact with the UA to manage its flight and meet separation and collision avoidance responsibilities.

- a) It is the full responsibility of the remote pilot of the unmanned aircraft (UA) to fly his/her aircraft safely and not endanger the safety of another aircraft, any person or property.
- b) The remote pilot must observe all statutory requirements relating to liability, privacy and any other laws enforceable by any other authorities.
- c) Private operations of an unmanned aircraft shall be conducted only with a Class 1A or 1B UA (mass < 7kg & impact energy < 15KJ)

(5) No person may release, dispense, drop, deliver or deploy any object or substance from an unmanned aircraft without the approval of the Competent Authority.

Unmanned Vessels

15(1) Only the following unmanned vessels are allowed on a government waterwork:

- a) Vessel dropping fish bait (bait boat).
- b) Radio controlled model sail or race boats.
- c) Hydrographical survey vessels.

- (2) Unmanned vessel pulling another vessel or person is not allowed unless approved by the Competent Authority.
- (3) All manoeuvres of the unmanned vessel must be done within line of sight of the operator and not more than 200m from the shore. For out of line of sight manoeuvres, prior approval must be obtained from the competent authority.
- (4) Unmanned vessels can operate at night on the water surface of a government waterworks if it has the required navigation lights; approval from the Competent Authority and adheres to all relevant regulations and rules.

Power generation

- 16(1) No floating solar or hydro power generation at a government waterwork is allowed without the necessary water use authorisation, relevant environmental authorisations and lease agreement from the Competent Authority.
- (2) Where power generation is approved on a government waterwork, the owner or company must adhere to all legislation relevant to the waterworks and conditions stipulated in the lease agreement, water use licence and other environmental approvals.

Erection of structures including boating slipways, jetties and marinas

- 17(1) The erection of any structures on State Land or the water surface including navigational aids requires approval from the Competent Authority and is subject to lease agreement conditions and the relevant Resource Management Plan.
- (2) The installation of any fencing onto the banks of the government waterworks into the water that may be submerged during high water levels poses a risk to users and requires approval from the Competent Authority.

Hygiene and waste management

- 18(1) No person may deposit, dispose or leave or discharge in any place on land or into the water the following except in a receptacle provided for that purpose.
 - (a) any refuse, waste, wastewater, or material of any kind, or
 - (b) any litter, bottle, broken glass, pottery, plastic articles, rubbish, refuse, seeds, fruit or vegetable matter or any other waste material.
- (2) If none is provided it must be removed and disposed of at an appropriate or permitted receptacle.

Selling of liquor

19 Any landowner or lessee, subject to the servitude and lease agreement respectively, selling liquor for on-site consumption on a government waterwork (including vessels must be in possession of a commercial lease (regulation 3(17) and a valid liquor license issued under the Liquor Act 59 of 2003).

Damage to property and liability

20(1) A person who intentionally or negligently causes damage to any government waterworks or other property of the waterworks is liable for the resulting loss or damage and is guilty of an offence.

(2) The Competent Authority is not liable and has indemnity for any loss, damage or injury caused by a person who intentionally or negligently caused any loss, damage or injury at a government waterwork.

Protection of biodiversity

21(1) Any person entering a government waterwork may not hunt, injure or disturb any fauna (animals) or destroy the nest or eggs of any fauna without written permission from the Competent Authority and relevant conservation agency.

(2) A Competent Authority, lessee or landowner is permitted to control pest.

(3) Only authorised persons are permitted to exercise their duty in managing a dangerous animal(s)

(4) Any person entering a government waterwork may not cut, uproot or destroy or remove any indigenous flora (plants) from such area without written permission from Competent Authority and relevant conservation agency.

(5) 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 Department or Competent Authority.

(6) Introduction of any plant or animal species at a government waterwork is prohibited. The only exception is when such a species is introduced as part of a Departmental approved alien and invasive species plan and water use authorisation under the National Water Act.

- (7) All persons utilising a government waterwork must adhere to the Alien and Invasive Species Management plan and requirements of the relevant government waterworks.
- (8) Any person authorised to engage in activities contemplated in regulations 21(1) and (2), must undertake such activities in compliance with the National Environmental Management: Biodiversity Act, 2004 (Act no. 10 of 2004), the National Environmental Management: Protected Areas Act, 2003 (Act no. 57 of 2003), the National Freshwater (Inland) Wild Capture Fisheries Policy, 2021 and any other applicable legislation.

Excessive noise

- 22(1) Excessive noise that becomes a nuisance to other users of the government waterworks is not allowed and must adhere to the local Municipality's By-laws.
- (2) Excessive noise generating activities including the following:
 - (a) Loud music
 - (b) Engine revving
 - (c) Unruly behaviour.
- (3) The following time schedule when all noise generating activities must stop at government waterworks are as follows:
 - (a) Monday to Thursday: 22:00 till 06:00 the next morning
 - (b) Friday: 02 :00 till Saturday 06:00
 - (c) Saturday: 00:00 till Sunday 07:00
 - (d) Sunday: 22:00 till Monday 06:00

Incident reporting

- 23(1) It's the duty of the landowner, lessee and or visitor accessing a government waterwork to report incidents that they become aware of using the Departmental incident reporting system and protocol that is in place, if system is not in place, report incident to the relevant emergency response services and Competent Authority.

(2) It's the statutory duty of the landowner, lessee and skipper of a vessel to report any vessel incident to the Competent Authority as well as to the South African Maritime Safety Authority using Marine Notice No.8. of 2011 within 24 hours after the incident occurred in terms of section 259 of the Merchant Shipping Act 57 of 1951, as amended.

Non-compliance by visitors at a government waterwork to the regulations

24(1) An authorised person or enforcement officer, may exclude or remove from a government waterwork any person who –

- (a) is in a state of intoxication or under the influence of narcotics.
- (b) behaves in a manner which is a nuisance, disorderly, unseemly or disruptive to other persons visiting the government waterworks; or
- (c) commits, or is reasonably suspected by an authorised person to have committed, an offence or any other act which is in contravention of any provision of this regulation.

(2) Failure or refusal by a person referred to in regulation 23(1) to leave a government waterwork upon being ordered by the authorised person or enforcement officer to do so is an offence in terms of this Regulation.

(3) The Competent Authority can prohibit a specific problematic visitor access based on right of admission.

Non-compliance by lessee and his or her visitors to regulations

25(1) A visitor accessing a government waterwork through a leased property, who doesn't comply with regulations must be instructed to leave the government waterworks immediately. It is the responsibility of the lessee who host the transgressor to attend to the transgression and to remove the person(s) if needed, from the government waterworks.

(2) The lessee can prohibit a specific problematic visitor access based on right of admission.

(3) Where a lessee whose family, visitors, members, clients, employees or him/herself accessing a government waterworks, is in non-compliance with the Act and the regulation or fails to report a known incident that the Competent Authority becomes aware of, the Lessee will be notified in writing from the Department or Competent Authority of its intention to withdraw permitted access to the water surface. This notice will be suspended for one month.

- (4) Should an incident(s) occur within that one-month period, the lessee's lease may be withdrawn.
- (5) Before effecting the withdrawal contemplated in regulation 24(4), the Lessor must give the lessee an opportunity to make a written representation, within fourteen days, as to why the withdrawal should not be affected.
- (6) A lessee or visitor that belongs to a South African Sports Confederation and Olympic Committee linked federation, which transgresses the regulations must be reported to the federation by the Competent Authority.

Non-compliance by landowners and his or her visitors to regulations

- 26(1) A visitor accessing government waterworks through a landowner, who doesn't comply with the regulation must be instructed by the landowner to leave the government waterworks immediately. It is the responsibility of the landowner who hosts the transgressor to attend to the transgression and to remove the person(s) if needed, from the government waterworks.
- (2) The landowner can prohibit a specific problematic visitor access based on right of admission.
- (3) Where a landowner on which the Department has a water storage servitude and whose family, visitors, members, clients, employees or him/herself accessing the surface water of a government waterworks, don't comply with the Act and the regulation in this regard, or fails or fails to report a known incident that the Competent Authority becomes aware of must receive a warning in writing from the Competent Authority withdrawing permitted access to the water surface should non-compliance re-occur.
- (4) Should three written notices be issued to the private landowner within twelve months, access to the water surface may be refused.
- (5) Before effecting the refusal of admission contemplated in regulation 26(4), the Competent Authority must give the landowner an opportunity to make a written representation, within fourteen days, as to why the refusal of admission should not be affected.

Prohibitions

27(1) Where an electric or mechanical driven infrastructure is sited on a government waterworks, recreational activities may occur only outside the demarcated areas.

(2) 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.

(3) Only an authorised person may enter a restricted area at a government waterwork.

(4) The Minister may prohibit access to any part of a government waterwork and may cause notices to that effect to be posted at the entrance to such prohibited areas. Any person who, contrary to such notice, enters such areas shall be guilty of an offence.

Appeal

28(1) An applicant or person who is aggrieved by the decision of the Competent Authority under regulations 5, 17, 18 or 19 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 regulation 28(1), make and communicate his or her decision to the applicant.

Offences and Penalties

29(1) No person may-

- a) enter a government waterwork without the approval of the Competent Authority, lessee or landowner.
- b) enter any part of the government waterwork the Minister prohibited access to.
- c) fail to comply with any conditions attached to accessing the government waterworks.
- d) host any events without the written approval of the Competent Authority.
- e) participate in night-time activities without approval from the Competent Authority.
- f) fish with gill nets or nets that can catch a high volume of fish at once or fish commercially without a water use authorisation and authorisation from the relevant environmental competent authorities.

- g) enter a government waterwork with a vessel that doesn't comply with the requirements of the Merchant Shipping (National Small Vessel Safety) Regulations, 2007 after being refused entry.
- h) fly an Unmanned Aircraft over a National Key Point or key security point at a waterworks without approval from the Competent Authority and South African Civil Aviation Authority.
- i) deposit, dispose, leave or discharge waste in any place on land or into the water other than permitted in these regulations.
- j) hunt, injure or disturb any fauna without written permission from the Competent Authority and relevant conservation agency.
- k) enter a government waterwork cutting, uprooting or destroying or removing any indigenous flora (plants) without written permission from Competent Authority and relevant conservation agency.

(2) Any person who contravenes any provisions in subsection (1) is guilty of an offence under the Act and liable on conviction, to a fine or imprisonment provided under the Act.

Repeal

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

Application of other laws

31 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

32 These Regulations come into effect 6 months after the date of publication thereof in the *Government Gazette*.

Annexure A

The relevant forms listed below is available for download from <https://www.dws.gov.za/Documents/default.aspx>

No.	Form Name	Forms to be completed for
1	Application form for events planned on state land or the water surface of government waterworks.	Photography, film production and advertising on state land or the water surface of the government waterwork may take place only with the written permission of the competent authority (as contemplated in regulation 6(1)).
2	Solar/hydro application lease form	Application form for use of state property for purpose of generating solar and hydro power.
3	Lease agreement application form	Application form for leasing of state-owned land
4.	Caretaker grazing agreement application form	Application form leasing of state-owned land for grazing only