

## SUMMARY OF LEGAL REQUIREMENTS FOR PROSPECTIVE AND EXISTING DAM OWNERS

There are **three legal requirements** that must be met **before** a person may construct/alter/repair a dam, namely with regard to (1) dam safety, (2) entitlement to water use, and (3) the environment. The requirements for prospective as well as for owners of existing dams are summarised below:

**1. Dam safety legislation have been implemented in South Africa since 1987.** The current Dam Safety Regulations were published in Government Notice R. 139 on 24 February 2012 in terms of section 123(1) of the National Water Act, 1998 (Act 36 of 1998) [NWA]. Only *dams with a safety risk* (i.e. dams with a maximum wall height exceeding 5,0 m **and** with a storage capacity exceeding 50 000 m<sup>3</sup>, or any other dam declared by the Minister as a dam with a safety risk) are subject to these Regulations. These Regulations are administered by the Dam Safety Office within the Department of Water Affairs, hereafter the Department. The requirements of the dam safety regulations are summarised below:

### 1.1 New dams, enlargement, alteration or repair of existing dams

- The first step is to apply for classification of the dam on form DW 692E. The Department will then inform the applicant of the classification of the dam and of further procedures.
- If the dam is classified as a category I dam, apply for a licence to construct on form DW 694E and submit design report and engineering drawings as specified in regulations 4 to 8. **Construction may only commence after the licence to construct has been issued.**
- If the dam is classified as a category II or III dam, the services of an approved professional person (APP) must be obtained. The APP must apply for a licence to construct on behalf of the dam owner (this involves the submission of an application form, design report, engineering drawings and project specifications as specified in regulations 10 to 21). **Construction may only commence after the licence to construct has been issued.** The APP must also ensure that an adequate quality control programme is in place during the construction period. Before starting with storage of water, the APP must apply for a licence to impound (this involves the submission of an operation & maintenance manual and emergency preparedness plan together with an application form DW 696E). After completion of all construction work, the APP must submit a completion report, completion drawings and a completion certificate stating that the work has been completed according to his/her specifications.
- On completion, dams with a safety risk must be registered on form DW 693E.

### 1.2 Existing dams

- All *dams with a safety risk* as defined in paragraph 1 above, must be registered on form DW 693E.
- The Department must be notified of any changes of particulars (ownership, address, telephone numbers, person in control, etc.)
- The dam must be operated and maintained in a responsible manner. Basically this requires that the owner, or the person appointed by the owner, must visit and inspect the dam on a regular basis (at least weekly). Maintenance work must be done regularly. In the case of unsafe conditions, emergency procedures and safety measures must be taken and the Department informed thereof.
- The dam owner must arrange for the execution of a formal dam safety evaluation including inspection when instructed to do so by the Department (at intervals between 5 and 10 years). In the case of category II and III dams the inspection must be done by an APP. In the case of category I dams it is not prescribed by whom the inspection must be done but it is in the owner's interest to appoint an experienced and qualified person to perform this task. If necessary, the dam safety evaluation report should indicate what work must be done to upgrade the dam to acceptable safety standards.

## 2. ENTITLEMENT TO WATER USE (administered by the Regional Offices of the Department)

- Any new water use as defined in section 21 of the NWA is subject to licensing. Just “storing water” is also defined as a water use! There is no guarantee that a licence will be issued as it is subject to availability of water and a number of conditions and constraints in the NWA.
- **Before construction of any** new dam or enlargement/alteration/repair of an existing dam may start, a water use licence or written authorisation must be obtained from the Regional Director of the relevant region.
- In the case of **dams that failed**, the existing lawful water use status (subject to verification) will normally be acknowledged but it is essential that confirmation be obtained in writing from the Regional Director in order to avoid fruitless expenditure.
- **Existing dams:** Section 21(b) of the NWA defines storage of water as a water use. Generally, if more than 10 000 m<sup>3</sup> of water is stored per registered property, then that water use must be registered on a form that will be supplied by the Regional Director for this purpose. However, in some Water Management Areas the general authorisation does not allow any dam, irrespective of size, outside the licensing procedure and in those areas all dams must be registered.

## 3. ENVIRONMENTAL LEGISLATION (Administered by relevant provincial department)

- The provisions and regulations of Government Notices Nos. R. 543 to R. 547, dated 18 June 2010, promulgated in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) regarding control over activities which may have a detrimental effect on the environment, must be complied with. Normally it will be required that an environmental impact assessment (EIA) must be carried out **before** construction of a new dam or enlargement/repair of an existing dam will be authorised. Written authorisation must be obtained from the relevant provincial government department before commencing with the project.

## 4. CONTACT NUMBERS FOR ENQUIRIES

Website for information and application forms: [www.dwa.gov.za](http://www.dwa.gov.za) (look under ‘Dam Safety Office’)

### Contact numbers for enquiries

| Province / Region | Water Use (Regional Office)      | Dam Safety Office | Environmental Legislation |
|-------------------|----------------------------------|-------------------|---------------------------|
| Limpopo           | (015) 290 1458                   | (012) 336 8010    | (015) 293 8515/16         |
| North West        | (012) 392 1300<br>(018) 397 9547 | (012) 336 7509    | (018) 389 5925            |
| Mpumalanga        | (013) 759 7526                   | (012) 336 8010    | (013) 759 4000            |
| Gauteng           | (012) 392 1300                   | (012) 336 7509    | (011) 355 1698            |
| Free State        | (051) 405 9280                   | (012) 336 7509    | (051) 400 9410            |
| KwaZulu Natal     | (031) 336 2839                   | (012) 336 8010    | <b>(033) 355 9621</b>     |
| Easter Cape       | (043) 701 0359 E/L               | (012) 336 7509    | (040) 609 4622            |
| Western Cape      | (021) 950 7100                   | (012) 336 8010    | (021) 483 5756            |
| Northern Cape     | (053) 830 8800                   | (012) 336 7509    | (053) 807 7430            |

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