

A Guide to Water Allocation Reform and Compulsory Licensing



This Guide explains:

- What Water Allocation Reform is and why Compulsory Licensing for water is being introduced in certain areas.
- How Compulsory Licensing will be implemented.



water & forestry

Department:
 Water Affairs and Forestry
 REPUBLIC OF SOUTH AFRICA

Foreword by the Minister Buyelwa Sonjica



As custodian of the national water resources the Department of Water Affairs and Forestry must promote the beneficial use of water in the best interests of all South Africans.

The fact that this natural resource remains largely in the hands of a relatively wealthy white, and largely male-dominated, minority, has to change. Not only because it is inequitable and unfair, but because we need to harness the developmental potential of all of our people to lead us towards sustainable and fair economic growth, and a more stable society.

As a result my department is firmly focused on ensuring fairness in access to water for productive purposes and fairness in sharing the benefits from that use. We address this through our National Water Act, which deals with balancing the protection and use of our water resources, and redressing the inequities of the past. The Act is built on the three principles of sustainability, efficiency and equity – principles which, as custodian of the nation's water resources, I must ensure are adhered to.

Achieving the principle of equity is a particular challenge. We need to ensure that water can be made available to black entrepreneurs, to women, and to people with disabilities. We need to ensure that water is available to a wide range of users, from small scale farmers and SMMEs to the biggest and most wealthy industrial and agricultural users. We need to make water available in a way that will sustain and grow the first economy while allowing the second economy users to develop into the first economy. And all this we must do in a water scarce country where our water resources are already fully allocated in many catchments and where environmental needs have often been neglected. This is no small challenge.

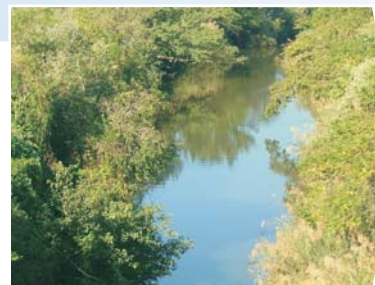
Water resources management has often been seen as a highly technical process. We want to demonstrate that people sit at the centre of water allocation. The water allocation reform process is fundamentally a socio-political process. However, in order for it to be effective, it must be based on sound and appropriate technical, economic and environmental approaches.

This Guide serves to bring the process of Water Allocation Reform and Compulsory Licensing to people, so that they might have a deeper insight into the details, and participate more fully in the consultations and discussions.

The challenge before us is huge. I would like to invite each of you to make the best use of this Guide, and all the materials in this series, as we consider how we build a nation based on equitable, sustainable and efficient use of our water resources.

Ms Buyelwa Sonjica
Minister of Water Affairs & Forestry
November 2005

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How to use this guide

Section 1 of this guide provides the background to Compulsory Licensing. It explains how Compulsory Licensing is part of the broader Water Allocation Reform (WAR) programme, why it is required in certain areas of the country, and what the aims of Compulsory Licensing are.

Section 2 describes the different demands for water, and how Compulsory Licensing aims to balance these different demands in order to reduce poverty, achieve fair access to the benefits of water use, and promote economic development and long term protection of our water resources and the environment.

Section 3 explains the measures that are taken to prepare for Compulsory Licensing, including:

- Working out how much water is available for allocation
- Looking for ways to increase the amount of water available
- Consultations with stakeholders
- Working with government partners and development agencies to ensure that all water users new and existing are able to make productive use of water
- Developing a Framework for Allocation to guide the water allocation process in Compulsory Licensing.

Section 4 explains the steps that are followed to implement Compulsory Licensing – from the Call for Licence Applications, through to the Final Allocation Schedule and the issuing of Water Licences.

Acronyms



BBBEE	Broad-Based Black Economic Empowerment
CMA	Catchment Management Agency
DOA	Department of Agriculture
DTI	Department of Trade and Industry
DWAF	Department of Water Affairs and Forestry
HDI	Historically Disadvantaged Individual. This refers to black people (African, Indian and coloured), who were not able to vote prior to 1994, as well as women and people with disabilities.
NGO	Non-Governmental Organisation
NWRS	National Water Resource Strategy
WMA	Water Management Area
WSDP	Water Services Development Plan
WUA	Water Users Association

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Section 1



Water Allocation Reform and Compulsory Licensing

In this section:

- What is Water Allocation Reform?
- What is Compulsory Licensing?
- The aims of Compulsory Licensing

What is Water Allocation Reform?

Water Allocation Reform (WAR) is a way of sharing our limited water resources in the best interests of the country as a whole.

South Africa is a **water stressed** country. As our population grows and the economy develops, there is increasing demand for water. Unfortunately, the amount of water is unlikely to increase (and may even decrease in some parts of the country due to global warming), so the gap between how much water is available and how much water we need may grow. In many areas, the demand for water is already greater than the amount of water available.

Water resources in South Africa

South Africa receives just a **little over half the world average annual rainfall**, and we have less water per person than our much “drier” neighbours (Botswana and Namibia).

World average rainfall = 840mm per year

South African average rainfall = 470mm per year

However, we have **enough water** to meet our needs if we use water wisely. Much has already been done to ensure that our water resources are well managed. But we need to **continue to manage our water carefully**, and also ensure that **historically disadvantaged** South Africans, particularly **women**, can **benefit from water use**.

Water Allocation Reform (WAR) means that we will manage our limited water resources so that we can:

- Address **poverty**
- Address **gender and race imbalances** in water use and benefit
- Promote **sustainable development**, and meet our growing needs into the future
- Better **protect the water environment**.

The path to WAR ...

Water Allocation Reform and Compulsory Licensing are the end result of detailed and careful planning over many years in which all stakeholders have had the opportunity to make their voices heard.

1994 – the **Water Law Review*** process looked at the existing laws and decided what changes were needed in a democratic South Africa. This included developing the Water Law Principles, which now form the basis of the WAR principles.

1998 – a new law **the National Water Act*** – was passed. This law is in line with the **Constitution**, which states that all South Africans must be able to benefit from the use of the country's resources. A major change in this Act is that all water in South Africa **belongs to the nation** as a whole, and not individuals. The National Water Act provides the legal framework for managing **all our water resources**. The **Water Services Act**, which was passed in 1997, is only about providing **water for drinking and for sanitation**.


2004 – Government completed the **National Water Resource Strategy (NWRS)*** which sets out the broad goals for managing water, and serves as the blueprint for managing our water resources. The NWRS outlines the programme for Compulsory Licensing.

2005 – the **Position Paper on Water Allocation Reform*** was finalised after a long period of consultations with all stakeholders. The Position Paper outlines principles for allocating water, and also clearer objectives for how water will be allocated in any catchment.



(*see these documents on the DWAF website at www.dwaf.gov.za)

What is Compulsory Licensing?

 **Compulsory Licensing** is one of the most important tools in WAR. Compulsory Licensing is a mechanism created in the National Water Act to allow DWAF to **review all water use in a catchment** (see box on *Catchments*), and to **reallocate water if necessary**.

In this way Compulsory Licensing will allow us to make sure that:

- Water is shared fairly
- Everyone, especially HDIs and women, has a fair chance to benefit from using water
- Water is used in the best way possible, to benefit the public and the nation
- Our water resources are protected, and kept clean and healthy.

The different ways that water use in a catchment can be authorised

The National Water Act allows for four different types of authorisation for water use:

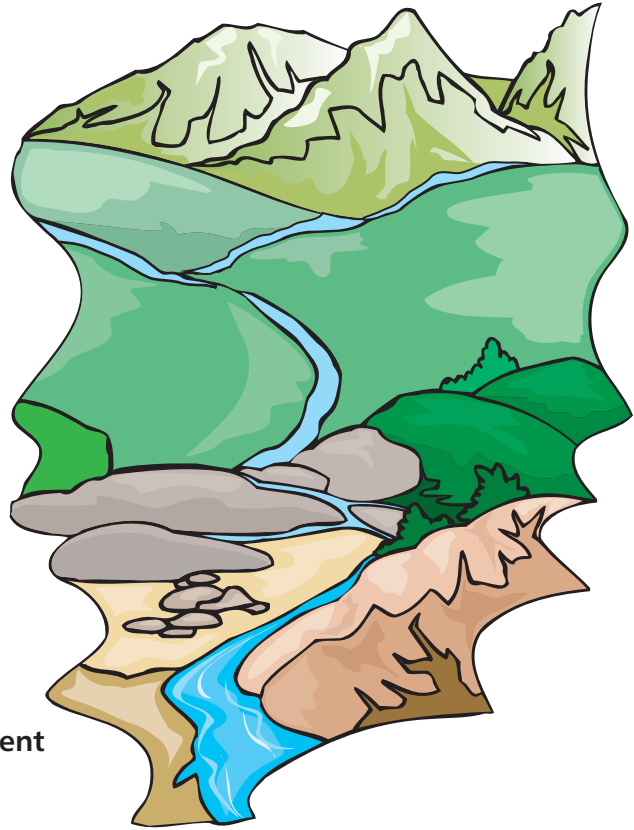
- **Schedule 1 of the National Water Act** allows people to use river water for a garden, or to water household animals. Small scale non-commercial use of water for food or household security is also covered by Schedule 1. Schedule 1 water users **do not need to apply for a licence or register their water use**.
- **General Authorisations** can be issued to permit the use of water **without a licence** in a **specific area**. DWAF or the CMA can also generally authorise **specific groups of people** in a catchment, so that they can make productive use of certain water resources, without having to apply for a licence. People who are using water under a General Authorisation **must register their water use**. (see more about *Registration of Water Use* in Section 3 on page **XXXXX**)
- **Licences** are issued by DWAF under the Act to people or organisations who apply to use or store large amounts of raw water. To protect the water resource, every licence is issued with **conditions**, which state how long it is valid, and how to make the best use of the water.
- **Existing Lawful Use** allows people or organisations who were using water for farming, forestry, mining, business and industry before the new Act in 1998, to carry on using the water until they get a licence. But, they must have **registered** the water use and have a certificate from DWAF to **verify** (confirm) how much water may be used lawfully. When Compulsory Licensing is introduced, **all Existing Lawful Users will have to apply for a water licence**.

 (There is a **step-by-step** explanation of the *Compulsory Licensing process* in Section 4 on pp **XXXXX** of this Guide.)



What are catchments?

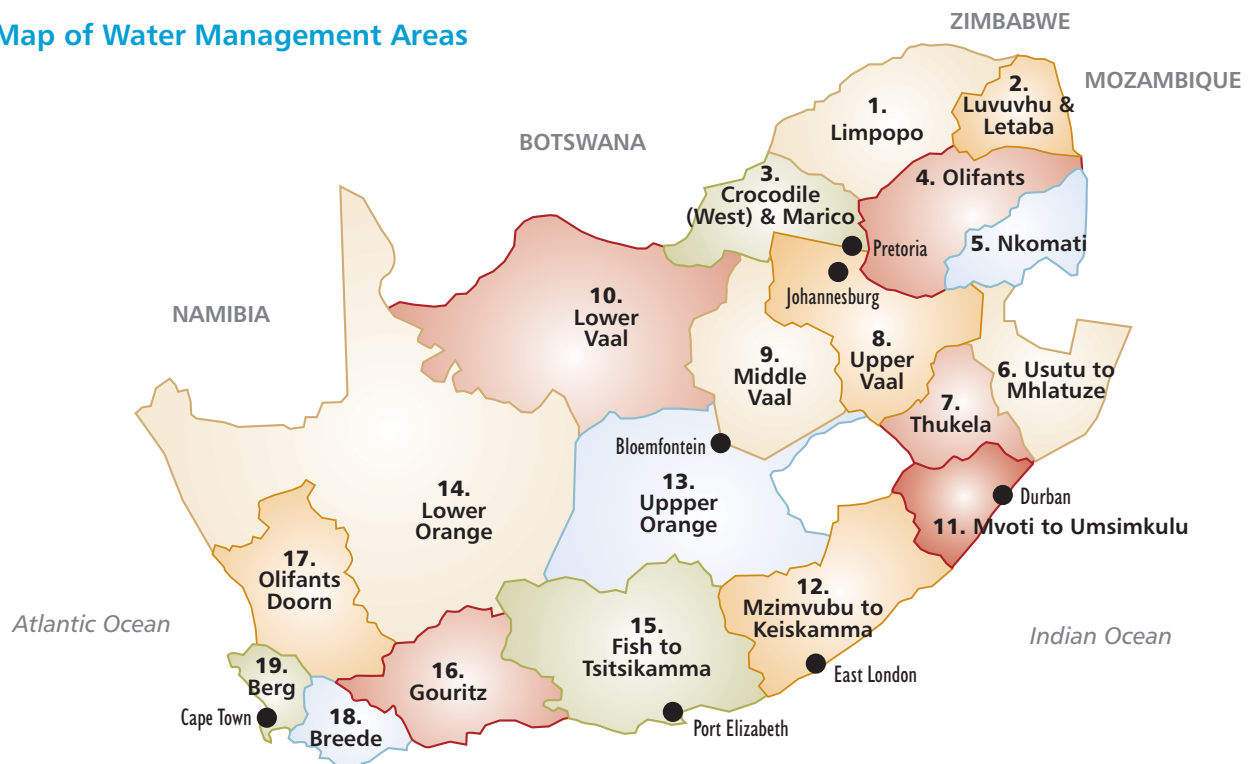
The mountains and high land divide the country into **catchments**. These are like basins into which all the streams and rivers flow.



In South Africa there are **19 Water Management Areas (WMAs)** each of which is made up of several catchments or river systems.

Catchment Management Agencies (CMAs) are being established to help to manage the water resources in each Water Management Area.

Map of Water Management Areas



The aims of Compulsory Licensing

The **Position Paper on Water Allocation Reform** contains a set of broad aims for allocating water. The central aim of Water Allocation Reform is to **share our water more fairly**, but also to **grow the economy** and to ensure that water use **benefits all South Africans**.

We also need to ensure that **water can continue to contribute to economic growth far into the future**, and that the way we use water, and the amount of water we use, does **not cause permanent damage to the environment** (sustainable use).

Compulsory Licensing will support and promote these broad aims of WAR. Compulsory Licensing will therefore aim to:

1. **Address the historic imbalances** in the way water has been allocated, and actively **promote access for HDIs** to the nation's water resources and the benefits of water use.
2. **Build the capacity** of all water users, **especially HDIs and poor people**, to use water productively and efficiently. HDIs and poor communities must also be **enabled to participate on equal terms** in discussions and decision-making around the allocation of raw water.
3. **Promote Broad-Based Black Economic Empowerment (BBBEE)** and the **empowerment of women** by facilitating access to water for enterprises owned and managed by these historically disadvantaged groups.
4. **Support local, provincial, national, regional and international planning processes and development initiatives** (including Integrated Development Plans), and at the same time encourage development that has **smaller impacts on scarce water resources**.
5. Ensure that the **water allocation process is fair, reasonable and predictable**. Existing lawful uses that deliver greater benefits in the public interest (eg. provide jobs, contribute to local, regional and national economic development goals) and have smaller impacts on the water resource will be the last to be subject to curtailments.
6. Work to achieve a **balance between promoting economic development and long term protection of the nation's water resources**.

Looking ahead.....

In the next section we will look at how the different demands for water will be balanced in the best interests of the people, the environment and the economy.

Section 2



Balancing demands for water

In this section:

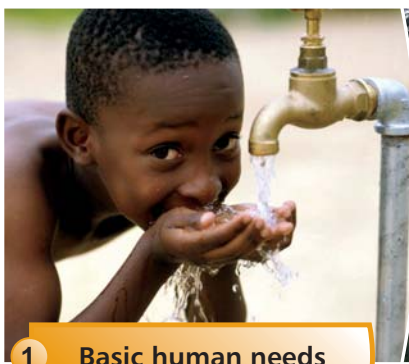
- The demands for water
- How demands will be balanced in Compulsory Licensing

In a water stressed country like ours, where water is scarce, it is not an easy task to decide who should be authorised to use water. There simply isn't enough water to give everyone large volumes, especially in the most water stressed parts of the country. This means we have to make sure that we aim to share the benefits of water use. Compulsory Licensing is a way of ensuring a fair balance between all the different demands for water:

- **Existing users and new users**, especially HDIs and poor communities
- **The environment and the economy**
- **The different sectors of the economy** (mining, industry, agriculture, etc)
- **Social development and economic development.**

The demands for water

The following are the demands for water that must be balanced through Compulsory Licensing:



1 Basic human needs



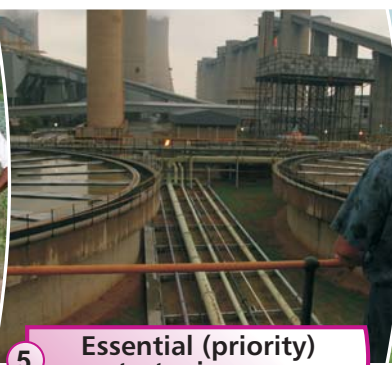
2 Environmental needs



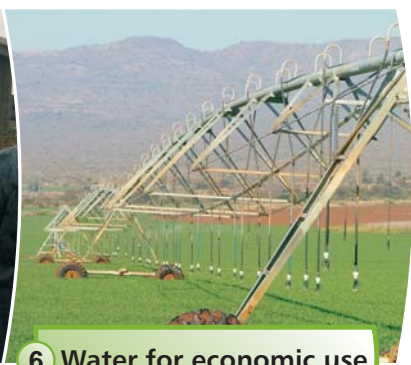
3 International agreements



4 Water for social needs



5 Essential (priority) strategic users



6 Water for economic use

Basic human needs



This is the **highest priority** for water allocation. Everyone has the **right** to water for their basic human needs. They do not need an authorisation for this. Municipalities have the responsibility to supply every person with sufficient water to meet their basic needs. (see box on the Reserve)

Environmental needs



It is essential that we are careful about how much water we take from the environment (the rivers, lakes, and ground water). If we take too much, we may cause permanent damage to the environment and the people who depend on it. In every catchment in the country, decisions will be taken about how much water the environment needs in order to remain healthy and sustainable. This water is set aside as the **Ecological Reserve**. (see box on the Reserve)

International agreements

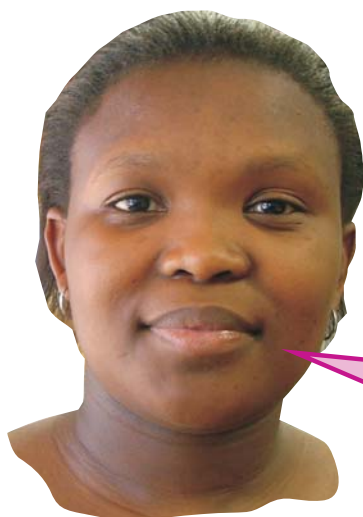
Many rivers in South Africa also flow into neighbouring countries. For example, the Nkomati River flows through Swaziland, South Africa and Mozambique. Because we share rivers with our neighbours, we have agreements with them about how much water each country can take from these rivers. These agreements must be honoured before we allocate water to other uses.

Water for social needs

New and emerging users – especially HDIs and poor people who, under apartheid, were denied access to water or to the benefits of water use will now enjoy a **high priority** for water allocation. This is necessary because government is serious about righting the wrongs of the past, but also to enable the poorest people to escape poverty and to provide stability in our society. This is vital to the country's future.



HDIs and poor people, with the support of DWAF and other government departments, will be authorised to use water, or encouraged to apply for water licences, for projects aimed at eradicating poverty and increasing food security, or for establishing larger scale commercial enterprises that make productive use of water. (For more on government support, see page XX. For more on how water use is authorised see page XX) This will be especially useful in communities whose ability to grow or buy food has been affected by the impact of HIV and AIDS. Broad-Based BEE will be promoted and supported, and especially enterprises where women will gain the maximum benefit.



The Position Paper on Water Allocation Reform states that ensuring equity is about making sure that everyone has a fair chance to benefit from using water productively – including historically disadvantaged individuals and communities. This must be a fair and reasonable process. It must also bring security to all water users so that they can plan for the future.

Essential (priority) strategic users

Some industries, such as Eskom, the electricity producer, are **vital** to the economy and to the quality of people's lives. They will be given **high priority** in water allocations. They will also be given a **high level of assurance** that their supply of water will continue in times of drought.

Water for economic use

This includes water that is needed for irrigation farming and forestry. These water users in the "first economy" contribute a great deal to economic development and job creation. Therefore where water has to be reallocated, great care will be taken to minimise the impact on these users.

Intercatchment transfers

In some catchments where there is severe water stress, there are agreements with less stressed neighbouring catchments to transfer water from them into the catchment.

The Reserve

The National Water Act states that there are only two **rights** to water:

- Water for **basic human needs**
- Water for **the environment (the Ecological Reserve)**, to ensure that natural systems remain healthy.

The amount and quality of water needed for these two priorities will be worked out for each catchment and set aside. This is called the **Reserve**.

The **quality of the water** is affected by how much water is taken out of rivers and the ground, how the flow of the river is changed, and the kinds of pollutants that make their way into our water systems.

In some cases too much water may be taken from the environment, in order to promote economic and social development. This may mean that the quality of the water resource will be lowered. However, the process of Compulsory Licensing will take great care to ensure that enough water is left in the environment to **avoid permanent damage**.

Government has already identified a **Preliminary Reserve** for many parts of the country. This is the amount of water needed in each catchment so that each person can have at least 25 litres a day, and rivers and groundwater can be kept clean and healthy. The actual amount of water that will be protected for the Reserve must depend on all the other needs for water in the catchment, and must be approved by the Minister.

How will demands be balanced?

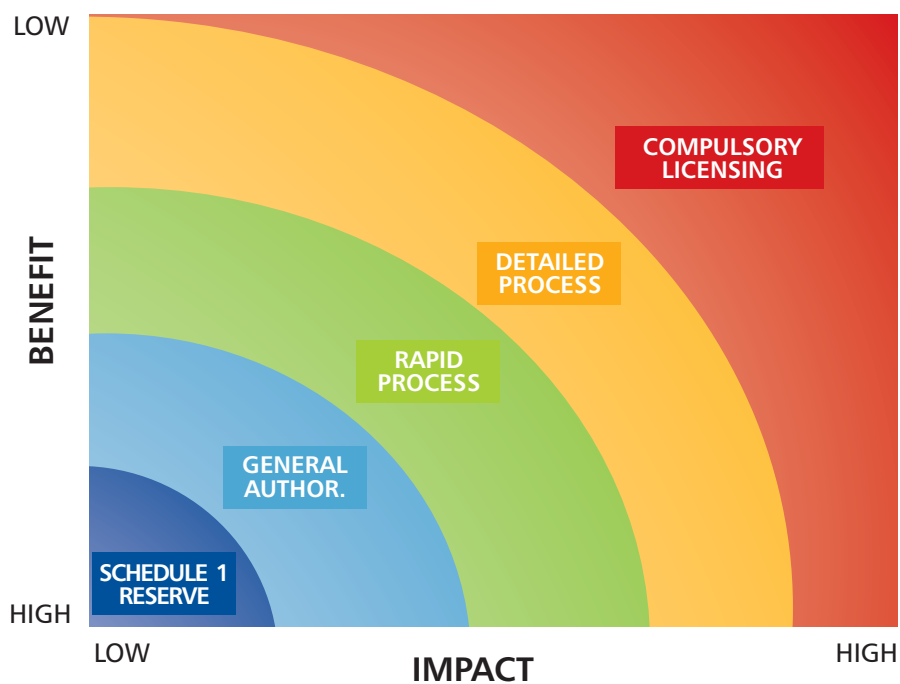
It is clear that there are many **competing demands** for water – for economic growth, social and economic justice, and the environment. All are important, so how do we decide who should get water? To address this challenge DWAF has consulted with stakeholders across the country and developed an approach to water allocation which is gradual, fair and responsible, and involves all stakeholders in the process.

The two most important considerations, especially in catchments where Compulsory Licensing is implemented, are:

- The **impact** on the water resource, which means how the proposed water use will affect water quality, the environment and other users in the catchment; and
- The **benefits** to the public, which means how the proposed water use will help historically disadvantaged people, especially women, how many jobs will be created and whether it will support local and regional economic development.

We must judge water use on its benefit and impact

This is a screening tool used in WAR to assist with the assessment of applications for water licenses.



In areas where there is less water stress, the process of authorising water use will be simpler and quicker because the impact of each water use is lower.

However, in areas where there is greater water stress, such as in areas where Compulsory Licensing is being introduced, the impact of every water use is already high. Authorising water uses will therefore be a more detailed process in order to ensure that the greatest benefit is obtained from every water use authorisation.

Productive use

Productive use of water is also a key element in assessing applications for a water licence or authorisation. Productive use is described in more detail on page XXXX of this guide.



A checklist for benefit and impact

The following checklist is a useful tool to work out how "publicly beneficial" the proposed water use will be.

Will the allocation:

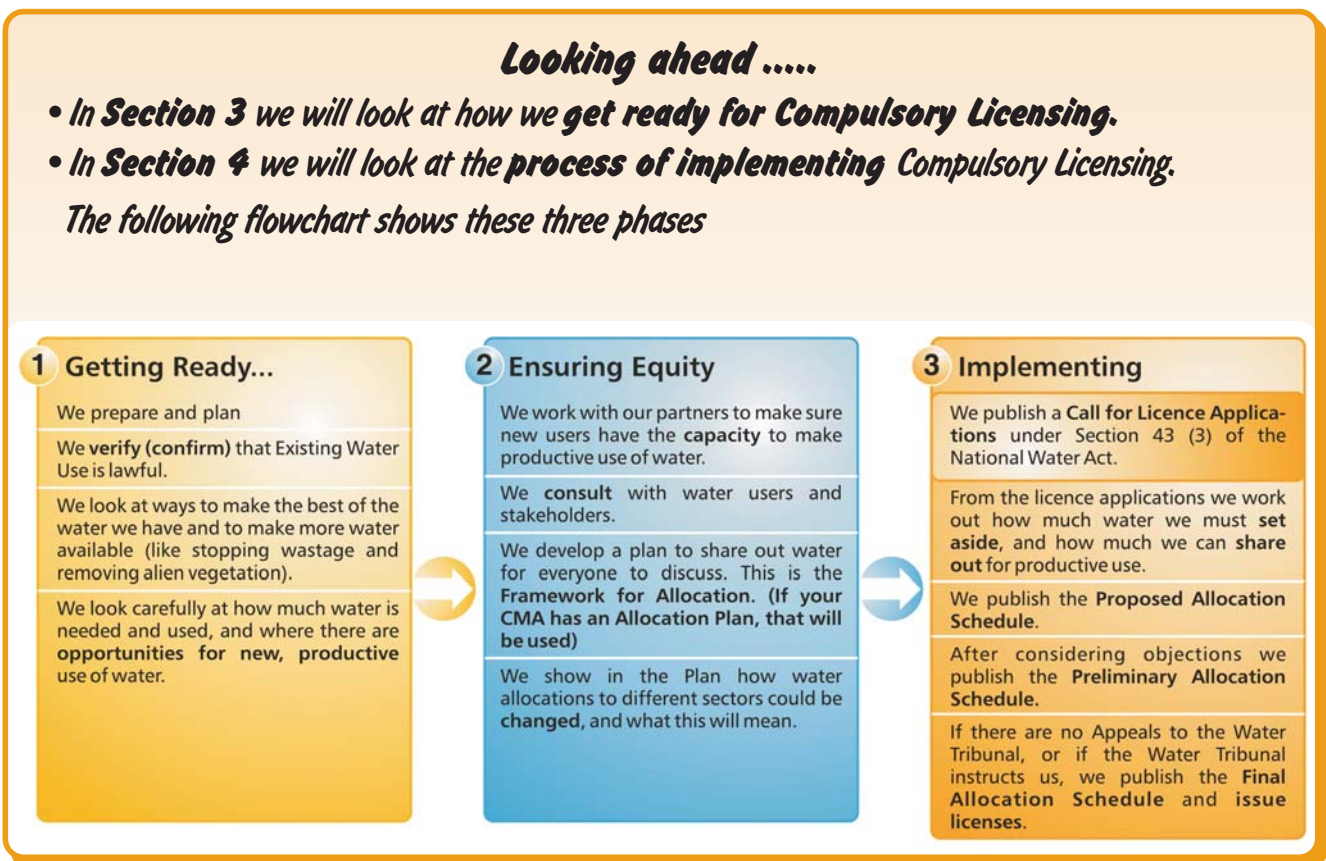
- Help to address poverty and provide household food security?
- Promote equity (spread the benefits of water use to HDIs)?
- Promote the well-being of HDIs and poor communities?
- Create permanent jobs?
- Promote the participation of women in business opportunities?
- Help to grow the local and national economy, in line with national, provincial and local economic development plans?
- Help to promote economic diversification? (So that local economies do not rely on only one or two types of economic activity)
- Have the least possible impact on other productive users of water who are making a positive contribution to the economy and to the development of society?
- Have minimum negative impacts on the quality of the water resources?
- Have minimum negative impacts on the environment?

If the answers to these questions are mostly "YES", the benefits to the nation are high.

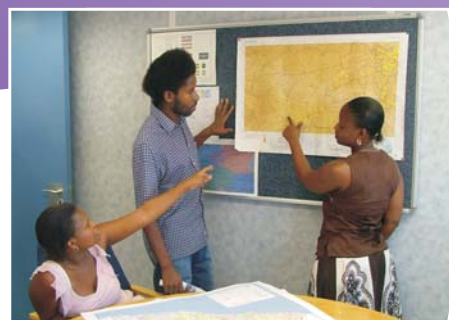
If the answers are mostly "NO", the benefits to the nation are low. In this case, licence applicants should take steps to ensure that they address all or most of the above requirements before submitting their applications.

Looking ahead

- **In Section 3 we will look at how we get ready for Compulsory Licensing.**
 - **In Section 4 we will look at the process of implementing Compulsory Licensing.**
- The following flowchart shows these three phases*



Section 3

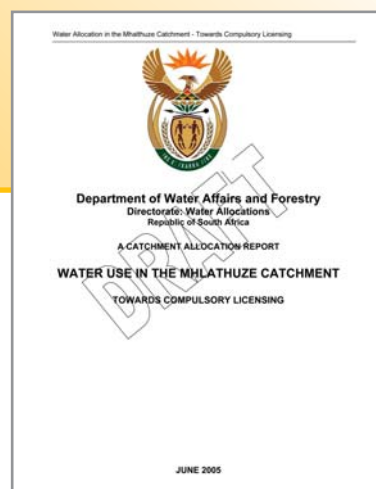


Getting ready for Compulsory Licensing

In this section:

- Preparing and planning
- Consulting with stakeholders
- Making sure water is being used lawfully
- Making the best of the water we have
- Identifying opportunities for new, productive use of water
- Framework for Allocation

This section covers all the work that must be done to get ready for Compulsory Licensing. Once it is complete, each catchment must report on its findings in a **Catchment Assessment Report** and prepare a **Framework for Allocation**. The details of how we implement the Compulsory Licensing process are described in Section 4.



The Catchment Assessment Report will be available at the DWAF Regional Offices and on the DWAF website, www.dwaf.gov.za

Preparing and Planning

To get ready for Compulsory Licensing we must first learn as much as possible about how water is being used in the catchment, and the benefits this has for the regional economy and job creation.

Fortunately, a great deal of work has already been done to study and record how much water we have, how much is used, and how it is being shared. This work never stops, and we are always learning more our water resources.

This example from the Mhlathuze Catchment Assessment Report shows how much water is available, and how it is being used and shared in the catchment.

Water availability and requirements in the Mhlathuze Catchment			
Water Use Sector	Requirement (million m ³) ¹	Percentage	National Average ¹
Irrigation	187	54.2%	59%
Urban	44	12.75%	25.1%
Rural	3	<1%	4.3%
Bulk Industrial/Mining	90	26.1%	5.7%
Forestry	18	5.2%	3.67%
Transfer out	3	<1%	
Totals	345 million cubic meters		

¹ Estimated requirements as at year 2000

To find out more: Read the National Water Resource Strategy for each WMA on the DWAF website at www.dwaf.gov.za/docs. The NWRS gives technical details of water resources and water allocation issues for every catchment. More detailed information is also available in the Internal Strategic Perspectives (ISPs) for each WMA. These are available on the same web page.

Once we know how water is being shared out and used in a catchment, we can start to apply Compulsory Licensing – which is the most important tool we have to better share our water resources.

Consulting with stakeholders

DWAF is responsible for allocating (sharing out) water, but the Position Paper on Water Allocation Reform states that stakeholders must participate: there must be **ongoing communication and consultation** with water users, new users and other stakeholders in the sector.

Some of the ways this communication will take place are:

- With stakeholders directly, through consultations, meetings and events where the DWAF and its partners are present
- By sending written information to the network of stakeholders or handing it out to stakeholders at the DWAF offices and other sites
- Through the media like community radio, newspapers and magazines.

Compulsory Licensing gives stakeholders a chance to make their voices heard about how raw water is allocated (shared) in their area.

The public ...

Must be informed about Compulsory Licensing at every stage, and should help develop a Framework for Allocation (see page XX). In every catchment, there must be a way for the DWAF and the public to work together, so that the DWAF can hear and respond to public concerns.

Water users...

Should become involved in the process, either by joining or forming a Water Users Association (WUA), or by working directly with the DWAF or the CMA to participate in deciding how the water should be allocated. Water users can also form **partnerships** to make productive use of water.

Government departments and partners...

Will work together so that their programmes help people make productive use of water. The DWAF and the CMA must also allocate water in a way that supports **local and provincial development plans**, and plans to expand **water services**. These plans influence how much water will be needed in the future, which also determines how much water is available to be shared out for agriculture and other uses.



DWAF is making every effort to consult with the public and inform people about Compulsory Licensing.

Making sure water is being used lawfully

Before we can start Compulsory Licensing, we must first address unlawful use of water.

 The National Water Act says that DWAF or the CMA must **authorise** (give permission for) all the different ways in which water is used. (see page XX in Section 1 for details about the *different ways that water use in a catchment can be authorised*).

DWAF has already done a lot of work to make sure that people are using water lawfully, in preparation for Compulsory Licensing.

- Water users across the country have been asked to **register** how much water they are using. The DWAF gave water users who registered their water a certificate of registration. Registration is the first step to finding out who is using water in the catchment and how much they are using.
- In many catchments DWAF has also **verified** (confirmed) how much water each user may lawfully use. This is called **Existing Lawful Use**. The DWAF gave these users another certificate, to show how much water they may use lawfully.
- In some cases DWAF has already issued water licences to those users who applied for a water licence under the National Water Act of 1998.


Making the best use of the water we have

Managing our water means making the best use of the water that we have.

Very often, by being more careful about how we manage and use water, we can “find” extra water – even when it seems that all the water in an area is already being used. This is called **increasing the yield** of the water resource.

These are some of the ways in which we can try to make better use of our water resources:

- Ending unlawful use of water
- Removing alien (foreign) vegetation
- Promoting water conservation
- Lowering the assurance of supply (lowering the amount of water that can be used in times of drought)
- Building new dams

 If we increase the yield (find more water) in a catchment, we can free up water for new users to take up as they gain the capacity to make productive use of the water. (see *Making Productive Use of Water*, on page XX)



The Position Paper on Water Allocation Reform is clear that we must try to “find” more water, before we cut back on existing lawful uses in the Compulsory Licensing process. Water users who make the best use of the water will be the last to have their water use curtailed.

Identifying opportunities for new, productive use of water

To make sure that everyone has a fair chance to benefit from using water, HDIs, especially women, must have the opportunity to make productive use of water.

This means we will need to find **new opportunities** where HDIs and poor people can use water to alleviate poverty, increase food security and establish larger-scale commercial operations.

New users of water, and particularly HDIs, will need support to make productive use of a water allocation. This support will be provided through a process of **co-operative governance**. This means that the DWAF will work closely with other government departments (Agriculture, Land, Social Development, etc), local government, NGOs, development agencies and the private sector to assist new users to access the **support they need to ensure that their projects are able to make productive use of water**.

The **search for new opportunities** for productive use of water is going on across the country, not only in catchments prioritised for Compulsory Licensing. But it is probably most advanced in the catchments identified for Compulsory Licensing.

To make the search easier, the DWAF will link up with all the planning processes and development work already happening in a catchment.

This means we will work with local government and local development officers, other government departments and other development agents. We will also work closely with planning initiatives outlined in the **Integrated Development Plans (IDPs)**, as well as **provincial development plans** or for **national and regional development**.

Remember:

Every time a person applies for a licence to use water, we must establish how it will **benefit** the public and how it will **impact on** the water resource and other users. *(see **How will demands be balanced** in Section 2, on page **XX** for more on benefits and impact)*

Once potential new projects have been identified, HDIs will be assisted to apply for licences or to see if their water use can be covered by General Authorisations.

New users must be able to make productive use of the water they are allocated, if they are to benefit from that water.

What does productive use of water mean?

Using water productively means **creating jobs and incomes that last**. This is more likely if a new water user is enthusiastic about using water, and understands how his or her actions affect other water users in the catchment. But new water users also need:

- The right to use the land
- Money to start and run the business
- Technical skills to run the business
- Planning skills to manage water use
- Markets, to which they can sell products made from the use of the water.

The best opportunities for new productive use of water will be where all these elements are in place.

The Framework for Allocation

“We need to make water available in a way that will sustain and grow the first economy while allowing the second economy users to develop into the first economy.” Minister Buyelwa Sonjica, Minister of Water Affairs & Forestry, 12 April 2005.

Once the preparations for Compulsory Licensing are complete, the DWAF and stakeholders will work together to develop a **plan** which shows the different ways in which water can be used, and how this will affect the environment and different stakeholders. This plan is called the **Framework for Allocation**. If a CMA already has an Allocation Plan, then this will be used in the Framework for Allocation.

The **Framework for Allocation** must give **practical ideas** on how we can balance the way water is allocated (shared out) between the environment, existing lawful users and new productive users of water. It must also make sure there is enough water to support IDPs and local plans to grow the economy.

This means that the Framework for Allocation must:



- First look at the water required for the **Reserve** ([see page XX for more on the Reserve](#))
- Set aside water to meet our **international obligations**, and for **priority users**, such as Eskom, or to **transfer** into other catchments as outlined in the NWRS
- Show how the left over water can be allocated (shared out) between different **sectors**, such as irrigation, emerging foresters and small market gardens
- Identify the **best ways** to allocate water to HDIs and other new water users and which water uses **will not work** in the area
- Show where and how we might need to **curtail** (cut back) water supplies to existing users and what impact this will have
- Show the areas, or groups of people, who might be given a **General Authorisation** so that they can start to use small amounts of water for productive purposes straight away. ([see page XX for more on General Authorisations](#))



Looking ahead

In the next section we look at how we must implement Compulsory Licensing according to the steps laid out in the National Water Act.

Section 4



Implementing Compulsory Licensing

In this section:

- The Call for Licence Applications
- The Proposed Allocation Schedule
- The Preliminary Allocation Schedule
- The Final Allocation Schedule

The National Water Act has laid out clear instructions on how to implement Compulsory Licensing. The job will be done by the DWAF Regional Offices, and they have trained WAR Champions to help with the process.

The Call for Licence Applications

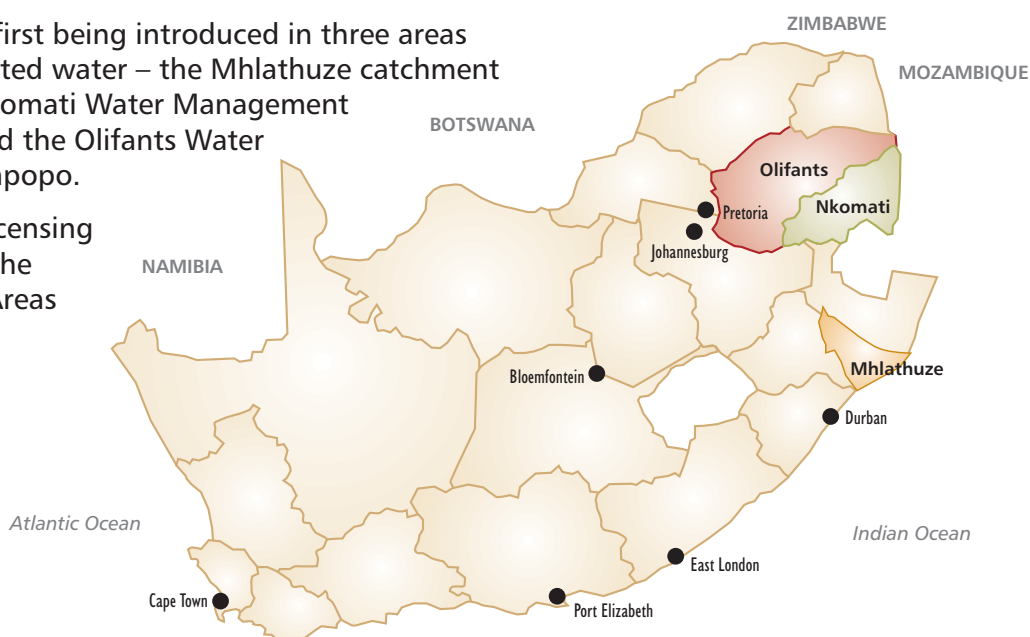
Once we have worked out a Framework for Allocations, the formal **Call for Licence Applications** will be published in the **Government Gazette**, under **Section 43** of the National Water Act.

The Call for Licence Applications must be communicated to everyone in the catchment through consultations, the media, and directly contacting the people who are affected. Applications that are in line with the Framework are most likely to be approved.

Water users and new users will be told how they should apply for a licence and when the applications must be submitted.

Compulsory Licensing is first being introduced in three areas most affected by the limited water – the Mhlathuze catchment in KwaZulu-Natal, the Nkomati Water Management Area in Mpumalanga, and the Olifants Water Management Area in Limpopo.

Over time Compulsory Licensing will be introduced in all the 19 Water Management Areas throughout the country.



What water uses will be affected?

The National Water Act states that there are 11 different ways in which water can be used. At this first stage Compulsory Licensing will only be applied to **three** of these water uses:

- Taking water from underground, rivers and dams (abstraction)
- Storing water, for example in farm dams or reservoirs (storage)
- Commercial forests (stream flow reduction).

The Proposed Allocation Schedule

When the application period is over, the DWAF must compile a **Proposed Allocation Schedule**.

To do this, the DWAF must look at all the applications for water that have been received, and all the other needs for water in the area. Then it must follow the Framework for Allocation to share out the water.

A **formal notice** of the **Proposed Allocation Schedule** must be published in the **Government Gazette** under **Section 45** of the Act. The Schedule must be made available at the DWAF offices, and communicated to everyone who applied. Every applicant must be able to see how much water they applied for, and how much they were allocated.

Objections

If anyone is unhappy with the Proposed Allocation Schedule, they must lodge a **written objection** with the DWAF within the specified time.



The Preliminary Allocation Schedule

We must then look carefully at how the water allocations will affect individual users who have lodged objections.

Then we must compile the **Preliminary Allocation Schedule** and publish this in the **Government Gazette**, according to **Section 46** of the Act. Once again, the Preliminary Allocation Schedule must be available for everyone in the catchment to see.

Appeals

Anyone who lodged a written objection to the Proposed Allocation Schedule, and who thinks this objection has not been fairly dealt with in the Preliminary Allocation Schedule, may lodge an **appeal** with the **Water Tribunal** under **Section 148** of the Act. The Water Tribunal will only consider an appeal if a written objection was made at the Proposed Allocation Schedule stage.

The Final Allocation Schedule

The DWAF must prepare a Final Allocation Schedule:

- If no appeals against the Preliminary Allocation Schedule are lodged; or
- If it is told to issue the final schedule by the Water Tribunal.

According to **Sections 47 and 48** of the Act, the DWAF must publish a notice in the **Government Gazette** to state that the **Preliminary Allocation Schedule is now final**, and where the schedule can be viewed.

The DWAF will then issue the final licences. If there are **conditions** (special rules) attached to the licence, the DWAF must make sure that water users understand what these are.

For how long will the licences be valid?

Licences issued under Compulsory Licensing can only be valid for a maximum of 40 years. But they can be issued for shorter periods if necessary. All licences may be reviewed every five years.

Appeals for compensation

If someone gets less water than they applied for, and that they were using as an Existing Lawful Use, they can **lodge an appeal for compensation under Section 22 of the Act**. In these cases, the person claiming compensation must show that they have suffered severe economic prejudice as a result of their new allocation.

Licences will be issued as soon as possible after the Final Allocation Schedule has been gazetted





A Guide to Water Allocation Reform and Compulsory Licensing

This booklet is one in a set of tools to help raise awareness about the Water Allocation Reform programme and Compulsory Licensing.

It contains an overview of Water Allocation Reform, and a guide to the process of water allocation and Compulsory Licensing.

This guide will be useful to anyone who is involved with water management or development including:

- local and provincial government
- other government departments
- development partners such as funders and non-governmental organisations
- water service providers and
- water users such as farmers, emerging farmers, businesses and communities.

For more information contact:

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water & forestry

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