



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA



NATIONAL DEVELOPMENT PLAN
Our Future - make it work

PRESENTATION ON THE AMENDMENTS TO THE NATIONAL WATER ACT, WATER SERVICES ACT AND PROPOSED AMENDMENTS TO THE WATER RESEARCH ACT

06 September 2022



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CONTENTS

- Purpose
- Introduction
- Problem statement
- Objectives
- Contents of the National Water Amendment Bill
- Contents of the Water Services Amendment Bill
- Road map on NWA & WSA Amendment Bills
- Considerations to review the Water Research Act



PURPOSE

- To brief the Portfolio Committee on progress regarding the amendment of legislation by the department of Water and Sanitation including:
 - National Water Act (NWA)
 - Water Services Act (WSA)
 - Water Research Act WRA)



INTRODUCTION

- The Department is in the process of amending the National Water Act, Water Services Act and the Water Research Act.
- The amendment of these Acts will result in the quickest and effective way of addressing the most pertinent gaps and legislative challenges experienced in the water sector, particularly in relation to equitable allocation of water resources and a streamline regulation of water and sanitation value-chain
- The entire review of the NWA and WSA will be realised at the later stage to fully incorporate the following policies as approved by Cabinet:
 - National Water Policy Review, 2013
 - National Sanitation Policy, 2016



RATIONALE

- The right to health care, food, water and social security is entrenched in section 27 of the Constitution of the Republic of South African Act 108 of 1996.
- National Water Act and Water Services Act are key legal instruments enacted for the progressive realisation of the aforementioned.
- The implementation challenges, particularly in the clarification of roles and responsibilities at various implementation levels, have been experienced for some time since their enactment.
- Ultimately this has led to an inability to decisively address socio-economic and ecological challenges such as:
 - equity in allocation and reallocation of water
 - prioritising redress in the sector
 - lack of access to water and sanitation by poor and vulnerable groups
 - gender sensitive policies
 - Pollution and unlawful water use



OBJECTIVES

- To provide for effective service delivery while supporting government's transformational objectives
- To regulate the water and sanitation sector, and support water services institutions
- To provide for the equitable allocation of water as a natural resource
- To strengthen the Minister's powers to regulate the entire water and sanitation value chain
- Building transformed / sustainable institutions



CONTENTS OF THE NATIONAL WATER AMENDMENT BILL ...

PROBLEM STATEMENT	GAPS/ CHALLENGES	AMENDED SECTIONS
<ul style="list-style-type: none"> IMPLEMENTATION AND REVIEW OF THE STRATEGY 	<ul style="list-style-type: none"> Impact cannot be measured properly over a period of 5 years as most of the departmental projects are long term projects and as such evaluation of implementation does not yield much results. Need to align with all relevant sector strategic plans e.g. implementation of mega projects, long term planning strategies 	Section 5 (4) (b)
<ul style="list-style-type: none"> CLIMATE CHANGE ENVIRONMENTAL CONSIDERATIONS 	<ul style="list-style-type: none"> Achievement of re-allocation of water use through implementation of curtailment of the existing lawful water uses; (We abandon the amendment of section 34 since 34(3)(c) addresses the challenge we have) Inability to review water resource classes, resource quality objectives and reserve impacts negatively on achievement of effective water allocation and licencing <ul style="list-style-type: none"> — Inability by the Responsible Authority to impose contemporary authorization conditions to existing lawful water users (ELU) in terms of the NWA — To strengthen penalties as deterrence to offender 	Section 13 Chapter 4 Section 32 & 33 151(2)
<ul style="list-style-type: none"> PROTECTION AND CONSERVATION OF WATER RESOURCES 	<ul style="list-style-type: none"> Lack of protection and vulnerability of strategic water source areas. These areas are under threat due to mining and afforestation 	Chapter 3A/ 18A
<ul style="list-style-type: none"> TRANSFORMATION/ EQUITY EQUITABLE ALLOCATION OF WATER 	<ul style="list-style-type: none"> Advancement social development and economic transformation through equitable access to water by disadvantaged groups Application of the use it or lose it principle Water surrendered to the Minister as a public trustee of water resources Prohibition of water trading or hoarding of unused water use 	Section 25 (1) and (2)

...CONTENTS OF THE NATIONAL WATER AMENDMENT BILL

PROBLEM STATEMENT	GAPS/ CHALLENGES	AMENDED SECTIONS
REDRESS OF PAST IMBALANCES	<ul style="list-style-type: none"> Minister is the Executive Authority to regulate the use and allocation of water Minister prescribing the criteria to redress the results of past racial and gender discrimination Inability of the Minister to regulate the claims of ELU in a way that does not perpetuate the injustices of the past ELU do not have expiry dates like licenses which can be reviewed upon expiry to cater for prevailing socio-economic issues 	Section 26 (1) (p) Section 32, 33 and 34
TRANSFORMATION OF WATER MANAGEMENT INSTITUTIONS	<ul style="list-style-type: none"> Transformation of Irrigation Boards/ WUAs to ensure equity Exclusion of other water users within the same hydrological boundary There is an urgent need to disestablish Irrigation Boards. Only Water Users Associations can be disestablished through the NWA . Irrigation Boards cannot be disestablished through the NWA 	Sections 91 , 96 and 98,
DISPUTE RESOLUTION MECHANISM	<ul style="list-style-type: none"> Provide for a cost effective and speedy dispute resolution mechanism The Water Tribunal process provides for a quasi-judicial process which can be expensive (align with Policy Statement 2013) 	Section 148



CONTENTS OF THE WATER SERVICES AMENDMENT BILL (1)

PROBLEM STATEMENT	GAPS/ CHALLENGES	AMENDED SECTIONS
ENHANCEMENT OF REGULATORY POWERS OF THE MINISTER <ul style="list-style-type: none"> ○ REGULATION OF THE SANITATION VALUE CHAIN ○ REGISTRATION OF PROCESS CONTROLLERS, PERSONS OPERATING WATER SERVICES WORKS ○ REGULATING THE QUALITY OF DRINKING WATER 	Non-compliance by WSAs and members of the public in handling faecal sludge transportation, treatment and beneficial use	Section 2 (1) (k)
	Requirement to align with ESETA Frameworks and qualifications	Section 9 (1)(e)
	Prescribing of regulation standard of the quality of drinking water in addition to service levels	Section 9 (1) (eA)
<ul style="list-style-type: none"> • RATIONALISATION OF WATER BOARDS • ALIGNMENT TO NEW DEVELOPMENTS IN POLICY 	To align the governance structure of water boards in line with the recommendations of the Presidential Review Committee Report, PFMA and the King Report	Chapter 6

ROAD MAP ON NWA & WSA AMENDMENT BILLS ...

ACTIVITY	DUE DATE	STATUS
1. Draft Amendment Bills finalised	April 2021	Completed
2. Consultation on draft Amendment Bill(s) with internal & external stakeholders	May 2021	Completed
3. Preliminary certification of the Amendment Bill(s) by State Law Adviser	Sep/ Oct 2022	Pending
4. Top Management and the Minister approval of the Amendment Bills	October 2022	Pending
5. DG submit Amendment Bill(s) to Social and Economic clusters	October 2022	Pending



...ROAD MAP ON NWA & WSA AMENDMENT BILLS

ACTIVITY	DUE DATE	STATUS
6. Cabinet Memorandum prepared and Minister present the Amendment Bill(s) in Cabinet	November 2022	Pending
7. 90 Days Public consultation: 30 days for the submission of written comments by the public and institutions <ul style="list-style-type: none"> • 30 days for recoding comments, analysis, preparation of response and amendments to the Water and Sanitation Bill (s) if any 	March to April 2023	Pending
7. Final certification of the Amendment Bill(s) by State Law Adviser	June 2023	Pending
8. DG presents the Bill (s) for discussion and recommendation at SPCHD and ESEID Clusters	August 2023	Pending
9. Minister presents Bill (s) to Cabinet to submit to Parliament	September 2023	Pending
10. Submission of Bill (s) to Parliament.	30 November 2023	Pending

PROPOSED AMENDMENTS TO THE WATER RESEARCH ACT

- The Water Research Act, 1971 was amended in 2013 and the Bill published in the Government Gazette No. 36754 of 16 August 2013
- The Bill was presented to Cabinet and introduced to Parliament in 2013, but did not proceed beyond that stage
- Rationale: To amend the Water Research Act, 1971, so as to:
 - Align the Act with applicable water legislation as it was published before the National Water Act, Water Services Act and the Public Finance Management Act
 - provide for good governance of the institution by aligning the Board appointment process with current governance practice and requirements
 - remove the Department Director General as an ex-officio member of the Board as this creates conflict
 - to change the name of the Water Research Commission to Water Research Council
 - to broaden collaboration with other institutions including the private sector and international partners involved in research, development and innovation and not to limit it to Council for Scientific, Industrial Research (CSIR)
 - to develop a strategic framework setting out a five-year national research, development and innovation plan

THANK YOU

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13

