

L.I. 1692 WATER USE REGULATIONS, 2001

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WATER USE REGULATIONS, 2001

In exercise of the powers conferred on the Water Resources Commission by section 35 of the Water Resources Commission Act, 1996 (Act 522) these Regulations are made this 24th day of July, 2001.

Water use permit

1. Subject to the Act, a person may obtain a permit from the Commission for:
 - (a) domestic water use
 - (b) commercial water use,
 - (c) municipal water use,
 - (d) industrial water use,
 - (e) agricultural water use,
 - (f) power generation water use,
 - (g) water transportation water use,
 - (h) fisheries (aquaculture) water use
 - (i) environmental water use
 - (j) recreational water use, and
 - (k) under water (wood) harvesting.

Application procedure

2.
 - (1) An applicant for a permit shall file the application form with the Commission.
 - (2) The applicant shall obtain an application form as specified in Schedule A for completion from the Commission
 - (3) The completed application form shall be accompanied by
 - (a) the appropriate administrative and processing fees specified in Schedule B, and
 - (b) any other information and documents which may assist the Commission in taking a decision
 - (4) Upon receipt of a completed application form, the Commission shall publish a notice of the application in the mass media in a form that the Commission may determine
 - (5) Where an applicant
 - (a) fails to pay the appropriate administrative and processing fees,
 - (b) submits an incomplete application form, or
 - (c) submits an application in error,the Commission shall notify the applicant in writing to rectify the situation within fourteen days
 - (6) Where the applicant fails to rectify the situation within fourteen days the Commission shall refuse to process the application.

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Publications

3. (1) The Commission shall prior to making a grant of a permit, publish in the Gazette and in at least one national newspaper a notice
 - (a) stating the purpose of the application, and
 - (b) inviting objections from the public to be submitted to the Commission within three months from the date of the first publication
- (2) Objections made in response to a notice under subregulation (1) shall be submitted in writing to the Commission unless otherwise specified in the notice

Commission's Decisions

4. The Commission shall within ten days of receipt of a completed application form
 - (a) acknowledge receipt of the application form in writing ,and
 - (b) shall within ten days and not more than four months inform the applicant in writing of the Commission's decision

Investigations

5. (1) The Commission shall in considering an application, conduct an investigation to ascertain whether the proposed use of the water
 - (a) is in accordance with the established water use policies and plans, and
 - (b) will not cause irreparable damage to water resources, public health and the environment
- (2) In conducting the investigations the Commission shall
 - (a) consider the technical and social aspects of the application' and
 - (b) ensure public participation especially the people in the area likely to be affected by the proposed use.

Public Hearing

6. (1) The Commission shall hold a public hearing in respect of an application where
 - (a) upon a notice issued under regulation 3(1) there is adverse public reaction to the proposed use;
 - (b) the use of the water involves the dislocation, relocation, resettlement or in any manner cause the destruction of the natural water resources of the community; or
 - (c) the Commission considers that the use of the water will have an impact on the natural resources of the basin

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- (2) For the purposes of conducting a public hearing, the Commission shall collaborate with
 - (a) the Environmental Protection Agency
 - (b) the traditional authorities of the community and
 - (c) the relevant government institutions and agencies

Priority of water use

- 7. (1) In considering an application, the Commission shall be guided by
 - (a) the prevailing water policy,
 - (b) domestic water use, and
 - (c) any other water use which fulfils the goals of national socio-economic development
- (2) Where the priorities of two applications are the same, the first in time shall be given the priority

Objections

- 8. (1) Where
 - (a) a person claims water right or other interest in a water resource which is the subject of a new application, or
 - (b) conflicting claims of interest are made over the same water resources,the claim shall be referred by the Commission to the Water Users Committee of the Commission for resolution
- (2) The Committee shall consider all statements from the parties and any information supporting the claims of the parties.
- (3) The proceedings of the Committee shall be informal and shall be governed by the rules of natural justice.
- (4) The Committee shall submit its report and recommendations to the Commission within fourteen days after completion of the hearing.
- (5) On receipt of the report and recommendations, the Commission shall act on it within fourteen days.

Exemptions

- 9. (1) Any water use resulting from the abstraction of water by manual means is exempted from these Regulations
- (2) These Regulations do not prevent the use of water resources for the purposes of fighting fires

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Water uses exempted from permit but to be registered

10. (1) The following water uses are exempted from the permit requirement under regulation 2:

- (a) water abstracted by mechanical means and used for any purpose where the abstraction level does not exceed five litres per second; and
- (b) subsistence agricultural water use for land areas not exceeding 1 hectare.

(2) The water uses specified in subregulation (1) are subject to registration under regulation 11.

Registration

11. (1) An application for the registration of water use in respect of regulation 10 (1) shall be submitted to the relevant District Assembly.

(2) The application shall contain the

- (a) name and address of the applicant,
- (b) category and level of the water use,
- (c) water body or system affected, and
- (d) location of the water use.

(3) Where the District Assembly is satisfied with the application, the District Assembly shall

- (a) register the water use, and
- (b) issue the applicant with a registration number.

(4) The District Assembly shall furnish the Commission quarterly, with a list of all registered water uses in its locality.

(5) The Commission shall

- (a) enter the particulars of the registration in the Water Register, and
- (b) publish annually water uses registered.

Environmental Assessment

12. (1) Where the Commission in consultation with the Environmental Protection Agency considers a proposed water use to constitute a use which requires an environmental impact assessment, the applicant shall attach to the application evidence that an environmental impact assessment has been approved by the Environmental Protection Agency.

(2) Where in the opinion of the Environmental Protection Agency the proposed or existing water use requires an environmental management plan, that requirement shall be one of the conditions for the grant of water use permit.

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Grant of Permit

13. (1) Subject to these Regulations, the Commission shall grant a permit to an applicant who satisfies the requirements of these Regulations.
- (2) Where the Commission has reasons based on
- (a) technical data,
 - (b) sustainability of the water resources,
 - (c) national security,
 - (d) public safety, or
 - (e) other reasonable justification
- the Commission shall refuse to grant the permit to the applicant
- (3) The Commission shall within fourteen days communicate the reasons for the refusal of a permit to the applicant
- (4) A permit granted by the Commission is subject to the conditions specified in the permit
- (5) Unless otherwise stated, a permit granted by the Commission shall be subject to ratification by Parliament
- (6) Where the Commission grants a permit, the Commission shall
- (a) enter the particulars of the permit in the Water Register, and
 - (b) publish the fact of the grant in the mass media in a form that the Commission may determine
- (7) The Commission shall furnish a District Assembly with a list of all approved permits granted within its area.

Duration and Renewal of Permit

14. (1) A permit granted under these Regulations
- (a) shall be for the period specified in the permit; and
 - (b) may be renewed
- (2) An application for the renewal of a permit shall be made to the Commission not later than ninety days before the expiration of the permit.

Prohibition

15. A person
- (a) who fails to renew that person's permit, or
 - (b) whose application for the renewal is rejected by the Commission shall not use the water resources to which the permit relates.

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Appeals

16. (1) A person aggrieved by the refusal of the Commission to grant or renew a permit may lodge a complaint in writing with the Chairman of the Commission
- (2) The complaint shall be submitted to the Chairman within thirty days of the Commission's decision
- (3) The complainant shall
- (a) state the nature of the objections or complaint,
 - (b) attach a copy of the decision objected to, and
 - (c) attach all documents relevant for the determination of the complaint.
- (4) The Chairman shall within thirty days of receipt of the complaint take a decision on it.
- (4) A person may appeal to the High Court where
- (a) that person is dissatisfied with the decision of the Chairman, or
 - (b) on the expiration of the thirty days the Chairman has not acted on the complaint

General Obligations

17. (1) A permit holder shall at the holder's expense construct, secure and maintain to the satisfaction of the Commission or a person appointed by the Commission for the purpose, any work which is necessary for the passage of waste water flowing from any work constructed by the holder.
- (2) Subject to the endorsement on the permit, the permit holder shall return the waters to the same body of water from which the water was originally diverted or abstracted.

Cessation of permit

18. (1) The Commission may within three months after the expiration or prior termination of the permit serve notice on the permit holder to
- (a) remove the work, and
 - (b) restore the land on which the work was situated to its original state or in a good state as the land was before the works were constructed on the land
- (2) Where the permit holder fails to comply with the notice under subregulation (1), the Commission shall remove the work and restore the land to its original state.
- (3) The permit holder shall pay the expenses incurred by the Commission in effecting the removal of the work and restoration of the land

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Non-transferability of permits

19. A permit holder shall not transfer a permit granted under these Regulations except with the prior approval in writing of the Commission

Water right

20. (1) A person who holds a water right for an item specified in column 1 of Schedule C shall pay the raw water charge at a rate specified in column 2 of the Schedule.
- (2) For the purposes of the Regulations, raw water charges represent the cost of used water resources.

Payment of water charges

- 21 (1) A permit holder may pay the assessed raw water charges in advance or as may be determined by the Commission in prior consultation with the holder.
- (2) The raw water charge shall be used to defray the cost of water resources management and regulation.

Keeping records

22. (1) A permit holder shall keep a full and correct record of
- (a) all water abstracted, diverted or stored, giving the date, time, quantity and methods of the abstraction, diversion or storage, and
- (b) the purpose for which the water used
- (2) The permit holder shall furnish to the Commission at the times that the Commission may demand the report made under subregulation (1)

Inspectorate

23. (1) There is established by these Regulations an Inspectorate Division of the Commission
- (2) In accordance with section 10 of the Act there shall be appointed a Chief Inspector and other inspectors to perform the functions that the Commission may determine for the purposes of giving effect to these Regulations.
- (3) An Inspector appointed under these Regulations may enter any premises
- (a) which the inspector suspects to be used for a purpose to which these Regulations apply, and
- (b) ensure that there Regulations are complied with.

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Offence

24. A permit holder who interferes with or who permits a person to interfere with a controlling or measuring device so that the quantity of water abstracted, diverted or stored is not in accordance with the terms of the holder's permit or is not in accordance with the terms of an order of the Commission commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both.

Interpretation

25. In these Regulations, unless the context otherwise requires,
“the Act” means the Water Resources Act, 1996 (Act 522);
“agricultural water use” means the use of water to enhance agricultural output by means of irrigation or the use of water to sustain livestock;
“commercial water use” means the abstraction and use of water for independent projects that rely on their own water production works;
“Commission” means the Water Resources Commission;
“domestic water use: means the use of water for household purposes and personal hygiene;
“environmental water use” means the release or maintenance of a certain flow of water for the purpose of maintaining specific environmental and recreational purposes;
“fisheries water use” means the release or maintenance of a certain flow of water for the purpose of meeting the needs of aquaculture or fisheries activities;
“industrial use” means the use of water by major non-municipal industrial establishments;
“municipal water use” means the diversion, treatment, and distribution of water by a water supply utility to satisfy a range of domestic and non-domestic demands within a given municipality;
“power generation water use” means the use of the hydraulic potential of water for the generation of power by diverting it through penstocks and turbines
“recreational use” means the use of water for activities such as swimming, boat surfing, etc;
“use” means any taking advantage of water, either as a physical substance or as a water body to meet any demand;
“water transportation water use” means the use of water for navigation relying on the buoyancy capability of water.

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**SCHEDULE A
Regulation 2 (2)**

Water Rights Application Form

WRC Form 2

WATER RESOURCES COMMISSION

Name of Applicant: -----

Mailing address: -----

Tel: ----- Fax: ----- E-mail:-----

Name of CEO/Director: _____

Name of responsible contact person: _____

Location of the use: ----- District: ----- Region: -----

Please indicate the proposed primary purpose (1) and secondary purpose (2) of use:

Domestic/municipal	-----	Aquaculture	-----
Industrial/mining	-----	Livestock	-----
Irrigation	-----	Navigation	-----
Power generation	-----	Environmental	-----
Construction	-----	Recreation	-----
Others	-----		

Please indicate the type of water use:

Consumptive	-----	Non-consumptive	-----
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Please indicate the water use activity

Damming	-----	Dredging	-----
Diversion	-----	Drilling	-----

Please indicate whether the following are included

EIA and other relevant	Yes	No
Site Plan	Yes	No
Demand Management Plan (for consumptive uses only)	Yes	No
Business particulars (for private establishments)	Yes	No

If the answer to the above is no, state reasons why and when full documentation can be expected

The information contained in this application is correct t the best of my knowledge.

Signature..... Date.....

OFFICIAL USE ONLY

Application No. Date rec. Fee rec.

Print name:

General Information

Data on the proposed use:

Location of works: ----- District: -----

Point of use:¹: -----

Name of water body affected²: ----- Tributary of -----

Rate of use (m³/annum) being applied for: -----

If existing, actual rate of use:-----

Indicate any variations in demand: Daily: ----- Seasonal/monthly: -----

Where water can be returned to public stream/drain, state:

Point of return flow: -----

Quantity of return flow (m³/day): -----

Quantity of return flow: -----

(level of pollutants, temp. etc.): -----

Water body affected: -----

Types of works involved (describe): -----

Projected duration of use: ---from-----to-----

Proposed method of measuring consumption/use: -----

Proposed method(s) of measuring water quality: -----

Data on affected parties

Date of acquisition of interest or right of access -----

Beneficiaries of proposed use: -----

Names of other major users who abstract water from the same body: (attach list)

Persons or areas affected by

1) the proposed use of water: Up-stream -----
Down-stream -----

2) subsequent discharges: Downs-stream -----

Indicate any major impacts the proposed use will have on the environment:

¹ Use is defined in the ARC Act, no.522 as to divert, dam, store, abstract or use water resources

² Indicate the river, lake, reservoir or aquifer

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WRC Form 2

What measures are proposed to avoid pollution, flooding or other adverse affects?

Data on Specific Uses

*Additional data is required for certain specific users. Please provide information as applicable below**

Municipal and Domestic Use
The projected number of persons, establishments and institutions to be served (5, 10 and 20 year estimates)
Indicate the planned rate of use per capita (5, 10 and 20 year estimates)

Location and modalities of treatment:
Particulars of distribution of water:

Irrigation
The number of hectares to be irrigated:
The proposed water demand per hectare:
The types of crops to be irrigated:
The class of soil to be irrigated:
Describe any works to drain irrigated land

Power Generation
The gross head available for power production at low, medium and high stage
Working head to be used:
Power (to be) generated:
System of mandatory releases (spillways etc)

Aquaculture
Creation of pond or use of natural resource?
The fish/shell fish to be cultivated
Area of ponds (Hectares)
Approximate No. of fish/shellfish per m²
The water demand in m³/day:
Type of feed (list)
Quantity of feed administered per day
Frequency of discharge from ponds

Livestock
Type(s) of livestock:
Number of livestock:
Water use per day per livestock (litres):

Transport
The type of vessel to be used:
The proposed route of transport
Engine Capacity

* Use separate sheet if necessary

Data on works

Please supply the following data on the works that are required for the proposed water use

Abstraction:

Type of pumping mechanism
Capacity of pumps (Installed)
Capacity of pumps (to be installed)
Pumping hours per day
Rate of abstraction per hour

Diversion/distribution
Diversion by gravitation, canal or pipe?
Include map/diagram of diversion works
Details of land ownership, if other than applicant

Damming
Height/proposed height of dam
Capacity of reservoir at overflow level
Area of inundation
Average depth of storage
System of mandatory releases (spillways etc)

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SCHEDULE B

**Regulation 2 (3)(a)
Administrative and Processing Fees**

Category of Use	Fees ¢
Industrial	3,000,000
Mining	3,000,000
Domestic/Municipal	2,000,000
Hydropower	3,000,000
Irrigation	2,000,000
Navigation	2,000,000
Aquaculture (Cage)	2,000,000
(Pond)	1,000,000
Recreation	1,000,000

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SCHEDULE B

Regulation 2 (3)(a)

Raw Water Charges

Column 1 Category of Use	Column 2 Water Charges ¢
Industrial	10.00 per cubic meter (1,000 litres)
Mining	10.00 per cubic meter (1,000 litres)
Domestic/Municipal	10.00 per cubic meter (1,000 litres)
Irrigation - Private schemes	10.00 per cubic meter (1,000 litres)
Irrigation – Small scale farms on government schemes	10,000.00 per ha per season
Hydropower	0.60 per K Wh of power generated
Navigation	86,000.00 per horsepower of vessel engine
Recreation	86,000.00 per horsepower of vessel engine
Aquaculture – Cage	86.00 per square meter of surface area of water body used per annum
Aquaculture – Pond	10.00 per cubic meter (1,000 litres)
Nominal rent for water body acquired as Concessionary area	5,000.00 per hectare per annum
Nominal fee for Small Town/Village Domestic Water Systems	10.00 per cubic meter (1,000 litres)