

RIGHTS TO USE WATER

WHAT IS “WATER” ACCORDING TO LESOTHO WATER ACT 2008?

“Water means the surface water flowing in channel and ground water, percolating ground water, flood, sewage and drainage water, pluvial water and diffused surface water, which means water occurring generally upon the surface of the earth and not flowing in channels, springs and mineral water including thermal water, atmospheric water, snowfall and glaciers, and water artificially contained in reservoirs, canals pipelines, tanks wells and boreholes, as well as the artificial recharge of underground aquifers.”

WHAT IS WATER RIGHTS?

Water Rights in water law refers to the rights of a user to use water from a source, e.g. a river, stream, pond or source of groundwater.

WHO HAS A RIGHT TO USE WATER?

In reference to Water Act 2008, Section 5

(1), the right to use water shall be in accordance with the provisions of Water Act 2008. Section 4 of this Act states that “the ownership of all water resources in Lesotho is vested in the Basotho Nation and held in trust by the King on behalf of the Basotho Nation.”

(2) In the case of conflicting water use and if water is insufficient to cater for other uses, domestic use shall prevail and be given first preference over other uses.

(3) For purposes of this section, water use shall include

- (a) Taking of water from a watercourse;
- (b) Storing water;
- (c) Impounding or diverting the flow of water in a water course;
- (d) Engaging in a stream flow reduction activity identified as such;
- (e) Discharging waste or water containing waste into a resource through a pipeline, canal, sewer, Sea, outfall or other conduit;
- (f) Using water for irrigation, industrial and or mining purposes and disposing in any manner water which has been heated in any industrial activity, mining or power generation process;
- (g) Altering the bed, banks, course or characteristics of a watercourse;
- (h) Removing, discharging or disposing of water found underground if necessary for the efficient continuation of an activity or safety of people;
- (i) Using water for recreational purposes; and
- (j) Bottling of water for commercial purposes.

FREQUENT QUESTIONS ABOUT WATER LICENCE AND WATER ALLOCATION:

NB: Lesotho's water resources are protected under Water Act 2008 whereby water use is allocated through permits, namely Construction Permit and Water Use Permit.

Q: What is the difference between a water license and a water allocation?

A: Water Use Permit specifies where you are allowed/ permitted to take water.

Water allocation is volume of water you are entitled to abstract from a given source also stating time period.

Water Use Permit is obtained through application to the Director of Department of Water Affairs.

Q: Can I take water from my property for domestic use without a license/permit?

A: You need a water use permit even if the natural spring or a borehole is found in your premises. From the above said Act, Section 21 (1) No person shall engage in waterworks activities without a Construction Permit. Whenever you abstract water from a water source, a permit is required. For domestic use also permit is needed which is payable at some stage.

Q: Do I need a water license/permit to farm?

A: See section 19. (3) A person who wishes to engage in a commercial activity in respect of abstracting and using water from water source shall make an application for a water use permit to the Director, in accordance with section 20.

Q: Do I need a water license/permit to collect water in a dam?

A: Take heed, "No person shall engage in an activity of using or abstracting water without a water use permit."

Q: How do I get water license and how long will it take?

A: Prior to submission of application accompanied by a non-refundable fee, an appointment will be made for site inspection. A report will be prepared after inspection by a responsible officer.

Q: How much does water license/permit cost?

A: There are two types of permits being Construction Permit and Water Use Permit. A domestic use not exceeding limited allocation shall be issued a Construction Permit for free. All the commercial water users must apply for both construction and Water Use Permits.

Q: How long does my water license/permit allocation last and can I transfer it?

A: Water use permit is valid for five years from date of issue. It is transferable with a written consent of the Director.

Q: What is the process for conveying water from storage via a water course?

A: See Section 27 (1) of Water Act 2008. A person who wishes to discharge effluent into water courses shall obtain a permit in accordance with the Environment Act.

Application shall be made to the Minister for servitude if water source would require the use of land occupied by another.

Q: What will my license/permit require me to do?

A: You must comply with the requirements of the Act. Water users shall allow an authorized person at all reasonable times, access to inspect such wells, natural springs and boreholes or measure or obtain information in relation to quality and quantity. Do not give false information. Use the Permit within six months (window period) of the issuance of the Permit. Do not abandon or surrender the Permit. Where compliance is not fulfilled, the Director has a right to suspend, cancel or vary a Water Use Permit. In this case, the concerned permit holder shall be notified and afforded an opportunity to be heard.

THE TABLE BELOW SHOWS THE STEPS TAKEN TO APPLY FOR WATER PERMITS

DOMESTIC USERS	COMMERCIAL USERS
1.0 PROCEDURE FOR WATER USE PERMIT	1.0 PROCEDURE FOR WATER USE PERMIT
i) Application addressed to Department of Water Affairs, detailed; 1. Intended water source & location 2. Intended purpose	i) Application addressed to Department of Water Affairs, detailed; 1. Intended water source & location 2. Intended purpose
ii) Inspection fee paid M305. ⁰⁰ (in a case of borehole, hydrogeological survey is carried out with different costs)(non-refundable)	ii) Inspection fee paid @ M305. ⁰⁰ per source (non-refundable)
iii) Hydrogeological survey/inspection (Report)	iii) Site inspection 1. In situ water test (yield, temperature, pH, conductivity & salinity) is made in the presence of applicant.
iv) Local Chief is notified by lease holder whereby survey is to be conducted outside Lessee's premises.	iv) Notification of application to stakeholders, being; 1. District Administrator 2. District Council Secretariat 3. Principal Chief 4. Area Chief 5. Community Council 6. Applicant
v) Facilitation for the issuance of permits is made by the department of Water Affairs.	v) Public Gathering (Pitso) 1. Appointment for pitso is set by the Department and organized by Area Chief, so as to introduce applicant to the community. 2. The related Council must be presented by the Councilor.
vi) Construction permit issued @ M200. ⁰⁰ (non-renewable)	vi) Public gathering outcome might be positive or negative due to utilization of the source.
	vii) where there are no obstacles, the Department facilitates issuance of permits; Fees are determined by type of use.
	viii) There are two types of permits of which the Director of the Department of Water Affairs may suspend, vary or cancel where a permit holder contravenes any of the provisions of Water Act 2008: 1. Construction permit 2. Water Use permit

COMMERCIAL WATER USE CONSISTS OF:

IRRIGATION	LIVESTOCK FARMING	POULTRY FARMING	ROAD CONSTRUCTION
MINING	WATER BOTTLING	BRICK MAKING	

If you are interested to become a drilling contractor and ready to carry out this activity, just bring the following requirements to the Department of Water Affairs.

REQUIREMENTS FOR DRILLING CERTIFICATE:

CERTIFIED TRUE COPIES OF:

- DRILLING EQUIPMENT DOCUMENTS.
- TAX CLEARANCE
- TRADER'S LICENSE
- CERTIFICATE OF THE PROFESSIONAL TRAININGS (TESTIMONIAL)

NB: Drilling companies register is available at the Department of Water Affairs.

****For more information report yourself at the Department of Water Affairs. Just turn to the **T junction** that passes between Queen II Hospital and Government Office Complex, or find the way to white painted buildings with sky blue roofing. Right on the eastern side of the hill, where the statue of Moshoeshoe 1 is situated, you will get there.****