
CHAPTER 5

NATIONAL PLANNING AND CO-ORDINATION, AND INTERNATIONAL CO-OPERATION IN WATER MANAGEMENT

(Section 6 of the National Water Act requires the strategies, objectives, plans, guidelines and procedures, and institutional arrangements described in the National Water Resource Strategy to be within the framework of existing relevant Government policy and to support the achievement of certain compulsory standards prescribed under the Water Services Act.

Section 6 also requires the National Water Resource Strategy to provide for international rights and obligations.

Section 9 requires catchment management strategies to take account of national or regional plans prepared in terms of any other law, particularly development plans prepared in terms of the Water Services Act.

Section 22 provides for responsible authorities to promote arrangements with other organs of state to combine their respective licence requirements into a single licence requirement.

Section 81 requires representation from provincial and local government on the governing boards of catchment management agencies.

Section 138 requires the Minister of Water Affairs and Forestry to establish mechanisms and procedures to co-ordinate the monitoring of water resources after consulting with, among others, relevant organs of state).

5.1 INTRODUCTION

This chapter describes some of the principal relationships between the National Water Act (the Act) and other national laws, policies, strategies and programmes, and the co-operative relationships needed to implement the National Water Resource Strategy (the NWRS). South Africa's international relationships in water matters are also discussed.

5.2 THE FRAMEWORK OF EXISTING RELEVANT GOVERNMENT POLICY

The law that directly relates to water is consolidated into two major acts - the Water Services Act, 1997 and the National Water Act, 1998. The Water Services Act provides the regulatory framework for the provision of water services by local authorities, under the overall oversight of the Minister of Water Affairs and Forestry (the Minister). The Act mandates the Department of Water Affairs and Forestry (the Department) to ensure that all activities relating to water resources management, by whoever they are undertaken, are in accordance with the requirements of the Act. There are, however, many other laws that govern activities that are dependent on water, or which affect water resources. These laws are administered by a number of departments in all spheres of government^[1].

The Department, in accordance with the Constitution, is committed to co-operating with all spheres of government to achieve the national objectives of equitable and sustainable social and economic development. However, departments cannot co-operate effectively if the policies and laws they administer are in conflict with one another. Accordingly section 6(1)(a) of the Act (see Appendix C) requires, among other things, that the Department's strategies and institutional arrangements for water resources management are "within the framework of existing relevant Government policy". In preparing the NWRS the Department examined a number of national policies and laws to determine the extent to which the strategies, objectives, plans, guidelines and procedures, and institutional arrangements proposed in the Strategy are in harmony with the Act's requirement.

The policies and laws examined related to environmental management, coastal management, agriculture, the development and use of land, minerals, mining and energy, waste management,

spatial development, housing, health, rural development and urban renewal, disaster management, and local government development. Provincial planning and development legislation was also considered, together with many provincial development strategies as were available.

In general terms no fundamental conflicts were identified between the proposals in the NWRS for implementing the provisions of the Act and the policies and laws examined. However, it is evident that policy, legislation and development planning do not always take the availability of water into account and that there is an assumption that water can always be made available for any development initiative.

The Department will continue to foster co-operative relationships with relevant departments in all spheres of government to ensure that the NWA is implemented in harmony with their mandates. (See also the discussion on integrated water resources management in Chapter 1)

5.3 SPECIFIC REQUIREMENTS OF OTHER NATIONAL LEGISLATION

A number of national laws impose specific requirements on the Department and the water management institutions established in terms of the Act as they carry out their mandates in respect of water resources management.

5.3.1 The Water Services Act, 1997 (No. 108 of 1997) (WSA)

5.3.1.1 Alignment of water resources management and water services provision activities

During the process of reviewing the Department's organisational structure (see Part 5 of Chapter 3), a number of interfaces were identified between water resources management and water services provision where streamlining and integration are required, as follows:

Strategy and planning: Aligning strategies and planning for water resources management and the provision of water services, particularly in respect of the links between the catchment management strategies required by the Act and the water services development plans required by the WSA.

Water use regulation: Co-ordinating the common regulatory and audit functions for water resources management and water services, including monitoring and managing compliance with the conditions of water use.

Implementation: Promoting partnerships for developing and managing water resources infrastructure, and implementing interventions in, for instance, water quality management and water demand management.

Institutional support: Sharing capacity for empowering, co-ordinating and supporting water management and water services institutions, and transferring functions to them.

Information management and communications: Integrating or linking information systems and technology, and co-ordinating communication with external stakeholders and partners.

Furthermore, the Act contains specific requirements for water resources management activities to support the provision of water services. These are discussed below.

5.3.1.2 Water services development plans

Section 9 of the Act requires catchment management strategies to take account of the development plans prepared in terms of the WSA. All metropolitan and district municipalities, all of which are designated as water services authorities, and any local municipalities authorised to fulfil the role of a water services authority, must prepare water services development plans in terms of the WSA. These plans form part of the Integrated Development Plans that municipalities must prepare in terms of the Municipal Systems Act, 2000 (No. 32 of 2000).

A water services development plan will be a responsible authority's (see Part 5 of Chapter 3) principal source of information for determining water allocations to a municipality and issuing a licence (see Part 2 of Chapter 3). The plan's requirements must be accounted for in the responsible authority's catchment management strategy. Some of the data in water services development plans will be incorporated into the national water resources information system (see Part 6 of Chapter 3) and will therefore contribute to national water resources planning. The plans should also contain details of water demand management and conservation measures (see Part 4 of Chapter 3) and contingency plans for water-related disasters (see Part 7 of Chapter 3).

For its part, when preparing its water services development plan, a water services authority must refer to the relevant catchment management strategy for information about the availability of water to support proposed water services targets, the source of the water, and the requirements for the quality of waste water that is to be returned to the water resource after use.

5.3.1.3 Regulations under the Water Services Act

Section 6(1)(a)(ii) of the Act requires the strategies in the NWRS to support the achievement of compulsory national standards prescribed under section 9(1) of the WSA. The Regulations prescribe standards for a range of water services issues^[2]. The main relationships between the regulations and requirements for water resources management are as follows -

- **Basic sanitation:** The design of sanitation facilities must take account of the potential for polluting water resources, especially with regard to groundwater.
- **Basic water supply:** Basic human needs are included in the Reserve described in the NWRS.
- **Quality of potable water:** The quality of water in rivers, dams and groundwater aquifers has a direct impact on the costs incurred by water services institutions when treating water to prescribed standards.
- **Control of objectionable substances and disposal of grey water:** The Act provides for the establishment of standards for the discharge of waste or water containing waste into a water resource by regulation, and provides for the inclusion of these standards in the conditions attached to licences and general authorisations.
- **Use of effluent:** The use of effluent for irrigation or to recharge a groundwater aquifer are controlled activities under section 37 of the Act and must be authorised by a responsible authority.
- **Quantity and quality of industrial effluent discharged into a sewerage system:** The capacity of sewage treatment works to meet their licence conditions under the Act will influence the type of effluent the water services institution can accept into its sewers.
- **Water services audit, water and effluent balance analysis and the determination of water losses; the repair of leaks; measurement or control of water supplied; pressure in reticulation system; and reporting of non-compliance:** These relate to the requirements of the water conservation and water demand management strategy for the domestic sector.

5.3.1.4 Water services tariffs

Section 56 of the Act requires that the pricing strategy for water use charges supports the establishment of tariffs by water services authorities. The relationship between the national water pricing strategy and the establishment of tariffs under the Water Services Act is discussed in Part 4 of Chapter 3.

5.3.2 Environmental legislation

Water resources management is subject to the requirements of national environmental legislation as contained in the National Environmental Management Act, 1998 (No. 107 of 1998)

(NEMA) and those parts of the Environment Conservation Act, 1989 (No. 73 of 1989) (ECA) that have not yet been repealed by NEMA.

NEMA defines the Department as a national department that exercises functions that may affect and which involve the management of the environment. Regulations made in terms of ECA define activities that may have a substantial detrimental effect on the environment. These include most of the water-related activities for which the Department is currently responsible under the Act. The Department is therefore obliged not only to ensure that all activities related to the management of water resources are carried out in accordance with the requirements of the Act, but also that they comply with the requirements of NEMA, ECA and other related environmental legislation.

5.3.2.1 Consolidated environmental implementation and management plan

In terms of NEMA, the Department has prepared and published a Consolidated Environmental Implementation and Management Plan (CEIMP) that describes, among other things, the Department's functions, policies, plans and programmes, and how these comply with environmental legislation. The plan also describes existing and proposed co-operative arrangements with other departments in all spheres of government that will ensure their compliance with water-related policy and legislation. The CEIMP must be reviewed and revised as necessary at least every four years, and annual progress reports must be submitted to the Department of Environmental Affairs and Tourism (DEAT).

Other departments (listed in Schedules 1 and 2 of NEMA) must also prepare Environmental Implementation and/or Environmental Management Plans. All plans must be assessed by the Committee for Environmental Co-ordination, of which the Department's Director-General is a member, to ensure that they comply with environmental legislation and are in harmony with one another. The plans are therefore important tools for promoting a consistent and co-operative approach to environmental management.

5.3.2.2 Integrated environmental management framework

In its CEIMP the Department has committed itself to developing and implementing an integrated environmental management framework to ensure that its approach to environmental issues is aligned with the national environmental principles described in NEMA, and complies with the requirements of NEMA and the Act. In particular, the framework will ensure that environmental considerations are addressed throughout the life cycle of all water-related projects and activities at both strategic and project levels. A range of appropriate environmental assessment and management tools, such as strategic environmental assessment, biophysical, social and health impact assessment, risk analysis and environmental management plans, will be developed and implemented to facilitate sound environmental practices.

5.3.2.3 Environmental reporting

NEMA requires DEAT to prepare an Annual Performance Report on Sustainable Development in terms of government's commitment to Agenda 21, the United Nations' plan of action to achieve sustainable development that was agreed at the 1992 Earth Summit in Rio de Janeiro. As part of this commitment DEAT also intends producing regular State of the Environment Reports for South Africa. The first edition was published in 1999.

The Department's contributions to national environmental reporting will be co-ordinated through the integrated environmental management framework and will be facilitated by the preparation of regular State of Water Resources Reports. These reports will include information that will highlight progress in achieving the environmental objectives of the Act. The reports will indicate areas where new interventions or intensified efforts are required, and thus inform the content of subsequent editions of the NWRS.

5.3.2.4 Management of waste disposed onto land

By agreement with DEAT the Department has a mandate in terms of section 20 of the ECA to oversee the management of waste disposal onto land. The Minister is responsible for issuing permits for waste disposal sites and for issuing directives concerning the management of the sites. However, Parliament has approved an amendment to the ECA that transfers this responsibility to DEAT. The transfer of the function will take place according to a timeframe agreed between the departments, with the intention of effecting the transfer by April 2005. The Department will retain responsibility for reviewing permits.

5.3.3 National disaster management legislation

The National Disaster Management Act (No. 57 Of 2002) was promulgated in January 2003. (see Part 7 of Chapter 3). The Department's obligations in terms of the new legislation are expected to be as follows -

- To support the Minister's participation in the Inter-Governmental Committee on Disaster Management.
- To represent the Department on the National Disaster Management Advisory Forum. A senior departmental official will be the official representative at national level for all water-related disaster management issues.
- To contribute to the development of the National Disaster Management Framework. The Department will take the lead in developing the component of the framework that deals with floods caused either by extreme, naturally occurring rainfall events, or by dam failures, and will also play a key co-ordinating role in implementing the flood policy. The Department will also contribute to the development of other components of the framework, notably those dealing with droughts, environmental emergencies, epidemics, veld and forest fires, weather warnings, international aspects and urgent responses.
- To provide relevant information to the National Disaster Management Centre's information system. It is expected that most of the water-related information required for emergency and disaster management will progressively become available on the Department's information system, which must be linked with that of the Centre. The Department has played a leading role in the development of information systems at the Centre and routinely makes information available to the system.
- To prepare a departmental disaster management plan on water-related matters, ensuring that catchment management strategies and the business plans of water user associations include disaster management planning, and that contingency plans for water-related disasters are included in all Water Services Development Plans and business plans prepared by water services authorities and institutions.
- To co-ordinate the water sector's representation on forums established to identify disaster-related priorities and requirements for development at national, provincial and local levels.
- To ensure regional interactions, co-ordinated through the Southern African Development Community Water Sector, with neighbouring countries in internationally shared river basins.

5.3.4 Public Finance Management Act (No. 29 of 1999)

The Department is subject to all relevant provisions of the Public Finance Management Act, 1999 (PFMA) and its associated Treasury Regulations. In addition to requirements relating to financial and asset management, the Department has important reporting obligations in terms of the PFMA, as follows -

- The Department must prepare a Strategic Plan containing details of its functional intentions and financial provisions for a three-year period. The plan must be updated annually.
- The Department must submit quarterly progress reports to the Minister and Annual Reports to the National Treasury detailing its performance against the intentions set out in the Strategic Plan.

The Department will ensure that the Strategic Plan and the NWRS are closely aligned to each other.

In discussions with the National Treasury the Department will clarify the status of catchment management agencies and water user associations under the PFMA, and the extent to which they will be subject to the requirements of the PFMA

5.3.5 Promotion of Access to Information Act (No. 3 of 2000)

The Department has responsibilities under the Act to make water-related information available to the public, particularly in respect of actual or potential disasters and emergency situations (see Part 7 of Chapter 3).

The Promotion of Access to Information Act, 2000 (PAIA) gives effect to the constitutional right of access to any information held by the Department that is required for the protection of any rights. Section 15 enables the Department to make certain information available automatically without a person having to request access in terms of the PAIA. The Department will define and declare such information, which is expected to include the greater part of water-related information.

All relevant provisions of the PAIA will apply to catchment management agencies and water user associations.

5.3.6 Promotion of Administrative Justice Act (No. 2 of 2000)

The Act provides the right of appeal to the Water Tribunal, but the matters on which an appeal can be made are limited to those specified in the Act (see Part 5 of Chapter 3).

The Promotion of Administrative Justice Act, 2000 (PAJA) applies to all administrative actions and reinforces the necessity for water resource managers to apply their minds to every aspect of the decision-making process and to ensure that every relevant aspect is taken into consideration. Alleged breaches of administrative procedures that are beyond the scope of the Act will be adjudicated by the courts, and not by the Water Tribunal.

All relevant provisions of the PAJA will apply to catchment management agencies and water user associations.

5.4 INTER-GOVERNMENTAL PLANNING

The Constitution provides for three spheres of government - national, provincial and local - which are "distinctive, inter-dependent and inter-related". Whilst each sphere of government is responsible for planning the activities for which it is constitutionally mandated, the activities and the plans and strategies that guide them must be aligned with one another and with those of other spheres of government. This alignment is achieved within the inter-governmental planning system, in which there is mutual co-operation and sharing of information. In particular, provincial and local governments must have the opportunity to participate in the development of national plans and strategies, and in making decisions that will affect their areas of jurisdiction.

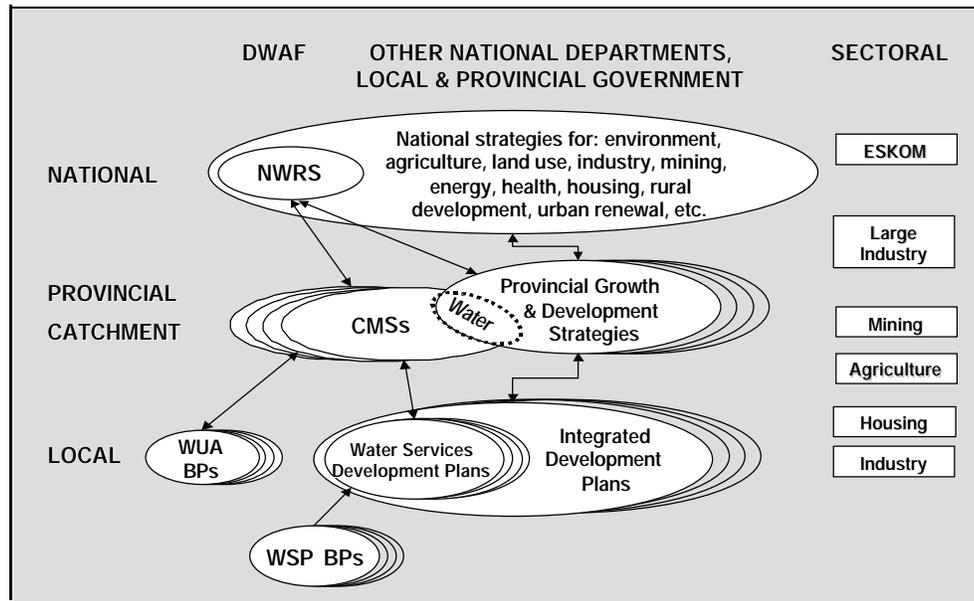
Accordingly –

- National government provides a framework of common policies and principles, and co-ordinated and prioritised programmes, within which provincial, municipal and sectoral planning can take place;
- Provincial growth and development strategies provide a more specific framework for the development of projects and programmes on a provincial level, as well as the co-ordination of sectoral and municipal planning; and
- Under the Municipal Systems Act, 2000 district municipalities are required to prepare five-year Integrated Development Plans to guide and inform all aspects of planning, implementing

and managing service provision in their areas. The plans must be compatible with national policy and legislation and be aligned with provincial strategies and plans.

Fig. 5.1 illustrates in broad terms the links between the strategies and plans for water resources management and water services provision, and the strategies and plans of other national, provincial, municipal and sectoral interests.

Fig 5.1: Water-related planning in the national planning framework



CMS - catchment management strategy; WUA - water user association; WSP - water services provider; BP - business plan.

5.5 NATIONAL PROGRAMMES

To increase the focus on the development of rural and urban communities, two national programmes have recently been launched to integrate relevant programmes in all spheres of government.

5.5.1 The Integrated Rural Development Programme

The Integrated Rural Development Programme was launched by the Office of the Presidency in 2000 with the aim of facilitating the provision of improved opportunities for the rural poor. The vision of the programme is to "*attain socially cohesive and stable rural communities with viable institutions, sustainable economies and universal access to social amenities, able to attract and retain skilled and knowledgeable people, who are equipped to contribute to growth and development.*" Local government will play the central role in implementing this programme. It will initially be implemented in selected pilot areas and will subsequently be expanded to cover the entire country. The programme is co-ordinated by the Department of Provincial and Local Government.

The availability of water is one of the key factors in rural development. The provision of basic water services is essential, but water resources management strategies will also be developed and implemented with a view to promoting rural development, particularly poverty eradication. The Department is co-operating with other government departments to ensure that the management of water resources can contribute to the programme's aims. Activities and interventions include the following -

- Modifying water resources management programmes and priorities, as required, to account for the priority areas identified in the programme.
- Ensuring that rural development features strongly in catchment management strategies.
- Identifying rural water needs and opportunities, with specific allowance being made for rural development and the improvement of social conditions and livelihoods when water is re-allocated by compulsory licensing. Particular attention will be paid to identifying potential rural users, in addition to registered users, when licence applications are called for during the compulsory licensing process.
- Ensuring that communities are represented on the management bodies of water management institutions.
- Ensuring that communications, awareness creation and education programmes are appropriate for rural communities.

5.5.2 The Urban Renewal Strategy

The Urban Renewal Strategy is also co-ordinated by the Department of Provincial and Local Government. It parallels the objectives of the Integrated Rural Development Programme, but focuses on achieving cohesion and stability in urban communities.

The ways in which the management of water resources can support urban renewal is less obvious than for rural development, but include the following -

- Contributing to the planning and development of urban river floodplains to ensure public safety, and the safety of infrastructure, during floods.
- Contributing to the health of urban rivers as social amenities by, amongst other things, ensuring compliance with licence conditions for the discharge of waste.
- Supporting public awareness campaigns on the value of urban rivers as social amenities and assisting with clean-up campaigns.

5.6 INTERNATIONAL CO-OPERATION IN WATER MATTERS

South Africa interacts on water issues with a number of countries both within and beyond Africa. Issues addressed range from water sharing agreements in international river basins with neighbouring countries to arrangements for sharing technical information and other resources with developing and developed countries.

South Africa is also party to a number of international conventions that relate to water, such as the United Nations Conventions on Biological Diversity and Combating Desertification, the United Nations Framework Convention on Climate Change, and the Ramsar Convention on Wetlands.

5.6.1 Water sharing arrangements with neighbouring states

South Africa shares four major river systems - the Orange / Senqu, Limpopo, Inkomati and Usutu / Pongola / Maputo - with its six immediate neighbours, Botswana, Lesotho, Mozambique, Namibia, Swaziland and Zimbabwe. The total area covered by the four catchments in South Africa is equal to about 60 per cent of the country's surface area, and the mean annual flow in the rivers amounts to about 40 per cent of the total average river flow in the country. Harmonious relationships with the countries with whom international rivers are shared are therefore of considerable importance and require significant technical and political interaction. A

number of bilateral and multi-lateral commissions and committees, listed below, have been established between South Africa and its neighbours. Although the bodies have a range of purposes (see Part 5 of Chapter 3) they also act as forums where co-operative arrangements for the utilisation and development of shared water resources can be discussed.

- Botswana/RSA Joint Permanent Technical Water Committee
- Lesotho Highlands Water Commission (LHWC) (Lesotho, RSA)
- Limpopo Basin Permanent Technical Committee (LBPTC) (Botswana, Mozambique, RSA, Zimbabwe)
- Mozambique/RSA Joint Water Commission
- Orange/Senqu River Basin Commission (Botswana, Lesotho, Namibia, RSA)
- Permanent Water Commission (PWC) (Namibia, RSA)
- Swaziland/RSA Joint Water Commission
- Swaziland/Mozambique/RSA Tripartite Permanent Technical Committee (TPTC)

The Orange/Senqu River Basin Commission was established in 2000 with the objective of developing an integrated water resources management plan for the river basin. The agreement to establish the Limpopo Watercourse Commission was signed in November 2003. The Incomaputo Agreement, which governs the use of shared waters in the Komati and Pongola river catchments, was signed in 2002. The agreement will be administered by the Swaziland/Mozambique/RSA TPTC until a river basin commission is established. It is anticipated that commissions^[3] will be established for the other two shared river basins during the next eight to ten years. An indicative programme for activities relating to the establishment of the commissions and their work is presented in Part 8 of Chapter 3.

All technical agreements on water sharing become effective only when they are ratified by each State, with a view to establishing a formal international agreement.

The Act is one of the few national water laws in the world that makes specific provisions for water allocations for meeting the needs of neighbouring countries with which watercourses are shared (see section 6, Appendix B). The quantitative provisions for meeting international water sharing obligations in respect of each shared watercourse are discussed in Chapter 2 and Appendix D.

5.6.2 Co-operation in the Southern African Region

Co-operation on water matters in southern Africa takes place within the framework of the Revised Protocol on Shared Watercourses in the Southern African Development Community (the SADC Protocol)^[4]. Amongst other things, the SADC Protocol addresses co-operation in respect of the harmonisation of national water policies and legislation, collecting and sharing data and information, conducting surveys and studies, developing physical infrastructure, mitigation of the effects of floods and droughts and, in general, the management of water resources for the mutual and equitable benefit of States that share watercourses. The SADC Protocol also provides for the creation of river basin management institutions to undertake these functions (refer to section 5.6.1 above).

Activities relating to the implementation of the SADC Protocol are co-ordinated by the recently created Division for Water in the Directorate for Infrastructure and Services in the SADC Secretariat in Gaborone, Botswana^[5]. The Division for Water is in the process of initiating a number of projects under the Regional Strategic Action Plan for managing and developing the water resources of the region which, when they are implemented, will give substance to the SADC Protocol's provisions.

5.6.3 Other international relationships and interactions

South Africa also interacts with a number of African countries outside the SADC region, and with countries elsewhere in the world, to develop partnerships in water management matters that could be of mutual benefit.

The objectives of these interactions include the promotion and advancement of the New Partnership for Africa's Development (NEPAD); the sharing of information, technology and expertise; the creation of opportunities for South African enterprises to work internationally; and ensuring that African interests are reflected on the agendas of global water organisations and forums.

In this respect, a number of water resources practitioners from other countries have worked with the Department in terms of training and technical assistance agreements, and reciprocal exchanges of information, especially with regard to water legislation, take place with countries and Africa and elsewhere in the world. In some cases discussions on water matters take place under the umbrellas of bi-national commissions.

5.6.4 International donor co-operation

In recent years the Department has enjoyed considerable overseas development assistance, both of a financial nature and in-kind, from a number of bilateral and multilateral agencies for water resources management, water services and forestry initiatives and projects.

The Department will continue to seek assistance from other countries to achieve its goals of equity and sustainability in water management. Future donor support is expected to focus particularly on support for projects of a regional significance. The Department will continue to collaborate actively with appropriate agencies to promote the objectives of NEPAD.

Notes to Chapter 5

- ¹ Constitutionally, the legislative responsibility for water resources management lies with the national government. There are, however, many water-dependent and water-impacting activities for which the national government and provincial and/or local governments share legislative competence. The latter competencies are described in Schedules 4 and 5 of the Constitution.
- ² Regulations on Compulsory National Standards and Measures to Conserve Water in terms of sections 9(1) and 73(1)(j) of the Water Services Act (Government Notice R509, 8th June 2001) relate to: Basic sanitation; Basic water supply; Interruption in provision of water services; Quality of potable water; Control of objectionable substances; Disposal of grey water; Use of effluent; Quantity and quality of industrial effluent discharged into a sewerage system; Water services audit as a component in the Water Services Development Plan; Water and effluent balance analysis and determination of water losses; Repair of leaks; Measurement or control of water supplied; Consumer installations other than meters; Pressure in reticulation system; Reporting of non-compliance.
- ³ The Inkomati and Usutu / Pongola / Maputo systems are adjacent to one another and are both shared by Mozambique, South Africa and Swaziland. The establishment of a joint basin commission for the two systems may be considered.
- ⁴ The Revised SADC Protocol on Shared Watercourses, revised to align it with the United Nations Convention on the Law of the Non-navigational Uses of International Watercourses, has been ratified by the required two thirds of member states, including South Africa, and came into force in September 2003. South Africa has also signed and ratified the UN Convention, but ratification by other States is required before it comes into force.
- ⁵ The Division for Water has been created in the restructuring of SADC structures, and replaces the SADC Water Sector, which was led by Lesotho.