

## Chapter 20:24 Water (Catchment Councils) Regulations, 2000

1 These regulations may be cited as the Water (**Catchment Councils**) Regulations, 2000.

2 In these regulations—

**"annual general meeting"** means the annual general meeting of of subcatchment councils convened in terms of subsection (1) or section *eight*;

[Definition inserted by SI 242/00 with effect from the 15th September,2000]

**"returning officer"** means a person appointed in terms subsection (2) of section *three*;

[Definition amended by SI 243/00 with effect from the 15th September,2000]

**"stakeholder"** means any person residing within the area of jurisdiction of a subcatchment council who has an interest in water resources;

"stakeholder group"

[definition repealed by SI 242/00 with effect from the 15th September,2000]

"stakeholder representative"

[definition repealed by SI 242/00 with effect from the 15th September,2000]

**"waste"** means unwanted products or by-products, including waste water;

[Definition amended by SI 243/00 with effect from the 15th September,2000]

**"waste water"** means effluent or water which has been produced by or results from the use of water for any purpose;

[Definition substituted by SI 243/00 with effect from the 15th September, 2000]

" Water Act"..

[Definition repealed by SI 242/00 with effect from the 15th September, 2000]

" water storage works "..

[Definition repealed by SI 242/00 with effect from the 15th September, 2000]

" water works "..

[Definition repealed by SI 242/00 with effect from the 15th September, 2000]

3 (1) As soon as possible after publishing a notice in terms of section 20 of the Act, establishing a catchment council, the Minister shall appoint a member of the Public Service or the Zimbabwe National Water Authority to be the returning officer for the purposes of convening and presiding over the inaugural meeting of the catchment council.

(2) **No later than 30 days** before the date appointed by the Minister as the date on which the first catchment council concerned shall be constituted after it is established, the returning officer shall serve on all subcatchment councils within the river system in respect of which the catchment council was established a notice—

(a) inviting the members of each subcatchment council to elect from their membership persons to fill the vacancies on the catchment council allocated to the subcatchment council in terms of the notice establishing the catchment council concerned;

Provided that the chairperson of each subcatchment council shall be deemed to have been elected as a member of the catchment council;

(b) appointing a day and time on or before which the names of the members elected to the catchment council must be submitted to the returning officer, which day shall not be later than the date of the meeting fixed in terms of paragraph (c);

(c) inviting the members elected to the catchment council to attend a meeting at a specified date, time and place for the purpose of the presentation of the members who will form the catchment council.

(3) The returning officer shall not accept the election of any person as a member of the catchment council unless such person is a member of a subcatchment council within the river system in respect of which the catchment council was established, and there is produced to the returning officer by the subcatchment council concerned the minutes of a meeting held by the subcatchment council showing that the person was duly elected by the subcatchment council to represent it in the catchment council.

(4) The quorum at a meeting convened in terms of subsection (2) shall be members of subcatchment representing **not less than**  $\frac{2}{3}$  of the subcatchment councils within the river system in respect of which the catchment council concerned was established.

(5) If, within an hour after the time specified for the commencement of a meeting convened in terms of subsection (2) no quorum is present, the meeting shall stand adjourned to the same day in the following week, at the same time and place:

Provided that, if the same day in the following week is a public holiday, the meeting shall be adjourned to the next working day.

[Subsections (2) to (5) substituted by SI 242/00 with effect from the 15th September,2000]

(6) If, within an hour after the time specified for the commencement of a meeting stand adjourned to the same day in the following week, at the same time and place:

Provided that, if the same day in the following week is a public holiday, the meeting shall be adjourned to the next working day.

(7) If, within an hour after the time to which a meeting has been adjourned in terms of subsection (6), the quorum specified in subsection (5) is not present, the subcatchment representatives present shall constitute a quorum.

(8) The business of a meeting held in terms of this section shall be the presentation of the elected subcatchment members who shall form the catchment council.

(9) At the beginning of a meeting held in terms of this section, the returning officer shall announce the names of the persons who have been elected to the catchment council by their subcatchments.

(10) The returning officer shall record the names of all subcatchments to whom he has sent a notice in terms of subsection (2) and of all stakeholders under the jurisdiction of the catchment council present at the meeting held in terms of this section.

(11) The Minister may, in the notice establishing the catchment council concerned, provide for a method of electing or appointing its members other than the one provided for in this section.

(12) If any subcatchment council fails to elect any members to represent it in the appropriate catchment council the Minister may appoint a member on its behalf to represent it until the next annual general meeting held after the member's appointment.

[Subsection (11) substituted by and subsection (12) inserted by SI 242/00 with effect from the 15th September,2000]

4 (1) Subject to subsection (2), a member shall hold office for a **term of 3 years**, unless the Minister has fixed a different term of office for members of a catchment council in a notice published in terms of section 20 of the Act.

(2) Of the members of a subcatchment council elected in terms of section *three*—

[amended by SI 243/00 with effect from the 15th September,2000]

(a)  $\frac{1}{3}$ , who shall be chosen by lot, shall vacate office at the 1st annual general meeting held after their election; and

(b) another  $\frac{1}{3}$ , who shall be chosen by lot, shall vacate at the 2nd annual general meeting after their election;

(c) the remaining  $\frac{1}{3}$  shall vacate office at the 3rd annual general meeting after their election.

(3) A member may at any time, by written notice to the chairperson of the catchment council, resign from his office.

(4) If a member dies, resigns or absents himself from 3 consecutive meetings without having previously obtained leave of the catchment council his office shall become vacant and the vacancy shall be known as a casual vacancy.

(5) A catchment council may co-opt any person to fill a casual vacancy:

Provided that the casual vacancy is among elected members.

(6)

[repealed by SI 243/00 with effect from the 15th September,2000]

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Provided that the casual vacancy is among elected members.

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[repealed by SI 243/00 with effect from the 15th September,2000]

5 (1) At the 1st meeting of a catchment council, following the inaugural meeting convened in terms of section three, and thereafter at its 1st meeting following an annual general meeting of subcatchment councils within the jurisdiction of the catchment council, a catchment council shall elect from among its members, a chairperson and a vice-person for the ensuing year.

(2) If a catchment council fails to elect a chairperson, the Minister may appoint a chairperson from among its members.

(3) If the chairperson or vice-chairperson of a catchment council retires, dies or otherwise vacates his office, the catchment council shall elect another chairperson or vice-chairperson, as the case may be, as soon as convenient after such retirement, death or vacation of office, and a chairperson or vice-chairperson so elected shall hold office for the remainder of the period during which his predecessor would have held the office.

(4) A vice-chairperson shall exercise the functions of the chairperson in terms of these regulations when, for any reason, the chairperson is unable to exercise his functions.

(5) The National Water Authority shall appoint a secretary to each catchment council in accordance with section 30 of the Act.

(6) Every catchment council shall have a treasurer, who—

- (a) shall be the accountant in the office of the catchment manager; and
- (b) shall keep a separate account for the business of the catchment council.

(7) The account of the catchment council shall be inspected by the chairperson of the subcatchment council and shall be open for inspection by any member of the catchment council.

(8) The account of the catchment council shall be audited annually by an auditor, registered as a public auditor, in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] or by such persons as the catchment council, with the approval of the Minister, may appoint.

[Subsections (5) to (8) substituted by SI 242/00 with effect from the 15th September, 2000]

6 (1) The 1st meeting of a catchment council following its establishment shall take place immediately after the inaugural meeting convened in terms of section *three* or on such later date and at such later time and place as the returning officer may direct.

(2) Meetings of a catchment council subsequent to its 1st meeting shall be convened by the chairperson or by the catchment manager on the directions of the chairperson.

(3) If requested, in writing, to do so by 3 or more members of a catchment council, the chairperson shall, **within, 14 days** of the request, convene a meeting of the catchment council to discuss the subject specified in the request.

(4) Notice of every meeting of a catchment council shall be sent to each member giving date, time and place of the meeting, together with its agenda, at least 7 days before the date of the meeting:

Provided that if—

- (a) a meeting has been convened on shorter notice than 7 days; and
- (b) the members present at that meeting constitute a quorum and unanimously vote to condone the short notice;

the meeting shall be as valid as if 7 days' notice had been given.

(5) If a member wishes any matter to be included in the agenda of a meeting of a catchment council in respect of which a notice has not yet been sent, the member may request the secretary to include the matter in the agenda of the 1<sup>st</sup> meeting following the request, and the secretary shall comply with any such request.

[Subsection (5) substituted by SI 242/00 with effect from the 15th September, 2000]

(6) A catchment council shall not, at any meeting discuss any matter that is not on the agenda for that meeting unless at least  $\frac{2}{3}$  of the members present agree to the matter being discussed.

(7) If the chairperson and vice-chairperson are for any reason absent from any meeting of a catchment council, the members present shall elect 1 of their member to preside at the meeting.

[amended by SI 242/00 with effect from the 15th September, 2000]

(8) Any person presiding at a meeting of a catchment council shall, in the case of any equality of votes, have a casting vote in addition to his deliberate vote as a member.

(9)  $\frac{2}{3}$  of the members of the catchment council shall constitute a quorum at any meeting of the catchment council.

(10) Save as is provided in this section and in subsections (8) and (9), the procedure to be followed at meetings of a catchment council shall be as fixed from time to time by the catchment council.

(11) Meetings of the catchment council shall be held at least 1 week after the subcatchment council of meetings to allow the tabling of issues discussed at subcatchment council meetings.

7 (1) Any resolution passed by a majority of the members present at a meeting of a catchment council shall be deemed to be the decision of the catchment council.

(2) No act or decision of a catchment council shall be invalid solely because—

(a) the catchment council consisted of fewer than the number of members provided for in the notice constituting the catchment council in terms of section 20 the Act;

[amended by SI 242/00 with effect from the 15th September, 2000]

or

(b) a person who was not qualified to do so took part in or voted at a meeting of the catchment council if a majority of the persons who carried the vote at the meeting were qualified to do so.

[amended by SI 242/00 with effect from the 15th September, 2000]

(3) Decisions relating to the disbursement of funds shall be carried by a  $\frac{2}{3}$  majority of the total membership of the council.

[substituted by SI 242/00 with effect from the 15th September, 2000]

## Chapter 20:24 Water (Catchment Councils) Regulations, 2000

8 (1) Subject to subsection (12) of the section, a catchment council shall convene an annual general meeting of subcatchment council members under its jurisdiction between **1st October and the 31st October** in each year for the purpose of—

- (a) receiving and considering the chairperson's report; and
- (b) considering for adoption the statement of accounts prepared in terms of section *ten* ; and
- (c) presenting elected members to fill vacancies created by members due to retire and to fill any casual or other vacancy in the number of elected members; and
- (d) transacting any other business that may be appropriate:

Provided that a catchment council need not convene an annual general meeting in the same year as it is established.

(2) The chairperson of a catchment council shall **within 21 days** after receiving a petition signed by **no fewer than**  $\frac{1}{4}$  of the subcatchment council members calling on him to do so, convene an extraordinary general meeting of subcatchment councils under the jurisdiction of the catchment council.

[amended by SI 242/00 with effect from the 15th September, 2000]

(3) The chairperson may any time convene a meeting of subcatchment councils having an interest in a particular public stream, for the purpose of discussing or dealing with any matter which affects those subcatchment councils rather than the generality of subcatchment councils under the jurisdiction of the catchment council.

[amended by SI 242/00 with effect from the 15th September, 2000]

(4) **At least 14 days** before the date fixed for a meeting convened in terms of subsection (1), (2) or (3), the secretary of the catchment council shall send a written notice of the meeting giving the date, time and place of the meeting, together with the agenda, and in the case of an annual general meeting, calling for nominations for members to be elected to fill any vacancies in the catchment council—

- (a) to each subcatchment council under the jurisdiction of the catchment council, in the case of a general meeting convened in terms of subsection (1) or (2); or
- (b) to each subcatchment council affected by the matter to be discussed or dealt with at the meeting, in the case of a meeting convened in terms of subsection (3).

(5) The statement of accounts of the catchment council for the past financial year shall be available for inspection at an annual general meeting convened in terms of subsection (1), and, if such accounts are not adopted, the reasons therefore and measures required for adoption shall be recorded in the minutes of the meeting.

(5a) The chairperson of the subcatchment council or, in the absence of the chairperson, the vice-chairperson, shall preside at every meeting convened in terms of this section and every adjournment thereof:

Provided that if, for any reason, neither the chairperson nor the vice-chairperson are present at a meeting, the person present may elect one of their number to preside.

[Subsection (5a) inserted by SI 242/00 with effect from the 15th September, 2000]

(6) Subject to subsection (8), the quorum at a meeting convened in terms of this section shall be  $\frac{2}{3}$  of the subcatchment council members under the jurisdiction of the catchment council or, in the case of a meeting convened in terms of subsection (3),  $\frac{2}{3}$  of the subcatchment council members affected by the matter to be discussed or dealt with at the meeting.

Provided that every subcatchment council shall be represented by at least 1 member of the subcatchment council.

[proviso inserted by SI 242/00 with effect from the 15th September, 2000]

(7) If, within an hour after the time specified for the commencement of a meeting convened in terms of this section, no quorum is present, the meeting shall stand adjourned to the same day in the next week, at the same time and place:

Provided that, if the same day in the next week is a public holiday, the meeting shall be adjourned to the next working day.

(8) If within an hour after the time to which a meeting has been adjourned, the quorum specified in subsection (6) is not present, the members of the subcatchment councils who are present shall constitute a quorum.

[Subsection (8) substituted by SI 242/00 with effect from the 15th September, 2000]

(9) A resolution in respect of any matter not included on the agenda attached to the notice of the meeting shall not be passed at any meeting convened in terms of this section unless **at least**  $\frac{2}{3}$  of persons present and entitled to vote at the meeting agree to the matter being discussed and determined.

(10) Save as provided in this section and in subsection (7), (8) and (9), the procedure to be followed at a general meeting convened in terms of this section shall be determined by the person presiding.

(11) **No later than 30 days** before the date of every annual general meeting the secretary of the catchment council shall serve on all subcatchment councils within the river system in respect of which the catchment council was established a notice—

(a) inviting the members of each subcatchment council to elect from their membership persons to fill the vacancies on the catchment council allocated to the subcatchment council in terms of the notice establishing the catchment council concerned:

Provided that the chairperson of each subcatchment council shall be deemed to have been elected as a member of the catchment council;

(b) appointing a day and time on or before which the names of the members elected to the catchment council must be submitted to the secretary, which day shall not be later than the date of the annual general meeting;

and subsections (3), (9), (11) and (12) of section *three* shall apply in respect of the election and presentation of the members of the catchment council as if references to the inaugural meeting and returning officer in those provisions were references to the annual general meeting and secretary of the catchment council respectively.

[Subsection (11) substituted by SI 242/00 with effect from the 15th September, 2000]

(12) If, owing to circumstances beyond its control, a catchment council could not reasonably be expected to convene an annual general meeting in terms of subsection (1), the Minister may authorise the catchment council to dispense with such meeting and, in giving such authorisation, shall—

(a) direct that, in lieu of the presentation of the elected members, the election of the members of the catchment council be notified by post to all the subcatchment councils concerned;

[para (a) substituted by SI 242/00 with effect from the 15th September, 2000]

(b) specify the arrangements to be made regarding any other business that was to be conducted at the meeting.

(13)

[Subsection (13) repealed by SI 242/00 with effect from the 15th September, 2000]

9 (1) The minutes of any meeting held in terms of these regulations shall be taken and kept by the secretary of the catchment council concerned.

(2) The names of every person who was present at a meeting held in terms of these regulations and who voted on each resolution shall be recorded in the minutes kept in terms of subsection (1).

(3) A catchment council shall ensure that minutes kept in terms of subsection (1) are open for inspection at all reasonable times by any interested person.

10 (1) The treasurer for every catchment council shall keep proper accounts and other records relating thereto in respect of all the operations, undertakings and property of the catchment council.

(2) The treasurer shall prepare certified statements of account for each annual general meeting convened in terms of section *eight* and at such other times as the catchment council may direct.

(3) Every statement of account approved at an annual general meeting held in terms of section *eight* shall be certified as correct by the person presiding at the meeting and a copy thereof shall be transmitted to the Minister.

(4) A catchment council shall ensure that its books of account are open for inspection at all reasonable times by members of the catchment council.

(5) A catchment council shall open and operate 1 or more banking accounts for the purpose of—

(a) depositing any amounts allocated to it for operations or any donations and grants;

(b) withdrawing any amount of money to meet its financial obligations:

Provided that any such withdrawal will require the signature of the treasurer and chairperson or vice-chairperson of the catchment council.

[subsection (5) substituted by SI 242/00 with effect from 15th September, 2000]

(6) Decisions relating to financial disbursements shall be carried by not less than a  $\frac{2}{3}$  majority of the members of the catchment council attending a general meeting at which a quorum is present.

[subsection (6) inserted by SI 243/00 with effect from the 15th September, 2000]

11 (1) Subject to the Act catchment council shall—

[amended by SI 242/00 with effect from the 15th September, 2000]

(a) in conjunction with the National Water Authority, prepare and update and an outline plan for its river system in accordance with the Act;

[amended by SI 242/00 with effect from the 15th September, 2000]

(b) decide on and enforce all water allocation and reallocation in their area of jurisdiction;

(c) in conjunction with the National Water Authority, establish and maintain a database and information system for the catchment;

(d) develop and oversee programmes for catchment protection in accordance with the \*Environmental Management Act [*Chapter 20:27*] and in accordance with the water pollution control regulations;

**[Editor's Note:** The above Act replaced the Natural Resources Act [*Chapter 20:13*] with effect from the 17th March, 2003]

- (e) determine applications for the use of water and impose conditions considered necessary;
- (f) supervise and control catchment development through the outline plan and control activities in water courses, vleis, marshes, springs and swamps;
- (g) monitor, guide and if necessary correct the functioning of the subcatchment councils within their area of jurisdiction;
- (h) maintain registers of all permits issued for public access;
- (i) perform any other duties the Minister in consultation with the National Water Authority may assign.

[amended by SI 242/00 with effect from the 15th September, 2000]

(2) For the better exercise of its functions, a catchment council may delegate to subcatchment councils, either absolutely or subject to conditions, such of its functions as it thinks fit:

Provided that—

- (i) the power to grant permits shall not be delegated to a subcatchment council;
- (ii) the delegation shall not prevent the catchment council from exercising the functions concerned;
- (iii) the catchment council may amend or withdraw any decision of a subcatchment council in the exercise of its delegated functions.

12 A catchment council, subject to the Act may—

[amended by SI 242/00 with effect from the 15th September, 2000]

- (a) grant or refuse an application for a provisional permit or temporary permit for the use of water subject to such conditions as it thinks fit;
- (b) make all such inspections as may be necessary;
- (c) revise or cancel any existing permit in terms of the Act;
- (d) grant a permit for the construction of storage works and ensure compliance with the requirements under the Act.

## Chapter 20:24 Water (Catchment Councils) Regulations, 2000

13 (1) For the better exercise of its functions in terms of section 21 of the Act, a catchment council may—

- (a) employ, upon such terms and conditions as the catchment council may think fit, such consultancy services in such fields as it considers necessary to facilitate the effective discharge of its functions;

[para (a) substituted by SI 242/00 with effect from the 15th September, 2000]

- (b) in addition to the powers of inspection referred to in section 31 of the Act, exercise such of the powers of officers of the Ministry responsible for the administration of the Act referred to in the Schedule to the Act as the Minister may confer upon its members in terms of subsection (2) of section 21 of the Act;

[para (b) substituted by SI 242/00 with effect from the 15th September, 2000]

- (c) pay travelling expenses and attendance fees incurred by its members in attending meetings, in connection with the business of the catchment council;
- (d) pay expenses or allowances to its members or agents who are engaged in the work of the catchment council;
- (e) co-operate or, with the approval of the Minister, combine with any other catchment council or catchment councils in the performance of any function which the catchment council may lawfully perform;

[para (e) substituted by SI 242/00 with effect from the 15th September, 2000]

(f) institute and defend any legal proceedings on behalf of the catchment council and for that purpose sign any necessary powers of attorney;

(g) recommend to the Minister that a subcatchment council under its jurisdiction which is not performing be disbanded and a new one be formed;

(h) after investigation, suspend, amend or cancel any permit for non-compliance with its terms;

[para (h) amended by SI 242/00 with effect from the 15th September, 2000]

(i) require, receive and interpret records of water use submitted by the subcatchment councils;

(j) require the catchment manager to act on its advice on catchment council matters.

(2) The provisions of subsection (1) shall not be construed as limiting in any way the powers of catchment councils in terms of section 22 of the Act.

[Subsection (2) amended by SI 242/00 with effect from 15th September, 2000]

14 (1) Every application for a permit to abstract water or to construct water storage works within the area of jurisdiction of a subcatchment council shall be forwarded to the catchment council for assessment and processing within a month of its submission.

[Subsection (1) amended by SI 242/00 with effect from 15th September, 2000]

(2) The catchment council may require an application form to be lodged in the prescribed manner.

[Subsection (2) amended by SI 242/00 with effect from 15th September, 2000]

(3) The catchment council shall notify the applicant and any other persons whose interests are likely to be affected by such application and shall be given a period within which objections and comments may be lodged.

[Subsection (3) amended by SI 242/00 with effect from 15th September, 2000]

(4) An applicant shall be allowed time to make representations before a catchment council at a place, time and date set by the council.

(5) The records submitted in connection with an application or other matters for consideration by the catchment council shall be kept in the custody of the catchment manager and shall not be removed from his custody without his authority or that of the catchment council.

[Subsection (5) amended by SI 242/00 with effect from 15th September, 2000]

(5a) The records referred in subsection (5) shall be open for inspection by any member of the public during normal office hours;

[Subsection (5a) inserted by SI 242/00 with effect from 15th September, 2000]

(.6)

[Subsection (6) repealed by SI 242/00 with effect from 15th September, 2000]

15 The Minister in consultation with the catchment council shall from time to time set the permit application processing fees to cover the pertinent costs.

16 (1) Every member, employee and agent of a catchment council shall, subject to subsection (2), be an authorized person for the purposes of paragraph (j) of subsection (1) of section 118 of the Act (which provides for the offence of hindering or obstructing any authorized person in the exercise of any power conferred on that person by or under the Act).

(2) A catchment council shall ensure that its members, agents and employees are duly authorised in writing to carry out such duties and can produce such authority upon demand.

[Section 16 substituted by SI 242/00 with effect from 15th September, 2000]

