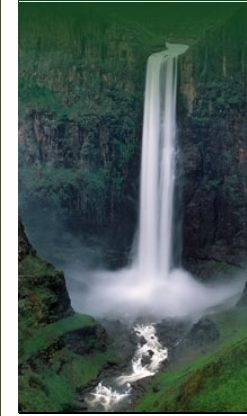




# Orange-Senqu River Awareness Kit

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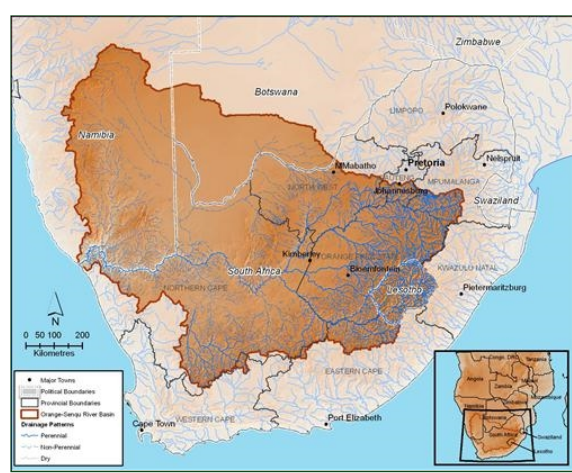
## National Water Laws in South Africa

Over the last fifteen years, South Africa has completely reworked its legislative and policy framework (Kranz *et al.* 2005). These changes have been guided by the **National Water Policy White Paper of 1997**. This document stipulates a benefits-sharing approach for international water resources, in accordance with the Helsinki rules. It favours work at the regional level for water management, to enable all affected parties to participate and to address the requirements of IWRM. Nonetheless the national government is assigned "central responsibility" for the water resources.

South Africa's waters are governed by the **Water Services Act of 1997** and the **National Water Act (NWA) of 1998**. The Acts are complementary and provide a framework for sustainable water resource management while enabling improved and broadened service delivery. The NWA is founded on the principle that all water forms part of a unitary, interdependent water cycle, and should thus be governed under consistent rules. It contains comprehensive provisions for the protection, use, development, conservation, management and control of South African water resources. The strategic objectives are stipulated in the **National Water Resource Strategy (NWRS; DWAF 2004)**.

Recent transformations in the water resource sector include a shift from central management to a decentralised system. Water Management Areas have been established, defined largely by hydrological catchment borders, and Catchment Management Agencies will be the main administrative bodies.

A Map of the Water Management Areas within the Limpopo River basin and within South Africa is presented below.



**South Africa in relation to the Orange-Senqu River basin.**  
 Source: Hatfield 2009  
 (click to enlarge)

The Department of Water Affairs is facing significant challenges implementing the new legislation, due to the complex nature of the legislation and challenges in dealing with existing rights (ORASECOM 2007b).

### Institutional Responsibilities

The Minister of Water Affairs is responsible for managing and administering water resources as the public trustee, ensuring that the country's water resources are managed for the benefit of all, that water is allocated equitably, and that environmental values are promoted. General water management functions are delegated to the Department of Water (DWA). The DWA is responsible for implementing the two major legal instruments relating to water: the Water Services Act No. 108 of 1997, and the NWA No. 36 of 1998. The NWA is to be implemented through the NWRS.

These laws significantly altered South Africa's institutional structure for the management of water resources. These acts promote integrated management with the catchment as the basic unit of management; 19 water management areas (WMAs) are delineated in South Africa, with each WMA intended to become the responsibility of a Catchment Management Agency (CMA). Currently, the WMAs are the responsibility of the DWA South Africa (ORASECOM 2007a). The NWA also provides for Water User Associations (WUAs) to be set up within a particular WMA.

Other institutions that maintain responsibility for different aspects of water management include (ORASECOM 2007a):

- The Water Tribunal, an independent body established under the NWA, to address appeals against any administrative decisions made by water management institutions
- The Department of Environmental Affairs and Tourism (DEAT) has links to water resources, since the provisions of the NWA must accord with environmental policy under the National Environmental Management Act (NEMA) of 1998
- District Municipalities, through Water Services Authorities (WSAs), are

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Explore the principles of Integrated Water Resource Management applied to the Orange-Senqu

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**ORASECOM**

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**Video Tour**

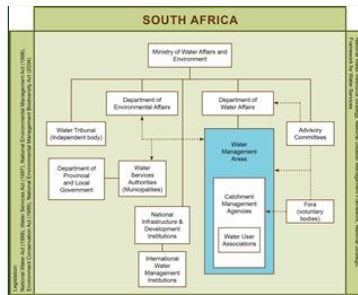
Tour video scenes along the Orange-Senqu River related to Governance

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responsible for delivering water supply and sanitation services under the Municipal Structures Act of 1998

- Advisory bodies are established to advise the Minister on specific issues, such as the Board of a CMA, or the Advisory Committee on the Safety of Dams

The institutional structures in South Africa are diagrammed below.



**National laws and institutions in South Africa.**

Source: Kranz et al. 2005; Department of Water Affairs and Forestry (DWAF) South Africa 2004; Department of Water Affairs South Africa 2009.  
( click to enlarge )

### Regulatory Framework for Transboundary Water Management

International water management is addressed in Chapter 10 of the NWA. This Chapter establishes guidelines for bi-national or multi-national bodies to be established to implement international agreements related to the management and development of transboundary water resources (ORASACOM 2007b). Existing bodies, such as, the Trans-Caledon Tunnel Authority, the Komati Basin Water Authority and the Vioolsdrift Noordoewer Joint Irrigation Authority, are discussed in Chapter 10 of the Act.

The **National Water Policy** also states that the government "will have the right to allocate water to downstream countries in preference to local water allocations", and for transboundary basins, "the whole shared catchment will be the basis for decision making, particularly where more than two countries are involved".

South Africa has ratified both the UN Convention and the Revised SADC Protocol.

### Regulatory Framework for Disaster Management

The **Disaster Management Act** was approved in 2002. The National Disaster Management Centre (NDMC) within the Department of Provincial and Local Government is the institution that implements policy directives through its provincial and district offices (UN Habitat/UNEP 2007). DWAF runs early warning system through monitoring river flows while Meteorological Services deal with rainfalls.

The Water Policy on Public Safety and Disaster Prevention acknowledges the disastrous nature of extreme events (i.e. floods and droughts) on environmental and socio-economic systems. The policy stresses the importance of integrated water resources management for mitigating against the impacts of disasters.

### Challenges

South Africa is in the process of reviewing policies and laws that aim to introduce second generation reforms (LBPTC 2010). The country's institutional setup is quite complex and there are multiple institutions involved in water management (SADC 2003a). There are also capacity concerns in the complex licensing system envisaged in South Africa and concerns that the process may become too bureaucratic and costly (SADC 2003a). DWA performs the role of an operator and a regulator and it has been recommended that these roles be separated (SADC 2003a).

Particularly with regard to the Orange-Senqu Basin, South Africa's institutional structure is highly complex (ORASECOM 2007a). Five WMAs and at least 20 WSAs have jurisdictions including the powerful Gauteng municipalities of cities of Johannesburg and Pretoria. The complexity of this institutional structure could extend the time needed to implement an adequate integrated management strategy internationally.

Documents related to the national water laws in [South Africa](#) can be found in the [Document Library](#).

**Next: Agreements** ►