

Compliance Framework – Taking Water from Prescribed Water Areas



Managing water take in prescribed areas

The Department for Environment and Water (the Department) functions to protect, manage and improve the health of South Australia's water resources including the management of surface water, groundwater and watercourse water. Prescribed water resources are managed to ensure water use is sustainable for the benefit of water users and the environment. There are 26 prescribed water resources across South Australia.

The taking and use of these water resources is managed under rules set out in [water allocation plans](#) and include the issuing of water licences and water allocations. A water allocation is the quantity of water permitted to be taken per annum (water year – being 1 July to 30 June). A water allocation is required to take water for licensable purposes (e.g. irrigation, industrial, commercial uses) from a prescribed resource.

The water licence (and if applicable, works approval and site use approval) include conditions that must be complied with, including that water use must be metered and usage reported to the Department, either quarterly or annually. Approximately 95% of water take from prescribed water resources in South Australia is metered, with only limited low risk exemptions permitted (for example stock and domestic water use).

It is a breach of the *Landscape South Australia Act 2019* and the conditions of a water licence to take more water than allocated, or without appropriate approvals under that Act. In order to confirm that a breach has occurred, the Department obtains meter readings, calculates usage, then if usage exceeds allocation, verifies usage both with the licence holder and if necessary, through site visits.

Once the breach is verified and the volume of unauthorised take known, the penalty is issued as an invoice to the holder of the water allocation. Given the verification processes required, it can take some time to issue these invoices.

This document provides a summary of the compliance approach used by the Department where water is taken in excess of, or without, allocation from a prescribed water resource.

Compliance and enforcement approach

The Department utilises a Water Licensing Compliance Framework to ensure that water-related breaches of the *Landscape South Australia Act 2019* are addressed in a consistent and transparent way.

The Water Licensing Compliance Framework outlines a multi-faceted approach for enforcing compliance which features a mandatory administrative penalty coupled with compliance escalation pathways.

Mandatory administrative penalties

Under section 88 of the *Landscape South Australia Act 2019*, administrative penalties are declared by the Minister to support compliance. Administrative penalties have been in place since 2006 and have been declared for most prescribed areas of the State.

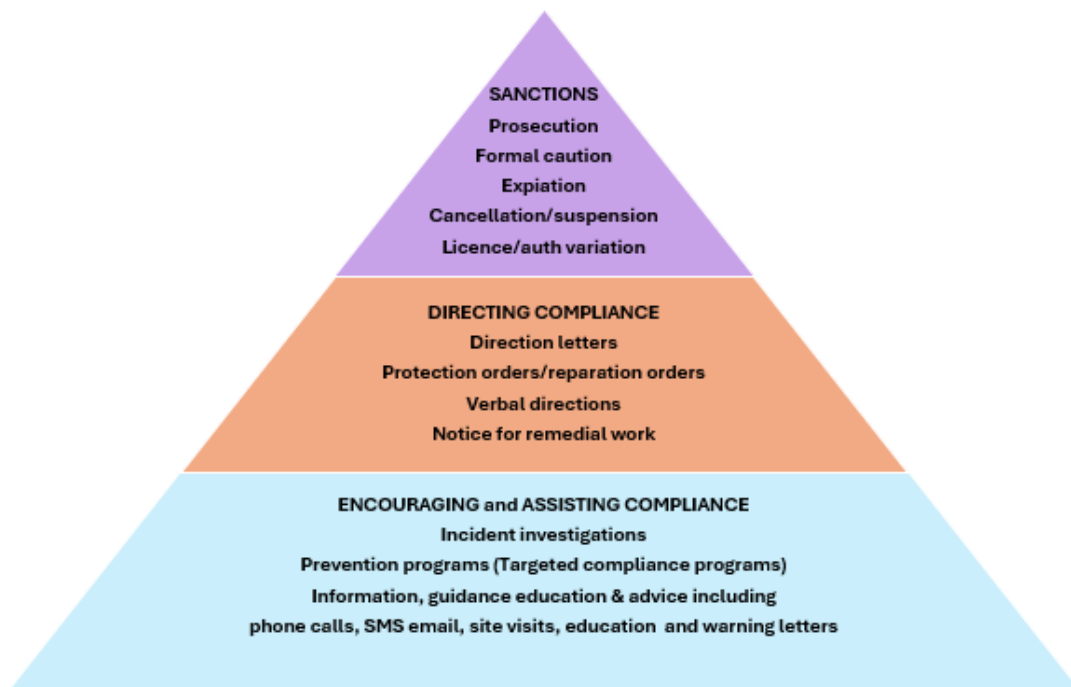
Penalty rates are calculated for each prescribed area with consideration of the market value of water (and for high-risk areas, the severity of the offence). These rates apply for every kilolitre of water taken without authorisation and act to deter the illegal take of water by ensuring penalty rates are set at a value that is considerably greater than the cost of purchasing water on the market.

Administrative penalties are calculated annually (or quarterly for the River Murray Prescribed Watercourse). More information about the current rates, and links to the gazette notice in which rates are published, are viewable [Department for Environment and Water - Water compliance](#).

Compliance escalation

The administrative penalty is used in conjunction with other compliance responses. The compliance pyramid below shows the three levels of compliance and enforcement response the Department applies to ensure compliance with regulatory obligations. For a given breach, the Department considers the other responses outlined in the pyramid and uses the discretionary factors provided at the end of this document (e.g. whether the breach was intentional, repeated, significant and the offender's response to compliance) to guide decision making.

As can be seen, the majority of compliance actions are at the bottom of the pyramid - designed to encourage and assist compliance. The next layer in the pyramid directs compliance through verbal and/or written notices. If appropriate, actions within the final, top layer can be used, which involves variation, suspension or cancellation of licence and criminal proceedings. It is not always necessary to undertake compliance actions in a staged approach (that is, moving progressively up the pyramid, starting at the base) and there may be occasions where implementing a sanction for a first offence is warranted.



Further information on the options within each layer of the pyramid is provided below.

Encouraging and assisting compliance

Where possible, water users are encouraged and assisted to comply to prevent and manage water-related breaches, including the following tools:

- Letters, emails, phone calls or SMS to remind you water users of their obligations.
- Education or warning letters with the information needed to either prevent or fix the breach.
- Site visits to inspect the site, either to investigate a possible breach or to help the water user to understand their obligations as a licence holder.

If the water user continues to breach after the above tools have been used, it may be necessary to escalate the compliance response. In instances of a more serious or repeated breach, the Department may go straight to the 'directing compliance' options or sanctions.

Directing compliance

These may include a:

- final reminder letter
- direction letter
- protection order
- reparation order
- notice for remedial work to fix an issue.

The Department may visit a site to inspect the work needed and issue a notice or order at that visit if the work remains outstanding.

Sanctions

Sanctions include:

- formal cautions
- expiation fees
- prosecution action, which may result in court ordered penalties
- suspension, variation or cancellation of authorisations or permissions- this can include suspension or cancellation of a water licence or the right to take water.

It is important to be aware that expiations apply for non-submission of meter reads on time across the State.

Where remediation action or other works are required and the work has not been completed, the Department may arrange for it to be done and will seek to recover the costs of this work from the water user.

Tools to help water users comply with obligations

The conditions on water licenses and/or works approval should be read carefully and understood.

Water users may check their water usage against allocation at any time, by:

- Lodging a meter reading using the [mywater portal](#). For help setting up a mywater login, water users may contact the DEW mywater Contact Centre on (08) 7133 7333.
- Lodging a meter reading using the alternative [online meter read form](#) (if a mywater login has not yet been setup) and then enquire with the mywater Contact Centre or the water user's regional water licensing office.

Further information

For access to mywater visit <https://www.environment.sa.gov.au/topics/water-and-river-murray/water-licences-allocations-and-markets/mywater-portal>

For water licence and permit forms, visit <https://www.environment.sa.gov.au/licences-and-permits/water-licence-and-permit-forms>

Find policies, legislation and guidance on metering at <https://www.environment.sa.gov.au/topics/water-and-river-murray/water-licences-allocations-and-markets/water-licences-accounts-and-metering/water-metering-and-reporting>

For further information on compliance visit <https://www.environment.sa.gov.au/topics/water-and-river-murray/water-licences-allocations-and-markets/water-licences-accounts-and-metering/water-compliance>.

mywater enquiries: Telephone - 08 7133 7333 or dew.mywater@sa.gov.au

Berri office: Telephone (08) 595 2053; Email DEW.Waterlicensingberri@sa.gov.au

Mount Gambier office: Telephone (08) 8735 1134; Email DEW.LCWaterLicensing@sa.gov.au

Adelaide office: Telephone 8463 6876 or email DEWwaterlicensing@sa.gov.au

Water Compliance Discretionary Factors

Principles

- The main purpose of compliance and enforcement for Water Licensing is to obtain compliance and change behaviour.
- Consequently, the most significant considerations when determining what course of action to take when facing a breach are the consequences/impact of the breach that is occurring or has occurred and the likelihood that the offender will come into compliance. It is also important to think beyond the immediate incident or event and look for improvement within the organisation or with an individual.
- Our role is to protect the resource, not to make a moral judgement about a person's gain. A court may take this into consideration when assigning a penalty.

Discretionary Factors

