

Security Interests

Transition of bills of sale and interests noted against water licences to The Water Register.



At a Glance

The Department for Environment and Water (DEW) administers the Landscape South Australia Act 2019 along with the Landscape South Australia (Water Register) Regulations (2020). This legislation enables The Water Register, which is also administered by DEW. From 1 July 2022, the legislation allows for security interests, caveats and other administrative improvements to The Water Register.

Since 2009, financiers seeking to secure a financial interest against a water licence have undergone a two-step process. They have registered a bill of sale under the Bills of Sale Act (1886) through Land Services SA, and separately, have applied to have their interest noted on The Water Register.

From 1 July 2022, the previous two step process will become a one step process. You will be able to lodge security interests against water licences directly on The Water Register, administered by DEW.

From 30 June 2022, the Bills of Sale Register will close and current bills of sale will be transitioned to The Water Register. Confirmed interests noted that do not have a corresponding bill of sale may also be transitioned and become security interests.

Transition Process

Prior to 1 July 2022, DEW will facilitate a transition program to the new arrangement and work with lodging parties to:

1. Confirm the currency of bills of sale
2. Confirm interests noted on The Water Register
3. Transition bills of sale and confirmed interests noted (on The Water Register) to security interests on The Water Register on 1 July 2022
4. Educate lodgers of the new business process requirements for the lodgment of security interests on The Water Register

To assist with this process, please register your initial interest to participate in the transition process by sending an email to: DEW.WaterLicensingProjects@sa.gov.au, with the contact details of your nominated liaison.

DEW officers will be in contact from mid-April 2022 with further information.

The process to transition bills of sale and interests noted that are confirmed will be a bespoke arrangement for each lodger. You will receive an email or letter with an attachment setting out current bills of sale as supplied from Land Services SA and interests noted on the Water Register. We will be asking you to check that these are accurate, and to indicate whether you want the interests noted to become security interests.

This information will enable the water register to commence on 1 July 2022 with verified security interests.

For any queries regarding the process outlined above please contact the DEW Enhanced Water Register Project team by email: DEW.WaterLicensingProjects@sa.gov.au or telephone: (08) 8463 3752.

Critical Dates

Please note the following dates ahead of the transition:

- Bills of Sale and associated dealings, such as discharges, during the two weeks leading up to Thursday 30 June 2022 must be lodged through face to face (not via drop and go) at Land Services SA. Where possible, lodgements in the last 4 days should be avoided, particularly postal lodgements. A document not received and registrable by close of business 30 June 2022 will not be processed by Land Services SA and will have to be lodged as a security interest on The Water Register.
- If you wish to transition interests noted to security interests, please provide the requested information by 31 May 2022

Further information

Why is the transition process necessary?

Since 2009, bills of sale over water licences have been registered under the Bills of Sale Act 1886 and administered by Land Services SA.

Interests noted against water licences have been registered on The Water Register and administered by DEW also since 2009. Generally speaking, when a bill of sale has been registered against a water licence, the lodger has applied to have their interest noted on The Water Register to alert administrators of The Water Register that the bill of sale exists.

Most lodgers of bills of sale therefore have a reciprocal interest noted on The Water Register. However, some anomalies exist. This requires us to undertake a confirmation and reconciliation process.

There are some instances where interests have been noted on The Water Register, but a reciprocal bill of sale has not been registered. Regulation 45 of the Landscape South Australia (Water Register) Regulations (2020) allows for these interests noted to become security interests on 1 July 2022, subject to a confirmation process.

There are also a small number of orphaned interests noted on The Water Register that were not discharged when the bill of sale was discharged.

DEW will work with all lodgers to ensure that the confirmed interests noted on The Water Register are transitioned to become security interests on 1 July 2022, while orphaned interests noted are deleted.

What is a security interest?

A security interest is a record made against a water management authorisation on The Water Register that secures the payment of a debt or the performance of some other obligation under a contract or other legally enforceable arrangement.

Security Interests:

- Provide the holder of the security interest with a legislative mechanism for the enforcement of the security interest in the case of a default by the holder of the interest in the water management authorisation to which the security interest relates
- Provide that certain dealings relating to the interest in the water management authorisation require the consent of the security interest holder
- Provide that a transfer of the water management authorisation does not expire the security interest unless the security interest is discharged beforehand
- Give priority to a security interest over other security interests in the order in which they are lodged, and over all unregistered interests
- Expire automatically 15 years after the date of registration (unless renewed or discharged earlier)

Security interests cannot be recorded against a water allocation, a delivery capacity entitlement, a site use approval or a water resource works approval.

How will security interests be registered from 1 July 2022?

Pursuant to Schedule 4 Clause 8 of the Landscape South Australia Act 2019 and Part 4 of the Landscape South Australia (Water Register) Regulations 2020, from 1 July 2022 security interests will be recorded on The Water Register against a water licence or all or part of a water access entitlement.

Lodgers will be required to lodge a form (similar to the one currently used by DEW to note an interest) via email. Once a lodgement is accepted by DEW, a receipt will be issued to the lodger.

Once the new online Water Register is operational, you will be able to lodge security interests via an online portal. We will be in touch with instructions prior to launch.

Legislation

The legislation referred to above can be accessed below:

- [Landscape South Australia Act 2019](#)
- [Landscape South Australia \(Water Register\) Regulations 2020](#)