# Security interests on The Water Register

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Government of South Australia
Department for Environment and Water

**From 1 July 2022 security interests will be recorded on The Water Register against water licences and water access entitlements.**

## 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 (such as a mortgage or charge).

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 water management authorisation to which the security interest relates
- Require that certain dealings relating to the water management authorisation require the consent of the security interest holder
- Guarantee that a transfer of the water management authorisation does not expire a security interest unless the security interest is discharged beforehand
- Give priority to security interests according to the order in which they are lodged and over all unregistered interests
- Expire automatically 15 years after the date of registration (unless extended or discharged earlier)

### Who can register a security interest?

To register a security interest, you must:

- Be a legal entity who holds an interest in a contract or other legally enforceable arrangement that secures the payment of a debt, or the performance of some other obligation (e.g. - a mortgage or charge); *and*
- Have the consent of both the water management authorisation holder and any existing security interest holder(s) or caveator(s).

### How is a security interest registered?

To register or discharge a security interest on The Water Register, submit a 'G4 – Application to register or discharge a security interest' form along with the required application fee.

You must provide the following information on the form:

- Security interest holder details
- Water licence/water access entitlement details
- Details of the security interest to be recorded, including:
  - Nature of the security interest contract/arrangement (mortgage or charge)
  - Priority of registration (if more than one security interest is registered)
  - Contract/arrangement reference number
  - Date contract/arrangement executed
  - Start date of contract/arrangement
  - Expected expiry date of contract/arrangement

The form must be executed by the security interest holder/s (the applicant) and the holder/s of the interest in the water management authorisation to which the security interest relates (the authorisation holder/s).

To lodge the form, please either:

- Lodge the completed form in person at any of the three regional counters listed at the bottom of the form. The fee will be payable at the time of lodgement.

- Scan the completed form and email it to any of the three regional offices listed at the bottom of the form. The applicant will then be contacted by a DEW representative to organise EFT payment via telephone.

Once processed, the applicant will receive a letter to the email address provided on the application form notifying them of the result. DEW will aim to process these applications within 5 business days from lodgement.

Unlike the past process required to lodge a bill of sale, applicants will no longer be required to draft their own documents. In most cases, you will not be required to provide documentation supporting the existence of the security interest unless this is specifically requested by the Department for Environment and Water (DEW).

## How is a security interest enforced?

Where a security interest is registered over a water management authorisation to secure a debt, and the holder of the interest in that water management authorisation is in default of that debt, the holder of the security interest can initiate action to enforce the security interest.

The process to enforce a security interest consists of a number of steps as defined by Regulation 18 of the *Landscape South Australia (Water Register) Regulations 2020*. A summary of these steps is outlined below:

- Notice must be given to the defaulter or any other person with an interest in the water management authorisation, any other person with a security interest or caveat registered over the water management authorisation and the Minister.
- The defaulter is given 30 days to rectify the default.
- If the default is not rectified after 30 days, after first giving notice of the proposed course of action, the holder of the security interest may proceed to offer the interest in the water licence or water access entitlement for sale.

Regulation 18 sets out in full the conditions applicable to enforcement of security interests. It should be noted that the regulation also provides an opportunity for the holder of the water management authorisation in default to apply to the Environment, Resources and Development Court for an order to stop enforcement proceedings if there are grounds to do so.

## Where can I find more information about security interests?

For more information regarding security interests, please contact the DEW Enhanced Water Register Project team by email: DEW.WaterLicensingProjects@sa.gov.au .