

# Water Trading

## Seasonal Water Assignments and Water Leases





# Water trading

In Queensland, three types of water trading are available:

- permanent trades of water allocations and interim water allocations
- leases of water allocations
- seasonal assignments of water available under a water entitlement.

This brochure outlines the process for leasing water allocations and seasonally assigning water available under a water entitlement—that is, a water allocation, an interim water allocation or a water licence. The brochure *Permanent water trading* addresses the permanent water market in Queensland.

## Leasing a water allocation

Whole water allocations can be leased in a similar way as land can be leased. Leasing a water allocation transfers all benefits and responsibilities to the lessee for the period of the lease. This means, for example, that—unlike water traded under a seasonal water assignment—if there is an increase in the announced allocation following an inflow, the additional water is available to the lessee, not the entitlement holder.

An announced allocation for supplemented supply, as determined by inflows into dams, specifies the percentage of the nominal volume of a water entitlement that may be supplied during a water year.

## Registering a lease

A water allocation lease does not need to be approved by the Department of Environment and Resource Management (the department); however, to create an interest at law, the lease of a water allocation must be registered on the Water Allocations Register, at a titles lodgement centre. The register is a central and accurate system that records information on water allocation titles, such as holders and other attributes, in a similar way as land ownership details are recorded in the Land Registry. The Registrar of Titles and Water Allocations manages the Water Allocations Register.

Lease registration requirements vary depending on whether the allocation is for a supplemented or unsupplemented supply. Supplemented supply is water delivered from infrastructure such as dams and weirs. Unsupplemented supply is natural stream flow that is not reliant on water infrastructure and is managed by the department.



## Leases for supplemented water allocations

A supplemented water allocation lease will not be registered on the Water Allocations Register unless it is accompanied by the form *ROP 13—Notice to registrar of existence of supply contract*. This form is obtained from and executed by the water supply scheme operator.

A water supply scheme operator, such as SunWater, manages water storage infrastructure such as dams or weirs. If a water allocation is managed by a water supply scheme operator—that is, it is an entitlement to supplemented supply—the operator and the allocation holder must have a ‘supply contract’ for the allocation. This supply contract deals with arrangements between the operator and allocation holder for the storage and delivery of water under the allocation.

A lessee should discuss this requirement with the relevant operator at an early stage, and consider entering into a lease contract that is conditional on the establishment of a supply contract with the scheme operator.

## Leases for unsupplemented water allocations

A lease of an unsupplemented water allocation will not be registered on the Water Allocations Register unless it is accompanied by a *water allocation dealing certificate* issued by the department, acknowledging the proposed lease. To obtain this dealing certificate, the water allocation holder must submit the form *ROP 04—Notice of proposed transfer or lease of an unsupplemented water allocation* to the department. The subsequent dealing certificate is not an approval, but acknowledges that the department has received notification about a proposed lease.

## What is a seasonal water assignment?

A seasonal water assignment is the assignment of some or all of the water that may be taken under a water entitlement in a water year. A seasonal water assignment is useful for meeting additional short-term water needs.

A water year is the annual accounting period prescribed under the Water Regulation 2002.



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Under a seasonal water assignment, water may be assigned to another person or another place. If there is any increase in the announced allocation during the water year, the benefits will accrue to the entitlement holder, not the assignee.

A seasonal water assignment is sometimes referred to as a ‘temporary transfer’; however, it is a permanent, one-off assignment of water for the balance of a water year. It is important to note that the water entitlement and the associated benefits remain with the water entitlement holder, not the assignee.

There is no limit to how many assignments of unused water can be made in any water year. Any unused part of the assigned water can be reassigned to a third party during the remainder of the water year.

## Seasonal water assignment rules

A water resource plan (WRP), a resource operations plan (ROP) and the Water Regulation 2002 set out the rules applying to seasonal water assignments. A WRP is a strategic plan detailing a catchment’s water resources, and it seeks to balance the needs of water users and the environment. A ROP sets out the operational rules by which WRPs are implemented.

## Seasonal water assignments of supplemented water

Supplemented water refers to water delivered from infrastructure. A water supply scheme owner is granted a licence depending on whether they own the supply or distribution infrastructure as follows:

- A resource operations licence is granted to owners of headworks infrastructure, such as dams or weirs.
- A distribution operations licence is granted to the owner of any diversion infrastructure used to further distribute water, such as piping to an off-stream channel and/or watercourse, if they are not the resource operations licence holder.

## Applying for a seasonal water assignment

A supplemented water allocation holder wishing to arrange a seasonal assignment requires the consent of the resource operations licence holder in every case. For water allocations that are also distributed by a distribution operations licence holder, the seasonal assignment rules in a ROP will state when the consent of the distribution operations licence holder is also required. The department has no involvement in managing or approving these trades.



## Seasonal water assignments of unsupplemented water

Unsupplemented water is natural flow that is not reliant on water infrastructure, and is managed by the department. As unsupplemented water is highly variable throughout the state, a seasonal water assignment can only be arranged for:

- water allocations in areas where a WRP or ROP allows for them
- water licences in areas where a WRP or ROP allows for them—for example, in a water management area or other area identified in a ROP
- water management areas where a regulation allows for the seasonal assignment of water licences.

Water licences that do not specify a volumetric measure cannot be assigned.

## Applying for a seasonal water assignment

The holder of an unsupplemented water entitlement or a seasonal water assignment notice may apply for a seasonal water assignment. The seasonal water assignment notice gives effect to the assignment. A holder of a seasonal water assignment notice is permitted to reassign any unused part of the assigned water during the remainder of the water year. The process involves:

- confirming that a seasonal assignment is allowed for under the water entitlement
- checking that sufficient water is available. Only the unused portion of the entitlement or seasonally assigned water for the water year at the time of application can be assigned
- completing the application form *W2FO20—Application for a seasonal assignment of unsupplemented water allocations*. Application forms are available from departmental business centres and on the website <[www.derm.qld.gov.au/water/management/application\\_forms](http://www.derm.qld.gov.au/water/management/application_forms)>.

## Approval of a seasonal water assignment

If the seasonal water assignment is approved, the department will issue:

- the seller (the water entitlement holder) an information notice stating that the assigned water has been debited against their water entitlement for the water year
- the assignee a seasonal water assignment notice; this means that the assignee can also apply to reassign any unused portion of the assigned water. If the assignee holds an existing water entitlement, the assigned water is credited to the entitlement



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for the remainder of the water year, and it increases the volume of water that the assignee may take or assign under the entitlement. If the assignee has been issued a seasonal water assignment notice and the original water entitlement is subsequently sold, the assignee's authority to take the assigned water will not be affected in any way.

## Water brokerage services

Water brokers and exchanges play an important role in the market. Real estate and stock and station agents may offer water brokerage services. Online brokerage services and exchanges are also being established in Queensland. Water supply scheme operators may also provide online brokerage services and exchanges for some water trading markets. Further brokering services and exchanges are likely to develop over time. Clients wishing to participate in the water market may also rely on word of mouth or other means to identify potential buyers and sellers. The department does not undertake a market facilitation role.

Fair trading laws contain certain rights and obligations for brokers and exchange operators as well as water users when doing business. These obligations are in addition to any contractual or other rights and obligations between water users, brokers and exchange operators.

## Compliance issues

Water may be taken only in accordance with an authorised water entitlement. If the department conducts a check on water use and finds that the use exceeds the entitlement or other authority to take water, the holder will be in breach of provisions of the *Water Act 2000*. In those circumstances, it is not possible to avoid liability by retrospectively arranging a seasonal water assignment.

## Land and water management plans

The lease of a water allocation requires a land and water management plan approved by the department, before irrigating land using the water taken under the allocation. Before irrigating land using water taken under a seasonal water assignment for two consecutive water years (or two out of three consecutive water years), the assignee must also have a land and water management plan approved by the department.

## Disclaimer

This information brochure has been prepared to draw attention to the *Water Act 2000* in force as at 1 January 2009. While every effort has been made to ensure accuracy at the time of publication, the information presented here does not purport to be definitive or to constitute legal advice. This brochure is not designed to be a substitute for the Act and/or seeking legal advice. The Department of Environment and Resource Management does not accept responsibility for any loss or damage caused by actions based on information in this brochure.

## Further information

This brochure is one in a series of publications explaining water trading and associated issues. Other brochures in the series include:

- *An overview of Queensland water markets*
- *Permanent water trading*
- *Water allocations and land valuations*
- *Financial interests and tenancy arrangements.*

Contact the department to obtain further information, guidelines on land and water management plans, or relevant application forms.

Telephone: 13 74 68 (13QGOV)

Website: [www.derm.qld.gov.au](http://www.derm.qld.gov.au)

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