



Australian Government

Department of Climate Change, Energy,  
the Environment and Water

***New requirements for data  
accuracy on trade forms in the  
Murray–Darling Basin under the  
Water Amendment (Restoring  
Our Rivers) Act 2023.***



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We recognise the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.

*From 1 July 2024, new Commonwealth legislation will apply, which will require that trade and transfer application forms be completed comprehensively and accurately.*

*Where the reason for trade and price information is required on these forms, records relating to that information will need to be kept for 5 years.*



## Background

- The 2019-2021 Australian Competition and Consumer Commission (ACCC) [inquiry into Murray–Darling Basin water markets](#) found that Basin water markets lack the integrity and transparency safeguards that apply to other comparable markets.
- The inquiry recommended that prices be required to be reported for all transactions of tradeable water rights, including irrigation rights and water delivery rights, and not just water access rights. This was supported by the [Water Market Reform: Final Roadmap Report](#).

## Outline of the changes

- From 1 July 2024, there will be new obligations on persons when providing information to water market authorities in relation to an application for trade or transfer of eligible tradeable water rights. Examples of eligible tradeable water rights include water access entitlements, water allocations, irrigation rights and water delivery rights. See the **Appendix** for relevant excerpts, including definitions of terms, from the [Water Amendment \(Restoring Our Rivers\) Act 2023](#).
- These persons must ensure that all information provided by water markets participants in a trade or transfer application form is comprehensive and accurate.
- Trade or transfer information must be provided even if it is commercially sensitive, commercial in confidence, or personal information (including that under the definition of the *Privacy Act 1988*).
- No new information is required to be provided on forms; the new requirement applies to the existing data fields on existing forms.
- Records will also need to be kept by these persons in relation to reason for trade and price information that is provided to water market authorities on trade or transfer application forms, for a minimum of 5 years.
- These changes will only apply to trades and transfers in Murray–Darling Basin water markets.

## Affected persons

- Owners of eligible tradeable water rights being traded or transferred;
- Persons to whom eligible tradeable water rights are being traded or transferred; and
- If the application is made by an eligible water markets intermediary, that eligible water markets intermediary. See the **Appendix** for the definition of eligible water markets intermediary in the [Water Amendment \(Restoring Our Rivers\) Act 2023](#).

## Commencement

The obligations will commence on 1 July 2024.

## New record keeping obligations

- In addition to providing the information that is required by the water market authority in a trade or transfer application form, you will need to keep records of the reason for trade and price information provided in the trade application form, including records supporting or substantiating the information provided.
- If reason for trade or price are not required to be provided as part of the trade application form, then there is no obligation to keep records for these.
- Future regulations made under the Water Act may require additional records to be kept.
- Records must be kept for a minimum of 5 years.

## Penalties

- There are civil penalties associated with these new requirements. The maximum penalties (for individuals) are:
  - 100 penalty units for not providing all of the information that is required on a trade form.
  - 120 penalty units for providing false or misleading information in a trade form.
  - 120 penalty units for not keeping records.
- Since 1 July 2023 the value of a penalty unit is \$313 [Crimes \(Amount of Penalty Unit\) Instrument 2023](#).
- The Inspector-General of Water Compliance (IGWC) will be the enforcement agency for these new requirements.
- The IGWC will, for example, have the power to conduct audits and issue infringement notices, and may also apply to a Court for injunctions and declarations.

## Reason for the new obligations

- These changes will increase the accuracy and completeness of trade and transfer data, including price, for all eligible tradeable water rights from 1 July 2024.
- These changes form part of a broader suite of water market reform measures in the [Water Amendment \(Restoring Our Rivers\) Act 2023](#) that will amend the *Water Act 2007*, including:
  - the development of a code of conduct for water market intermediaries (the ‘Water Markets Intermediaries Code’);
  - strengthened requirements for water markets decisions;
  - new and strengthened integrity and conduct prohibitions relating to insider trading and market manipulation, and
  - data and systems reforms in relation to water markets information, including the development of Water Markets Data Standards and a new Water Data Hub.
- These other water market reform measures will commence in 2025 and 2026.

## More information

- For information relating to trade application forms, the best point of contact will be your relevant water market authority.
- The Department of Climate Change, Energy, the Environment and Water is the lead policy agency for the reforms, and can be contacted via the Water Markets Team inbox at [Water.Markets@dcceew.gov.au](mailto:Water.Markets@dcceew.gov.au)
- The IGWC is the enforcement agency for the new requirements for data accuracy on trade forms. The IGWC can be reached via [contact@igwc.gov.au](mailto:contact@igwc.gov.au) or by calling 13 IGWC (13 44 92).

## Appendix: Excerpts from the *Water Amendment (Restoring Our Rivers) Act 2023*

\* Please note that the new provisions of the [Water Act 2007](#) excerpted below, will not be reflected on the Federal Register of Legislation website until they formally commence on 1 July 2024 in accordance with section 2 of the [Water Amendment \(Restoring Our Rivers\) Act 2023](#).

### Definitions

Eligible tradeable water right means the following:

- A. a tradeable water right;
- B. any other right in relation to the taking or use of water that is able to be traded or transferred, other than a right prescribed by the regulations;
- C. a right prescribed by the regulations;

to the extent that the right relates to Basin water resources or any other water resource prescribed by the regulations.

Eligible water markets intermediary means a person who provides any of the following services:

- A. trading of eligible tradeable water rights on behalf of another person in exchange for a commission or fee;
- B. investigating eligible tradeable water rights trading possibilities on behalf of a water market participant or a potential water market participant in exchange for a commission or fee;
- C. preparing documents that are necessary for the trade or transfer of eligible tradeable water rights on behalf of a water market participant or a potential water market participant in exchange for a commission or fee;
- D. providing a trading platform or water exchange for eligible tradeable water rights;
- E. giving advice (whether or not for payment of any kind) in the course of providing services of a kind mentioned in paragraph (a), (b), (c) or (d) to a water market participant or a potential water market participant about trading in eligible tradeable water rights, other than advice that is of a general nature and not provided to address the specific circumstances of a water market participant or a potential water market participant;
- F. making a representation that an eligible tradeable water right is available for sale or purchase, if the person will facilitate the trade or transfer of the eligible tradeable water right in exchange for a commission or fee.

Water market authority, in relation to the proposed trade or transfer of an eligible tradeable water right, means:

- A. a person authorised or required under a law of a State to approve, allow or register the trade or transfer; or
- B. an irrigation infrastructure operator that approves, allows or registers the trade or transfer.

### 135M Information about trades etc. to be reported

1. If the trade or transfer of an eligible tradeable water right requires an application to a water market authority, each of the persons mentioned in subsection (2) must ensure that all of the following information is provided (whether by the person or by another person) to the authority concerned:
  - A. all the information in relation to the application for the trade or transfer required by the authority;
  - B. all the information in relation to the application for the trade or transfer required by the regulations (if any).
2. The persons are as follows:
  - A. if the application is made by an eligible water markets intermediary, that eligible water markets intermediary;
  - B. the owner of the eligible tradeable water right being traded or transferred;
  - C. the person to whom the eligible tradeable water right is to be traded or transferred.
3. A person must not contravene an obligation imposed on the person under this section.

Civil penalty: 100 penalty units.

4. A person must not, in purported compliance with a requirement under this section, give or cause to be given to a water market authority information that is false or misleading.

Civil penalty: 120 penalty units.

5. A person does not contravene a requirement of subsection (3) or (4) if, in purportedly complying with the requirement, the person:
  - A. acted in good faith; and
  - B. exercised a reasonable degree of care and diligence.
6. A person is not excused from complying with a requirement under this section merely because the information in question is:
  - A. of a commercial nature; or
  - B. subject to an obligation of confidentiality arising from a commercial relationship; or
  - C. commercially sensitive.
7. To avoid doubt, the information referred to in subsection (1) includes, but is not limited to, personal information within the meaning of the Privacy Act 1988.

### **135N Records to be kept about information provided**

1. A person who is required to ensure that information about the trade or transfer of an eligible tradeable water right is provided to a water market authority under section 135M (see subsection 135M(2)) must keep the following records in relation to the information that is provided:
  - A. records of the reason for the trade or transfer, including records substantiating or supporting the reason;
  - B. records of the price for which the eligible tradeable water right was traded or transferred, including records substantiating or supporting the price;
  - C. such other information (if any) as is prescribed by the regulations.
2. The person must keep the records for a period of at least 5 years beginning on the date on which the information was provided under section 135M.
3. A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

Civil penalty: 120 penalty units.



