



A Guide to Water Rights Trading

Report – GEHO0711BTZK-E-E

We are the Environment Agency. We protect and improve the environment and make it **a better place** for people and wildlife.

We operate at the place where environmental change has its greatest impact on people's lives. We reduce the risks to people and properties from flooding; make sure there is enough water for people and wildlife; protect and improve air, land and water quality and apply the environmental standards within which industry can operate.

Acting to reduce climate change and helping people and wildlife adapt to its consequences are at the heart of all that we do.

We cannot do this alone. We work closely with a wide range of partners including government, business, local authorities, other agencies, civil society groups and the communities we serve.

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Foreword

The Environment Agency is a regulator, operator and influential adviser on the environment in England and Wales. We are responsible for managing water quality and quantity to safeguard the water environment, which enables us to carry out government and Welsh Government strategies. We:

- protect and improve inland and coastal waters and make sure water is used sustainably;
- monitor, so that we understand how much water there is and how clean it is;
- manage water supplies to make sure there is enough;
- allocate water to farmers, industry and water companies to support the economy;
- make sure there is enough water for homes and businesses, and the environment;
- oversee water company plans to secure supplies, even in droughts, and minimise environmental impacts.

We think water rights trading could help us to allocate water more effectively and help abstractors to value it.

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1 Introduction

1.1 Background

The Environment Agency's role is to manage water resources in England and Wales. One of the main ways we do this is through the abstraction licensing system. We use it to regulate access to water and to manage the impact of taking water from rivers and underground. Water rights trading is where an existing abstractor sells a licence to abstract water. This needs the Environment Agency's approval.

1.2 What is this guide for?

This guide tells potential traders how the Environment Agency will license water rights trades. It should be read with our other guidance (signposted throughout this guide) on applying for abstraction licences. A glossary at the end explains the concepts and technical phrases referred to in the guide.

1.3 What is water rights trading?

Water rights trading is where a person sells all or part of their abstraction licence rights, permanently or temporarily, to another person. This means trading rights, not actual water. In a permanent trade the seller gives up their licence, whereas at the end of a temporary trade the seller keeps their licence and the abstraction right returns to them.

Trading will often involve a change in the abstraction location and possibly a change in water use. The Environment Agency needs to approve this by granting a new licence or varying an existing one. Where we talk about 'trading' we are referring to water rights trading.

1.4 What is the Environment Agency's role?

This section explains how we license trades, what we can and can't allow, and how we protect the environment. The Environment Agency will:

- make information about abstractions, water availability and our approach to licensing available to all;
- advise before an application whether proposed trading is likely to be licensed;
- license abstractions arising from water rights trading, as long as proposals do not lead to further environmental damage beyond that already occurring.

The Environment Agency will not act as a broker, or get involved in negotiating trading prices. This is the responsibility of the buyer and seller and their appointed representatives.

Throughout this guide we recommend you contact us for pre-application advice before entering into a water rights trade. The rules around licensing can be complex, and there may be reasons why we cannot approve your trade. To contact us please telephone our National Customer Contact Centre on 03708 506506 or email us at enquiries@environment-agency.gov.uk.

1.5 Non-complex trades

The complexity of a trade will depend on whether the location of the abstraction is changing. It is possible for a buyer to gain access to water by acquiring an interest (for example a right of access or occupation) in land where there is an abstraction a licence. The seller can then transfer part or all of their licence to the buyer. We call these transfers and apportionments. A transfer is where all the licence is transferred to the buyer. An apportionment is where part of the licence is retained by the seller or the abstraction right is sold to several buyers.

You can find out more information about how to transfer or apportion a licence and the forms you need to complete on our website. As there is no change in abstraction location, these types of applications are straightforward and we aim to deal with them within ten working days. There is no application fee. We will not change the terms of licences that are transferred or apportioned except that where a licence is apportioned, we will add a time limit.

If the buyer needs to change the purpose for which the water can be used then they will need to apply to vary the licence once it has been transferred or apportioned to them. See section 4.5 of this guide for more information about changing the licensed purpose.

Trades involving a change in abstraction location, are more complex and the rest of guide covers this type of trade.

2 Information

2.1 Overview

If you want to buy an abstraction right you will need to know:

- details of licences that have been granted and the volumes of water currently abstracted, to enable you to find someone to trade with;
- whether we would allow you make use of the right you have purchased, by granting you a new or varied abstraction licence for your proposed abstraction point.

2.2 Licensed abstractions

If you want to buy an abstraction right, we can tell you about licensed abstractions. It is then up to you to approach the licence holder. We may also be able to tell you how much water is abstracted after checking with the licence holder, providing this information is not commercially sensitive. We charge for this information. You can visit our website to find out about our charges at <http://www.environment-agency.gov.uk/business/regulation/38815.aspx>.

Please get in touch with our National Customer Contact Centre if you want us to provide you with details of licensed and actual abstraction. You can also visit our local offices and view licence information on our public registers free of charge. Please note that the public register does not show how much water is abstracted. Our National Customer Contact Centre can tell you how to get in touch with your local Environment Agency office.

We do not currently keep a register of people wanting to buy an abstraction right, so if you want to sell your abstraction right, you'll need to make your own arrangements to find a buyer.

2.3 Constraints on abstraction

Our approach to licensing water rights trades will depend on the water resource availability where the buyer and seller are located. You can use our CAMS documents and this guide to find out whether your proposed trade is likely to be approved.

Our Catchment Abstraction Management Strategies (CAMS) set out how much water is available for licensing in England and Wales. Our CAMS documents will tell you whether you will be able to get a supply of water from a licence direct from us, and how reliable that supply might be. CAMS documents are available on our website at: <http://www.environment-agency.gov.uk/business/topics/water/119927.aspx>

Abstraction may also be limited by, for example: the need to safeguard Habitats Directive sites, Sites of Special Scientific Interest (SSSIs) and the rights of other water

users. We can tell you about any likely constraints on abstraction at the buyer's location during pre-application discussions.

3 Types of trading

3.1 Can a licence be traded?

Only full licences to abstract water can be traded. Even so, there are some cases where trading full abstraction licences might be difficult, for example if the seller's abstraction is:

- dependent on the transfer of water from another water source;
- has licensed quantities linked to one or more other licences.
- Please contact us for advice if you are proposing to buy or sell a licence that falls in to the above category.

3.2 Types of trade

There are four different trading scenarios where the abstraction location changes and these are set out in table 1 below.

Table 1 – trading scenarios where the abstraction location is changing

Trading scenario...	Description...	How we license the trade...
Whole, permanent	The whole of the seller's abstraction right is sold to the buyer on a permanent basis.	We grant a new or varied licence to the buyer and revoke the seller's licence.
Whole, temporary	The whole of the seller's abstraction right is sold to the buyer on a temporary basis. The seller retains their licence, although they would not be allowed to use it for the period of the trade.	We grant a new or varied licence to the buyer, and vary the seller's licence with a condition preventing the seller from using their licence for the duration of the trade.
Part, permanent	Part of the seller's abstraction right is sold to the buyer on a permanent basis.	We grant a new or varied licence to the buyer, and reduce the quantities on the seller's licence.
Part, temporary	Part of the seller's abstraction right is sold to the buyer on a temporary basis. The seller gets back all of their abstraction right at the end of the trade.	We grant a new or varied licence to the buyer, and reduce the quantities on the seller's licence for the duration of the trade

4 Where can water be traded? How much water can be traded?

4.1 Hydrological and hydrogeological links

Trading can only take place where there is a hydrological (surface water) or hydrogeological (groundwater) link between the seller's abstraction point and the buyer's proposed abstraction point. The water cannot be sold without this link. Table 2 below explains what we mean by a hydrological or a hydrogeological link. Working out whether there is a link is not always straight forward. This is something we can advise on in pre-application discussions.

Table 2 – Hydrological and hydrogeological links

Water source	Trading opportunities
Surface water	The buyer's and seller's abstractions must be from the same river, between two tributaries in the same catchment, or between a tributary and the main river.
Groundwater	The buyer's and seller's abstractions must be from the same aquifer (for example sandstone or chalk).
Surface to groundwater, or groundwater to surface water	Trading between surface water and ground water may be possible in some cases (for example, between a river and adjacent river gravels).

4.2 Water availability and trading

Our approach to licensing water rights trades is based on the assessments of water availability in our Catchment Abstraction Management Strategies (CAMS). We are changing the way we classify water availability to comply with the requirements of the Water Framework Directive, and the CAMS will be updated by the end of December 2012. We have provided information on both approaches in this guide.

There are ninety-seven CAMS covering England and Wales. We use 'resource availability' status to show whether water is available for use in a catchment. This status shows the balance between committed (licensed) and available resources after we have allowed for environmental needs. River catchments are divided into water resources management units (WRMUs), each of which has its own status. There are four categories of WRMUs shown in table 3 below.

Under our new approach this system will be replaced by new definitions for CAMS water resource availability for around 10,000 water bodies. Water bodies are smaller than WRMUs so an old WRMU may be sub-divided into a number of water bodies. The three new categories for CAMS water resource availability are also shown in table 3 below.

In table 3, 'used' water is water that has been abstracted. 'Unused' water is licensed, but not abstracted.

Table 3 – Water availability and approach to licensing trades

Current CAMS water resource availability and map colour	New CAMS water resource availability and map colour	Our approach to licensing new consumptive abstractions	Our approach to licensing water rights trades
Water available. (Blue WRMUs)	Water available for licensing (Green water bodies)	Water likely to be available at all flows, including low flows. Restrictions may apply.	Trading acceptable of used and unused water.
No water available (Yellow WRMUs)	Not applicable	No water available for further licensing at low flows, although water may be available at higher flows with appropriate restrictions.	Under our new approach 'no water available' could either be 'restricted water available for licensing' or 'water not available for licensing'. If you are in a 'no water available' WRMU, please contact us for advice.
Over licensed (Orange WRMUs)	Restricted water available for licensing (Yellow water bodies)	Current abstraction is sustainable, but if existing licences were fully-used they would cause unacceptable environmental impact at low flows. Water may be available at high flows with appropriate restrictions.	We will allow trades of used and unused water up to the point where levels of actual abstraction reach sustainable limits. Once this limit is reached, we will then only allow trades of used water.
Over-abstracted (Red WRMUs)	Water not available for licensing (Red water bodies)	Existing abstraction is causing unacceptable environmental impact at low flows. Water may be	We will allow trades of used water only.

Current CAMS water resource availability and map colour	New CAMS water resource availability and map colour	Our approach to licensing new consumptive abstractions	Our approach to licensing water rights trades
		available at high flows with appropriate restrictions.	

We assess water availability using information about actual and licensed abstraction. Typically we license more water to be taken than is abstracted, because abstractors do not use all the water on their licences all the time. For example, spray irrigation abstractions are seasonal and their use is weather dependent, and other abstractors may need more water than they currently use to cope with future increases in demand. By using both actual and licensed abstraction volumes, we can tell what impact abstraction is having on the environment now, and the potential impact if everyone took their licensed allocation.

4.3 Downstream critical water resource management units and water bodies

Water bodies in a catchment are described as “upstream” or “downstream”. A simple catchment has two WRMUs or water bodies. The one where flow starts is upstream and the one where flow enters the sea or another river is downstream.

The water resource availability of a downstream WRMU or water body will always take priority over an upstream one, because water taken out upstream affects the flow downstream. For example an upstream water body may have water available for licensing (green), but we also need to look at the impact downstream. In this example the downstream body has no water available for licensing (red). We would not allow the trade of unused water in the upstream water body, as this would make things worse downstream.

4.4 How much water can be traded?

The quantity of water traded cannot exceed that authorised by the seller’s licence. In certain circumstances we may not be able to grant a licence to the buyer for the same quantities on the seller’s licence. For example:

- the seller may want to retain some abstraction rights;
- the water may not be available to abstract at the buyer’s location;
- the buyer may not have a justifiable need for the water.

Additionally, we may need to recover water for the environment as part of a water rights trade to meet our statutory duties to protect the environment. We will only recover unused water. For temporary trades, we will only recover unused water for the period of the trade. This means the seller will get all of their licence back at the end of the trade. Table 5 (overleaf) explains when we will recover water for the environment.

Here is an example of the circumstances where we have to recover water to meet our statutory duties. The buyer and seller are in a 'red' water body. The seller has a licence to abstract 10,000 cubic metres per year, but uses only 7,000 cubic metres per year and intends to stop abstracting. The buyer wants 10,000 cubic metres. The trade is a whole, permanent trade. The buyer cannot have a licence for 10,000 cubic metres, as this would increase actual abstraction and cause environmental damage. The buyer would get a licence for 7,000 cubic metres with 3,000 cubic metres being recovered for the environment.

Table 5 – Recovering water for the environment

Current CAMS water resource availability and map colour	New CAMS water resource availability and map colour	Our approach to recovering water from the environment
Water available (Blue WRMUs)	Water available for licensing (Green water bodies)	We will not recover water for the environment as part of a trade.
No water available (Yellow WRMUs)	Not applicable	We may need to recover water for the environment, but please contact us for advice.
Over licensed (Orange WRMUs)	Restricted water available for licensing (Yellow water bodies)	We will not recover water for the environment as part of a trade, until actual abstraction reaches sustainable limits. Then we will recover unused water for the environment as part of a trade.
Over-abstracted (Red WRMUs)	Water not available for licensing (Red water bodies)	We will recover unused water for the environment as part of a trade.

4.5 Can the purpose be changed?

The buyer can apply to change the use of the abstracted water as part of their application for a licence. Our water availability assessment takes into account the proportion of abstracted water that is returned to the environment, because it affects the environmental impact of an abstraction. Changing the purpose of an abstraction may affect how much of the seller's right can be traded. We may need to include different conditions on the buyer's licence. This is something we can advise on in pre-application discussions.

4.6 Returning water to the environment

We have to consider the impact of where abstracted water is returned to the environment, as it may alter the environmental impact of an abstraction. For example, if an industrial abstraction is traded to a water company, the effluent that was discharged locally may be diverted to a water company sewage works that discharges into another WRMU or water body. In this example the local impact of the abstraction is increased, as water that was previously returned locally is now returned elsewhere.

Water returned may be beneficial to the environment in one instance, but detrimental in another. Again, this is something we can advise on in pre-application discussions.

5 Licensing water rights trades

5.1 Applying for a licence

This guide will indicate whether a water rights transaction is possible. We can give you a more detailed response to your proposal if you tell us about it before you send us your licence application. To get more advice please complete our pre-application form (Form WR48) and send it to our Permitting Support Centre. The details are on our website at <http://www.environment-agency.gov.uk/business/topics/water/32032.aspx>.

Table 4 – Application forms and fees

Type of trade...	What does the seller need to do?	What does the buyer need to do?
Whole, permanent trade	The seller needs to revoke their licence. Complete form WR4. There is no application fee.	The buyer needs to make an application for a new licence, or to vary the existing licence. Complete forms WR173 and WR174.
Whole, temporary trade	The seller needs to apply to vary their licence to include a condition preventing the licence being used for the duration of the trade. Complete form WR2. There is no application fee at present (under review).	There is a £135 application fee which the buyer must pay, together with the cost of the public notice and a £100 advertising fee if the application is advertised.
Part, permanent trade	The seller needs to apply to reduce the volumes on their licence. Complete form WR3. There is no application fee.	
Part, temporary trade	The seller needs to apply to vary their licence to reduce the licence quantities temporarily for the duration of the trade. Complete form WR2. There is no application fee at present (under review).	

Once we have told you that the transaction is acceptable in principle, the buyer and the seller must apply for the appropriate licences. The buyer will need to apply for a new

licence to abstract water, or a variation if they have an existing licence and wish to increase the licensed quantities. The seller will need to change or give up their licence. Table 4 above sets out which application forms the buyer and seller need to complete. If the seller still has abstraction rights, then the water licensed to the buyer and seller cannot exceed the amount on the seller's original licence.

You can download these application forms from our website at <http://www.environment-agency.gov.uk/business/topics/water/32020.aspx>. The buyer's and seller's applications should be submitted together.

It can take three to four months to obtain a licence. We may need to advertise the buyer's application in the local press and on our website if we think the proposal may impact on the environment or other water users. Advertising a proposal gives people who may be affected by it the opportunity to write to us to tell us about their concerns. The stages of applying for a new licence are described on our website at:

<http://www.environment-agency.gov.uk/business/topics/water/32020.aspx>

5.2 What conditions will be on the traded licence?

Licence conditions usually fall into two categories: those that provide catchment-wide protection for the environment and existing water uses, and those that mitigate against local impacts. Wherever possible we license changes to a new location on the same terms as the existing licence. However, this depends on the conditions of the seller's licence, and whether the abstraction at the buyer's location impacts on the environment and on the rights of existing abstractors and water users.

In general, trading downstream on a watercourse in the same WRMU or water body is simpler than moving upstream or to a smaller tributary, where more restrictive conditions may be required. Trading groundwater abstraction rights is more complex, especially if there are environmentally sensitive features and other abstraction rights near to your proposed location. You should bear this in mind when choosing your abstraction location and the water right you want to buy.

For part and temporary trading transactions, the seller's licence will revert to its existing terms and conditions when the trade ends. We will not impose additional conditions on the seller's licence other than those needed to facilitate the trade, for example, a temporary reduction in licensed quantity for the duration of the trade.

5.3 What time limit will be on the traded licence?

We are legally required to limit the duration of all new licences arising from a water rights trade, even if the seller's licence does not have a time limit. We also put time limits on licences that are varied, so that the licence reverts back to its original terms when the limit expires. To ensure a consistent approach, we will also limit the duration of any variations to licences as part of a water rights trade. We do not apply a time limit to a licence if it is varied to reduce the licensed quantities.

Licences and variations granted will have time limits until:

- the end of the proposed trade; or
- the relevant CAMS common end date, whichever is sooner or

- until a date consistent with the need to implement other environmental improvements for the Water Framework Directive.

In exceptional cases, we can grant a longer licence subject to certain tests being met. For part or temporary trades we will not impose a time limit on the seller's licence.

5.4 Subsistence charges for traded licences

A 'subsistence charge' is payable for most full abstraction licences. This revenue allows us to recover the cost of our water resource management activities from abstractors. Our current subsistence charges are set out in our scheme of abstraction charges which is available on our website at:

<http://www.environment-agency.gov.uk/business/regulation/38809.aspx>

We will raise subsistence charges for licences that have been traded as indicated in table 7 below:

Table 7 – Abstraction charges for traded licences

Type of trade...	Who pays...	What happens...
Whole, permanent	The buyer	The seller's licence will be revoked with effect from the date of issue of the new or varied licence to the buyer. Charges will be raised against the buyer's licence as set out in our scheme of abstraction charges.
Whole, temporary	The buyer	We will charge for the buyer's licence as set out in our scheme of abstraction charges. The seller's licence will be non-chargeable for duration of the trade.
Part, permanent trade	The buyer and seller	We will split the charges between the buyer and the seller in line with the licensed quantities.
Part, temporary trade	The buyer and seller	We will split the charges between the buyer and seller in line with the licensed quantities, but the seller's licence will revert back to full charges when the trades come to an end.

Glossary

Aquifer – A layer of rock able to hold or transmit water.

Catchment – The area from which rainfall flows into a river.

Claw back – Recovering water for the environment by reducing the licensed quantities as part of a trade.

Consumptivity – The proportion of water abstracted that is returned to the environment: for example, spray irrigation is 100 per cent consumptive.

Full licence – A licence to abstract water that benefits from a protected right.

Habitats Directive site – A site designated under [The Conservation \(Natural Habitats, c.\) Regulations 1994 SI 1994/2716](#)

Hands-off flow condition – A condition in a licence that requires abstraction to cease or be cut back when the flow in a watercourse falls to a pre-determined rate. These are also referred to as abstraction restrictions.

Impoundment licence – A licence that authorises the construction of in-river works (for example, dams and weirs).

Licensed abstraction - The volume of water we have licensed.

Long duration licence – A licence which has a duration of more than 12 years.

Part trade – A water rights trade where the seller retains some of their abstraction rights.

Permanent trade – A water rights trade where the seller gives up all or part of their rights on a permanent basis.

Protected right – A right to abstract water conveyed either by a full abstraction licence or by taking water in accordance with the small abstraction exemption of the Water Resources Act 1991. Protected rights operate on a first come first served basis.

Recent actual abstraction – The typical volumes of water abstracted over the last six years, either under an individual licence or as an aggregate in a water body.

SSSI – A Site of Special Scientific Interest

Temporary licence – A licence that authorises abstraction for no more than 27 days.

Temporary trade – A water rights trade that takes place for a given length of time, with the rights reverting to the seller at the end of the trade.

Time-limited licence – A licence that includes a time limit and ends on a pre-determined date.

Transfer licence – A licence that authorises the transfer of water from one water body to another with no intervening use.

Water Resource Management Unit – A sub-division of a catchment defined by the Environment Agency that has similar groundwater and/or surface water characteristics and is managed in a similar way. These are being replaced by small sub-divisions called water bodies.

Whole trade - A water rights trade where the seller gives up all of their abstraction right.

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