

Version No. 003
Water (Permanent Transfer of Water Rights)
Regulations 2001

S.R. No. 132/2001

Version incorporating amendments as at 18 April 2008

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Version No. 003
Water (Permanent Transfer of Water Rights)
Regulations 2001

S.R. No. 132/2001

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1 Objectives

The objectives of these Regulations are to—

- (a) regulate permanent transfer of water rights;
and
- (b) prescribe fees for applications for—
 - (i) approval of permanent transfer of water rights under sections 226 and 226AA of the Act; and
 - (ii) the issue of certificates as to transfer under section 227 of the Act.

2 Authorising provisions

These Regulations are made under sections 228 and 324 of the **Water Act 1989**.

3 Commencement

These Regulations come into operation on 4 December 2001.

4 Revocation

The Regulations set out in Schedule 1 are **revoked**.

5 Definitions

In these Regulations—

Advisory Committee means a committee established under section 108 of the Act;

buyer's Authority has the same meaning as defined in section 226 (1AA) of the Act;

irrigation area means any part of the Goulburn-Murray Irrigation District for which a separate register is kept;

seller's Authority has the same meaning as defined in section 226 (1AA) of the Act;

the Act means the **Water Act 1989**.

6 Prescribed irrigation districts and prescribed interests

For the purposes of sections 226 and 226AA of the Act, the prescribed irrigation districts are set out in Schedule 2 and the prescribed interests are those of any mortgagee, caveator, chargee, share farmer, lessee, partner, life tenant, annuitant, unpaid vendor or purchaser of the holding.

7 Permanent transfer of water rights

- (1) An application for approval of the permanent transfer of water rights to the owner or occupier of another holding within the same irrigation district or within another irrigation district must be in the form set out in Schedule 3 and must, in addition to the requirements of the Act, be accompanied by—
 - (a) a notice of agreement in the form set out in Schedule 4; and
 - (b) a notice of consent in the form set out in Schedule 5, for the holder of each prescribed interest in the holding; and
 - (c) the relevant fee prescribed in Schedule 7.
 - (2) An application for approval of the permanent transfer of water rights to the owner or occupier of any land outside an irrigation district must be in the form set out in Schedule 6 and must be accompanied by—
-

- (a) the things referred to in paragraph (b) and where applicable paragraph (c) of subregulation (1); and
- (b) in the case of a transfer to land elsewhere in Victoria a copy of an application under section 51 of the Act to take and use an equivalent volume of water to that proposed to be transferred; and
- (c) in the case of a transfer to land in another State under section 226AA of the Act, an application for an entitlement in that other State.

8 Procedure with respect to applications

- (1) An application referred to in regulation 7(1) must be made to the buyer's Authority and, if the buyer's Authority is different from the seller's Authority, then—
 - (a) the buyer's Authority must give to the seller's Authority a copy of the application accompanied by the relevant fee prescribed in Schedule 7; and
 - (b) the seller's Authority must inform the buyer's Authority within 28 days after receiving the copy of the application whether it has any objections to the proposed transfer; and
 - (c) if the application is approved, the two Authorities must make all necessary arrangements between them to implement the transfer.
- (2) An application referred to in regulation 7(2) must be made to the seller's Authority.

9 Maximum water rights to be attached to each holding

- (1) The maximum amount of water rights that may be held by the owner or occupier of a holding are set out in the following table—

<i>Holding</i>	<i>Maximum Water Rights</i>
Properties shown as being rated as 1st Division in the register for drainage purposes	5 megalitres per hectare
Properties shown as being rated as 2nd and 3rd Division in the register for drainage purposes	4.3 megalitres per hectare
Properties shown as being rated as 4th and 5th Division in the register for drainage purposes	3.6 megalitres per hectare

- (2) An Authority may vary the maximum amount of water rights that may be held by the owner or occupier of a particular holding after consultation with the relevant Advisory Committee and after taking into account the limits established by local salinity management plans.

10 Districts where water rights may be permanently transferred

Water rights may be permanently transferred—

- (a) within an irrigation district or area, or part of an area, specified in column 1 of Schedule 8; or
- (b) subject to regulation 13, from an irrigation district or area specified in column 1 of Schedule 8 to an irrigation district or area specified in column 2 of that Schedule opposite that district or area; or

- (c) subject to regulation 13, from one system to another system which is upstream of the first mentioned system in accordance with regulation 11; or
 - (d) subject to regulations 12 and 13 from an irrigation district or area specified in column 1 of Schedule 8 to any land in Victoria outside an irrigation district; or
 - (e) subject to regulations 12 and 13, from any of the irrigation districts or areas specified as items 1 to 13 and 17 in column 1 of Schedule 8 to any land outside Victoria¹; or
 - (f) to the Authority—
- but not otherwise.

11 Transfer into an upstream system

- (1) Subject to regulation 13, water rights may be permanently transferred from the Murray system to the Goulburn system if the transfer would not result in the net transfer of a volume of water rights (taking into account all transfers before the transfer) from the Murray system to the Goulburn system.
- (2) Subject to regulation 13, water rights may be permanently transferred from the Goulburn system to the Campaspe system if the transfer would not result in the net transfer of a volume of water rights (taking into account all transfers before the transfer) from the Goulburn system to the Campaspe system.
- (3) In this regulation—

Campaspe system means the irrigation district numbered 8 in column 1 of Schedule 8;

Goulburn system means the irrigation areas numbered 2 to 6 in column 1 of Schedule 8;

Murray system means the irrigation districts or areas numbered 1, 7, 9 to 13 and 17 in column 1 of Schedule 8.

12 Restriction on approval of certain applications

An application referred to in regulation 7(2) must not be approved unless the application referred to in regulation 7(2)(b) or 7(2)(c) has been approved.

13 Limits on transfers out of districts/areas

The seller's Authority may—

- (a) object to an application referred to in regulation 7(1); or
- (b) refuse to approve an application referred to in regulation 7(2)—

if the proposed transfer would result in the net transfer from the irrigation district or districts or area or areas or part of an irrigation area specified in an item of Schedule 9 in the period of 12 months ending at midnight on 30 June of more than 4% of the total volume of water rights shown in the register as at the beginning of that period as being attached to holdings within that district or those districts or that area or those areas or that part of the irrigation area.

14 Other terms and conditions

An Authority must not approve a transfer unless it is satisfied—

- (a) that the buyer's land has adequate works for the supply of water; and
- (b) that existing levels of service can be maintained unless, after consultation with the relevant Advisory Committee, it dispenses with this requirement in the particular case.

Reg. 13
amended by
S.R. No.
5/2006
reg. 4(1).

15 Certificates as to transfers

- (1) The prescribed form for a certificate under section 227 of the Act is the form set out in Schedule 10.
 - (2) An application for a certificate must be accompanied by the relevant prescribed fee set out in Schedule 7.
-

Water (Permanent Transfer of Water Rights) Regulations 2001

Sch. 1

S.R. No. 132/2001

SCHEDULES

SCHEDULE 1

Regulation 4

REGULATIONS REVOKED

<i>S.R. No.</i>	<i>Title</i>
24/1993	Water (Permanent Transfer of Water Rights) (Amendment) Regulations 1993
219/1994	Water (Permanent Transfer of Water Rights) (Amendment) Regulations 1994
38/2000	Water (Permanent Transfer of Water Rights) (Amendment) Regulations 2000

SCHEDULE 2

Regulation 6

PRESCRIBED IRRIGATION DISTRICTS

Goulburn-Murray Irrigation District

Campaspe Irrigation District

Macalister Irrigation District

Werribee Irrigation District

Bacchus Marsh Irrigation District

Tresco Irrigation District

Nyah Irrigation District

Robinvale Irrigation District

Red Cliffs Irrigation District

Merbein Irrigation District

First Mildura Irrigation District

SCHEDULE 3

Buyer's Authority

Regulation 7(1)

**APPLICATION FOR APPROVAL OF PERMANENT TRANSFER OF
WATER RIGHTS WITHIN AN IRRIGATION DISTRICT OR TO
ANOTHER IRRIGATION DISTRICT**

To: *(insert name of Authority)*

I/We *(insert names)*

of *(address)*

being the *owner/*occupier of the holding comprising:

Allotments

Section

Parish of

Registered Entry No.

in the

Irrigation Area apply to

the Authority for approval of the transfer of megalitres of water
rights to the holding.

I enclose an application fee of \$ which I acknowledge will not be
refunded.

Signature:

Telephone No.:

Date:

* delete if inapplicable

SCHEDULE 4

Seller's Authority

Regulation 7(1)(a)

**NOTICE OF AGREEMENT FOR PERMANENT TRANSFER OF
WATER RIGHTS**

To: *(insert name of Authority)*

I/We *(insert names)*

of *(address)*

being the *owner/*occupier of the holding comprising:

Allotments

Section

Parish of

Registered Entry No.

in the

Irrigation District/area

Register of Lands under Entry No.

have agreed to transfer megalitres of water rights

To *(insert name and address of buyer)*

being the *owner/*occupier of the land comprising:

Allotments

Section

Parish of

described in the

Irrigation Area Register of Lands under Entry No.

I/We, acknowledge and declare—

1. That the water rights to be transferred have not been used; and
2. (a) That there are no parties with a prescribed interest in the holding from which the water is to be transferred;

OR

*(b) That

(insert names of parties with an interest in the holding)

has a prescribed interest in the subject holding

Water (Permanent Transfer of Water Rights) Regulations 2001

Sch. 4

S.R. No. 132/2001

If (b), please state types of interest:

and attach written consents to the transfer from the parties concerned.

Signature:

Telephone No.:

Date:

If lodged by an agent please complete the following:

Agent/s name:

Postal address:

Note: This form must be accompanied by a statutory declaration made by the owner setting out the names and addresses of each person known by the owner to have a prescribed interest in the holding.

* delete if inapplicable

SCHEDULE 5

Seller's Authority

Regulation 7(1)(b)

**NOTICE OF CONSENT TO THE PERMANENT TRANSFER OF
WATER RIGHTS**

To: *(insert name of Authority)*

I/We *(insert names)*

of *(address)*

have a prescribed interest in the holding comprising:

Allotments

Section

Parish of

and described in

the

Irrigation Area/District Register of lands

under Entry No.

(state type of interest)

I/We consent to an application by

(insert name of Person transferring Water)

to transfer permanently megalitres of water right from the holding.

Signature:

Telephone No.:

Date:

SCHEDULE 6

Seller's Authority

Regulation 7(2)

**APPLICATION FOR APPROVAL OF PERMANENT TRANSFER OF
WATER RIGHTS OUTSIDE AN IRRIGATION DISTRICT**

To: *(insert name of Authority)*

I/We *(insert names)*

of *(address)*

being the *owner/*occupier of the holding comprising:

Allotments

Section

Parish of

Registered Entry No.

in the

Irrigation District/area

apply to the Authority for approval of the transfer of megalitres of
water rights from the holding

To *(insert name and address of buyer)*

being the *owner/*occupier of the land comprising:

Allotments

Section

Parish of

I/We acknowledge and declare—

1. That the water rights to be transferred have not been used; and
2. (a) That there are no parties with a prescribed interest in the holding from which the water is to be transferred;

OR

*(b) That

(insert names of parties with an interest in the holding)

has a prescribed interest in the subject holding

If (b), please state types of interest:

and attach written consents to the transfer from the parties concerned.

I enclose an application fee of \$ which I acknowledge will not be refunded.

Water (Permanent Transfer of Water Rights) Regulations 2001

S.R. No. 132/2001

Sch. 6

Attached is a copy of an application under section 51 of the **Water Act 1989** to take and use an equivalent volume of water, or, for a transfer to land in another State, an application for an entitlement in that State.

Signature:

Telephone No.:

Date:

If lodged by an agent please complete the following:

Agent/s name:

Postal address:

Note: This form must be accompanied by a statutory declaration made by the owner setting out the names and addresses of each person known by the owner to have a prescribed interest in the holding.

* delete if inapplicable

SCHEDULE 7

Regulations 7(1)(c), 8(1)(a) and 15(2)

PRESCRIBED FEES

1	Application for approval of permanent transfer of water rights where they remain within the same irrigation district or another irrigation district of the same Authority.	\$275.00
2	Application for approval of permanent transfer of water rights to a holding within an irrigation district of a different Authority—	
	(a) fee payable to buyer's Authority	\$200.00
	(b) additional fee payable to seller's Authority	\$75.00
3	Application for approval of permanent transfer of water rights outside an irrigation district	\$75.00
4	Application for a certificate under section 227 of the Act	\$16.00

SCHEDULE 8

Regulations 10 and 11

IRRIGATION AREAS (I.A.) AND DISTRICTS (I.D.)

Column 1 <i>Areas and districts within which transfers are permitted</i>	Column 2 <i>Areas and districts to which transfers are permitted (Numbers refer to items of column 1)</i>
1. Murray Valley I.A. (other than Broken Creek)	7, 9, 10, 11, 12, 13, 17
2. Shepparton I.A.	1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 17
3. Murray Valley I.A. (Broken Creek)	1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 17
4. Central Goulburn I.A.	1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 17
5. Rochester I.A.	1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 13, 17
6. Pyramid-Boort I.A.	1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 17
7. Torrumbarry I.A.	1, 9, 10, 11, 12, 13, 17
8. Campaspe I.D.	1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 17
9. Tresco I.D.	1, 7, 10, 11, 12, 13, 17
10. Nyah I.D.	1, 7, 9, 11, 12, 13, 17
11. Robinvale I.D.	1, 7, 9, 10, 12, 13, 17
12. Red Cliffs I.D.	1, 7, 9, 10, 11, 13, 17
13. Merbein I.D.	1, 7, 9, 10, 11, 12, 17
14. Macalister I.D.	
15. Werribee I.D.	16
16. Bacchus Marsh I.D.	15
17. First Mildura I.D.	1, 7, 9, 10, 11, 12, 13

Sch. 9
(Heading)
amended by
S.R. No.
5/2006
reg. 4(2).

SCHEDULE 9

Regulation 13

**IRRIGATION AREAS (I.A.) AND DISTRICTS (I.D.) SUBJECT
TO 4% LIMIT**

1. Torrumbarry I.A. (excluding the Woorinen part)
2. Murray Valley I.A.
3. Shepparton I.A.
4. Central Goulburn I.A.
5. Rochester I.A.
6. Pyramid-Boort I.A.
7. Campaspe I.D.
8. Merbein I.D., Red Cliffs I.D., Robinvale I.D.
9. The Woorinen part of the Torrumbarry I.A. (until 30 June 2002)
10. Nyah I.D., Tresco I.D., the Woorinen part of Torrumbarry I.A. (after 1 July 2002)
11. First Mildura I.D.

SCHEDULE 10

Regulation 15(1)

CERTIFICATE UNDER SECTION 227 OF THE WATER ACT 1989

Ratepayer

Land, being Lot No.

LP No.

Crown Allotment

Section

Parish

Irrigation District

Register Entry No.

Total Area

Total Water Right

Amount of Water Right transferred (if any)

Date Water Right transferred

Issued at

on

Authorised Person

=====

ENDNOTES

1. General Information

The Water (Permanent Transfer of Water Rights) Regulations 2001, S.R. No. 132/2001 were made on 4 December 2001 by the Governor in Council under sections 228 and 324 of the **Water Act 1989**, No. 80/1989 and came into operation on 4 December 2001: regulation 3.

The Water (Permanent Transfer of Water Rights) Regulations 2001 will sunset 10 years after the day of making on 4 December 2011 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the Water (Permanent Transfer of Water Rights) Regulations 2001 by statutory rules, subordinate instruments and Acts.

Water (Permanent Transfer of Water Rights) (Amendment) Regulations 2006,
S.R. No. 5/2006

Date of Making: 24.1.06
Date of Commencement: 1.7.06: reg. 3

3. Explanatory Details

¹ Reg. 10(e): Permanent transfer of water rights to land outside Victoria may also be affected by the Murray-Darling Basin Agreement (a schedule to the **Murray-Darling Basin Act 1993**) and any guidelines set by the Minister under section 224B of the **Water Act 1989**.

Note: That the Water (Permanent Transfer of Water Rights) Regulations 1991 were revoked on 3 December 2001 under section 5 of the **Subordinate Legislation Act 1994**.