

INSTRUCTIONS FOR COMPLETING A FORM T-1

PART A

1. Before completing the form **read** these instructions. Use **BLOCK LETTERS** when completing the form.
2. **Authorisation Holder** - Specify the full name business address, postal address and email address (if applicable) of the authorisation holder(s) as recorded on the authorisation(s). If the authorisation holder is a corporation, print the Australian Company Number ('ACN') and Australian Business Number ('ABN') after the name. Specify the business hours telephone and facsimile numbers.
3. **Authorisation(s) to be transferred** - Specify the nature of the authorisation (eg. Fishing Boat Licence, Shark Bay Snapper Managed Fishery Licence, Fish Processors Licence etc) and the authorisation number. **Note: A 'Licensed Fishing Boat Number' is not an 'authorisation number'**. Only one Fishing Boat Licence is to be specified in an application form (except where Fishing Boat Licences are associated by the same numerical LFB No. eg. LFB No's 22, 22A, 22B etc). More than one Managed Fishery Licence may be specified in an application form **provided that** the 'authorised boat' (FBL details) specified in each Managed Fishery Licence is the same. Specify the sale price for the transfer.

PART B

4. **Proposed transferee** - Specify the full name, business address, postal address and email address (if applicable) of the person(s) to whom the authorisation holder is applying to have the authorisation transferred. If the proposed transferee is a corporation, print the Australian Company Number ("ACN") after the name. Specify the business hours telephone and facsimile numbers.
5. **Details of proposed variations to Authorisation(s)** - Is there to be a variation to the boat details, or any other details, specified in the authorisation that is being transferred? If "yes", then an 'Application for the Variation of an Authorisation' (Form V-1) duly completed by the **Transferee** and accompanied by the prescribed fee should accompany the T-1 application form. For example, if 'Managed Fishery Licence No. 9999' is to be transferred, and the details of the boat specified in the licence are to change from 'LFB No. 88 "Boat A"' to 'LFB 77 "Boat B"' then a Form V-1 (Variation Application) should accompany the T-1 Form.

PART C

6. **Duty** - The *Duties Act 2008* provides that duty is payable where an authorisation is transferred. The documentation referred to by of the Office of State Revenue 'Duties Fact Sheet – Business Licences' in respect of transactions under the *Fish Resources Management Act 1994* **must be provided** with the application form.
7. **Consent under section 140(5)** – If a security interest notation on the register is not to be removed prior to the proposed transfer, then the authorisation holder may consent to the application proceeding within the 21-day period of notice mentioned in subsection 140(4). **Note:** A form for the removal of a security interest is available from the Department of Fisheries.
8. **Fit and proper person** – Specify why the proposed transferee is a 'fit and proper person'.
9. **If more than one transferee- joint tenants and tenants in common under section 146A-** State whether the authorisation(s) are to be held as joint tenants or tenants in common.

Note: It is recommended that you consider seeking legal advice before you complete Item 9 under Part C.

If the authorisation is to be held as joint tenants it means that:

- You all hold equal shares.
- If one of the holders die, then their share automatically passes to the other holders. In this case the Registrar may amend the register pursuant to section 132 of the *Fish Resources Management Act 1994*.

If the authorisation is to be held as tenants in common:

- You can choose to hold the authorisation in equal shares, or unequally.
- If one of the holders die, the share of that holder passes to the legal personal representative. It will not automatically go to the co-holders (as it would if the authorisation was held as joint tenants). In this case an 'Application for the transfer of an authorisation' (Form T-1) will need to be submitted for consideration.

10. **Declaration** - There are penalties under the *Fish Resources Management Act 1994* for making false or misleading statements in applications.

11. Execution of application

Both the authorisation holder and the proposed transferee must sign the T-1 Form.

Signatures – All the persons recorded on the register as being holders of the authorisation must sign and date the application form. An Executor may only apply if already recorded as Executor on the relevant authorisation. A copy of the Grant of Probate must be lodged with the application form (unless previously provided).

Corporations – the company must properly execute the form. A copy of the register of the directors/officers (names and addresses), together with a copy of that part of the constitution governing the use of the seal (if any) **must be provided** with the form. Where the form is executed by the sole director and sole company secretary the relevant declaration under section 129 of the Corporations Law must be made.

Attorney - If the authorisation holder has appointed an Attorney, the Attorney signing may be requested to produce the relevant Power of Attorney instrument for viewing and a copy for recording.

PART D

- 12. Consent of Holder of Security Interest** - A security interest holder may consent to the application proceeding within the 21-day period of notice mentioned in subsection 140(4). Refer to Instruction 10 above for execution requirements.

APPLICATION FOR THE TRANSFER OF AN AUTHORISATION

This form is to be used by the holder of an authorisation to apply to the Chief Executive Officer for the transfer of an authorisation to another person.

Information Relating to Applications**Application Fee**

The prescribed application fee must accompany this Application. The application fee will vary depending on the authorisation to be transferred. See Part 2 of Schedule 1 to the regulations. (Note: Fees may be subject to change.)

Applying for the transfer of an authorisation, and grounds for proposing to refuse to transfer an authorisation

Section 140(1) of the Act provides for the making of an application for the transfer of an authorisation (licence or permit). Section 140(2) of the Act and regulation 131 set out grounds upon which the Chief Executive Officer may propose to refuse to transfer an authorisation. These provisions are set out below.

In the case of a managed fishery licence, additional 'grounds' upon which a proposed refusal to transfer may be based may be set out in the relevant management plan.

SECTION 140(1)

If the holder of an authorisation applies to the CEO for the transfer of -

- (a) the authorisation to another person; or
- (b) part of an entitlement under an authorisation to another authorisation,

the CEO is, subject to subsection (2), to transfer the authorisation or the part of the entitlement.

SECTION 140(2)

The CEO may refuse to transfer an authorisation or part of an entitlement -

- (a) if in the CEO's opinion the proposed transferee -
 - (i) is not a fit and proper person to hold the authorisation; or
 - (ii) does not satisfy guidelines under section 247 relating to foreign persons holding, controlling or having an interest in authorisations; or
- (b) on any other ground specified in a relevant management plan or prescribed in the regulations. (See Regulation 131).

REGULATION 131

The CEO* may, under section 140(2)(b) of the Act, refuse to transfer an authorisation or part of an entitlement under an authorisation on the grounds that -

- (a) the proposed transferor or transferee has not provided information, or further information, required by the CEO* for a proper consideration of the application, or has refused to verify such information by statutory declaration;
- (b) where the authorisation is held in respect of a boat, the boat is unseaworthy, lost or destroyed;
- (ba) where the holder has 2 or more authorisations and all of those authorisations are not simultaneously being transferred to the same transferee, in the opinion of the CEO*, it is not in the better interests of the fishery to transfer the authorisation;
- (c) the holder has not used the authorisation in the previous 2 years;
- (d) the holder has been convicted of an offence against -
 - (i) the Act or these regulations;
 - (ii) a written law other than this Act if the offence relates to the fishing industry; or
 - (iii) a law of the Commonwealth, or of another State or Territory, relating to the management or regulation of fish resources;
- (e) in the opinion of the CEO*, a condition of the authorisation has been contravened;
- (f) the authorisation was obtained by fraud or misrepresentation;
- (g) the holder has -
 - (i) failed to keep any record, or submit any return, that is required to be kept or submitted under this Act; or
 - (ii) made an entry or statement in such a record or return that is false or misleading in a material particular;
- (h) a fee, charge or levy payable in respect of the authorisation has not been paid when it became due; or
- (i) the transfer would contravene a condition of that authorisation or be contrary to a provision of a management plan.

* On 1 July 2006 the *Machinery of Government Act 2006*, commenced operation. Under s.242 of that Act, any reference to "Executive Director" in the regulations is to be taken to be a reference to "CEO".

Attention

Fisheries legislation changes from time to time. To assist fishers, aquaculturists and members of the public to access fisheries legislation, the Chief Executive Officer has arranged for up-to-date fisheries legislation to be made available on the internet. Fisheries legislation may be viewed by logging on to the Department of Fisheries website (www.fish.wa.gov.au) and clicking on the Legislation link on the top of the home page. The Chief Executive Officer recommends the licence holders and persons acting on their behalf (eg. employees), regularly access this legislation service and make themselves aware of the fisheries legislation that relates to their activities.

Duty

Under the provisions of the *Duties Act 2008*, duty is payable with respect to the transaction the subject of this application.

Please refer to 'Duties Fact Sheet – Business Licences' provided by the Office of State Revenue for further details regarding your obligations under that Act, and for the requirements that must be satisfied before the Chief Executive Officer will accept this application form.

Note: Applicants should be aware that the details disclosed in this application form will be recorded on the register maintained under the Act and be available for public search.

Department of Fisheries
 3rd Floor, SGIO Atrium
 168-170 St George's Terrace
 PERTH WA 6000
 Phone: (08) 9482 7333
 Fax: (08) 9482 7390

Office Use Only	
Date Received:	
Fee Paid:	
Receipt No.:	

Fish Resources Management Act 1994
 Section 135 & 140

Application for the Transfer of an Authorisation (Form T-1)

To the Chief Executive Officer : The authorisation holder specified in Part A **hereby applies** for the transfer of the authorisation(s) specified in Part A to the person(s) specified in Part B.

PART A

1. I **declare** that I have read the 'Information Relating to Applications', 'Instructions for Completing a Form T-1' and the 'Office of State Revenue ("OSR") 'Duties Fact Sheet – Business Licences' in respect of transactions under the *Fish Resources Management Act 1994*.

2. Authorisation Holder:

Name(s):
 Business Address:
 Postal Address:
 ACN: ☎: Fax:
 ABN: Email:

3. Authorisation(s) to be transferred:

Authorisation Nature and No:
 Sale price:
 Authorisation Nature and No:
 Sale price:
 Authorisation Nature and No:
 Sale price:

PART B

4. Proposed transferee

Name(s):
 Business Address:
 Postal Address:
 ACN: ☎: Fax:
 ABN: Email:

5. Is there to be a variation to the boat details, or any other details, specified in the authorisation that is being transferred? [yes / no]

If yes, is an Application for Variation of the licence [Form V-1] included with this Transfer ?
 [yes / no]

PART C

6. Duty

Is this application made pursuant to a transaction (agreement) in hard copy form for the transfer of the authorisation?
 [yes / no]

If **"Yes"**, provide evidence to show that the transaction (agreement) has been lodged with the Commissioner of State Revenue for assessment of duty. Refer to on the OSR 'Duties Fact Sheet – Business Licences' for details.
 If **"No"**, a copy of the duty endorsed 'Transfer Duty Statement – Acquisition of an authorisation or entitlement under the *Fish Resources Management Act 1994*' prepared pursuant to Division 2 of Part 4 of the *Duties Act 2008* must be provided with this application form. Refer to on the OSR 'Duties Fact Sheet – Business Licences' for details.

7. Consent under section 140(5)

Is an 'Application for the Removal of a Notation of a Security Interest on the Register' included with this application form? [yes / no]

Does the authorisation holder specified in Part A above consent to this application for transfer proceeding within the 21 day period of notice specified in subsection 140(4) of the Act? [yes / no / NA]

8. Specify why the proposed transferee should be considered a "fit and proper person" to hold a licence

.....
.....

9. If more than one transferee- joint tenants or tenants in common

State whether the authorisation (s) are to be held as joint tenants or as tenants in common.....

If tenants in common then specify the shares held by each person.

10. Declarations

The **authorisation holder** specified in Item 2 of this form **declares** that the statements made in items 1, 2, 3, 6 and 7 of this form are true and correct.

The **proposed transferee** specified in Item 4 of this form **declares** that the statements made in Items 1, 3, 4, 5, 6, 8 and 9. are true and correct..

11. Execution – both the authorisation holder and the proposed transferee are to sign / execute this form.

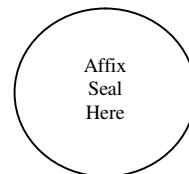
11.1 Authorisation holder

Individuals

.....
(signature) (print name) (date)
.....
(signature) (print name) (date)
.....
(signature) (print name) (date)

Corporation

The Common Seal of the authorisation holder is hereunto affixed in accordance with the corporation's Constitution:



Director :
(signature) (print name) (date)
Director/Secretary:
(signature) (print name) (date)

Declaration where sole director/secretary (if applicable):

I declare that I am the sole director and sole company secretary of
(print name)
.....
(print company name) (signature) (date)

Attorney

Attorney under Power:
(signature) (print name) (date)

