

APPLICATION FOR THE TRANSFER OF PART OF AN ENTITLEMENT

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

Information Relating to Applications**Application Fee**

The prescribed application fee must accompany this application form. See Part 2 of Schedule 1 to the regulations. (Note: Fees may be subject to change.)

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

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

In the case of a managed fishery licence, additional 'grounds' upon which a transfer application may be refused are 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, up-to-date fisheries legislation is available on the Department of Primary Industries and Regional Development - Fisheries website (www.fish.wa.gov.au). The Chief Executive Officer recommends that authorisation 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

Office Use Only	
Date Received	
Fee Paid	
Receipt No.	

Fish Resources Management Act 1994
 Section 135 & 140

Application for the Transfer of Part of an Entitlement (Form T-2)

To the Chief Executive Officer: The authorisation holder specified in Part A **hereby applies** for the transfer of the part of the entitlement specified in Part A to the authorisation(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-2' 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 from which part of an entitlement is to be transferred:**

Authorisation Nature and No:

Details of part of entitlement to be transferred:

Last Catch Disposal Record (CDR) No:.....Date:.....

Have the units of part of entitlement being transferred been exhausted? [*yes / no*].....

PART B

4. **Authorisation(s) to which entitlement is to be transferred**

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price:

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price:

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price:

PART C

5. Duty

Is this application made pursuant to a transaction (agreement) for the transfer of the part entitlement?

[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 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 the OSR ‘Duties Fact Sheet – Business Licences’ for details.

6. 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]

7. Date transfer is intended to occur:

8. Declarations

I declare that the statements made in this Application Form are true and correct.

9. Execution of Application Form

Individuals

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

PART D

10. Consent of security interest holder(s)

A holder of a security interest noted on the register may consent to the transfer of the part entitlement in accordance with this application form.

I/We the registered holder(s) of a security interest over the authorisation specified in Item 3 above hereby consent to the grant of this application by the Chief Executive Officer **within the 21 day period** of notice specified in subsection 140(4) of the Act.

Name:	Name:
Signature Date:	Signature: .....Date:.....
Name:	Name:
Signature Date:	Signature: .....Date:.....
Name:	Name:
Signature Date:	Signature: .....Date:.....
Name:	Name:
Signature Date:	Signature: .....Date:.....

**APPLICATION FOR TRANSFER – ADDITIONAL SHEET
(TRANSFER OF ENTITLEMENT – FURTHER INFORMATION)**

This form is to be used in conjunction with an Application for Transfer Form T-2 or T-3.

Details of Application for Transfer:

Authorisation Holder:

Nature of Transfer Form [specify T-2 or T-3]

Date of execution of Transfer Form:

3. (cont) Authorisations to which entitlement is to be transferred

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price :

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price :

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price :

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price :

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price Total sale price :

Authorisation Nature and No:

Holder of Authorisation:

Details of part of entitlement to be transferred to this authorisation:

Unit sale price: Total sale price :