

INSTRUCTIONS FOR COMPLETING A FORM T-2

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 the Australian Business Number ('ABN') after the name. Specify the business hours telephone and facsimile numbers.
3. **Authorisation from which part of an entitlement is to be transferred** - Specify the nature of the authorisation (eg. Shark Bay Snapper Managed Fishery Licence) and the authorisation number. Also specify the part entitlement that is to be transferred (eg. a number of units of entitlement, and class of units). In regard to entitlement conferred under the West Coast Rock Lobster Management Plan 2011, specify the latest catch and disposal record number and the date it was lodged. The authorisation holder listed under Part A2 is to state whether the units of the part of the entitlement being transferred are exhausted. The CEO may refuse to transfer an entitlement, or part of entitlement if the entitlement conferred by the licence is exhausted. Refer to clauses 15 (2) (e) and (f) of West Coast Rock Lobster Management Plan 2011.

PART B

4. **Authorisation(s) to which entitlement is to be transferred** - Specify the nature of the authorisation (eg. Shark Bay Snapper Managed Fishery Licence) and the authorisation number of the authorisation(s) to which the part of the entitlement is to be transferred. Use an Additional Sheet if required. Specify the sale price of the transfer.

PART C

5. **Duty** - The *Duties Act 2008* provides that duty is payable where part of an entitlement is transferred. The documentation referred to by 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.
6. **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 notation is available from the Department of Fisheries.
7. **Date transfer is intended to occur** – Specify when it is intended that the transfer be effected. eg. "immediately" or "On (date)". **Note:** It is the responsibility of an authorisation holder to ensure that the entitlement of a licence is not exceeded either before or after transfer. **Note:** The transfer will not necessarily be effected on a date specified. The formal approval of the Chief Executive Officer will be given in writing when the transfer is effected.
8. **Declaration** - There are penalties under the *Fish Resources Management Act 1994* for making false or misleading statements in applications.
9. **Execution of application**
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

10. **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). See also Instruction 6 above. Refer to Instruction 9 above for execution requirements.

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, 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 that 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 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:

In regard to entitlement conferred under the West Coast Rock Lobster Management Plan 2011 provide-

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

Have the units of the part of the 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 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 :