

LIVING MARINE RESOURCES MANAGEMENT ACT 1995
SECTION 75 - MINISTERIAL GUIDELINE

SUBJECT: LICENCE TRANSFERS

This guideline replaces the guidelines titled *Licence Transfers* and *Licence Package Splitting* approved on 24 July 2006.

BACKGROUND

This guideline refers to vessel licence packages, that is, one or more fishing licences specified on the same fishing certificate as a fishing licence (vessel).

All applications to transfer a licence(s) are to be lodged in accordance with section 77 and considered pursuant to section 82 of the *Living Marine Resources Management Act 1995* (the Act).

A key management regime used to consider individual licence transfers from one licence package to another is the prevention of any potential increase in total fishing effort in a fishery, not necessarily the fishery that the fishing licence to be transferred specifically relates to. The complex nature of many fishing licence transfer applications has necessitated the development of this guideline.

The purpose of this guideline is to assist decision making on fishing licence-splitting and licence transfer applications and allows some rationalisation in fishing operations while limiting the potential for increasing existing effort in a fishery.

This guideline also aims to provide licence holders with a guide to the types of situations where licence transfers will generally be approved with or without conditions and those which will generally be refused.

OBJECTIVE OF THE POLICY

To state the types of licence transfers that will generally be approved.

POLICY STATEMENT

Subject to the provisions of the Act being met, approval will be granted to transfer a fishing licence package from a licence holder to another entity. Applications to transfer one or more fishing licences from one licence package to another licence package (licence splits) in the circumstances described below under 'Administration of Policy', may also be approved providing no other circumstances exists which would result in the approval being inconsistent with the Act a management plan or another Ministerial Guideline.

Applications that do not fall into these categories are either to be refused or referred to the Licence Package Splitting Review Committee as appropriate for assessment on a case by case basis.

The Licence Package Splitting Review Committee is to comprise of the Director – Marine Resources, the Manager – Wild Fisheries Management and the Manager – Licensing and Fisheries Monitoring.

The Licensing and Fisheries Monitoring Section is responsible for initial consideration and processing of all applications and is responsible to advise the Licence Package Splitting Review Committee where an application is inconsistent with this guideline.

ADMINISTRATION OF THE POLICY

All fishing licences specified on a certificate must be held in the same name and if a vessel is specified on the licence package, all licences must be specified on that vessel and only that vessel.

A fishing licence endorsed as being non-transferable or identified as being non-transferable in relevant legislation or another guideline will retain their non-transferable status and will not be transferred. The following fishing licences and/or classes of fishing licence are permanently non-transferable:

- class handling - fish handling licence;
- class processing - fish processing licence;
- fishing licence (class recreational);
- fishing licence (class Danish seine);
- fishing licence (personal);
- fishing licence (scalefish C);
- fishing licence (scalefish A or B) - endorsed as non-transferable;
- fishing licence (mussel spat collection);
- fishing licence (scallop spat collection);
- fishing licence (Pacific oyster);
- fishing licence (vessel) - endorsed as non-transferable;
- fishing licence (abalone quota); and
- fishing licence (*undaria*)

An application to transfer one or more fishing licence(s) is to be refused if it would result in more than one of any kind of fishing licence specified on the same certificate except for a fishing licence (giant crab), where no more than five fishing licence (giant crab) can be specified on the one certificate.

This includes licences of the same class but different category, for example, a fishing licence (scalefish A) must not be specified on the same certificate as a fishing licence (scalefish B), a fishing licence (beach seine A) is not to be specified on the same certificate as a fishing licence (beach seine B) etc.

The following fishing licences or classes of fishing licences must at all times be specified on a certificate that has a fishing licence (vessel) specified:

- fishing licence (class scalefish);
- fishing licence (automatic squid jig);
- fishing licence (small mesh gillnet);
- fishing licence (class seine);
- fishing licence (class Danish Seine);
- fishing licence (rock lobster);
- fishing licence (scallop);
- fishing licence (giant crab);
- fishing licence (class species); and
- fishing licence (octopus).

A fishing licence (giant crab) must at all times be specified on a certificate that also has a fishing licence (rock lobster) specified.

A fishing licence (wrasse) and/or fishing licence (banded morwong) fishing licence (southern calamari) must be at all times specified on a certificate that also has a fishing licence (class scalefish).

Size categories for fishing licence (vessel) apply. A fishing vessel must only be specified on a fishing licence (vessel) in the appropriate size category, with the exception of special arrangements for the rock lobster fishery as detailed below. All fishing licences specified on a certificate are restricted to the vessel size category of the fishing licence (vessel).

An application to specify a fishing vessel up to 20 metres in length on a certificate which has a fishing licence (vessel) specified with a vessel size category of 0 to 10 metres and a fishing licence (rock lobster) may be approved on the condition that any of the following fishing licences or classes of fishing licences are endorsed as being deactivated whilst the vessel remains on the licence package:

- fishing licence (class scalefish);
- fishing licence (small mesh gillnet);
- fishing licence (class seine);
- fishing licence (Danish seine); and
- fishing licence (scallop).

An application to transfer a fishing licence(s) is to be refused if the transfer adds a fishing licence(s) to a certificate which specifies only a fishing licence (vessel) or a fishing licence (vessel) and a fishing licence (scalefish C).

An application is to be refused if the transfer will create a licence package that consists of only a fishing licence (vessel) and a fishing licence (scalefish C), or a licence package that consists of only a fishing licence (vessel) and a fishing licence (scallop) or a licence package that consists of only a fishing licence (vessel) and a fishing licence (scallop) and a fishing licence (scalefish C). In these situations, the transfer may be approved providing the fishing licence (scalefish C) and/or the fishing licence (scallop) is/are surrendered.

Fishing licence transfers which involves the transfer of a fishing licence, other than;

- fishing licence (wrasse);
- fishing licence (automatic squid jig);
- fishing licence (Australian salmon);
- fishing licence (banded morwong);
- fishing licence (octopus); or
- fishing licence (southern calamari).

are only to be approved if the licence is being transferred to a certificate that has a fishing licence (vessel) specified of the same vessel size category or smaller than the fishing licence (vessel) from which the fishing licence is to be transferred.

However, the Licence Package Splitting Review Committee may approve a transfer of a fishing licence from a smaller vessel category to a larger vessel category providing the applicant causes the permanent surrender of an appropriate fishing licence(s) as determined by the Licence Package Splitting Review Committee.

If a fishing licence, other than a:

- fishing licence (wrasse);
- fishing licence (automatic squid jig);
- fishing licence (Australian salmon);
- fishing licence (banded morwong);
- fishing licence (octopus); or
- fishing licence (southern calamari).

is transferred from a fishing licence (vessel) to another fishing licence (vessel) with a smaller vessel size category, the fishing licence being transferred is to be permanently down graded to the smaller vessel size category.

Notwithstanding the abovementioned guideline, a licence holder may make written application to have a fishing licence transferred to a smaller vessel size category for a period no longer than two years without the fishing licence being permanently down graded to the smaller vessel category providing the fishing licence is transferred back to the originating licence package on or before the expiry of the two year period.

Failure to transfer the fishing licence back to the originating licence holder within the two year period will result in the fishing licence being permanently down graded to the smaller vessel size category.

General

Verbal advice or an approval in principal given to any person in relation to a proposed licence transfer by the Department does not constitute a formal decision, therefore is not reviewable and is not binding upon the Minister. Formal decisions must be in writing and will only be made in response to the receipt of an application in writing.

All licence transfers are to be considered as being permanent transfers regardless of whether the applicants have an arrangement for a fixed or temporary period of time.

A licence transfer will not be automatically reversed at the expiration of any agreement between parties to the transfer. Transfer application forms are not to be accepted in advance for the purpose of a future reversal transfer.

Notwithstanding any of the above, an application may be rejected if the Minister or his delegate determines that approval would be contrary to the objectives of the *Living Marine Resources Management Act 1995*.

Approved by:



Date: 16 12 2011

Bryan Green MP

Minister for Primary Industries and Water