

TRANSFERS (CHANGE OF REGISTRANT) POLICY

1. BACKGROUND

- 1.1 This document sets out auDA's policy on the transfer of a domain name licence from one registrant to a proposed new registrant, which has the effect of changing the name of the registrant as listed in the registry database.
- 1.2 One of the fundamental policy principles in the .au domain is that domain names are allocated on a 'first come, first served' basis to registrants that meet the relevant eligibility criteria. If a registrant is not entitled to hold their domain name licence (either under auDA policy or applicable rules of law), or has no further use for the domain name, then the registrant should delete the domain name and make it available for registration by another eligible registrant on a first come, first served basis.
- 1.3 However, auDA recognises that the normal deletion process is not appropriate where the registrant is required to transfer their domain name licence to another party, by operation of law or for reasons of commercial expediency. This document sets out a limited set of circumstances under which a registrant may transfer their domain name licence.
- 1.4 This document does not detail the technical steps required to change the registrant in the registry database. This information is made available to all auDA accredited registrars by the registry.

2. TERMINOLOGY

- 2.1 This policy uses the following terms:
 - a) "proposed new registrant" means the entity or person to whom the registrant proposes to transfer their domain name licence; and
 - b) "written request for transfer" means a request for transfer submitted to the registrar by letter, facsimile, email or online form (request by telephone is not acceptable) that provides details of the transfer circumstances (listed in paragraph 3.1).

3. CIRCUMSTANCES OF TRANSFER

- 3.1 A registrant may transfer their domain name licence to a proposed new registrant if:
 - a) (i) the domain name is used within the operations of the registrant and either the registrant or the operations are acquired by, merged into, devolved to or joined with the operations of the proposed new registrant; or

(ii) the registrant, being a legal entity, is dissolved, liquidated, enters into administration or is wound up with the consequence of the registrant's licence passing to the proposed new registrant by operation of law; or

(iii) the registrant, being a natural person, dies, becomes insane or enters into a deed of family settlement with consequence of the registrant's licence passing to the proposed new registrant by operation of law; or

(iv) the registrant is required to relinquish the licence to the proposed new registrant by order of a competent arbitrator, tribunal, court or legislative body; or

(v) the registrant has entered into an agreement to transfer the licence to the proposed new registrant in settlement of a dispute between the parties, as evidenced by a deed of settlement;

AND

b) the proposed new registrant is eligible to hold the domain name according to the relevant eligibility and allocation rules;

AND

c) the transfer does not constitute a breach of the prohibition on sale of a domain name by a registrant (auDA Published Policy 2002-24).

3.2 A request for transfer of a domain name licence that does not qualify under paragraph 3.1 must be denied by the registrar. In the event that the registrant is unable or no longer eligible to hold the domain name, then the licence must be surrendered and the domain name deleted from the registry under the normal deletion process.

3.3 Where a request for transfer has been denied, the registrant has recourse to auDA's normal complaints-handling process (auDA Published Policy 2002-21).

4. TRANSFER PROCESS

4.1 To process the transfer of a domain name licence, the registrar must:

a) receive a written request for transfer (as defined in paragraph 2.1) from the registrant contact;

b) obtain documentary evidence in verification of the circumstances relied upon in paragraph 3.1 (eg. copy of deed of settlement); and

c) obtain confirmation of the request for transfer from both the registrant contact and the proposed new registrant.

4.2 The registrar must keep full records of the transfer for inspection by auDA on demand, including copies of the written request for transfer, documentary evidence and the confirmation from the registrant contact and proposed new registrant.

4.3 The transfer will result in a new 2 year domain name licence being issued to the proposed new registrant. The registrant is not entitled to be reimbursed by the registrar for the unused portion of their domain name licence.