

Notification of an appointment or change of an Approved Operator (Commercial Fisheries)

Information Relating to Notifications

This form is to be used by a licensee to advise the Director Fisheries of the appointment or change of an Approved Operator (Commercial Fisheries) in charge of fishing operations.

Application Fee

No fees apply to the appointment or change of an Approved Operator.

Fisheries Act

Section 17E – Appointment of approved operator to be person in charge of fishing operations

- (1) Subject to subsection (2), a licensee must appoint an approved operator to be the person in charge of fishing operations under the licence or permit.
- (2) A licensee to whom section 16B(1)(b) or (c) applies is not required to appoint an approved operator to be the person in charge of fishing operations under the licence or permit.
- (3) A licensee may cancel or vary an appointment of an approved operator under subsection (1) at any time.
- (4) Within 24 hours after appointing an approved operator or cancelling or varying an appointment, the licensee must give the Director notice in the approved form setting out:
 - (a) for an appointment:
 - (i) the approved operator's full name; and
 - (ii) the start and end date of the period for which the operator is appointed; and
 - (iii) if the operator is appointed to be the person in charge of part of fishing operations only, the part of fishing operations in relation to which the operator is appointed; and
 - (b) for a cancellation or variation, details of the cancellation or variation.
- (5) A licensee must not contravene subsection (4).
Maximum penalty: 100 penalty units.
- (6) An offence against subsection (5) is an offence of strict liability.
- (7) An appointment under this section may be in relation to all of the fishing operations authorised by the licence or permit or a specified part of those fishing operations.

Section 17G – Offence if person in charge not appointed

- (1) A licensee commits an offence if:
 - (a) the licensee is required under section 17E to appoint a person in charge of fishing operations under the licence or permit; and
 - (b) a person engages in fishing operations under the licence or permit and the licensee is reckless in relation to that circumstance; and
 - (c) at the time the fishing operations are engaged in, there is no person in charge of those fishing operations appointed under section 17E.Maximum penalty: 100 penalty units.
- (2) A person commits an offence if:
 - (a) a licensee is required under section 17E to appoint a person in charge of fishing operations under the licence or permit; and
 - (b) the person is in charge of fishing operations under the licence or permit; and

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- (c) at the time the person is in charge of fishing operations, the person is not appointed under section 17E to be the person in charge of those fishing operations and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

- (3) Strict liability applies to subsections (1)(a) and (c) and (2)(a) and (b).

Section 17H - Liability of person in charge for offences by others

- (1) A person in charge of fishing operations under a licence or permit commits an offence if:
 - (a) during the conduct of fishing operations under the licence or permit, a person (the **primary offender**) commits an offence against this Act (**relevant offence**) and the person in charge is reckless in relation to that circumstance; and
 - (b) the person in charge failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

- (2) Strict liability applies to subsection (1)(b).
- (3) This section does not affect the liability of the primary offender for the relevant offence.
- (4) This section applies whether or not the primary offender is prosecuted for, or found guilty of, the relevant offence.
- (5) This section does not apply if the primary offender would have a defence to a prosecution for the relevant offence.
- (6) A person is not liable to imprisonment if found guilty of an offence because of subsection (1) if the person would not have been found guilty of the offence if subsection (1) had not been enacted.
- (7) In determining whether a person in charge failed to take reasonable steps as mentioned in subsection (1)(b), regard must be had to any matters set out in the Ministerial Guidelines.

Section 17J - Liability of licensee for offences by approved operator and others

- (1) A licensee commits an offence if:
 - (a) an approved operator, or another person engaged in fishing operations under the licence or permit, commits an offence against this Act (the **relevant offence**) and the licensee is reckless in relation to that circumstance; and
 - (b) the licensee failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the relevant offence.

- (2) Strict liability applies to subsection (1)(b).
- (3) This section does not affect the liability of the approved operator or other person for the relevant offence.
- (4) This section applies whether or not the approved operator or other person is prosecuted for, or found guilty of, the relevant offence.
- (5) This section does not apply if the approved operator or other person would have a defence to a prosecution for the relevant offence.
- (6) A licensee is not liable to imprisonment if found guilty of an offence because of subsection (1) if the licensee would not have been found guilty of the offence if subsection (1) had not been enacted.
- (7) In determining whether a licensee failed to take reasonable steps as mentioned in subsection (1)(b), regard must be had to any matters set out in the Ministerial Guidelines.

For any queries please contact the Fisheries Licensing Office on (08) 8999 2183.

Instructions for completing a notification or an appointment of change of an Approved Operator (Commercial Fisheries)

1. Before completing the form please read these instructions. **Please use BLOCK LETTERS** when completing the form.
2. **Licence Holder details:** Specify your full name. If you have a trading or business name, please provide these details.
3. **Licence number and type:** Specify your licence number (i.e. A4/9999) and type of licence (i.e. Spanish Mackerel) for confirmation purposes. Common licenses include: A1/ Coastal Line, A5/ Offshore Net & line, A6/ Demersal, A7/ Barramundi, A8/ Mud Crab, A18/ Timor Reef.
4. **Replacing an existing operator:** If you are removing or replacing an operator, you must indicate this by ticking the appropriate box and stating the person you are removing and the date of removal.
5. **New Approved Operator details:** Specify your full name, approved operator card number and period of appointment.
6. **Nominated vessel:** If you use a vessel as part of any commercial operations of your licence, it must be registered and you must provide these details on this notification.
7. **Execution of Notification Form:** Licensee and applicant must sign and date the notification form.
8. **Contact details:** If your contact details have changed you must update your details within 28 days. It is an offence under Section 40A of the Fisheries Act not to give the Director written notice of any changes to your details.

Declaration

Under section 35A of the *Fisheries Act* making false or misleading statements in notifications is an offence.

Changes to legislation

Please note that the *Fisheries Act*, regulations and management plans are amended from time to time. Current versions of these documents are available on the Internet and may be viewed at nt.gov.au.

Privacy Statement

Details in this application will be recorded in a Fisheries Register and certain personal details may be released, but will only be done so, in accordance with section 9 of the *Fisheries Act*.

Office Address:
Berrimah Business Park
33 Vaughan Street
BERRIMAH NT 0828

Contacts:
Tel: (08) 8999 2183
Fax: (08) 8999 2057
Email: Fisherieslicensing@nt.gov.au

Postal Address: Fisheries Licensing
Department of Industry, Tourism
and Trade
GPO Box 3000
DARWIN NT 0801

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1. LICENCE HOLDERS DETAILS

Full name of Individual: _____

Licence/Trading Name (if applicable) _____

Licence number

Licence Type

*If your contact details have changed, you must update your details on the approved form within 28 days.

2. REPLACED APPROVED OPERATOR DETAILS

Are you replacing an existing Approved Operator: No Yes

Name of Approved Operator you are replacing: _____ Date: _____

Approved Operator card number: _____

3. NEW APPROVED OPERATORS DETAILS

Full name of Approved Operator: _____

Approved Operator card number: _____

Period of appointment: From: _____ To: _____

*If your contact details have changed, you must update your details on the approved form within 28 days.

4. NOMINATED VESSEL

Full name of vessel: _____

DECLARATION AND CONSENT

1. I declare that I have read the 'Information Relating to Applications' and the 'Instructions for completing a notification of an appointment or change of an Approved Operator (Commercial Fisheries).
2. I declare that the information contained in this application is true and correct.

SIGNATURE OF LICENSEE & DATE	SIGNATURE OF APPROVED OPERATOR & DATE
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OFFICE USE ONLY

This notification has been noted and recorded: YES / NO

Director of Fisheries or Delegate Date

This notification form may be lodged via e-mail - Fisherieslicensing@nt.gov.au or in person at the Fisheries Licensing Office located at 33 Vaughan Street, Berrimah Business Park.