

Fisheries Branch Directive	Program: Commercial Guideline Type: Administrative (Management, Administrative)
Subject: APPLICATION OF SECTION 7 MANITOBA LICENSING REGULATION Revision Date:	Date Approved: February 5, 2007  <hr/> Director, Fisheries Branch

Introduction

There has been long-standing recognition of the need for commercial fishers to have someone else fish their nets for them when urgent, uncontrollable circumstances negate their ability to tend their nets. This is intended to ensure that there is no wastage of fish, an offence under the Fisheries Act (Canada) and helps fishers maintain their income. Specific provision was previously allowed under the Manitoba Fishery Regulations for a Fisheries Officer to authorize someone else to fish for the fisher during these times.

Currently, Section 7 of the Manitoba Licensing Regulation reads “*where the holder of a commercial fisherman’s licence or commercial operator’s licence is, due to uncontrollable circumstances, unable to engage in fishing authorized by the licence, an officer may, on request of the licensee transfer the licence privileges to another person*”. Requests for such a transfer have been received for various reasons including illness, death in the family, incarceration and the fisher going on a holiday.

Purpose

The purpose of this guideline is to better clarify what “*uncontrollable circumstances*” qualify and administrative requirements to ensure that quota can be properly tracked and assigned and that legal requirements for fish movements and deliveries are met.

Licence Transfers

- **Short-Term Transfers** – Short-term transfers of authority may be granted for a couple of days for reasons like illness, death in the family and equipment breakdown. In these instances, a fisher must contact a fisheries officer at their licensing District office and explain the situation. If the District office authorizes the transfer, it will be for a discrete, defined period of time and the District may determine that the authorized individual will have all the rights and privileges of a licensed fisher. This could include delivery of fish to the declared agent (on the original licensee’s licence) without loadslips, and the ability to sign the loadslips for another helper to deliver fish. When such dispensation is granted, the District Office must advise the agent at the declared delivery point, of the arrangement and should attach a written note to the District copy of the licence, documenting the authorization.
- **Long-Term Transfers** - Long-term transfers (greater than one week) will require appropriate documentation from the fisher including a letter from their doctor, etc., and will not be issued for a period exceeding two years. Documentation includes a written request from the fisher and written

approval from the local District Office designating the alternate. Upon granting such a request, the District office will either issue a new licence (**with no tenure**) or a letter authorizing the individual to fish with the authority of the original licensee and advise the agent at the declared delivery point of the arrangement.

In instances where a transfer extends beyond one year, the Department will issue a warning letter after the first year to the commercial fisher indicating that his licence privilege will be terminated after the second year and encouraging the fisher to transfer or sell their licence privilege (subject to licence transfer procedure).

Assignment of licence privileges for no obvious reason will not be accepted and incarceration or absence while on holidays are not considered appropriate *“uncontrollable circumstances”* for licence privilege transfer.