

## Automatic licence transfers

### What is an automatic licence transfer?

Under section 5.27 of the *Crown Lands Management Act 2016* (the Act), licences that provide a benefit to freehold or leasehold land will automatically transfer when the benefitting land is transferred. This is an automatic process that differs from prior processes where applicants had to apply to terminate an existing licence and grant a new licence to a purchaser.

When a licence automatically transfers, the transferee will become liable for compliance with the terms and conditions of the licence, including the payment rent and any outstanding arrears.

### Which licences will automatically transfer?

An automatic transfer will only occur if the licence:

- is associated with freehold or leasehold land
- provides a benefit to the freehold or leasehold land
- is held in the exact same name as the benefitting freehold or leasehold land
- the ownership of the freehold or leasehold land is being changed by a transfer and not a transmission. A transmission may occur where the ownership of land is transmitted to an executor, beneficiary, mortgagee or other third party.

The determination of eligible licences is at the discretion of the NSW Department of Industry—Lands & Water (the department).

Further information on how the classification of automatic licence transfers can be found at [www.industry.nsw.gov.au/lands/use/licences](http://www.industry.nsw.gov.au/lands/use/licences) or by contacting the department.

### How do licences automatically transfer?

Licences transfer automatically by law, under section 5.27 of the Act, at the time of transfer of the benefitting freehold or leasehold land. In most cases, this will occur at the time of settlement for the benefitting property.

### How do I notify the department of a transfer?

It is the responsibility of the transferee—the incoming party—to notify the department once a licence has automatically transferred. The transferee must notify the department within 28 days of the transfer occurring by submitting the Automatic Transfer Notification Form, available from [www.industry.nsw.gov.au/lands/what-we-do/fees-and-forms](http://www.industry.nsw.gov.au/lands/what-we-do/fees-and-forms) with the associated fee and any documentation detailed on the form.

### What adjustments do I need to make at settlement?

When a licence automatically transfers, the transferee becomes liable for payment of rent including any arrears. It is imperative that solicitors or conveyancing agents undertake adjustments at settlement for licences that will automatically transfer.

Prior to transfer, solicitors and conveyancing agents can obtain financial details on an automatically transferable licence by submitting a conveyancing search application, available from [www.industry.nsw.gov.au/lands/use/conveyancing](http://www.industry.nsw.gov.au/lands/use/conveyancing).

A conveyancing search will also clarify if a licence will automatically transfer and advise the solicitor or conveyancing agent whether adjustments are required.

## How do I know if a licence is associated with land I am purchasing?

If you are looking at purchasing a property, your solicitor or conveyancing agent can undertake a conveyancing search at [www.industry.nsw.gov.au/lands/use/conveyancing](http://www.industry.nsw.gov.au/lands/use/conveyancing). A conveyancing search details any tenures that are associated with a property and whether any adjustments need to be made at the time of settlement.

Land that is associated with tenure, such as a licence, will also have a notation placed on the certificate of title for the associated land. This places a flag on the title to prompt solicitors or conveyancing agents to undertake a conveyancing search with the department. These notations are continually added and removed from certificates of title—solicitors and conveyancing agents should still undertake due diligence in determining if a licence is associated with land.

## I am purchasing a property and I do not want the licence to transfer to me. What do I do?

If you are purchasing a property and do not wish for a licence to automatically transfer, the existing licence holder will need to arrange for their licence to be terminated **before** settlement occurs. If the termination is not fully processed and approved by the department before settlement, the licence will automatically transfer to you.

It is important that the termination of an existing licence is finalised by the department before settlement if you do not wish for a licence to transfer to you.

## More information

For further information please contact:

### Licences Team

(for all other licences)

- **Phone: 1300 886 235**
- Email: [licences@crowland.nsw.gov.au](mailto:licences@crowland.nsw.gov.au)
- Web: [www.industry.nsw.gov.au/lands](http://www.industry.nsw.gov.au/lands)

### Waterfront Tenures Team

(for domestic waterfront licences)

- **Phone: 1300 886 235**
- Email: [waterfront.tenures@crowland.nsw.gov.au](mailto:waterfront.tenures@crowland.nsw.gov.au)
- Web: [www.industry.nsw.gov.au/lands](http://www.industry.nsw.gov.au/lands)

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