

Transfer of .au domain name licences

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.au Domain Administration Ltd (auDA), the organisation that oversees .au domain names, released the *Interim Transfers (Change of Registrant) Policy* on 30 June 2002.

Under the previous domain name rules, the registrant of a .au domain name licence was prohibited from transferring the licence to another entity or person. The *Interim Transfers (Change of Registrant) Policy*, which came into effect immediately, now permits a .au domain name licence to be transferred in the following circumstances:

- (a) the registrant changes its name;
- (b) the domain name is used within the operations of the registrant and either the registrant or the operations of the registrant are acquired by, merged into, devolved to or joined with the operations of the proposed new registrant;
- (c) the registrant is dissolved, liquidated, enters into administration or is wound up and the licence passes to the proposed new registrant by operation of law;
- (d) the registrant dies, becomes insane or enters into a deed of

family settlement and the licence passes to the proposed new registrant by operation of law; or

- (e) the registrant is ordered to transfer the licence to the proposed new registrant by an arbitrator, tribunal, court or legislative body.

Registrants are the entities or persons that have been licensed to use a domain name. It is important to note that registrants do not have any proprietary right in the domain name and therefore do not have any right to 'sell' a domain name. The registrant only has a licence to use the domain name on certain terms for a limited time.

Registrars (the organisations accredited by auDA to register domain names) will only transfer a domain name licence if the proposed new registrant satisfies the domain name eligibility and allocation rules. These rules have recently been amended by the *Domain Name Eligibility and Allocation Policy Rules for Open 2LD's*.¹

The registrar will issue the new registrant with a two year domain name licence, which can be renewed for further two year periods if the registrant continues to satisfy the

eligibility and allocation rules. The previous registrant cannot seek repayment from the registrar for the unused portion of their licence fee.

The list of circumstances in which a domain name licence can be transferred under the new policy is exhaustive and does not cover, for example, the transfer of a domain name as part of a settlement agreement. auDA is currently considering whether this list should be expanded to cover additional situations.

The ability to transfer domain names will be welcomed by licence holders, as it acknowledges the commercial value and importance of domain names to the operations of many businesses. However, the circumstances in which domain name licences can be transferred is limited and may not suit all commercial situations.

A copy of the policy is available at www.auda.org.au.

¹ A note on the Domain Name Eligibility and Allocation Policy Rules for Open Second Level Domains appeared in *Computers & Law* (2002) 48 at 13.