

Document Class:	EXEMPTIONS
Document Name:	Lease
Document Description:	Entered into on or after 1/7/2004
Document Code:	EX

Introduction

This guide note applies to **all** leases entered into on or after 1 July 2004, regardless of whether the document is:

- a lease;
- a lease made subsequently;
- an extension of lease for 1 day;
- an extension of lease;
- a lease to a natural person as their principal place or residence; or
- a lease to an exempt authority (eg. exempt under the SD Act or some other legislation).

A lease is “entered into” once both parties to the lease have signed the lease agreement.

For example, where the lessor signs the agreement on 28 June 2004, the lessee signs the agreement on 29 June 2004 and the agreement is dated 2 July 2004, the lease will be taken to be “entered into” on 29 June 2004.

A lease is a document by which one party, in return for an agreed sum, grants to another party the right of exclusive possession of the first party’s property, for a specified time. The lease document sets out the terms, conditions and the amount of the rental that will apply during the term of the lease.

”Lease” includes an agreement for a lease or any written document for the tenancy or occupancy of property.

”Property” means land or a tenement.

The following similar transactions cannot be stamped under this document heading:

A lease which was entered into prior to 1 July 2004 cannot be stamped under this document heading. Refer to the appropriate document heading as described below:

- [Lease – Entered into pre 1/7/04 – Extension for 1 day](#) (LO)
- [Lease – Entered into pre 1/7/04 – Made Subs post 1/1/02 Ann Rent < or = \\$50,000](#) (LS)
- [Lease – Entered into pre 1/7/04 – Made Subs post 1/1/02 Ann Rent > \\$50,000](#) (LS)
- [Lease – Entered into pre 1/7/04 – Made Subs pre 1/1/02](#) (LS)

- [Lease – Entered into pre 1/7/04 – Post 1/1/02 Ann Rent < or = \\$50,000](#) (EX)
- [Lease – Entered into pre 1/7/04 – Post 1/1/02 Ann Rent > \\$50,000](#) (L)
- [Lease – Entered into pre 1/7/04 – Pre 1/1/02](#) (L)
- [Exemptions – Lease entered into pre 1/7/04 – To Exempt Authority](#) (EX)
- [Exemptions – Lease entered into pre 1/7/04 – To Natural Person Principal Place of Residence](#) (EX)

If the lease document includes another document (eg. Deed of Guarantee) this other document is chargeable separately under the appropriate head of duty. Refer to the document heading:

- [Others – Deed](#) (EX)

What *documents* can I stamp under this document heading?

The document can be in the form of:

- a LTO Form L1 – Memorandum of Lease;
- a LTO Form E2– Extension of Lease;
- an Agreement to lease property; or
- a Deed containing provisions for the lease of property.

What types of *transactions* can I stamp under this document heading?

A lease includes a new lease of property or an extension of a lease of property.

A lease is deemed **suitable** for self-stamping under this document heading where:

- the lease is entered into on or after 1 July 2004.

What stamp duty is payable on this document?

The document is “Exempt” from stamp duty.

Where the lease includes a separate consideration (eg. premium) other than the rent reserved this consideration is chargeable with *ad valorem* conveyance stamp duty. **Two stamps** will apply to the document, the first, must be entered as a lease under this document heading (as above) and the second, must be entered under the document heading:

- [Conveyance – Other – For Consideration – Property \(not Land/Shares/Units\)](#) (C)

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation:

- a copy of the stamped document.

Example 1 – Extension of Lease for 1 Day

A lease for a term of five years has been stamped. The parties wish to amend the terms of the lease to include GST references.

The parties execute an Extension of Lease for one day which is executed on 2 July 2004. This is the only date appearing on the lease so it is considered that this is a lease entered into on or after 1 July 2004. This document is “Exempt” from stamp duty.

Example 2 – Lease

Bob and Bill Smith Pty Ltd have entered into a lease on 5 July 2004 to lease a shop located in a major shopping complex over a 3 year period.

As this lease was entered into on or after 1 July 2004, the lease is “Exempt” from stamp duty.

Example 3 – Lease Made Subsequently

An Agreement for a Lease of Property has been stamped. The same parties have entered into a Memorandum of Lease on 1 August 2004 including exactly the same terms, conditions, property and rental as described in the Agreement for a Lease of Property.

As the Lease Made Subsequently was entered into on or after 1 July 2004, the lease is “Exempt” from stamp duty

Example 4 – Lease of land to the Crown

On 1 July 2004, ABC Pty Ltd entered into a lease of property with the Minister of Transport (a body of the Crown). Both parties execute a Memorandum of Lease.

The Memorandum of Lease is “Exempt” from stamp duty and should be stamped under this document heading.

Example 5 – Residential lease to a natural person

On 3 July 2004, John Smith entered into an Agreement to lease a house in Belair for \$500 per week. John and his family will be residing in the house as their principal place of residence.

The document is “Exempt” from stamp duty and is stamped under this document heading.

What section of the SD Act applies?

Section 75A