

Document Class:	EXEMPTION
Document Name:	Others
Document Description:	Transfer of Motor Vehicle Pursuant to a Will or Intestacy
Document Code:	EX

Introduction

This guide note refers to a transfer of the registration of a motor vehicle pursuant to a will of a deceased person, or, the laws of intestacy.

An Application to Transfer the Registration of a Motor Vehicle to a beneficiary entitled under the will of a deceased person or the laws of intestacy, is exempt from stamp duty.

The laws of intestacy are defined by the *Administration and Probate Act 1919*. This Act states that if a person dies intestate, then the property should be distributed in the manner set out in that Act.

A Court Order pursuant to the *Inheritance (Family Provisions) Act 1972* or the *Wills Act 1936* and which amends the terms of a will is regarded as a codicil to the will. An Application to Transfer the Registration of a Motor Vehicle pursuant to a Court Order of this type can be stamped under this document heading.

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

A transfer of the registration of a motor vehicle pursuant to a Deed of Family Arrangement must be submitted for the Opinion of the Commissioner of State Taxation together with a copy of the will, a copy of the Deed of Family Arrangement and a detailed description of the transaction. Note: All Deeds of Family Arrangement must be submitted for the Opinion of the Commissioner of State Taxation.

Once the Application to Transfer the Registration of the Motor Vehicle has been stamped, the document must be forwarded to Transport SA to have the change in ownership noted on their records.

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

The document can be in the form of:

- an Application to Transfer the Registration of a Motor Vehicle.

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

An Application to Transfer the Registration of a Motor Vehicle pursuant to the terms of a will or the laws of intestacy is deemed **suitable** for self-stamping under this document heading where:

- the conveyance is pursuant to the terms of the will of a deceased person or the laws of intestacy and for no other consideration;
- the registration is conveyed to the beneficiary pursuant to the terms of the will of a deceased person and to no other party; and
- the conveyance is **not** pursuant to a Deed of Family Arrangement.

What stamp duty is payable on this document?

Exempt.

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;
- a copy of the will of the deceased person or an explanation as to how the beneficiary is entitled to the property pursuant to the laws of intestacy; and
- a copy of the Court Order pursuant to the *Inheritance (Family Provisions) Act 1972* or the *Wills Act 1936* (if applicable).

Example 1 – Transfer of the registration of a motor vehicle pursuant to a will

Ann has been appointed the executor of Bob's estate. Pursuant to Bob's will, his net estate, which includes a Motor Vehicle, is bequeathed to Kate and Dave equally.

The consideration panel in the Application to Transfer the Registration of a Motor Vehicle (from Ann, as executor to Kate and Dave) recites "pursuant to the terms of the will of Bob, deceased".

The document is Stamped Exempt.

What section of the SD Act applies?

Schedule 2, clause 2 (2), Exemption 19.