

Document Class:	EXEMPTIONS
Document Name:	Lease – Entered into pre 1/7/04
Document Description:	To Natural Person Principal Place of Residence
Document Code:	EX

Introduction

This guide note applies to a lease over property, where:

- the property is to be used by a natural person as their principal place of residence, commonly referred to as a “residential lease”; and
- the lease was entered into prior to 1 July 2004.

A residential lease is an arrangement where the landlord (lessor) agrees to let to the tenant (lessee) the residential premises in accordance with the terms and conditions set out in the lease document.

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.

For the exemption from stamp duty to apply the tenant must be a natural person who will occupy the premises as their principal place of residence. The exemption applies regardless of the rental specified in the lease.

Residential leased premises can range from residential apartments in the city through to houses or units in the metropolitan area or the country.

”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:

If the lease to a natural person of property to be used as their principal place of residence is entered into on or after 1 July 2004, it cannot be stamped under this document heading. Refer to the document heading:

- [Lease – Entered into on or after 1/7/04](#) (EX)

If the tenant is not a natural person or the leased property is not occupied as the natural person’s principal place of residence the document must not be stamped under this document heading. Refer to the appropriate lease document heading.

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

The document can be in the form of:

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

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

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

- the lessee is a natural person;
- the property is to be used as the lessee's principal place of residence for the term of the lease; and
- the lease was entered into prior to 1 July 2004.

What stamp duty is payable on this document?

The document is "Exempt" from stamp duty.

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 – Residential lease to natural person

John Smith has entered into an Agreement on 1 February 2004 to lease a house in Belair for \$500 per week. John and his family will be residing in the house as their place of residence.

The document is "Exempt" from stamp duty.

What section of the SD Act applies?

Schedule 2 – Lease or Agreement for a Lease – Exemption 2.