

Document Type:	Conveyance of Land
Document Name:	Exemptions
Exemption Provision:	Pursuant to 71CB

Introduction

This Document Guide Note applies to a conveyance of land pursuant to Section 71CB. This section provides an exemption from stamp duty to a document of which the sole effect is to transfer an interest in:

- the **shared residence** between spouses or domestic partners; or
- the last **shared residence** between former spouses or former domestic partners following the irretrievable breakdown of the relationship.

A person is, on a certain date, the *domestic partner* of another person if:

- the person is, on that date, in a registered relationship with the other; or
- the person is, on that date, living with the other in a close personal relationship and:
 - has so lived with that other person continuously for the period of three years immediately preceding that date; or
 - has during the period of four years immediately preceding that date so lived with that other person for periods aggregating not less than three years; or
- a child, of whom he or she and the other person are the parents, has been born (whether or not the child is still living at that date).

Registered relationship means a relationship that is registered under the Relationships Register Act 2016 and includes a corresponding law registered relationship under that Act.

Close personal relationship means the relationship between two adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include –

- the relationship between a legally married couple; or
- a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind.

Note: two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

A person is the spouse of another if they are legally married.

Shared residence means –

- in relation to spouses or domestic partners – their principal place of residence of which both or either of them is owner, or
- in relation to former spouses or domestic partners – their last principal place of residence of which both or either of them was owner

but does not include premises that form part of industrial or commercial premises.

You will need to indicate whether the land is used as **residential** or **non-residential**. For further advice on this refer to the [Document Guide](#) Page.

What documents can I self-determine under this document type?

The document can be in the form of:

- LTO Form T1 - Transfer.

What types of transactions can I self-determine under this document type?

A conveyance of land pursuant to Section 71CB is deemed **suitable** for self-determination under this document type where:

- the land is being transferred between two spouses who are or have been married to each other; or
- the land is being transferred between domestic partners who are or have been living in a domestic relationship (as defined);

and the following has occurred:

- a [Section 71CB Statutory Declaration](#) has been completed by the spouses or former spouses or domestic partners or former domestic partners; and
- the instrument is transferring an interest in the shared residence between spouses or domestic partners or the instrument is transferring an interest in the former shared residence between former spouses or former domestic partners; and
- the property does not include premises that form part of industrial or commercial premises or land used for primary production.

The exemption applies regardless of whether or not there is a consideration being paid.

Note: For the exemption to apply to former spouses or former domestic partners the relationship must have irretrievably broken down.

The following similar transactions cannot be self-determined under this document type:

Should the transfer include property that forms part of industrial or commercial premises the exemption will not apply. The Transfer may be liable for *ad valorem* conveyance stamp duty. Refer to the appropriate document type:

[Conveyance of Land | Residential Land/Primary Production Land](#)

[Conveyance of Land | Qualifying Land](#)

If the sole purpose of the transfer is to effect a change in the mode of holding (i.e. joint tenancy to tenants in common or vice versa), refer to the document type:

[Conveyance of Land | Not Chargeable | Change in Tenancy - No Change in Ownership Share](#)

Should the property include land used for primary production purposes the document must be **submitted to the Commissioner for assessment**, together with separate values for house and curtilage, and the remaining area and a [Section 71CB Statutory Declaration](#).

If the Transfer includes two or more Titles it must be **submitted to the Commissioner for assessment**, together with a detailed description of what the land is used for, on which title the house is located and a completed [Section 71CB Statutory Declaration](#).

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- copy of the documents;
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document);
- completed [Section 71CB Statutory Declaration](#); and
- a copy of the Standard Relationship Certificate or Commemorative Certificate if applicable.

What Section(s) of the *Stamp Duties Act 1923* applies?

Section 71CB

What stamp duty is payable on this document?

This document is exempt from stamp duty.

Examples

Shared residence transferred between domestic partners

Drew and Toby have resided as *domestic partners* for seven years. The house at Glenelg in which they reside is currently registered in Drew's name. On 1 June, they executed a Transfer whereby Drew transferred a half interest in the property at Glenelg to Toby. They will continue to reside in this house as their principal place of residence.

Drew and Toby have executed a Transfer and a [Section 71CB Statutory Declaration](#).

The document is self-determined under this document type as **Exempt**.

Shared residence transferred between former spouses

Dave and Helen separated on the 18 March, after being married 10 years. The shared residence is currently registered in both Dave and Helen's names. After a period of negotiation it was agreed that Helen would transfer her interest in the shared residence to Dave.

On 12 September, Dave and Helen executed a Transfer evidencing the above arrangement and a [Section 71CB Statutory Declaration](#) stating that the relationship has irretrievably broken down.

The Transfer does not include land used for industrial or commercial purposes, nor does it include land used for primary production purposes.

The document is self-determined under this document type as **Exempt**.

Shared residence transferred between spouses where another person is registered on the Certificate of Title

The Certificate of Title lists the registered owners as Fred and Kate (husband and wife) and their daughter Megan, as joint tenants.

Fred and Kate agree that Fred will transfer his interest in the property to Kate. A Transfer is executed by Fred (as transferor) and Kate (as transferee) for Fred's one third interest (i.e. Kate now owns two thirds of the property and Megan owns one third).

The document is self-determined under this document type as **Exempt**. The exemption applies even though Megan is a registered proprietor. This is because the transfer occurred solely between the spouses.

Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019