

Guideline

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Exemption for land lease transfers

Purpose

This guideline provides information on the exemption for certain lessees from obtaining approval from the Department of Resources (the department) to transfer a lease.

Rationale

Certain lessees are exempt from the requirement, under section 322(1)(b)(i) of the *Land Act 1994*, to obtain the department's approval to transfer a lease.

If a lessee is exempt, they can lodge the relevant transfer forms with Titles Queensland without applying to the department for approval.

This simplifies the lease transfer process and may reduce delays in settlement.

Guideline

Exempt lessees

The exemption applies to all lessees of:

- primary production leases in rental category 11
- residential leases in rental category 12
- business and government core business leases in rental category 13

except where the lease:

- was issued for significant development and may require a financial and managerial capability assessment
- is subject to a performance guarantee bond
- is subject to a deed of indemnity
- is subject to mortgagee in possession
- is subject to a sale by a mortgagee exercising a power of sale
or
- has an appointed receiver/manager.

This exemption also applies to a sublessee of an exempt lease.

Check if you are exempt

The department has lodged a noting on all leasehold land titles to which the exemption applies. To check if your title has an exemption noting, you can purchase a title search online by visiting www.titlesqld.com.au (and go to searches to purchase title searches).

Once you receive a copy of your title, you can check for the exemption noting under Administrative Advices "EXEMPT CONS SEC 322AA LAND ACT 1994".

If there is no exemption noting on your title, you will need to apply for chief executive approval to [transfer the lease](#).

Note: Parties who are a mortgagee in possession, a mortgagee exercising a power of sale, or an appointed receiver/manager will need approval to [transfer a lease](#), regardless of whether an exemption noting is on the title. These parties need to follow the existing lease transfer process and seek the department's approval to transfer a lease.

Check your liability

All parties to the transfer should ensure there is no outstanding rent and penalty interest owed to the state as at the settlement date of the lease transfer. Should this not occur, the incoming lessee becomes responsible for all liabilities concerning the lease including payment of any outstanding lease rental and penalty interest owed to the state.

To identify all outstanding rent (including deferred rent) and penalty interest you can obtain a rental clearance report from the department prior to the transfer settlement date.

If you are the current leaseholder you can obtain a rental clearance report by emailing your request to LTLadmin@resources.qld.gov.au.

If the request is from the purchaser or an agent acting for one of the parties, they may obtain a report as long as they provide either a:

- a copy of the contract of sale
- letter of authority from the current lessee to provide a rental clearance report to the purchaser.

For help in understanding your rental clearance report, contact LTLadmin@resources.qld.gov.au.

Residential concessions

When a lease is transferred, any residential concession applying to the outgoing lessee ceases from the day the transfer is registered.

Transfer requirements

If a lessee is exempt, at the time of transfer, the lessee must lodge the following information with Titles Queensland:

- [Titles Queensland Form 1 – Transfer](#)
- [Titles Queensland Form 24 – Property information \(transfer\)](#)

- Any other information as required

For help with Titles Queensland forms and requirements, contact (07) 3497 3479 or email: info@titlesqld.com.au.

Legislation

Land Act 1994

Related documents

Operational Policy – [Transfer of Leases, Licences and Subleases \(SLM/2013/415 = PUX/901/521\)](#)

Approval

Position	Name	Date
Executive Director	Graham Nicholas	29 November 2019

Version history

Version	Effective Date	Comments
1.00	29/11/2019	New document
1.01	20/10/2022	Updated template and department name to Department of Resources

Further information

- Contact your nearest business centre (https://www.resources.qld.gov.au/?contact=state_land), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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