

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 Natural Resources, Mines and Energy (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 the Titles Registry 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 by calling 1300 255 750, visiting www.qld.gov.au (and searching 'property and title searches') or visiting one of the department's [business centres](#).

Once you receive a copy of your title, you can check for the exemption noting "EXEMPT CONS SEC 322AA LAND ACT 1994" as shown in Attachment A.

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@dnrme.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.

An example of a rental clearance report is shown in Attachment B.

For help in understanding your rental clearance report, contact LTLadmin@dnrme.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 the Titles Registry:

- [Titles Registry Form 1 – Transfer](#)

- [Titles Registry Form 24 – Property information \(transfer\)](#)
- Any other information as required

For help with Titles Registry forms and requirements, contact 1300 255 750.

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

Further information

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

This publication has been compiled by Land Services, Land and Native Title Services, Land Division, Department of Natural Resources, Mines and Energy.

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Attachment A – Example title search

Example title search showing the exemption noting “EXEMPT CONS SEC 322AA LAND ACT 1994”.
(Note the conditions in this example have been removed.)

INTERNAL CURRENT STATE TENURE SEARCH NATURAL RESOURCES, MINES AND ENERGY, QUEENSLAND

Search Date: 11/11/2019 14:05

Title Reference: [REDACTED]
Date Created: 21/10/1995

DESCRIPTION OF LAND

Tenure Reference: [REDACTED]

Lease Type: TERM

LOT [REDACTED] CROWN PLAN [REDACTED]
Local Government: [REDACTED]

Area: 1130.692000 Ha

Area Description:
being part of State Forest [REDACTED]

No Forestry Entitlement Area

Purpose for which granted:
NO PURPOSE DEFINED

Term and day of beginning of lease

Term: 50 years commencing on 14/04/1977

Expiring on 13/04/2027

REGISTERED LESSEE

[REDACTED]
[REDACTED]

CONDITIONS

M36 The lessee shall not graze nor permit to be grazed any sheep or goats on the leased land.

ENCUMBRANCES AND INTERESTS

1. MORTGAGE [REDACTED]
[REDACTED]

ADMINISTRATIVE ADVICES

Dealing	Type	Lodgement Date	Status	Location
960000007	EXEMPT CONS SEC 322AA LAND ACT 1994	05/11/2019 10:16	CUR	BE-ATS -99

UNREGISTERED DEALINGS - NIL

Caution - Charges do not necessarily appear in order of priority

** End of Current State Tenure Search **

Information provided under section 34 Land Title Act(1994) or
section 281 Land Act(1994)

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Attachment B – Example rental clearance reports

The example rental clearance report below shows an outstanding total balance of \$5,291.45, which includes current rent and rent in arrears.

All parties to the transfer should ensure this outstanding total is paid to the State at the settlement date of the transfer. Should this not occur, the incoming lessee becomes responsible for all liabilities concerning the lease.

DEPT OF NATURAL RESOURCES, MINES AND ENERGY LAND TENURES LEDGER Page: 1 of 1
 25/11/2019 09:57:15 RENTAL CLEARANCE REPORT
 REPORT AS AT 25/11/2019

Report For REGION: CENTRAL DISTRICT OFFICE: ROCKHAMPTON LEASE NUMBER: [REDACTED]
 TITLE REF: [REDACTED]
 LESSEE: [REDACTED]

ACCOUNT SUMMARY	ACCOUNT	FUND CODE	CLEARANCE POSITION AS AT 25/11/2019
	MAIN	5	\$1,843.95
	FUNDED ARREARS	59	\$3,447.50
OUTSTANDING TOTAL			\$5,291.45

ACCOUNT: MAIN
 EXPIRY DATE: INVOICE TERM: QUARTER
 ACTIVE CONCESSION: NEXT DUE DATE: 01/12/2019
 ACTIVE EXCLUSION: DROUGHT DEFERRAL
 LEGAL RENTAL CATEGORY: 11.1 - PRIMARY PRODUCTION - PERPETUAL LEASE
 LAST INVOICED PERIOD: 01/10/2019 TO 31/12/2019 \$2,505.00
 CURRENT ANNUAL RATE: FROM 01/07/2019 (EXCLUSIVE OF GST)

CLEARANCE POSITION
 ACCOUNT BALANCE: (INCLUSIVE OF GST) \$1,843.95
 PENALTY: AS AT 25/11/2019 \$0.00
ACCOUNT TOTAL AS AT 25/11/2019 \$1,843.95

ACCOUNT: FUNDED ARREARS
 EXPIRY DATE: 30/06/2023 INVOICE TERM: ANNUAL
 ACTIVE CONCESSION: NEXT DUE DATE: 01/09/2020
 ACTIVE EXCLUSION: DROUGHT DEFERRAL
 LEGAL RENTAL CATEGORY: 11.1 - PRIMARY PRODUCTION - PERPETUAL LEASE

CLEARANCE POSITION
 AMOUNT OWING: (INCLUSIVE OF GST) \$3,447.50
 PENALTY: AS AT 25/11/2019 \$0.00
ACCOUNT TOTAL AS AT 25/11/2019 \$3,447.50

I REFER TO YOUR REQUEST OF THE ____/____/____ REF: _____
 CONFIRMING THAT YOU ARE THE REGISTERED LESSEE OR HAVE AUTHORISATION FROM THE LESSEE TO OBTAIN THIS INFORMATION.

THE ABOVE INFORMATION IS CORRECT ONLY FOR THE DATE OF ISSUE AND MAY BE SUBJECT TO A BACKDATED CHANGE DUE TO INFORMATION NOT PRESENTLY AVAILABLE TO THE LANDS TENURE LEDGER.

 FOR MANAGER
 DEPT OF NATURAL RESOURCES, MINES AND ENERGY

____/____/____