



Lands Administration Office

Lands Department

Practice Note

Issue No. 2/2022

Concession to Building Covenant Extensions

In view of the impact of the fifth wave of the COVID-19 epidemic on the development sector, the Government announced on 14 March 2022 the grant of extension of the building covenant (“BC”)¹ period² specified under lease³ at nil premium up to six calendar months (“the Measure”). This Practice Note sets out the details of the Measure.

2. The Measure applies to all types of developments⁴ with unfulfilled BC as at 14 March 2022, including those cases with the BC period already expired or not yet expired (as the case may be), and those cases with the BC period previously extended by Lands Department (“LandsD”) and such extended BC period has already expired or not yet expired (as the case may be). For the avoidance of doubt, the Measure does not apply to a lease which is executed after 14 March 2022, nor to those developments the BC periods of which are not imposed by LandsD⁵. For those cases with the BC period (or extended BC period, as the case may be) already expired as at 14 March 2022, an extension up to six calendar months commencing on the expiry date or 1 January 2022 whichever is the later will not be subject to payment of premium. For the avoidance of doubt, the Measure does not apply to those cases with the BC already fulfilled before 1 January 2022 but the formality of the BC extension previously applied has not yet been completed.

¹ Sometimes, a provision on “commence to operate” (“CtO”) in addition to or in lieu of the BC may be imposed requiring the lot owner to complete and commence to use and operate the development on the lot as required under lease within a specified period.

² For the purpose of this Practice Note, this includes the CtO period and such other associated formation and construction periods, e.g. formation of coloured areas and completion of the Government Accommodation, for which the expiry date for completion of the required works may or may not be the same as that of the BC period or CtO period.

³ All references to “lease” in this Practice Note cover Government Lease or Conditions of Sale / Grant / Exchange, etc. (as the case may be).

⁴ These include development under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) and completion of building works for conversion of an entire existing industrial building as required under a special waiver, etc.

⁵ For example, the period within which the redevelopment of a lot is required to be completed and made fit for occupation is specified by the Lands Tribunal in the order for sale under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545).

3. To streamline the implementation of the Measure, no application will be required from lot owners. Pursuant to the Measure, LandsD will issue a letter offering an extension of the BC period as follows:

- (a) for eligible cases with the BC period (or extended BC period, as the case may be) not yet expired as at 14 March 2022, within 3 calendar months before the date of expiry of the BC period (or extended BC period, as the case may be), the BC period (or extended BC period, as the case may be) will be extended for six calendar months from the date of expiry of the BC period (or extended BC period, as the case may be) without requiring payment of premium; and
- (b) for eligible cases with the BC period (or extended BC period, as the case may be) already expired as at 14 March 2022, an extension up to six calendar months commencing on the expiry date or 1 January 2022 whichever is the later without requiring payment of premium.

For the avoidance of doubt, premium already paid for any extensions of BC period already granted would not be refunded.

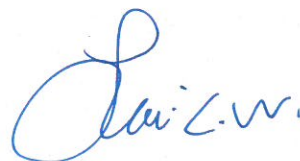
4. Any period of extension beyond the extension period under the Measure may be subject to payment of premium in accordance with the established practice⁶. When determining the year of extension with reference to paragraph 3 of LandsD LAO Practice Note No. 2/2021, the period of extension (up to six calendar months if granted) under the Measure would be disregarded⁷.

5. Nothing in this Practice Note shall in any way fetter or affect or prejudice the rights of the Government, the Director of Lands and their officers under the relevant lease or their rights as lessor or landlord. All such rights are hereby reserved and that nothing in this Practice Note including any words and expressions used shall in any way be construed as any variation or waiver of any provisions under the relevant lease and nothing herein shall affect, prejudice or bind the Government in relation to interpretation or enforcement of the terms and conditions of the relevant lease or otherwise. The Government will at its sole and absolute discretion decide the applicability of the Measure to each individual case. This Practice Note shall not constitute any representation on the part of the Government or give rise to any expectation on the part of the lot owners that an extension of any BC period will be granted.

⁶ As an illustration, if the original BC period stipulated under lease will expire on 31 March 2022 and a 1-year extension of the BC period to 31 March 2023 has been applied for, the first six months of extension (from 1 April 2022 to 30 September 2022) may be granted at nil premium under the Measure, while the remaining six-month period (from 1 October 2022 to 31 March 2023), if granted, will be subject to payment of premium assessed at 2% p.a. of land value with reference to paragraph 3 of LandsD Lands Administration Office (“LAO”) Practice Note No. 2/2021.

⁷ Based on the illustration in Footnote 6, if a further six-month extension up to 30 September 2023 is subsequently applied for and granted, the premium for that 2nd extension will still be assessed at 2% p.a. of land value as if the six-month period (from 1 April 2023 to 30 September 2023) fell within the 1st year of extension from the original expiry date of the BC period under the sliding scale. This is because the six-month period extended at nil premium under the Measure is disregarded for the purpose of premium assessment for BC period extension.

6. This Practice Note is issued for general reference purposes only. All rights to modify the whole or any part of this Practice Note are hereby reserved.

A handwritten signature in blue ink, appearing to read 'Andrew Lai', with a stylized flourish at the end.

(Andrew LAI)
Director of Lands
18 March 2022