



**Streamlined Application Process for Extension of
the Period in the Building Covenant for Over One Year
and Other Matters Related to Building Covenants**

Imposition of Building Covenant

In a new or modified lease¹, a building covenant (“BC”)² may be imposed by the Lands Department (“LandsD”) requiring the lot owner to complete the development³ of a lot in accordance with the conditions of the lease within the period specified in the BC (“BC period”). To fulfil the BC, the lot owner is required to complete the development under the lease and obtain an Occupation Permit (“OP”) in respect of the development on the lot from the Building Authority (“BA”) within the BC period. The general circumstances for imposition of BC in lease modification or land exchange cases are set out at **Appendix I**.

2. Should the lot owner anticipate that the development of the lot cannot be completed before the expiry of the BC period, an application for extension of the BC period with justifications may be submitted to LandsD for consideration. A sample application letter is at **Appendix II(a)** for reference.

3. In general, LandsD would only process applications for extension of the BC period

¹ All references to “lease” in this Practice Note cover Government Lease or Conditions of Sale / Grant / Exchange, etc. (as the case may be) and “leases” shall be construed accordingly.

² Sometimes, a provision on “commence to operate” 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.

³ This Practice Note does not apply to small house developments of indigenous villagers under the Small House Policy to be built under the provision of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).

closer to its expiry date⁴. Any extension, if approved, will be for a period in multiples of three months, and will be subject to such terms and conditions (including the payment of premium) as may be imposed by LandsD. The amount of premium payable increases progressively consequent upon the number and length of such extensions from the expiry of the original BC period as stipulated in the lease (with a few exceptions). The prevailing rates are set out below: -

<u>Extension</u>	<u>Percentage of Land Value</u>
1 st year	2%
2 nd year	4%
3 rd year	8%
4 th year	14%
5 th year	22%
6 th and subsequent years	32%

Streamlined Measure for Application for Extension of the BC Period Exceeding One Year but not over Three Years

4. Hitherto, LandsD has generally been granting extensions of the BC period not exceeding one year on each occasion. There may be occasions where the lot owner anticipates that the development of the lot cannot be completed within one year from the expiry of the BC period. To streamline the efforts of the lot owner and LandsD in preparing and processing consecutive applications for extensions for the same development, with effect from the date of this Practice Note, LandsD is prepared to consider applications for extension of the BC period exceeding one year but not more than three years (in multiples of three months) with justifications. To demonstrate reasonable progress of development and the reasonableness of the length of the period under application (subject to a maximum period of three years), such application should be accompanied by the following documents: -

- (a) a certificate from the authorized person⁵ ("AP") for the development on the lot :
 - (i) certifying that a building contract for the superstructure works has been awarded (including information on commencement of works); and

⁴ To facilitate the processing of applications and the issuance of consent to enter into agreements for sale and purchase of residential units in an uncompleted development by the Legal Advisory and Conveyancing Office of LandsD, applications for early extension of the BC period may be considered where appropriate.

⁵ For the purpose of this Practice Note, "authorized person" shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.

- (ii) certifying the date when an OP is reasonably expected to be obtained for the development; and
- (b) a copy of the relevant consent for commencement of superstructure works issued by the BA.

A sample application letter is at **Appendix II(b)** for reference.

5. If by the end of the extended BC period approved under the above streamlined arrangement, there is evidence that reasonable effort has not been put to proceed with the development in a timely manner, LandsD will at its sole and absolute discretion consider taking a more stringent approach in handling further applications for extension of the BC period, such as granting further extension of shorter duration for more frequent reviews, or refusing such extension applications and taking lease enforcement actions, depending on the circumstances of the case, to ensure that the developments can come on stream in good time.

Application for Extension of the BC Period for Three Months on Payment of Premium Deposit

6. Where the development of the lot is at an advanced stage but is only expected to be completed shortly after the expiry of the BC period or the extended BC period (as the case may be), an application for extension or further extension (as the case may be) of the BC period for three months may be made by the lot owner provided that a certificate is submitted by the AP certifying that there is a reasonable expectation of an OP being issued within the 3-month period under application. If the said extension of the BC period is approved, it will be subject to the payment of a premium in the form of a deposit. In the event that an OP is issued by the BA on or before expiry of the said 3-month extended period, the premium paid for the 3-month extension will be refunded to the applicant without interest. A sample application letter is at **Appendix III** for reference.

Other Information

7. Applications for any extension of the BC period should be submitted to the relevant District Lands Office or Section of LandsD at the address as set out in LandsD's website (www.landsd.gov.hk/en/about-us/contact-us.html). Lot owners may wish to refer to **Appendix IV** for a note on the use of the personal data required in making the application.

8. Please note that 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 the lessor or landlord, and 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. Each application submitted pursuant to this Practice Note will be considered on its own merits by LandsD at its sole and absolute discretion acting in its capacity as lessor or landlord. This Practice Note shall not constitute any representation on the part of the Government or give rise to any expectation on the part of lot owners that any application for extension of the BC period submitted to LandsD will be processed or approved.

9. 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.

10. LandsD Lands Administration Office Practice Notes Nos. 4/2020, 5/2008, 5/1996 (formerly known as "APSS 4/96") and 5/1994 (formerly known as "APSS 2/94") are hereby superseded.



(Andrew LAI)

Director of Lands

3 June 2021

Imposition of BC in Lease Modification / Land Exchange Cases

In respect of lease modification or land exchange cases involving lots to be used for residential and non-residential purposes, the circumstances under which Immediate BC¹ or Deferred BC² will be imposed³ and the circumstances under which no BC will be imposed are generally set out below: -

(a) Imposition of an Immediate BC

- (i) The lot is vacant at the time of completion of the lease modification or the land exchange; or
- (ii) The lot is subject to an unfulfilled BC; or
- (iii) The lot is to be used for residential purpose, except for situations as mentioned in paragraphs (c)(ii) or (c)(iii) below; or
- (iv) The lot is to be used for non-residential purposes, and the gross floor area (“GFA”) of the existing building(s) on the lot is less than 30% of the total GFA permitted under the lease after completion of the lease modification or the land exchange; or
- (v) Other situations that warrant the imposition of an immediate BC as LandsD considers appropriate, e.g. cases where the lot is zoned “Comprehensive Development Area” and planning permission has been obtained such that upon redevelopment there are public facilities required to be provided within the lot which will also be required to be constructed and brought into operation within a specified period.

¹ The BC will take effect upon execution of the lease modification or land exchange.

² The BC will take effect on the date when consent to commence works for demolition of the existing building(s) is issued by the BA. For the avoidance of doubt, where a deferred BC was contemplated during the processing of lease modification and land exchange applications, yet the existing building has already been demolished pending finalization and execution of the legal documents in respect of the lease modification and land exchange, under such circumstances the BC will take effect at the time of execution of the documentation.

³ Wherever a BC is imposed, the “restriction on alienation prior to compliance” and “one assignment of the whole lot prior to compliance” will also be imposed.

(b) Imposition of a Deferred BC

The lot is to be used for non-residential purposes, and the GFA of the existing building(s) on the lot is not less than 30% of the total GFA permitted under the lease after completion of the lease modification or the land exchange, except for the situation as mentioned in paragraph (c)(i) below.

(c) No BC to be Imposed

- (i) The lot is to be used for non-residential purposes, and the GFA of the existing building(s) on the lot is not less than 60% of the total GFA permitted under the lease after completion of the lease modification or the land exchange, and the said existing building(s) can be used for the purposes permitted under the modified lease attaining not less than 60% of the total GFA permitted under the modified lease without substantive adaptation or conversion works; or
- (ii) The lot is to be used for residential purpose, but is within a Residential Density Zone⁴ 3 or 4 and the number of residential units to be produced is less than 50 as estimated by LandsD; or
- (iii) The lease modification or land exchange is minor or technical in nature which does not involve a redevelopment of the lot, e.g. cases where adjustment of lot boundary is required but such does not give rise to any increase in development intensity.

LandsD shall have the sole and absolute discretion to decide whether a particular case falls within any of the above situations. For cases which do not entirely fit with any of the above situations, LandsD shall at its sole and absolute discretion determine whether a BC should be imposed and the period thereof if it is decided to impose one. For the avoidance of doubt, nothing herein 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 the lessor or landlord, and all such rights are hereby reserved.

⁴ Reference may be made to Chapter 2 (Residential Densities) of the Hong Kong Planning Standards and Guidelines.

Sample Application Letter – Extension of the BC Period Not Exceeding One Year

To: *[District Lands Officer/_____ / Chief Estate Surveyor/_____]

Dear Sirs,

Lot No. _____ (“the Lot”)

Address _____

*I / We, _____ [name of the Applicant], as the registered owner of the Lot, hereby apply for an extension of the building covenant period in respect of *[Special Condition No. _____ of Conditions of *[Sale / Exchange / Grant] No. _____ dated the _____ day of _____ / Special Condition No. _____ of New Grant No. _____ dated the _____ day of _____ / Clause _____ of Lease dated the _____ day of _____} #[as varied or modified by a Modification Letter dated the _____ day of _____ and registered in the Land Registry by Memorial No. _____] (“the *[Conditions / New Grant / Lease]”) under which the Lot is held from _____ [fill in the original/extended BC expiry date] for a period of _____ [generally not more than 1 year and in multiples of 3 months] calendar months up to _____ ^ _____ pursuant to Lands Department Lands Administration Office Practice Note No. 2/2021 (“the Practice Note”) on the grounds as detailed in the attachment(s) [provide the justifications@ in form of attachment(s) to this application] †[and accompany herewith a letter from the authorized person& for the development on the Lot at Annex A].

{Concurrently, *I / we also hereby apply for an extension of the date of completion of the *[formation / construction / provision] of _____ stipulated in *[Special Condition No. / Clause] _____ of the *[Conditions / New Grant / Lease] for the same period, i.e. _____ calendar months up to _____ ^ _____. }

*I / We have read and understood the “Note on Use of Personal Information Required in the Application”, being Appendix IV to the Practice Note and hereby consent to disclose *my / our personal data contained herein to you and other Government bureaux or departments for the purpose of this application.

*I / We hereby expressly declare, confirm, acknowledge and agree that all the particulars

* *Delete as appropriate.*

Insert and amend as appropriate.

^ *Insert the last date of the extension period being applied for.*

@ *Applicant is required to provide such other document(s) or information as considered necessary by LandsD to facilitate consideration of each application.*

† *Insert as appropriate.*

& *“authorized person” shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.*

and the information provided herein are true and correct in all respects. *I / We have not withheld any information required in the application, nor have *I / we provided any misleading information.

Yours faithfully,

*Applicant's Signature /
Signature of authorized signatory
and company chop: _____

Name of the Applicant : _____ (English)

_____ (Chinese)

Hong Kong Identity Card Number :
(for individual owner)

Correspondence Address

:

Telephone Number

:

Name of the Authorized Signatory :
(for corporate owner)

Date: _____

Annex A

To: *[District Lands Officer/_____ / Chief Estate Surveyor/_____]

Dear Sirs,

Lot No. _____ (“the Lot”)

Address _____

As the authorized person[&] for the development on the Lot, I enclose herewith: -

- (a) a copy of the relevant approval letter of building plans issued by the Building Authority;
and
- (b) a copy of the relevant consent to commence works for the *site formation / foundation
/ superstructure issued by the Building Authority.

Also, I hereby confirm that a contract for the *site formation / foundation / superstructure works in respect of the development on the Lot *has been / will tentatively be awarded on _____ and the said works *have already been commenced / are scheduled to commence on _____.

I have read and understood the “Note on Use of Personal Information Required in the Application”, being Appendix IV to Lands Department Lands Administration Office Practice Note No. 2/2021 and hereby consent to disclose my personal data contained herein to you and other Government bureaux or departments for the purpose of applying for an extension of the building covenant period [#]{and the date of completion of the *[formation / construction / provision] of _____ }.

Yours faithfully,

(Name of the authorized person)

Encl.

* *Delete as appropriate.*

& *“authorized person” shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.*

Insert and amend as appropriate.

Sample Application Letter – Extension of the BC Period
Exceeding One Year but not over Three Years under the Streamlined Measure

To: *[District Lands Officer/_____ / Chief Estate Surveyor/_____]

Dear Sirs,

Lot No. _____ (“the Lot”)

Address _____

*I / We, _____ *[name of the Applicant]* _____, as the registered owner of the Lot, hereby apply for an extension of the building covenant period in respect of *[Special Condition No. _____ of Conditions of *[Sale / Exchange / Grant] No. _____ dated the _____ day of _____ / Special Condition No. _____ of New Grant No. _____ dated the _____ day of _____ / Clause _____ of Lease dated the _____ day of _____} #*[as varied or modified by a Modification Letter dated the _____ day of _____ and registered in the Land Registry by Memorial No. _____]* (“the *[Conditions / New Grant / Lease]”) under which the Lot is held from _____ *[fill in the original/extended BC expiry date]* _____ for a period of _____ *[exceeding 1 year but not more than 3 years and in multiples of 3 months]* _____ calendar months up to _____ ^ _____ under the Streamlined Measure pursuant to Lands Department Lands Administration Office Practice Note No. 2/2021 (“the Practice Note”) on the grounds as detailed in the attachment(s) *[provide the justifications@ in form of attachment(s) to this application]* to this letter and accompany herewith a certificate from the authorized person& for the development on the Lot at Annex A certifying that: -

(a) there is a reasonable expectation of obtaining the Occupation Permit in respect of the development on the Lot by _____ Δ _____; and

(b) a building contract for the superstructure works has already been awarded (including information about the date of commencement of works),

together with a copy of the relevant consent for commencement of superstructure works issued by the Building Authority.

* Delete as appropriate.

Insert and amend as appropriate.

^ Insert the last date of the extension period being applied for.

@ Applicant is required to provide such other document(s) or information as considered necessary by LandsD to facilitate consideration of each application.

& “authorized person” shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.

Δ Insert the date when the Occupation Permit is reasonably expected to be obtained.

{ Concurrently, *I / we also hereby apply for an extension of the date of completion of the *[formation / construction / provision] of _____ stipulated in *[Special Condition No. / Clause] ____ of the *[Conditions / New Grant / Lease] for the same period, i.e. ____ calendar months up to ____[^]_____ . }

*I / We have read and understood the “Note on Use of Personal Information Required in the Application”, being Appendix IV to the Practice Note and hereby consent to disclose my / our personal data contained herein to you and other Government bureaux or departments for the purpose of this application.

*I / We hereby expressly declare, confirm, acknowledge and agree that all the particulars and the information provided herein are true and correct in all respects. *I / We have not withheld any information required in the application, nor have *I / we provided any misleading information.

Yours faithfully,

*Applicant's Signature /
Signature of authorized signatory
and company chop: _____

Name of the Applicant : _____ (English)

_____ (Chinese)

Hong Kong Identity Card Number : _____
(for individual owner) _____

Correspondence Address : _____

Telephone Number : _____

Name of the Authorized Signatory : _____
(for corporate owner) _____

Date: _____

Annex A

To: *[District Lands Officer/_____ / Chief Estate Surveyor/_____]

Dear Sirs,

Lot No. _____ (“the Lot”)

Address _____

As the authorized person[&] for the development on the Lot, I hereby certify that: -

- (a) there is a reasonable expectation of obtaining the Occupation Permit of the development on the Lot from the Building Authority by _____; and
- (b) a building contract for the superstructure works has been awarded on _____ and the said works *have already been commenced / will commence on _____.

A copy of the relevant consent for commencement of superstructure works issued by the Building Authority is enclosed.

I have read and understood the “Note on Use of Personal Information Required in the Application”, being Appendix IV to Lands Department Lands Administration Office Practice Note No. 2/2021 and hereby consent to disclose my personal data contained herein to you and other Government bureaux or departments for the purpose of applying for an extension of the building covenant period [#]{and the date of completion of the *[formation / construction / provision] of _____ }.

Yours faithfully,

(Name of the authorized person)

Encl.

* *Delete as appropriate.*

& *“authorized person” shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.*

Insert and amend as appropriate.

**Sample Application Letter – Extension of the BC Period
for Three Months on Payment of Premium Deposit**

To: *[District Lands Officer/_____ / Chief Estate Surveyor/_____]

Dear Sirs,

Lot No. _____ (“the Lot”)

Address _____

*I / We, _____ *[name of the Applicant]* _____, as the registered owner of the Lot, hereby apply for an extension of the building covenant period in respect of *[Special Condition No. _____ of Conditions of *[Sale / Exchange / Grant] No. _____ dated the _____ day of _____ / Special Condition No. _____ of New Grant No. _____ dated the _____ day of _____ / Clause _____ of Lease dated the _____ day of _____} #[as varied or modified by a Modification Letter dated the _____ day of _____ and registered in the Land Registry by Memorial No. _____] (“the *[Conditions / New Grant / Lease]”) under which the Lot is held from _____ *[fill in the original/extended BC expiry date]* _____ for a period of 3 calendar months up to _____ ^ _____ on payment of premium deposit pursuant to Lands Department Lands Administration Office Practice Note No. 2/2021 (“the Practice Note”) and accompany herewith a certificate[@] from the authorized person[&] for the development on the Lot at Annex A confirming that there is a reasonable expectation of the Occupation Permit in respect of the development on the Lot being issued by _____ ^ _____.

{Concurrently, *I / we also hereby apply for an extension of the date of completion of the *[formation / construction / provision] of _____ stipulated in *[Special Condition No. / Clause] _____ of the *[Conditions / New Grant / Lease] for the same period, i.e. _____ calendar months up to _____ ^ _____. }

*I / We have read and understood the “Note on Use of Personal Information Required in the Application”, being Appendix IV to the Practice Note and hereby consent to

* *Delete as appropriate.*

Insert and amend as appropriate.

^ *Insert the last date of the extension period being applied for.*

@ *Applicant is required to provide such other document(s) or information as considered necessary by LandsD to facilitate consideration of each application.*

& *“authorized person” shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.*

disclose *my / our personal data contained herein to you and other Government bureaux or departments for the purpose mentioned in the Practice Note.

*I / We hereby expressly declare, confirm, acknowledge and agree that all the particulars and the information provided herein are true and correct in all respects. *I / We have not withheld any information required in the application, nor have *I / we provided any misleading information.

Yours faithfully,

*Applicant's Signature /
Signature of authorized signatory
and company chop: _____

Name of the Applicant : _____ (English)

Hong Kong Identity Card Number : _____ (Chinese)
(for individual owner) _____

Correspondence Address : _____

Telephone Number : _____

Name of the Authorized Signatory : _____
(for corporate owner)

Date: _____

Annex A

To: *[District Lands Officer/_____ / Chief Estate Surveyor/_____]

Dear Sirs,

Lot No. _____ (“the Lot”)

Address _____

As the authorized person[&] for the development on the Lot, I hereby certify that there is a reasonable expectation of the Occupation Permit in respect of the development on the Lot being issued by the Building Authority by _____[^].

I have read and understood the “Note on Use of Personal Information Required in the Application”, being Appendix IV to the Lands Department Lands Administration Office Practice Note No. 2/2021 and hereby consent to disclose my personal data contained herein to you and other Government bureaux or departments for the purpose of applying for an extension of the building covenant period [#]{and the date of completion of the *[formation / construction / provision] of _____ }.

Yours faithfully,

(Name of the authorized person)

* *Delete as appropriate.*

& *“authorized person” shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.*

[^] *Insert the last date of the extension period being applied for.*

[#] *Insert and amend as appropriate.*

Note on Use of Personal Information Required in the Application

Purpose of Collection	The personal data provided by means of your letter or in any other form will be used by the Lands Department for the purpose of considering and processing the application. The provision of personal data is mandatory. If you do not provide sufficient information, the Lands Department may not be able to process your application.
Class of Transferees	The personal data you provided may be disclosed to other Government bureaux / departments for the purpose of considering and processing the application.
Access to Personal Data	The individual who is the subject of the personal data has a right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Such right of access includes the right to obtain a copy of the personal data provided upon payment of the applicable charge.
Enquiries	<p>Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to:</p> <p style="text-align: center;"> Departmental Personal Data Controlling Officer of the Lands Department 20/F., North Point Government Offices 333 Java Road, North Point Hong Kong </p>