

Civil Servants' Co-operative Building Society ("CBS") Scheme and Government Built Housing Scheme ("GBHS")

Information Note on Assessment of Premium for Removing Alienation Restrictions (where transfer of title has been completed under the relevant guidelines issued by the Civil Service Bureau)¹

This note sets out information about the assessment of premia for removing alienation restrictions imposed against properties built under the CBS scheme and GBHS where transfer of title has been completed under the Guidelines².

2. For cases where the transfer of title to former members of CBS and former underlessees of GBHS have been completed, restrictions on alienation are usually imposed by the lease conditions. An owner is usually restricted from, *amongst others*, assigning, mortgaging, charging, underletting, parting with the possession or otherwise disposing of the property (or entering into any agreement for any such purposes)³.

3. Upon completion of transfer of title, the relevant lease conditions would usually provide along the lines that an owner may, *amongst others*, assign, mortgage, charge, underlet, part with the possession or otherwise dispose of the property upon certain conditions being fulfilled, including the payment of premium to the Government

¹ The Civil Service Bureau issued to the relevant parties in 1987 the "*Guidelines to be Followed to Achieve the Transfer of Title to Flats and Land from Civil Servants' Co-operative Building Societies and Government Built Housing Schemes to their Individual Members and Underlessees*", and in 1990's the "*Guidelines to be Followed to Achieve Transfer of Title to Flats and Land of Government Built Housing Scheme from The Financial Secretary Incorporated to Individual Underlessees*" and the "*Guidelines to be Followed to Achieve the Transfer of Title to Flats and Land from Civil Servants' Co-operative Building Societies to their Individual Members under the Modification of Lease Approach*" (collectively, the "Guidelines") setting out the procedures and requirements on the transfer of title to individual members/underlessees in developments under the CBS scheme and GBHS. Amongst others, provisions on alienation restrictions are imposed by way of lease conditions during the process. These provisions expressly provide for the removal of alienation restrictions through the payment of either an amount equal to two-thirds of the existing use land value of the relevant property ("Existing Use Land Value basis") or, as the case may be under the relevant provisions, two-thirds of the full market value of such property ("Full Market Value basis"). Please refer to the lease conditions for all details including the meanings of the terms used herein and the details of the bases of assessment. This Information Note is strictly limited to the assessment of premium for removing alienation restrictions in pursuance to such lease conditions, but not otherwise.

² The transfer of title of the property to an individual member/underlessee must have been fully completed by fulfilling the conditions as stipulated in the Guidelines. Amongst others, the owner of the relevant property must have already taken up an assignment of the property and must have executed a legal charge in respect of the property. Other conditions as stipulated in the Guidelines apply.

³ This list is not exhaustive. Please refer to the lease conditions for the exact wording applicable to each development. It is the responsibility of an owner to ensure that the lease conditions are fully complied with and that any actions the owner intends to take from time to time would not constitute any breaches of the lease conditions.

assessed in accordance with such lease conditions, being usually either an amount equal to two-thirds of the existing use land value of the property (i.e. premium assessed at “Existing Use Land Value basis”) or if the relevant lot is economically suitable for redevelopment at the relevant date an amount equal to two-thirds of such sum as the Director of Lands shall on a fair and impartial valuation certify to be the full market value of such property at the said date (i.e. premium assessed at “Full Market Value basis”). In addition, the relevant lease conditions would usually provide that the relevant lot shall be deemed to be economically suitable for redevelopment if in the opinion of the Director of Lands the land value of the lot is greater than the value of the building on the lot at the relevant date.

4. The actual lease conditions for each case may be different. This Information Note is prepared with reference to the standard documents contained in the Guidelines. Please refer to the actual lease conditions in each individual case for the exact wording applicable to each development and the meanings of the terms and expressions used herein.

5. The Government has reviewed the assessment of premia for removing alienation restrictions in relation to properties built under the CBS scheme and GBHS where transfer of title has been completed under the Guidelines. It has been decided that with effect from 1st June 2020 and until further notice, when assessing the premium for removing the alienation restrictions in respect of a property in case premium is chargeable under the lease conditions at Full Market Value basis, the Government will waive its right to receive the full amount of premium assessed at Full Market Value basis under the lease conditions, and instead accept a lesser sum assessed at Existing Use Land Value basis as provided for in the lease conditions (“the waiver”).

6. Please note however the waiver is not applicable if the Existing Use Land Value basis is already applicable to the property as determined by the lease conditions. Further, the waiver is not applicable if any notice of application for an order to sell the lot where the property situates for the purposes of the redevelopment of the lot pursuant to the provisions of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (“notice of application”) is or has been filed by any person to the Lands Tribunal on or before the day when the relevant application for removal of alienation restrictions is received by the Lands Department. For the avoidance of doubt, the Government retains the absolute discretion to determine whether a notice of application is or has been filed on or before the day when the relevant application for removal of alienation restrictions is received by the Lands Department.

7. The foregoing is also applicable to the existing applications for removal of alienation restrictions received by the Lands Department prior to the date of this Information Note in which a premium offer is yet to be made.

8. This Information Note should not be construed as a general waiver of the Government's right under the lease conditions. The submission of an application for removal of alienation restrictions does not guarantee the granting of the waiver. Any waiver if granted by the Government shall not in any way prejudice or affect the Government's other rights and remedies under any relevant Government lease, assignment, legal charge and/or other instrument.

Lands Department
4 December 2020