



Application for Waiver for Testing Laboratory Use in part(s) of or the entire Existing Industrial Building

An owner of part(s) of or an entire existing industrial building¹ (hereinafter referred to as the “Industrial Premises”) who wishes to apply for a waiver to use the Industrial Premises for testing and/or calibration laboratory (excluding any laboratory providing clinical testing which requires humans or animals to undergo checking at the Industrial Premises)² (hereinafter referred to as a “testing laboratory”) use may wish to refer to this Practice Note before submitting an application to the Lands Department (“LandsD”) with effect from 1st February 2016 until such time as LandsD may determine.

2. An owner of the Industrial Premises may apply for a waiver at nil waiver fee for the use of the Industrial Premises or any part thereof as testing laboratory in addition to the use permitted under the Government lease of the lot, for the lifetime of the existing industrial building or until expiry or termination of the said Government lease, whichever is the earlier (“Testing Laboratory Waiver”). An application should be made only if testing laboratory use is permitted by the current land use zoning of the site where the Industrial Premises are situated on the statutory plans, or granted with planning permission by the Town Planning Board (“TPB”), or is considered as an existing use under the provision of the statutory plans. Where the testing laboratory use in the Industrial Premises requires planning permission from the TPB, such TPB permission must be obtained before the relevant application is submitted to LandsD and the owner must submit proof of such permission at the time of application. Laboratories providing clinical testing services requiring humans or animals to undergo checking at the Industrial Premises, are not eligible to apply for such Testing Laboratory Waiver at nil waiver fee.

3. Approval for the grant of the Testing Laboratory Waiver is subject to such terms, covenants and conditions as may be imposed by LandsD, including but not limited to the following:

¹ An industrial building refers to a building lawfully erected on a lot which, under the lease conditions, shall not be used for any purpose other than for industrial and/or godown purposes. Industrial buildings do not include special factories such as those located in storage premises in container terminals and flatted factories built by the Hong Kong Housing Authority, or lots for special industries such as cargo handling uses, ship building and repairing, oil storage and refining and production of associated chemical by-product, manufacture of polystyrene plastics, manufacture and storage of chlorine, hydrogen and textile chemicals, etc. The application must be made in respect of an existing building or part(s) thereof but cannot be submitted in respect of a vacant site.

² In determining whether a use of the Industrial Premises or any part thereof falls within testing laboratory use, the decision of the Director of Lands shall be final and binding.

- (a) any building works required for the purpose of the permitted testing laboratory use under the Testing Laboratory Waiver shall in all respects comply with the prevailing provisions of the Buildings Ordinance;
- (b) the permitted use as testing laboratory under the Testing Laboratory Waiver shall not prejudice any of the rights and remedies under the Deed of Mutual Covenant of the industrial building (if applicable); and
- (c) the owner shall indemnify and keep indemnified the Government, its officers and servants, from and against all actions, costs, claims and demands arising directly or indirectly out of or in connection with the use of the Industrial Premises or any part thereof for the purpose of testing laboratory.

4. The Testing Laboratory Waiver, if approved by LandsD, shall be executed by the owner of the Industrial Premises as well as by the mortgagees, chargees and purchasers who have entered into an agreement for the sale and purchase of the Industrial Premises. The Testing Laboratory Waiver will primarily waive the Government's right to enforce the user restriction in the Government lease for the Industrial Premises against testing laboratory use during the validity period of the Testing Laboratory Waiver. If the owner of the whole industrial lot where the Industrial Premises are situated, after obtaining a Testing Laboratory Waiver of the Industrial Premises, wishes to modify any other terms contained in the Government lease, a separate lease modification³ application will have to be submitted and will be processed by LandsD separately.

5. The owner shall pay an administrative fee as and when demanded by LandsD. The administrative fee will not be refunded if the owner either withdraws the application or is unable to duly execute the documentation for the application for any reason to the satisfaction of LandsD.

6. The owner is reminded of the need to approach other relevant authorities and departments, such as the Fire Services Department and the Building Authority, regarding any other approvals or licences that may be required under any Ordinances, by-laws or regulations that are in force from time to time, whether or not the proposed uses that may be permitted under the Testing Laboratory Waiver would involve any alteration, structural or otherwise, to the industrial building.

7. The Testing Laboratory Waiver will have effect only for the lifetime of the building in existence at the date of issue of the Testing Laboratory Waiver or until the Government lease of the lot expires or is terminated, whichever is the earlier. Notwithstanding the Testing Laboratory Waiver, a premium or waiver fee at full market value (i.e. assessment will be made without the benefit of the Testing Laboratory Waiver) will be payable if any lease modification or temporary waiver³ is applied for and approved. During the validity period of the Testing Laboratory Waiver, if the owner wishes to change any of the Testing Laboratory Waiver conditions, including any change of the area to be covered under the Testing Laboratory Waiver, he should submit an application to LandsD, which may, at its sole and absolute discretion, approve or reject and any approval granted may be made upon such terms and conditions (including the payment of any premium or charge) as it may impose.

³ The lease modification or temporary waiver may take such form and contain such conditions as LandsD may consider appropriate for the case, including, among others, payment of a premium or a waiver fee as appropriate.

Other Points to Note

8. The application should be submitted to the relevant District Lands Office of LandsD at the address as set out in the LandsD's website (<http://www.landsd.gov.hk/en/about/enquiries.htm>). The owner may wish to refer to Appendix I for a sample application and Appendix II for a note on the use of the personal data required to be provided in the application.

9. The owner is advised to engage competent professionals to assist in submitting the application.

10. Notwithstanding that there is an existing waiver in respect of the Industrial Premises or any part of the Industrial Premises ("Existing Waiver"), an application for a Testing Laboratory Waiver for or including those units may be submitted under paragraph 2 hereof and the applicable administrative fee shall be paid as and when demanded by LandsD. The Existing Waiver may be terminated by agreement simultaneously upon the execution of the Testing Laboratory Waiver, and notwithstanding any conditions in the Existing Waiver to the contrary, no waiver fees paid for the Existing Waiver will be refunded and no notice of termination will be given or required. There will be no refund of any administrative fees paid under the Existing Waiver.

11. Every application submitted to LandsD pursuant to this Practice Note will be considered on its own merits by LandsD at its absolute discretion acting in its capacity as a landlord. The amount of any administrative fee mentioned herein will be determined by LandsD from time to time. 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 owner that any application submitted to the LandsD will be processed or approved.

12. 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.

(Ms Bernadette Linn)
Director of Lands
25 January 2016

Sample of an Application

Application for Waiver for Testing Laboratory Use
in part(s) of or the entire Existing Industrial Building

To : District Lands Officer, _____
[Contacts of the District Lands Offices are
set out in Lands Department's website at
www.landso.gov.hk/en/about/enquiries.htm]

Dear Sirs,

(Address of the premises in an existing industrial building and
Lot number being subject of the application)

I/We, [_____ (name of the Agent) _____ as the agent of *] _____ (name of
the Applicants) _____, [as the (Sole Owner / Owners)* of (Lot _____ / Lots _____
/ Premises _____)*] hereby apply for a waiver for testing laboratory use in respect of the
Premises held in relation to the Lease/ Special Condition No. _____ of Conditions
of _____ / Special Condition No. _____ of New Grant
No. _____) under which the Lot No(s). _____ is/are held. Details of the
proposal and relevant documents are provided on separate sheet(s) attached to the
application.

In order to facilitate consideration of my / our application, I / we attach the
Checklist of Basic Requirements together with the required documents / information for
your reference.

I / We hereby expressly warrant and declare that the above documents /
information provided in support of my / our application are correct and genuine and I / we
expressly acknowledge that I am / we are aware and accept that the decision on the
application will be made by the Lands Department on the basis of the documents /
information supplied by me / us and may be immediately cancelled in the event that such
documents / information are found to be false or misleading.

I / We further expressly acknowledge that the personal data provided by me / us in
this application will be used by the Lands Department in connection with the processing of
my / our application. The provision of any personal data requested in the application form
is voluntary. I / We understand that if I / we do not provide sufficient documents /

information including the above required documents / information, the Lands Department may not be able to process my / our application.

I / We hereby authorize the Lands Department to disclose my / our personal data in the application and the attached documents to such Government Departments and any other body, organization or person(s) as it may see fit at its absolute discretion to obtain such information which is deemed relevant to my / our application, whether on policy or any other grounds.

I / We further authorize and direct and request any Government Department or other body which may be approached by the Lands Department to supply any and all documents / information which it may require.

* *Delete as appropriate*

Yours faithfully,

(Agent's / Applicant(s))* Signature: _____
(H.K.I.D. Card Number(s): _____)

Name of the (Agent / Applicant(s))* in Block Letters: _____

Address: _____

Telephone Number: _____

Date: _____

Notes :

- (1) Details of the proposed uses under application and relevant documents will need to be provided on separate sheet(s) attached to the application and duly signed as appropriate.
- (2) All owners (including intending purchaser under an Agreement for Sale and Purchase of the Premises) must sign in the capacity of applicants.
- (3) This application and the separate sheet referred to in Note (1) above should be submitted in duplicate.

Checklist of Basic Requirements
for Submission of an Application for Waiver for
Testing Laboratory Use in part(s) of or the entire Existing Industrial Building

A. Information / Documents that must be submitted ⁽¹⁾ :

- (i) 2 copies ⁽²⁾ of a complete set of Government Land Grant documents (including all executed lease modification letters and extension letters, if any) affecting the premises ⁽³⁾.
- (ii) A copy of an up-to-date location / site plan on an appropriate scale (normally 1:1000) showing the premises.
- (iii) 2 copies ⁽²⁾ of a computer printout containing the historical and current ownership particulars of the property.
- (iv) (a) If any of the registered owners is a limited company, 2 sets of certified true copies of its Certificate of Incorporation, Certificate of Change of Name (if applicable) and Notice of Situation of Registered Office. For overseas companies, documents equivalent to the above should be produced.
- (b) If there are any chargees/mortgagees, letter(s) from chargees/mortgagees confirming that they have no objection to / agree to enter into the proposed waiver letter.
- (c) In the event of the premises comprising more than one unit or being in multiple ownership and unless otherwise consented to by LandsD, a summary list (in duplicate) certified by the solicitor acting for the applicants containing the names of all registered owners/chargees/ mortgagees/ purchasers who have entered into an Agreement for Sale and Purchase of the premises or part(s) thereof together with details of number of undivided shares held by each owner and an undertaking by the solicitor to inform the concerned District Lands Officer ⁽⁴⁾ of the Lands Department of any change in the names of the registered owners/chargees/mortgagees/ purchasers of the premises or part(s) thereof between the date of application up to the date of the waiver letter;
- (v) 2 copies of the Town Planning Board approval letter for the proposed testing laboratory use, if applicable. For claims of testing laboratory as existing use ('EU'), 2 copies of document demonstrating the 'EU' status should be provided. Please refer to the Town Planning Board Guidelines No. 24C for Interpretation of Existing Use in the Urban and New Town Areas (TPB PG-No. 24C) for details.
- (vi) If submitted by an agent, a written authorization from all the registered owners and purchasers (if applicable) of the premises.

- (vii) 2 copies of a complete set of the building plans⁽⁵⁾ last approved by the Building Authority for the premises and a schedule showing the total accountable GFA and total internal floor area⁽⁵⁾ of the premises.
- (viii) A set of duly completed forms, which could be downloaded at : http://www.hkctc.gov.hk/en/doc/nil_waiver_fee_ITC_declaration_for_m.html, as required by the Innovation and Technology Commission on the proposed operation of testing laboratory in the premises under application.
- (ix) If applicable, 2 copies of any building works proposal⁽⁶⁾ for the premises or part(s) thereof and, irrespective of whether any building works proposal is involved, there should be certification :-
- of any change in GFA, site coverage, number of storeys and building height to the existing building; and
 - that no other non-compliance with the lease conditions.
- (x) If applicable, 2 copies⁽²⁾ of the Deed of Mutual Covenant (“DMC”) of the building and a written confirmation (in duplicate) by the solicitor acting for the applicants as to whether there are any inconsistencies between the provisions of the DMC and the proposed testing laboratory use. If so, a proposal as to how they are going to deal with the inconsistencies should also be submitted.
- (xi) Does the applicant for Testing Laboratory Waiver also wish to waive or modify other lease restrictions (other than the user restriction) in association with the proposed testing laboratory uses?

Yes

No

(Please provide detail on separate sheet if necessary)

B. Information / Documents that will facilitate the processing of the application⁽⁷⁾ :

- (xii) A copy of an extract of the relevant Outline Zoning Plan (together with the relevant Notes and Explanatory Statement, as appropriate) showing the property.
- (xiii) For an application which involves portion(s) of a lot, or sub-divisions of any lots, to assist the verification of site areas and site boundaries, 2 copies of all relevant assignment plans or Deed Poll plans should be provided together with any relevant information relating to the delineation of the boundaries of these sub-divisions.
- (xiv) 2 sets of sketch plans illustrating the proposed change in use for testing laboratory, if available.

Notes :

- (1) Please put a tick in the relevant box if applicable unless otherwise specified; and delete as appropriate.
- (2) One set of documents should be certified by the Land Registry or by the solicitor acting for the applicant, while the other set may be a photocopy of the certified documents. Certification of the documents should be done not more than one month before submission of the application.
- (3) Premises include all premises of the existing industrial building(s) under the waiver application.
- (4) Contacts of the District Lands Offices of Lands Department are set out in Lands Department's website at the following link:
<http://www.landsd.gov.hk/en/about/enquiries.htm>
- (5) The plans and documents should be certified by the Authorized Person acting for the applicant.
- (6) The proposal should be prepared and submitted by the Authorized Person or other competent professionals acting for the applicant.
- (7) Any other information may be supplied in duplicate on separate sheet(s) attached to the application.

Note on use of Personal Information Required in the Application

<p>Purpose of Collection</p>	<p>The personal data provided by means of this form will be used by the Lands Department for the purpose of considering and processing the application.</p> <p>The provision of personal data by means of this form is voluntary. If you do not provide sufficient information, the Lands Department may not be able to process your application.</p>
<p>Class of Transferees</p>	<p>The personal data you provided by means of this form may be disclosed to other Government bureaux / departments and the Hong Kong Council for Testing and Certification for the purpose mentioned above.</p>
<p>Access to Personal Data</p>	<p>The applicants have 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 on this form.</p>
<p>Enquiries</p>	<p>Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to:</p> <p style="text-align: center;">The Office Personal Data Controlling Officer of the Lands Department</p>