



**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.



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Director of Lands

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