

No. 14/MISC/Policy/ACQ-II/DE

Govt. of India, Min of Defence
Dte General Defence Estates
Raksha Sampada Bhawan
Ulaanbaatar Marg
Delhi Cantt.-110010

Dated : 17 Sep 2009

To

- ✓ The Principal Director, DE
Ministry of Defence
- ✓ Central /Southern/ Western/Eastern/Northern Command
Lucknow/Pune/Chandigarh/Kolkata/Jammu

Director, DE
South Western Command, Jaipur

Subject : MONITORING OF COURT CASES AND TIMELY FILING OF APPEALS/SLPs

Detailed Instructions exist on the subject of the requirement of regular monitoring of Court cases, timely submission of proposal for seeking opinion of LA (Defence) on Court orders and follow up of the same by the Defence Estates Officers concerned till the opinion is received and appeals filed wherever approved. However, it has been observed that despite these instructions, many of our appeals are getting dismissed on the ground of delay, mainly because of the reason that the proposals for filing appeals etc. are being received late from the DEOs. One of the frequently cited reasons for such delays is the non receipt of the information/copy of the order/ opinion of the Govt. counsels in time.

2. In this connection, it should be impressed upon all the Defence Estates Officers that the primary responsibility of defence/follow up of the cases on behalf of the UOI rests with the Defence Estates Officers themselves. It is the duty of the Defence Estates Officer to ensure that the cases filed/defended by the UOI are properly defended by the Govt. counsel in the Court and for this purpose, all actions like prior briefing of the counsel, attendance during the hearing, ensuring service of dasti notices etc. (wherever required), payment of processing fees etc. should be taken in time.

3. For the above purpose, it is imperative that the Defence Estates Officer maintains the upto date data base with regards to all the pending Court cases in all Courts. This is especially necessary with regards to the cases pending in the High Courts, as in the High Court, due to periodic changes of the panel of the Govt. counsels, there is possibility of losing track of the cases. In order to ensure maintenance of upto date data base, following steps should be taken :-

A. Maintenance and updating of Court Cases Monitoring Register.

(i) Every Defence Estates Officer should maintain separate Court Case Monitoring Register for recording the court cases pertaining to his circle for each Court, i.e. lower Courts, High Court and Supreme Court. The title of the case, case no., the scheme of acquisition from which the case has arisen,

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17/9/09

the brief of the order which is challenged, name of the Govt. Counsel defending the case, the name of the Court where the case is listed, details of interim orders, time to time developments, the brief of the final order with date, date of its receipt etc. should be recorded in this register.

(ii) In order to ensure that upto date information with regards to all the pending cases is recorded in the register, the Senior Central Govt. Standing Counsel/ Asstt. Solicitor General of the High Court and all the existing panel counsels should be contacted to prepare list of cases being dealt with by them.

(iii) This should be matched with the data of Court cases existing with the Defence Estates Office to ensure that no case, which is pending in the High Court is left unaccounted for.

(iv) A system may be developed in each DEO office to verify from the Court/Govt. Counsels each week as to whether any of their cases are listed for hearing in the ensuing week. For this purpose, DEO may detail his representative to the Court or may develop an internal system to check the High Court website at the end of each week to ascertain whether cases pertaining the concerned DEO office has been listed for the ensuing week. If it is found that the cases are listed, then the concerned Govt. counsel should be personally contacted for briefing.

(v) As and when any case is decided, copy of the Court order may be obtained at the earliest. Since obtaining certified copy may take some time, uncertified copy may be obtained from the web wherever possible. The concerned Govt. counsel should be requested to make available the certified copy of the Court order along with his legal opinion at the earliest.

B. Maintenance of Court Order Follow Up Register.

(i) It is necessary that the Defence Estates Officer maintains a register for monitoring the follow up actions on the orders of the Court, where the date of issue of the order, date of receipt of the uncertified and certified copy of the order, date of submission of the proposal to the Principal Director etc. are recorded. It should be ensured that not more than one weeks time is taken to prepare and submit a proposal after the receipt of the Court order. In case of delay in receipt of certified copy of the order from the Court, proposal may be initiated even with uncertified copy of the order. The proposal should be self contained to avoid queries by the higher head quarters. After sending the proposal, DEO should constantly follow up the case, till a decision is received by him as to the further course of action. Once the decision is received, this fact should be entered in the register.

(ii) If implementation of the order is advised, the follow up action required to be taken should be recorded with the time limit granted by the Court for implementation of the order. Once the order is implemented, an entry to that effect should be made in the register.

(iii) If filing of further appeal is advised, this fact should be recorded in the follow up register. Further action regarding filing of appeal etc. should be recorded in the Court cases register. While recording this in the follow up

register, the relevant page and vol. no. of the court case register should also be mentioned to enable easy linking of the case in future. Similarly, in the Court Cases register also the linked page and vol. no. of the follow up register should be recorded as and when any case is transferred to or from the follow up register.

4. If any other information is considered relevant, the same can also be entered in the aforementioned registers. Where Court Case/follow up registers are already maintained, suitable modifications may be made to cater for the data as has been mentioned in the previous paragraph.

5. Every entry in each of the above two registers should be personally verified by the Defence Estates Officer with his dated initial recorded against each entry. He should also personally check the register every week to ensure that necessary actions have been taken in each case. A monthly report regarding the fresh entries made in both the registers and action taken thereon may also be obtained by the Principal Director concerned from every DEO. These registers may be seen by the Inspecting Officers at the time of their inspection of the Defence Estates Offices.

5. In view of the urgency of the matter, it is requested that all the DEOs should be directed to complete the above work of updating their data base and preparation of the Court Cases Monitoring Register and Court Order Follow up Register within a period of one month. The compliance report in this regard with regards to all the DEOs under your jurisdiction may please be furnished by 30 Oct 2009 positively.



(S. Majumdar)
Dy. Director General
For Director General
Defence Estates

Internal copy to:-

Acq 1-A Section
Acq 1-B Section

No. 14/MISC/Policy/ACQ-II/DE
Govt. of India, Min of Defence
Dte General Defence Estates
Raksha Sampada Bhawan
Ulaanbaatar Marg
Delhi Cantt. -110010

Dated : 28th Jan 2010

To

The Principal Director, DE
Ministry of Defence
Central /Southern/ Western/Eastern/Northern Command
Lucknow/Pune/Chandigarh/Kolkata/Jammu

Director, DE
South Western Command, Jaipur.

Subject : MONITORING OF COURT CASES AND TIMELY FILING OF APPEALS/SLPs

Reference this Dte Gen letter of even No. dated 17.09.2009.

2. The compliance report required by 30.10.2009, as called for vide this Dte Gen letter under reference is still awaited.
3. It is requested that the names of the DEOs who have not complied with this order may please be intimated. It may also be noted that in case of non submission of this information, it will be presumed that the instructions have not been complied with.
4. In this connection, a list of cases pertaining to each DEO circle, where the appeals/SLPs have been dismissed due to delay in filing appeal and cases where filing of appeals/SLPs has not been advised by the LA(Defence)/ASG during the year 2009 may please be furnished as per **Annex 'A'**.
5. It has also been decided that henceforth all proposals for filing of appeal/SLP shall be accompanied with a report in the format as enclosed at **Annex 'B'**, showing therein the time taken at each level to process and forward the proposal. It may be noted that wherever more than 7 days time has been taken at any level, explanatory note giving reasons for the delay will be required to be recorded in the remarks column of the report.
6. In addition to the above, monitoring of the progress of the cases should also be done at the level of the Dte and for this purpose a comprehensive report should be prepared every month and be submitted to the Dte Gen in the first week of every month. This report may be submitted as per the format given in **Annex 'C'**.
7. It has been noted with concern that despite issue of repeated instructions by us, no monitoring mechanism has yet been devised by the Directorates to ensure timely submission of proposals for filing appeal/SLP against the Court orders which are not in favour of the Govt. In order to ensure that the current

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28/1/2010
ACG
[Signature]

instructions are strictly adhered to; you are advised to notify one officer in your Dte who will monitor all such cases at his level and submit the reports periodically to this Dte Gen. It may also be noted that while submitting the report, the same should be submitted separately to the DDGs of the concerned section dealing with the subject cases. The name of the officer notified for this purpose should be intimated.

8. The information called vide paras 3, 4 and 7 above is required to be furnished by your Dte. by 10.02.2010 positively.



(S. Majumdar)

Dy. Director General
For Director General
Defence Estates

Internal copy to:-

All DDGs DE

(B)

NO:701/726/RD/DE/86
Government of India,
Ministry of Defence (DG DE),
R.K. Puram, New Delhi.
April 1989

To

✓ The Defence Estates Officer,
Mhow.

Sub: Resumption of Bungalow No.76, Mhow Cantt.

Reference your letter No.M-407/Temp. dt.25.10.88 on the above subject. It is seen from the records that it has not been possible for you to submit draft Resumption Notices for the signatures of the Under Secretary to the Government of India, Ministry of Defence as there is no clarity and certainty about the identity of the actual person to whom the notice will be issued. This is reported to be so because the properties have changed hands during the past either by inheritance or sale and the person in whose name the property is recorded is no longer the actual owner. The successive transferees have either not applied to you for mutation or due to certain other problems, the mutation in their names have not been carried out in the GLR.

2. We have seen the legal opinion sent by you earlier in respect of this property and other properties. We are of the view that it is not desirable to delay the issue of resumption notice on account of non-mutation of the property in the name of the present, actual and the lawful owner of the property in question. The facts of each case may be slightly different but the general problem appears to be similar in all these cases.

3. You should therefore make local enquiries as to who is actual person or persons who is/are the owners of the respective properties or have an interest in it. After ascertaining their names etc. for the purpose or issue/service of the notice, you should send a draft Resumption Notice (in adequate number) for the signatures of the Competent Authority. As regards the payment of compensation, as to who will have to be offered the cheque, the advice of the Counsel be obtained, and necessary modification in the draft notice may be made accordingly. In respect of the site of Sy.No.64 on the basis of your report the resumption notice is to be served on the 3 inheritors and the compensation is to be offered jointly to them.

4. On receipt of the detailed proposal for each case separately along with the Resumption Notices, those will be sent to the Under Secretary for his signatures and return to you for issue. This may now please be done in all the pending cases.

5. It would also be desirable that for the sake of keeping the record straight, necessary mutation be also carried out in the GLR in the names of the persons to whom Resumption Notice is proposed to be issued. An entry be made in the Remarks Column that "mutation has been done on the basis of local enquiry and if there are any other persons who are interested in the property and they put up their claim with proper documents, the same will be and necessary corrections in the GLR will be made if considered necessary." For this purpose, a separate proposal in each case for mutations may also be sent simultaneously.

examined

file is not traceable
d.

6. It is seen that in this particular case a suit has also been filed (NO: 102/A/85 in the lower Court). The present position of the case may be intimated separately.

M. Narayan
Director General,
Defence Estates.

Copy to:

The Director, HQ,
Central Command,
Lucknow.

- for information with reference to thier letter No.M-407/TEMP dt.10th March 1989 and issue of necessary advise to the DEO Mhow for processing all the pending cases expeditiously.

176-B

COPY

No. 1/12/PA/120/98/VOL. III/543/13(23)
 Government of India
 Ministry of Defence

New Delhi, the 1st February, 1991

To

The Chief of Army Staff,
 Army Headquarters,
 New Delhi.

Subject : Resumption of Bungalows held on Old Grant Terms Constitution of Committees for assessment of compensation.

Sir,

I am directed to say that the procedure for resumption of bungalows held on Old Grant Terms and the manner of determining the compensation payable have been revised in the light of past experience and certain pronouncements by the High Courts in this regard. It has been decided that, in future, a Committee consisting of the Station Commander, Defence Estates Officer, Garrison Engineer concerned and a representative of the regional CDA shall examine the relevant record and determine the amount of compensation payable on account of the resumption of such property. The quantum of compensation proposed to be paid will be intimated to the occupancy holder, who may convey his response regarding the proposed compensation either directly or through an authorised representative including a lawyer within the prescribed time. If the occupancy holder wishes to be heard in person, an opportunity for this should also be provided to him. The Committee will finalise its recommendations on the quantum of compensation to be paid after taking into consideration the view points of the occupancy holder.

2. The proposed Committee may hold its meetings at the concerned Headquarters of the Cantonment where the property proposed for resumption is situated. Secretarial and administrative assistance for the work relating to the meeting of the Committee shall be provided by the concerned Station HQs. The Garrison Engineer will present the case relating to the quantum of compensation in the same manner as before Arbitration Committees.
3. Each case on quantum of compensation so decided payable to the occupancy holder will be referred to the Ministry and orders will be issued in consultation with the Ministry of Defence (Finance).
4. This issues with the concurrence of the Ministry of Defence (Finance) vide their u.o. No. 13/W.I of 1991.

Yours faithfully,

S/-

(JASWANT SINGH)

Copy to :

Under Secretary to the Government of India

CGDA, DCEM, CDA All Commands, DADs, All Senior DADs Commands,
 QMG's Branch/QA (Policy), E.in-C's Branch, DFA (W), D(Lands).

COPY

for strict compliance that the resumption notices should be issued only after the clearance to resume a site has been obtained from the Ministry of Defence by putting up all the necessary details like the requirement of land at the station and present holdings, specific purpose for which the site is to be acquired, etc. The proposals for resumption should be routed through the DGDE for being processed in consultation with the Defence (Finance).

6. A copy of the instructions so issued may please be endorsed, amongst others, to this Ministry.



(K. Srinivasan) 16/10/96
Addl. Secretary (KS)

QMG (Lt.Gen. Deepak Ajwani)

MOD ID No.4(1)/96/D(Q&C) dated 16.10.96.

N.O.O.

Copy to :-

✓ DGDE

SPEED POST

No.739/3/L/DE/GEN.Corres/07
Dte. General Defence Estates
Ministry of Defence
Raksha Sampada Bhawan
Palam Road, Delhi Cantt-110010
Dated 05 June 2008.

To,

✓
Shri J. Sharma,
Joint Director, Defence Estates,
Central Command,
Lucknow.

Subject : Forwarding of letters.

As desired, please find enclosed copies of the following letters regarding delegation of authority for reclassification of classes B-4 and A-2 lands to A-1.

- (i) MoD letter no.740/1/L/L&C/70/929/DO(M)/D(Lands) dated 23.11.1993; and
- (ii) MoD letter no.11026/12/US/D(Lands)/95 dated 08.01.1996 forwarded under DGDE letter no. 740/1/L/L&C/70 dated 18.01.1996.

J.D.(L)

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A.K. Kapoor

(Dr. A.K. Kapoor)
Dy. Director General
for Director General
Defence Estates

No.740/1/L/L&C/70
Government of India,
Ministry of Defence(DGDE),
West Block IV, R K Puram,
New Delhi - 110 066.
Dated : 17 Jan. 1996.

The Director, DE,
Western/Southern/Eastern/Northern/Central Command,
Chandigarh/Pune/Calcutta/Jammu / Lucknow.

Sub: WITHDRAWAL OF DELEGATION OF POWERS TO CLASSIFY A-2
AND B-4 LAND TO A-1 LANDS IN THE CANTONMENTS.

A copy of Govt. of India, Ministry of Defence letter
No.11026/12/US/D(Lands)/95 dated 8th Jan 1995 on the above subject, is
forwarded herewith for information and necessary action.

Copy to: All DEC/ADEOS for Director General,
Defence Estates.

Copy of Govt. of India Ministry of Defence letter No.11025/12/US/D(Lands)/95
dated 8.1.1995 addressed to Director General, DE, R K Puram, New Delhi and copy
endorsed to others.

Sub: Withdrawal of delegation of powers to classify A-2 and B-4 lands to
A-1 lands in the Cantonments.

Sir,

I am directed to convey the sanction of the President to withdraw the powers to
reclassify A-2 and B-4 lands in Cantonments to A-1 of the Director, Defence
Estates(Lands) and the Director, DE, the Command delegated vide this Ministry
letter No.740/1/L/L&C/70:909/DC(M)/D(Lands) dated 23rd November 1993.

2. In future the reclassification of such lands for the use of three services and
Defence establishments will be done with the approval of the Ministry of Defence
with effect from the date of issue of this letter.

3. This issues with the concurrence of the Ministry of Defence (Finance) vide ID
No.1586/W1/95 dated 28.12.95.

Yours faithfully,
Sd/- X X X X
(Ran Dhan)
Under Secretary.

Copy to:

1. Army Headquarters(QM) Branch - 20 copies.
2. Naval HQrs. - 10 copies
3. Air Force HQrs. - 10 copies
4. CGDA, New Delhi - 2 copies
5. DADS, New Delhi.
6. DDADS, Eastern/Central/Western/Southern/Northern Command.
Western/Southern/Northern Command.

No. 740/1/L/L&C/70/929/DO(M)/D(Lands),

Government of India,
Ministry of Defence,

New Delhi, the 23rd November, 1993.

To

The Director General,
Defence Estates,
Ministry of Defence,
West Block -4, R.K. Puram,
New Delhi - 110066

Subject:- DELEGATION OF POWERS TO RECLASSIFY A-2 AND B-4
LANDS TO A-1 LANDS IN THE CANTONMENTS.

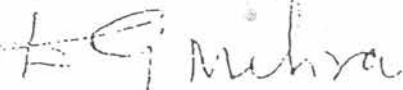
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Sir,

I am directed to convey the sanction of the President of the delegation to the Director, Defence Estates(Lands) and the Director, DE, the Command, the power to reclassify A-2 and B-4 lands in Cantonments to A-1 for purposes of the Army. Reclassification for the use of other services and Defence establishments will be done with the approval of the Ministry of Defence.

2. This issues with the concurrence of the Ministry of Defence (Finance) vide their u.o. No. 1339/Works-I dated 18.11.1993.

Yours faithfully,


(D. R. MEHRA)
DESK OFFICER

Copy to:-

- 250 (10.1.93)*
1. Army Headquarters (L&C's Branch) - 20 copies.
 2. Naval Headquarters, - 10 copies.
 3. Air Force Headquarters - 10 copies.
 4. CGDA, New Delhi - 2 copies.
 5. D&DO, New Delhi.
 6. DD&DO Eastern/Central/Western/Southern/
Northern Command.
 7. The CD. Eastern/Central/Western/Southern/
Northern Command.
 8. DFA(M).
 9. Guard file.

7. Renewal of Lease of Land (Unauthorised Constructions)

Please renew the lease first and then take action for regularisation, or otherwise, of breach of the terms of lease on account of unauthorised constructions. The form of lease in Schedule IV of CLA Rules, 1937, slightly modified is enclosed which may please be adopted for renewal of the lease so that the lessee could be proceeded against for breach of the terms of lease already committed by him.

[GOI, Min. of Def (DGDE) letter No. 744/2/L/L&C/72 Dated 31.03.1987]

COMMENTS

(1) Change of purpose—For use of Chamber and Library of lawyer or for chamber of Doctor would not amount to change in use or conversion of residential building into commercial buildings.

[All Rent Cases 1992 (2)]

SCHEDULE IV

[See Rule 16(3)]

Form for Renewal of a Lease

THIS INDENTURE made the day of one thousand nine hundred and BETWEEN THE President of India (hereinafter called "the Lessor") of the one part and (hereinafter called "the Lessee/Lessees") of the other part WHEREAS the Lessee/Lessees was/were solely entitled to the benefit of the within written lease No. dated registered at as No. on and on the day of its expiry requested the Lessor to renew the same in accordance with clause III thereof which the Lessor (who is now entitled to the reversion immediately expectant on the said lease) has agreed to do on the terms hereinafter mentioned.

NOW THIS INDENTURE WITNESSETH as follows :

(1) In pursuance of the premises the Lessor hereby demises unto the Lessee/Lessees ALL AND SINGULAR the hereditaments and premises comprised in and demised by the within written lease including the buildings etc. now standing thereon with the same

exceptions and reservations as are therein expressed TO HOLD unto the Lessee/Lessees from the day of 19..... for the term of thirty years subject to the payment on the same days and in the like manner of a yearly rent of Rs. (the first payment of rent under this demise to be made on the day of) and subject to and with the benefit of such and the like Lessee's and the Lessor's covenants respectively and such and the like provisos and conditions in all respects (including the proviso for re-entry) as are contained in the within written leases.

(2) It is hereby mutually covenanted and agreed by and between the Lessor and Lessee/Lessees so that the obligations hereunder shall continue throughout the term hereby created and shall be binding on their respective successors in interest in the demised premises that they will perform and observe the several covenants provisos and stipulations in the within written lease expressed as fully as if the same covenants provisos and stipulations had been herein repeated in full with such modifications only as are necessary to make them applicable to this demise and as if the names of the parties hereto had been substituted for those in the within written lease.

PROVIDED ALWAYS and it is agreed between the parties that the referred to in clause I(5) of the within written lease having been erected the Lessee/Lessees shall not be under any obligation to erect another, and that this renewal of lease shall be without prejudice to the rights of President of India as lessor that may have arisen under the lease No. dated above referred to.

IN WITNESS whereof, the parties hereto have set their hands. the day and year first above written.

Signed by

on behalf of the President of India

in the Presence of

Signed by

in the presence of

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21/1176/L/DE/99

No.709/3/L/DE/99/Feroz
Government of India,
Ministry of Defence (DGDE)
West Block IV, R K Puram,
New Delhi - 110 066.
Dated : 21 Nov.2000

To
The Director, DE,
Ministry of Defence,
Western Command,
Chandigarh.

Subject : DETERMINATION OF LEASE FOR THE LAND
MEASURING 6259 SQ FT OF SY NO.379
FEROZPUR CANTT.

Reference your letter No.21/1176/L/DE/51 dated
29.08.2000.

2. In this connection this is to advise, that, for any
penal action proposed to be taken against the lessee
for breach of any term/condition of the lease, the
lease should be operative. Therefore, regardless of
the breach, it will be necessary to bring the lease in
force by way of renewal first, before initiating action
for its determination.

A. V. Singh

for Director General,
Defence Estates.

Copy to:-
The DEO,
Jalandhar

for information and
necessary action.

27 NOV 2000

len

No.718/20/L/DE/97
Government of India,
Ministry of Defence(DGDE)
West Block IV, R K Puram,
New Delhi - 110 066.
Dated : 17 May 2000

To

The Principal Director/Director, DE,
Ministry of Defence,
Central/Southern/Eastern/Northern/Western Command,
Lucknow / Pune / Calcutta / Jammu / Chandigarh.

Subject : SANCTIONING OF BUILDING PLANS BY THE
CANTONMENT BOARDS.

In a case of leased property in a Cantt., the CEO/Cantt Board sanctioned the building plans and also permitted the same to be put to commercial use contrary to the terms of the lease.

2. The case was examined in the MoD. The MoD has taken a serious view of the lapse on the part of the Cantt Board/CEO of not obtaining prior approval of the MoD for change of purpose of the property in question.

3. It has been further noticed that in certain cases the Cantonment Boards have been granting permission to use the permises for purposes other than for which it is meant and have been sanctioning building plans without obtaining the permisssion of the Govt for the change of purpose. This is a serious lapse on the part of the Cantonment Boards and should not be allowed to happen hereafter.

4. Strict instructions may, therefore, please be issued to all the CEOs not to sanction any building plans which are contary to Govts instructions. In a case where any change of purpose is involved, the case should be invariably submitted to MoD, through your Dte/ this Dte General for Govt Orders. Any violation of these instructions would be viewed seriously and the Officers will be held personally responsible for any lapses and action as deemed fit would be taken against them.

Atthapoo

for Director General,
Defence Estates.

Copy to : All CEOs.

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No. 705/4/1/DE/91
GOVERNMENT OF INDIA.
MINISTRY OF DEFENCE. (D.O.D.C.)
R.K. PURAM, NEW DELHI-110066
DATED: 23 /APRIL/1993.

TO:

THE DIRECTOR, DE
MINISTRY OF DEFENCE.
EASTERN/NORTHERN/SOUTHERN/CENTRAL/WESTERN COMMANDS.
CALCUTTA/JAIPUR/PUNE /LUCIGNOII / CHANDIGARH.

SUBJECT:- ABNORMAL DELAY IN THE RENEWAL OF EXPIRED LEASES.

It is observed that a very large number of cases of expired leases of lands presently remain un-finalised despite inordinate delay in some cases which extends to a period of nearly 30 years or so. Such a situation is extremely alarming and unsatisfactory and is a cause of embarrassment to the administration of Cantonment Boards concerned as well as of the Defence Estates Officers concerned. The situation appears to have arisen due to want of timely remedial action from time to time on the part of the concerned C.Os/D.Os in identifying and over-coming the various causes of delay specific in each case. This has obviously resulted in the accumulation of a large extent of arrears comprising of complications. Due to these factors the work relating to execution of renewal deeds and timely recovery of rentals dues has also fallen into arrears. The present serious situation calls for immediate and detailed review of each and every case personally by you so as to identify the specific reasons for delays and to initiate specific/efficacious steps/actions to ensure renewal of such expired leases or eviction of defaulters/regularisation on a time bound basis.

2. We have identified certain common typical causes for delays. These are by no means exhaustive. However these are being mentioned below as illustrations. The suggested broad remedial line of action that may be adopted at your level in the relevant circumstances of the cases so that renewal action or eviction/regularisation is urgently speeded up are also mentioned below:-

- (i) Death of the lessee(s) & subsequent inheritance complications and private disputes as regards Succession.

In such cases the due and timely action should be taken under section 73 of the Cantonments Act by the C&O/Jot initiated by the D.C.O. through the C&O to ensure that the successors/legal heirs are put under obligation to give information & are traced to be properly pursued in the first instance so that eventually mutation is finalized soon on settlement of inheritance disputes at the earliest. The documents made available by the parties to the C&O in support of their interests should also be obtained by the C&O in the land cases under his management and examined in case the parties have not submitted the certified copies of the relevant papers in connection with mutation in the U.L.D. to the D.C.O. The parties should always be closely persuaded in a time bound manner in case any further documents are still required from them so that the mutation is carried out within the shortest possible time. Should, however, mutation may not be possible to be decided upon due to pending disputes at the level of the D&O/C&O for any reason whatever the D&O/C&O should invariably obtain legal advice of the Government Counsel/Cantonment Legal Adviser (as the case may be) and the proposal for mutation in such cases should be submitted to this Director General, D. alongwith the legal advice so obtained.

(ii) Delay in submission of applications for renewal of leases due to the provisions in the renewal clause not altogether discouraging submission of renewal applications even after expiry of leases.

In such cases there is no reason for the C&O/C&O for withholding the proposals for renewal of leases with them after the applications for renewal are submitted. The usual proposal in such cases should be forwarded alongwith the clarificatory reasons furnished by the Lessee(s), if any, for the delay in not applying for renewal earlier. In order that such delays on account of ignorance of the terms of the lease on the part of the lessees or recorded transferees of the lessees are avoided,

a proper caution notice/letter informing the position of expiry of the lease and the subsisting terms providing for the renewal as per the lease should be informed by the DEOs/CAOs to the holders of lease hold rights well in advance provided that any subsisting breach of the lease terms is not involved. In the event of subsisting breach of the terms of leases the lessees must be pressed to remove/stop the breaches involved.

- (iii) Transfer/sale of lease hold rights including sub-division permissible under certain leases such as lease in Schedule VIII of the CLA Rules, 1937.

In such cases experience shows that the purchasers of the various sub-divided portions are either ignorant of the consequences of non-renewal of lease or some of them even deliberately evade taking separate leases in their names from the Government. In those cases, the persons concerned should be duly advised of the appropriate position as well as of the repercussions that are bound to take place in the event of default on their part. Clear position should, therefore, be intimated to the parties concerned having due regard to the other specific features involved depending from case to case & a target date must be given for submission of the requisite papers and applications by them.

- (iv) Delay in submission of title documents by the purchasers/Successors in interest-non-finalisation of mutation. Non-submission of application for renewal despite caution notice from the DEO/CAO.

In such cases obviously adequate pressure/persuasion will have to be exercised by the DEOs/CAOs on the defaulters but the cases would not be kept pending beyond a reasonable time period. For the violation of Section 73 of the Cantonments Act involved proper prosecution should be filed in the Court and vigorously pursued. Simultaneously in the event of delay in the submission of application for renewal beyond the period of say one year despite prosecution action/caution notices, the DEOs/CAOs should initiate proper action for eviction of the unauthorised occupant Under the PPE Act, 1971.

(V) Non-observance/breach of certain conditions of the lease requiring condonation.

The breaches of lease conditions must be got detected without delay and firm action has to be taken by the DIO/CEO so that the breaches are removed/stopped or got regularised at the earliest.

In such pending cases the parties concerned have to make applications themselves for renewal as well as condonation/regularisation, in their own interest. The DEOs/CEOs should withhold further action on this pending removal/stoppage of the infringement of the lease conditions by the lessee as it would take its own time. In case the lessee is not willing for condonation of the breach of lease or is defying or just not responding to the instructions after proper service, the DIO/CEOs should initiate necessary proposals for determination of the leases and this must not be delay. This will enable this Director ^{etc} General, to obtain orders of the Competent Authority.

(vi) Linkaging of the renewal of lease with the application for conversion into free hold in Civil areas.

In such cases the renewal aspect should be totally delinked from the application for conversion for the simple reason that the conversion can take place only in r/o subsisting lease. The conversion aspect as well as renewal of lease, if already due, should therefore be processed simultaneously.

(vii) Delay in processing the cases in the Offices of DEOs and CEOs.

Want of timely action in the offices of DEOs and CEOs has also partly contributed to the pendency of renewal cases over a long time. This has been viewed with great concern. Urgent steps are obviously required to gear up the official machinery to dispose of pending issues/cases in a time bound manner. Serious view would be taken if the present state of affairs does not show positive and substantial improvements within a couple of months.

.....5.....
(viii) PENDENCY OF CASES IN COURTS.

Such cases should be examined in depth on case by case basis in consultation with the Government Advocate/Cantt. Board Legal Adviser.

3. Let this be again stated though at the cost of repetition that the above items can not obviously be regarded as comprehensive due to the fact that certain cases are bound to have their own peculiar complexities/features calling for solutions/steps specifically suited for them. You should therefore, carry out a comprehensive review of all the cases on case by case basis and it be ensured that necessary action where ever required is initiated & progressed on urgent basis.

4. If there are any other typical common, categories of cases not covered above which also are causing unavoidable delays towards renewal of leases these should also be carefully identified.

5. It has further been noticed that in certain cases despite issue of sanctions for renewal of the leases in Schedule VI of CLA Rules, 1929 and Schedule VIII of CLA Rules, 1937 the renewal lease deeds were not got executed by the CEC's/DEO's from the lessees despite several years delay. An examination of some of such cases has revealed that the reasons for non execution of the renewal lease deeds in some cases were either the death of the recorded lessee (whose name is entered in the G.L.R.) after the issue of renewal sanction letter or occurrence of some subsequent transaction causing transfer of the leased site by sale, gift etc. by the recorded lessee, before execution of renewal deed was carried out by him. Consequently the name of the person currently holding the rights is not found having been entered in the G.L.R. In this connection it is clarified as under:-

- (a) Sanctions issued by the Directorate, DC for renewal of the expired leases are not issued in favour of any particular persons. A renewal sanction is for renewal of a particular lease in favour of the lessee as recognised in terms of the lease provisions.

.....6.....

S/-

- (b) So far as lease forms in Schedule VI of CLA Rules, 1925 and Schedule VIII of CLA Rules, 1937 are concerned, clauses IV thereof provide clear interpretation and scope to the term "lessee". An extract of these clauses is reproduced below for ready reference and appreciation of the point involved:-

(i) EXTRACT OF CLAUSE IV OF LEASE IN SCHEDULE VI OF CLA RULES, 1925.

Provided also that the expressions "Secretary of State" and the "lessee" herein-before used shall unless such an interpretation be inconsistent with the context include in the case of the former his successors and assigns and in the case of the latter his heirs, executors, administrators, representatives and assigns."

(ii) EXTRACT OF CLAUSE IV OF LEASE IN SCHEDULE VIII OF CLA RULES, 1937.

"Provided also that the expressions "Lessor" and "Lessee" hereinbefore used shall unless such an interpretation be inconsistent with the context include in the case of the former his successors and assigns and in the case of the latter his/their heirs, executors, administrators, representatives & assigns."

(c) for the purposes of the above leases, therefore, heirs, executors, administrators, representatives & assigns are included in the category of lessee/lessees. In other words they are required to carry out the obligations of the lessee and discharge his duties also. In this view of the matter where after issue of sanction for renewal of lease the renewal deed is not executed either on account of death of recorded lessee or transfer of lease rights in the meanwhile your first step should be in the direction of ascertaining the particulars of heirs/transferees etc. so that mutation is finalised without delay. Applications received by the DEOs/CEOs from legal heirs of the lessees or the transferees of the leased property for execution of the renewal lease deed by them, should be examined by you principally from the view point of finalising mutation first without any delay. If the devolution of lease hold rights/succession/transfer has correctly taken place in favour of the applicant/claimant and he has a valid claim, you should first take steps for mutation of the rights in the GLR of the site in their name/names. After mutation is carried out he/they would automatically become recorded lessee(s) and the renewal lease deed could then be got executed by him/them so as to finalise the outstanding cases & thus keep your records straight.

(d) In case where any breach of the lease condition or violation of terms or unauthorised constructions have been committed or serious delay after issue of renewal sanction has already taken place, the execution of the renewal deeds in such cases should be undertaken only after full relevant details are reported to this Dte. General, D. and go ahead clearance for execution of renewal deed has been obtained.

3. Finally in order that the subject matter is periodically reviewed and proper progress is ensured, you are further requested to submit a Six monthly progress reports as regards finalisation of renewal of expired leases showing case-wise position and reasons for non renewal. The Six monthly periodical reports should be for the half year ending 30th June and 31st December and reach this Dto.General by 15th of the month following the half year.

Please acknowledge receipt.



DIRECTOR GENERAL
DEFENCE ESTATES
(P.K. KUMARAM)

"COPY TO" :-

- 1. All J.E.O.s
- 2. All C.E.O.s Dehu Road.

INTERNAL:

- 3. Case file No. 705/4/L/DE/91.
- 4. Case file No. 16/32/L/DE/52

HRS/-

KIND ATTN: PDDE - FROM: CEO Faizabad

- Copy to Govt. of India, Min. of Defence (Defence Department) letter No.18/131/L/L & C/44, dated 21.08.1944.

SUB: Transfer of properties on sites hold on leases in Schedule VIII of the C.L.A. Rules, 1937-Interpretation of Condition 1(8) of lease.

"The only obligation imposed on the lessee by condition 1(8) is that every transfer of the premises should be reported to the Defence Estates Officer or the Cantonment Board as the case may be. He is not required to obtain the sanction of any authority to such a transfer on the assumption that the lessee in paying the full market rental of the land, or if he is not, the payment of such lesser amount is due to certain special circumstances that have been duly considered in granting the lease. It is not open to Government to question his right to transfer his lease hold interests even if it involves a sub-division of the site."

(Page 59 of MLM 1945 refers)

~~KIND ATTN:~~

PDDE

- FROM:

SEO Faysalabad

- Copy to Govt. of India, Min. of Defence (Defence Department)
letter No.18/131/L/L & C/44, dated 21.08.1944.

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of lease.**

“The only obligation imposed on the lessee by condition 1(8) is that every transfer of the premises should be reported to the Defence Estates Officer or the Cantonment Board as the case may be. He is not required to obtain the sanction of any authority to such a transfer on the assumption that the lessee in paying the full market rental of the land, or if he is not, the payment of such lesser amount is due to certain special circumstances that have been duly considered in granting the lease. It is not open to Government to question his right to transfer his lease hold interests even if it involves a sub-division of the site.”

(Page 59 of MLM 1945 refers)

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gred
M.K. Kwarar.)

Copy of Govt of India, Ministry of Defence, Letter No. 81/3/L/LAC/58/7280-L/D (C&L), dated 16.11.1962 addressed to the Director, Military Lands and Cantonments, New Delhi.

Subject:- Sub-division etc. of sites held on Old Grant Terms inside Civil Areas.

Sir,

I am directed to say that recently some cases have come to light, where, in pursuance of the instruction contained in the late Defence Department letter No. 1280/L/D.4, dated the 1st November 1941, and subsequently clarified in M/L Directorate letter No. 2/17/L/LAC/52/9212-L/52, dated the 13th/19th November, 1962, some Cantonment Boards have permitted indiscriminate sub-division of sites comprising large holding situated inside notified Civil areas held on 'Old Grant' terms, without demanding leases therefore according to normal rules and have thereby, in addition to congesting the areas caused loss of considerable revenue which could have been secured had the policy been judiciously and prudently followed by insisting upon execution of leases in respect of each sub-divided portions on payment of current market rent and suitable premium.

2. Government of India have given careful consideration to the matter and have decided that hereinafter change in the use of or sub-division of a site or erection of additional buildings, in respect of old grant sites inside notified civil areas, shall not be sanctioned by a Board without the previous sanction of the Central Government. All cases not yet finalised should be dealt with accordingly.

Yours faithfully,

Sd/- K. Venugopalan.
Under Secretary to the Government of India.

No.11026/1/US/D(Lands)/1995
Government of India
Ministry of Defence

New Delhi, the 1st April 2005.

To

The Chief of the Army Staff,
The Chief of the Naval Staff,
The Chief of the Air Staff,
New Delhi.

Sub: Planting and Maintenance of trees on the lands in the active occupation of the Defence Services.

Sir,

I am directed to say that as per Ministry of Defence letter No.11026/6/77/D(Lands) dated 8.9.1977, the responsibility for planting and maintenance of trees on Class A-I Defence lands in Cantonments and on other Military lands outside Cantonments was vested with the occupying units or formations as per terms and conditions indicated in that letter. Subsequently, the matter was considered in the Ministry and it was decided not to extend the provisions of Ministry of Defence letter No.11026/6/77/D(Lands) dated 8.9.1977, beyond 31.12.1995, vide Ministry of Defence ID Note No.11026/1/US/D(Lands)/1995 dated 29.12.1995.

2. However, on the request from Army HQrs to revive the provisions contained in Ministry of Defence letter dated 8.9.1977, referred to above, the matter has again been considered in the Ministry and it has been decided that the responsibility for planting and maintenance of trees on Class A-I Defence lands in Cantonments and on other Military lands outside Cantonments will be with occupying units or formations subject to the following terms and conditions:-

- i) That the entire expenditure on the supply, planting and maintenance of trees (including the provision of trees, guards, manure, implements and labour etc) shall be met from the Regimental Funds of the units in occupation of A-I Defence land.

....2/-

— (A / (M))

— Singh

- ii) Units/Formations which undertake the plantation of trees will maintain a record of such trees and have them suitably marked. The list of such trees will be sent by the concerned units/formations to DEOs concerned.
- iii) As and when the usufructs of temporary nature of such trees like fruits etc are to be sold, a Board of Officers will be ordered by the Station Commander to undertake sale of such usufructs. Representatives of LAO and DEO concerned, will be members of the Board. The Board will also calculate the yearly proceeds by way of sale of usufructs, based on the record maintained by the unit.
- iv) Since fruits are perishable, it is necessary to sell/dispose them at the right time. No delays will be possible. Therefore, after giving due notice to all members of the Board of Officers, the Board will convene on the date with the stipulated quorum which will invariably include the LAO.
- v) The report of Board of Officers will be countersigned by the Station Commander. Thereafter, 25% (twenty five percent) of the proceeds accruing/generated from the disposal of usufructs of temporary nature will be deposited by the concerned unit into the Consolidated Fund of India through MRO and the remaining 75% of the proceeds from usufructs will be deposited in the Regimental Funds. The expenditure which is incurred while planting and maintenance of trees will be offset from the amount received as 75% from the sale of usufructs.
- vi) The Station Commander will be personally responsible to ensure/monitor timely depositing of the amount in the Consolidated Fund of India.
- vii) The trees grown on the lands, as indicated above, shall remain the property of the Government and will be disposed of, when dried or otherwise required to be felled, by the Defence Estates Officer to the best advantage of the State as at present.

3. This issues with the concurrence of Ministry of Defence (Finance Division) vide U.O. No.336/Fin/Works-I/05 dated 30.3.2005.

Yours faithfully,

Lalit Chauhan

(LALIT CHAUHAN)

UNDER SECRETARY TO THE GOVT. OF INDIA

Copy to :

1. DGDE – 5 copies.
2. The Principal Directors/Directors, DE, Southern, Western, Northern, Central and Eastern Commands.
3. CGDA, New Delhi.
4. DADS. New Delhi.
5. Sr DDADS, Southern, Western, Northern, Central and Eastern Commands.
6. CDA, Southern, Western, Northern, Central and Eastern Commands.
7. Ministry of Defence (Finance Division/W-I).
8. QMG Branch/Plg (Lands).
9. D(Air -II)
10. D(Navy-III).
11. D(Q&C).
12. D(QA)
13. D(R&D).
14. D(Fy-II)

No.14/MISC/POLICY/ACQ-II/DE

Govt. of India, Min. of Defence
Dte General Defence Estates
Raksha Sampada Bhawan
Palam Road Delhi cantt. -110010

12 JUNE 2006

To

Pr. Director, DE
Ministry of Defence

Central/Western /Northern /South Western Commands
Lucknow/Chandigarh/Jammu/Jaipur

Subject :- **FORMAT FOR PREPARING AND FORWARDING
PROPOSAL FOR SEEKING OPINION OF LA(DEFENCE)
FOR FILING APPEALS (RFA/LPA/SLP).**

With the objective of simplifying and streamlining the procedure to obtain the opinion of the LA (Defence) for filing of appeals (RFA/LPA/SLP etc) and also to bring it on line with the procedure followed by certain DEOs in Southern and Eastern Commands to obtain the opinion of the Branch Secretariat of the Law Ministry, it has been decided to adopt the following system of processing the cases.

2. Proposals for seeking the opinion of LA(Def) from the DEO will be initiated in a file in note form on a note sheet, on which principal Director will give his recommendations. This will be sent by the Principal Director to this Dte General for onward transmission to the LA(Defence) with our recommendations. On receipt of the file back from the LA(Defence), the same will be sent back to the Principal Dte. for its onward transmission to the DEO concerned for taking further necessary action. In cases where the necessity of filing SLPs will be accepted by the LA (Defence), this file itself will go from the LA (Defence) to the Central Agency Section for drafting of SLPs etc.

3. For the above, following procedure is required to be followed:-

- i) DEO's file No. should be written on the right hand top corner of the file.
- ii) The subject of the proposal should be written on the cover of the file in the manner: proposal for filing of appeal/SLP against the order dated..... of the Court in case(s) no..... arising out of acquisition of land measuringat.....:
- iii) The proposal will be in a note form meant for the perusal of the PDDE tagged on the left inner side of the file.
- iv) The note should be brief, to the point and self contained.
- v) The enclosures (annexures to the note) will be serially marked. All the enclosures will be tagged on the right hand side of the file according to their serial no....Thus encl. No. 1 will be at the bottom and the last Enclosure will be at the top (front-right). All the enclosures should be mentioned in bold lettering in the course of the note mentioning their

specific enclosure number. An index of all the enclosures annexed should be prepared and pasted on the left inner side of the file cover.

- vi) The case file will be directly sent by the DEO to the PDDE. The proposal will come to this Dte. Gen. only when the same is duly examined and recommended by the PDDE. PDDE while sending the file to this Dte. Gen. will need to keep copy of DEO's letter and of his note in his file.
- vii) The note should mention the PDDE and DGDE case file no.
- viii) No advance copy should be sent by the DEO to this Dte. General

3. In order to help the DEO's to write their notes a checklist is *as below* attached. This checklist is for guidance only. In case the case referred to is different in nature and requires additional information to be incorporated, necessary modifications can be made by the DEOs concerned.

4. All fresh proposals for filing appeals (RFA/LPA/SLPs etc) may now be please sent as per file oriented system.

Checklist points for guidance

- (1) First paragraph of the note should contain the brief of the order proposed to be challenged, name of the court, case no., name of the parties and date of order. The reasons for recommending challenging the order in appeal may be mentioned in brief in two to three lines to give an overview of the proposal. The Enclosure number of the Court order should be mentioned here.
- (2) The second paragraph may give the relevant point of the acquisition of the land, area acquired, amount of govt. sanction, the service for whom acquired and the Act under which the land was acquired etc.
- (3) *Acquired* The third paragraph may give in brief the salient points of the land acquisition proceeding, i.e. the date of different notifications, date of award, date of possession etc. In case the land has been ~~acquisition~~ under the Urgency clause, clause, the same should be specifically mentioned with the details of on account payment made, date of payment, date of possession and the date of declaration of final award. The brief of the rates awarded by the Collector may be mentioned. The copy of the Collector's award is required to be enclosed. The Enclosure no. of the same should be mentioned here.
- (4) Other paragraph may deal with the litigation details, starting at the land reference/arbitration stage. Here, the relevant case no.s of the parties in the Reference or Arbitration stage with their names would be required to be mentioned. The date of the Reference Court order in each case (if separate orders have been issued) case number wise and the rate and other benefits awarded by the Court should be mentioned.

The copy of the Court order needs to be annexed with the enclosure no. mentioned in this paragraph.

- ✓ Sage
- (5) In case the proposal deals with orders issued at the appellate state, the subsequent paragraphs should deal with the details of appeals filed against the reference court order. Here, the case numbers vis a vis the Land Acquisition/Arbitration Case no. and name of the parties may be mentioned. In case the number of parties are too many, the details can be given in tabular form as annexure to the proposal. In case separate appeals have been filed both by the UOI and the parties separately, separate numbers may be mentioned. In case there is any interim order, the date of the same may be mentioned and order briefly stated.
 - (6) In case there are further appeals, the information may be given as stated in the previous paragraph.
 - (7) Lastly, the order which is proposed to be challenged should be mentioned, as would have already been stated in the first paragraph. Here the opinion of the Govt. Counsel (with enclosure no.), the proposed grounds for appeal as recommended by the DEO, financial and legal implications, implications on similar pending cases if the order is not challenged etc. should be mentioned. In case there have been similar orders in similar cases earlier, the action taken in such cases should also be mentioned. The grounds for filing appeal with legal issues involved and case law, if any, should be clearly stated. The date of expiry of limitation for filing appeal should also be mentioned.
 - (8) Any further information, if felt required may also be incorporated.

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For Director General
Defence Estates

(60)

No. 701/ULC-DE/RD/2000
Government Of India
Ministry Of Defence (DGDE)
West Block -IV, E.K. Puram
New Delhi-110066
16 May 2000

To

The Principal Director/Director
DE Ministry Of Defence
Central/Eastern/Northern/Southern/Western command,
Lucknow/Calcutta/Jammu/Pune /Chandigarh.

Subject:-IMPLEMENTATION OF URBAN LAND (CEILING AND
REGULATION) REPEAL ORDINANCE 1999.

1. The Urban Land (Ceiling & Regulation) Act 1976, has been repealed by promulgation of an Ordinance. The Ordinance came into force in the States of Harayana and Punjab and in all the Union Territories at once and in any other States which adopts this Ordinance under clause (2) of Article 252 of the Constitution it will take effect on the date of such adoption, and the reference to repeal of the Urban Land (Ceiling and Regulation) Act 1976 should in relation to any State or Union Territory means the date on which this Ordinance came into force in such State or Union Territory.

2. After the repeal of the said Act, the matter was referred to L.A. (Defence) for seeking clarification on the following points:-

- (a) Whether an area which was already notified as EVL by the Competent Authority U/S 10(3) of the Principal Act, but the possession of which was not taken over, can be taken over?
- (b) Where EVL already declared and notified in the official Gazettee and Government records amended accordingly, but possession not taken over what would be future course of action?

3. The L.A. (Defence) has opined that after the State Governments issued necessary notifications regarding implementation of the ULC Repeal Ordinance 1999 and the EVL declared are yet to be physically taken over, it can not be taken over now. In view of the said opinion, to avoid any disparity/discrimination in dealing with similar cases directions are accordingly issued not to take over the declared EVL if not already physically taken over before coming into force the Repeal Ordinance.

4. In the light of the foregoing opinion, you are also requested to issue necessary instructions to the Defence Estates Officers of your Command to take action for taking over & handing over EVL to LMA without any further delay to meet their KLP requirement in those States, where the Repeal Ordinance has not been adopted by the State so far.

A. V. Sengupta

For Director General
Defence Estates

Copy to :-

All DEOs, CEOs & ADEOs

dated 8th Oct. 1975)

8. Provision of Accommodation to DL&C Officers (Now IDES Officers) :—

The question of provision of accommodation to officers of DG DL&C Service has been under consideration of the Government. The following decisions have been arrived at :—

(a) Cantonment Areas :

They can be provided such accommodation in Cantonment areas which is already hired/appropriated by or by resorting to fresh hiring or by appropriating a house under the Cantonment (House Accommodation) Act, 1923 on receipt of a request from the officer. Government owned accommodation surplus to requirements of the Service Officers can also be allotted to them as in the case of other Defence Civilians.

(b) Non-Cantonment Areas :

The provisions of this Headquarters letter No. 10562/Q3 (B-i) dated

2 May 74 (copy attached) will be followed for allotment to officers of DG DL&C Service.

(c) The Director, DL&C, will be entitled to reserve accommodation which may be Government built or hired. In this connection, Government of India, Ministry of Defence letter No. 65906/Q3(B)/3567/Q/D(Qtg), dated 21st Aug. 1959 refers.

(Dte of Qtg., QMG's Branch New Delhi letter No. 65906/Q3 (B-i), dated 15th May 1980)