

No.11013/2/2016/D(lands)
Government of India
Ministry of Defence

New Delhi, the 10th March, 2017

The Director General, Defence Estates
New Delhi

- Subject: 1. Extension of expired/expiring Cantonment Code Leases of 1899 & 1912 and Cantonment Land Administration Rules, 1925 & 1937**
- 2. Renewal of Cantonment Code and CLAR leases whose full term has not expired**

1. Extension of Expired Leases

A. Full term of a large number of Cantonment Code Leases given under Cantonment Codes of 1899 & 1912 has expired and that for the remaining will be expiring soon. Similarly, a number of leases given under the Cantonment Land Administration Rules (CLAR), 1925 & 1937 have expired after having completed full lease term. Ministry of Defence has been working on formulation of a new policy to deal with such leased sites whose full term has expired or is expiring soon, which is likely to take some more time. Therefore, to regularize the occupation of these sites from the date their full term has expired and to recover lease rent, the Government has decided to take following interim measures:

B(a). All leases given under the Cantonment Codes, 1899 & 1912 and CLAR, 1925 & 1937 whose full term has either expired or is expiring before 31.12.2018 will be extended till 31.12.2018 subject to the conditions given in the succeeding paras.

- (i) Where eviction orders have been issued by the competent authority under due process of law or where any litigation is ongoing regarding leasehold rights, such leases shall not be extended and action shall be taken as per due process of law.
- (ii) Extension in such cases will not be permitted where Transfer, sub lease or assignment of leasehold rights were made after expiry of full tenure of lease.
- (iii) Lease rent shall be recovered based on STR rates prevailing on the date of expiry of leases. The lease rent will be revised by 100% after expiry of every 10 years period on compounding basis. Rent will be fixed on the basis of use of site which is classified as residential, commercial and lucrative. The lease rent for residential sites is equal to normal STR (Standard Table of Rent) rates, for commercial sites twice the STR rate and for lucrative sites four times the STR rates as per extant instructions.

- (iv) Extension of lease term up to 31.12.2018 will not regularize breach of lease conditions. Acceptance of lease rent together with arrears due from the date of expiry of lease will regularize only the occupation of defence land.
- (v) The terms and conditions contained in the expired lease deed shall continue to be in force with following modifications:

- The rate of lease rent and arrears of rent shall be payable as per sub-para (iii) above.
- The extension of lease term from the date of expiry of lease till 31.12.2018 will not entitle the lessee to seek any greater rights.
- Where ever the use of leased site or part thereof has changed from residential to commercial or to a mixed use (both residential and commercial), the lessee will have to pay lease rent at commercial rate for such area from the date of change of use in case documentary evidence is available with Cantonment Board or date of renewal of lease if date of change of use is not available.
- For expired Cantt Code lease sites located outside civil area (Bungalow area), the Government shall retain the right to resume the sites any time as per Cantonment Code lease conditions if such site is required for defence or public purposes. In case of expired leases given under CLAR and located outside civil area, a resumption clause will be added whereby Government shall have the power to resume site before 31.12.2018 if required for any defence or public purposes.

(b) Procedure:

- (i) CEOs/DEOs shall forthwith prepare a list of all such expired leases and assess arrears of lease rent from the date of expiry of lease and the annual rent payable by the lessees. Demand notices for payment of arrears and annual rent shall be sent to the lessees/unauthorized occupants within three months of issue of this letter. CEO Cantonment Board and DEO shall give wide publicity and also publish public notice in the local newspapers to this effect. While arrears of lease rent can be recovered in four equal installments within one year, the annual lease rent for the next year shall be recovered in advance.
- (ii) Those lessees/ unauthorized occupants who fail to deposit due arrears or rent within three months of issuance of demand notice shall be deemed as unauthorized occupants and action be initiated by CEO/ DEO under the PPE Act, 1971 for their eviction and recovery of lease rent as damages.
- (iii) In cases, where original leases have expired or have sub-leased, assigned or transferred leasehold rights, lease rent will be accepted from the successors-in-interest after verifying documents establishing their occupation rights, on behalf of the recorded lessee/s. In case, there is any ambiguity or difficulty in establishing the identity of the successors-in-interest, such cases will be referred by the Cantt Board/

DEO, as the case may be, to the PDDE of the Command for a decision of the Committee of Officers whose composition is given in Paragraph 1 of Part-2.

- (iv) Extension of leases will be done in Schedule IV (as suitably modified by DGDE after incorporating conditions as stipulated in preceding paras).
- (v) Where terms of such extension are not acceptable to the ex-lessee/s or their successors-in-interest, they will vacate and handover the site to CEO/DEO within 3 months, failing which they will be deemed as unauthorized occupants and eviction action be initiated against them forthwith under PPE Act, 1971. Arrears of lease rent, worked out on the rates given in preceding paras, shall be recovered from them as damages. For those occupiers who vacate the site without payment of due arrears or damages, the recovery shall be done by following procedure prescribed under section 324 of the Cantonments Act, 2006.

2. Renewal of Cantt Code/CLAR Leases

A. There are a large number of leases given under Cantonment Land Administration Rules, 1925 & 1937 whose first or second term has expired but the sanction for renewal could not be given due to breach of certain conditions of lease. Similarly, there are some Cantonment Code Leases whose last renewal could not be sanctioned on account of certain breaches. This has resulted in difficulties in management of existing leases which also invited observations from C&AG and Public Accounts Committee. In order to expedite the process of condonation/ compounding of breach of lease conditions, wherever permissible, and ensure expeditious renewal of leases, it has been decided to constitute following Committees with delegated powers to decide each case for condonation of breach of lease conditions given under CLAR and Cantonment Codes:

- a) **Civil area**
 - 1. Principal Director, Defence Estates, the Command - Chairman
 - 2. CEO of a Cantonment Board in the Command - Member
(preferably senior most CEO)

- b) **Outside Civil area (Bungalow area)**
 - 1. Principal Director, Defence Estates, the Command - Chairman
 - 2. An Army Officer nominated by the GOC-in-C - Member
 - 3. Concerned DEO - Member

Delegation of power is done only up to 31.12.2018 with a specific objective to clear the backlog of renewal of leases. After 31.12.2018, the Committee of Officers shall cease to function and the power to condone the breach of lease conditions shall revert to the Government or the DGDE, as the case may be.

B. Condonation/ compounding of breach of lease conditions for sites located in civil areas - The compounding of following breaches will be permissible-

- (i) Transfer, sub lease or assignment of leasehold rights to individual as also society without prior permission of the Cantonment Board/DEO as is required under the CLAR leases.
- (ii) Transfer, sub lease or assignment of leasehold rights without intimation to the Cantt Board / DEO/competent authority as is required under the Cantonment Code or CLAR leases.
- (iii) Change of purpose from residential to commercial/ educational/ religious or vice versa. Change of purpose from residential to commercial shall be dealt with as follows:-
 - (a) The commercial use of site should not be in violation of sections 244 and 277 of the Cantonments Act, 2006.
 - (b) Use of site for commercial purpose should not be a nuisance or likely to be dangerous to life, health or property and security of troops.
 - (c) Commercial use of premises meant for livelihood of the lessee, successors-in-interest or dependents can be compounded subject to (a) & (b) above and levying of lease rent at commercial rate (double the STR rate) from the date of change of use in case documentary evidence is available with Cantonment Board or date of renewal of lease if date of change of use is not available.
 - (d) Use of premises for commercial gains can be regularized by the Committee subject to (a) & (b) above and payment of additional compounding fee equal to 15% of cost of land calculated at STR rates prevalent on the date of change of use in case documentary evidence is available with Cantonment Board or date of renewal of lease, if date of change of use is not available.
- (iv) Non-payment of due rent in time.

C. The following breach of lease conditions shall not be condoned by the Committee and each case shall be referred to the DGDE for orders or for submission of case to Ministry of Defence:

- (a) If the adjoining land has been encroached upon by the lessee - The case of encroached land shall continue to be dealt with for eviction under the provisions of PPE Act, 1971 while the proposal for renewal of lease to the extent of authorized leased area only should be processed. A separate proposal shall be moved by the Cantt Board, as per extant policy, for leasing out/ outright sale of the adjoining area, if the same cannot be put to an independent municipal or public use, for obtaining suitable Govt order/ Cabinet approval.
- (b) If there are unauthorized constructions in the leased site which are not within the provisions of the building bye-laws and cannot be compounded.

3. **Condonation of breach of lease conditions for sites located outside civil areas (Bungalow areas)**

- (i) Transfer, sub lease or assignment of leasehold rights without prior permission of the DEO as is required under the Cantonment Code or CLAR leases.
- (ii) Transfer, sub lease or assignment of leasehold rights without prior intimation to the DEO/competent authority as is required under the Cantonment Code or CLAR leases.
- (iii) Change of purpose from residential to commercial shall not be condoned except in the following circumstances:
 - (a) When part of the leased premises is used as small shop or office or service centre solely for the purposes of earning livelihood of the lessee or his successors in interest. Where commercial use of the site is beyond earning livelihood of the lessee or his successors in interest, each case will be referred for Government orders through the DGDE with specific recommendations.
 - (b) If the site is used for educational, religious and hospital purposes, such cases will be referred to the Government through DGDE for issuance of appropriate orders.
- (iv) Condonation of breach involving encroachment of adjoining land will not be allowed.

4. Notwithstanding the above, the DEO shall not condone any breach of lease conditions if the sale of the title deed is defective i.e. where the title of the land is transferred instead of lease hold rights.

5. **General Guidelines**

- (i) The Committee constituted for civil area shall decide each application for condonation of breach of lease condition within 30 days from its receipt from the Cantonment Board along with Cantonment Board Resolution. In case the Committee takes a decision for not condoning the breach, it should refer its recommendations to the DGDE for his acceptance. Only after the DGDE accepts the recommendations of the Committee shall the Committee initiate action for determination of lease. In case DGDE disagrees with the recommendations of the Committee, he should refer the proposal to the Ministry of Defence for taking appropriate decision on condonation of breach or otherwise.
- (ii) The Committee constituted for bungalow areas shall take a decision for condonation of breach of lease condition within 30 days from the date of receipt of proposal from the DEO. In case the Committee is of the view that the breach cannot be condoned, it should send its recommendations to the DGDE for its acceptance. Also in cases where there is a disagreement between the Committee Members, the case should be referred to the DGDE who shall decide on the recommendations of the Committee or on differing views of the Members of the

Committee. In case DGDE agrees/decides that the breach of lease conditions should not be condoned, he should communicate his decision to the PDDE and the PD DE shall initiate action for determination of lease forthwith. If DGDE is of the view that the breach of lease condition should be condoned, he should forward his recommendations to the Ministry for suitable decision.

- (iii) In case DGDE does not communicate to the PDDE his decision or information regarding reference of the case to MOD within 60 days, it will be deemed as confirmation of the recommendations of Committee of Officers for not condoning the breach of lease condition.
- (iv) In cases where change of purpose is condoned, the lessee will be liable to pay lease rent at commercial rate applicable from the date of change of use in case documentary evidence is available with Cantonment Board or date of renewal of lease, if date of change of use is not available.
- (v) Cases of unauthorized constructions which are within the purview of the building bye-laws should be dealt with for demolition or regularization under the provisions of the Cantonments Act, 2006 and building bye-laws. The renewal of lease should not be linked with the unauthorized constructions.

6. Time-lines: The following time-lines shall be adhered to in processing applications for condonation of breach of conditions/ renewal of leases:-

S. No.	Action/ Activity	Time limit	Authority Responsible
1.	Processing of applications by CEO/DEO received from applicants complete in all respects, including site inspections etc.	30 days from the date of receipt of applications	CEO/ DEO
2.	Resolution of Cantonment Board for sites in civil area and forwarding of proposal by CEO (for outside civil area by DEO) to the PDDE	60 days from the date of receipt of application	CEO/DEO
3.	Decision by the Committee on condonation of breach and communicating it to CEO/DEO	Within 30 days from the date of receipt of proposal from CEO/DEO	PDDE
4.	If the Committee decides not to condone breach or if there is a disagreement amongst its members (for bungalow areas), to forward case for decision of DGDE	Within 30 days from the date of receipt of proposal from CEO/DEO	PDDE
5.	DGDE to convey his confirmation/ decision to PDDE for not condoning the breach or to forward his recommendations to MoD for condoning the breach	Within 60 days from the date of receipt of proposal from PDDE	DGDE (Non-communication of decision will be construed as deemed sanction)

7. If the lessee fails to apply for condonation of breach of lease conditions despite issuance of a public notice/individual notice or fails to pay the due rent depending upon the use of the premises within the stipulated period of 03 months, such cases will be processed by the DEO and CEO concerned for determination of lease.

8. DGDE will submit quarterly reports to the Ministry on action taken in pursuance of this policy.

9. This issues with the concurrence of Ministry of Defence (Finance) vide their UO No.124/F/W-1/17 dated 10.03.2017.

Yours faithfully,


(G.C. Srivastava)

Deputy Director (Lands)

Copy to:

1. QMG, AHQ
2. The CGDA, Delhi Cantt
3. Ministry of Defence (Finance Division/W-I), New Delhi
4. The DGA (DS), L-II Block, Brassey Avenue, New Delhi
5. D (Air-II)