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Government Property Agency
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Hong Kong

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Accommodation Circular No. 1/97

**Rent for Premises in Government Buildings
Occupied by
Non-Governmental Organisations (NGOs)**

(This Circular reflects policy approved by the Secretary for the Treasury and should be read by Branch Secretaries, Heads of Departments, and officers handling matters relating to the use of government buildings by voluntary organisations. It should be distributed to all officers who keep a copy of the Accommodation Regulations.)

Introduction

This circular clarifies and amends Accommodation Regulation (AR) 611 on charging rent for premises in government buildings occupied by non-profit-making NGOs.

Current Practice

2. AR 611 stipulates that Government might let out for use by voluntary organisations at a nominal rent accommodation which is surplus to government requirements and not considered suitable for commercial use. It also requires departments/ branches recommending a concessionary tenancy to conduct a review from time to time to ensure that the accommodation continues to be used by voluntary organisations for the approved purposes. This means that, in practice, NGOs occupying premises in government buildings should pay market rent, except as provided for above.

3. However, we accept that many NGOs offer valuable services to the public and are appropriate recipients of government assistance in the provision of accommodation, and that, in some cases, Government has funded the construction or purchase of premises for use by non-profit-making NGOs and, where it does not wish to part with ownership of the premises or requires the NGOs to be co-located in Government-owned premises, has charged only a nominal rent for the occupation of the premises by the NGOs.

Procedures on Allocation of Surplus Accommodation to NGOs

4. Under the existing system, once surplus accommodation is available, the Government Property Agency (GPA) will try to identify alternative government users. Failing this, the Agency will assess the commercial viability of the premises, and dispose of those with commercial potential, either through commercial leasing or by sale.

5. GPA will consider letting commercially non-viable premises to NGOs which have filed a request for government accommodation with the Agency. In deciding which NGO should be given a particular tenancy, GPA will give due regard to factors including user requirements and the priority accorded to the NGO's application by the appropriate policy branch/department. GPA will also obtain recommendations from the relevant policy branch/department as to whether a concessionary tenancy should be offered.

6. After a suitable tenant is identified, GPA will take the necessary follow-up action by arranging site visits and, subject to acceptance of the site by the NGO, preparing the tenancy agreement.

7. A flowchart showing the allocation procedures is at the **Annex**.

Changes

8. To ensure consistency in the application of the existing policy of charging rent to NGOs occupying premises in government buildings, there is a need to establish clear criteria that can be taken into account by those involved in the allocation process where a concessionary rent is proposed.

(a) *The premises*

In considering whether surplus accommodation should be let out for use by NGOs, GPA will continue to adopt the following criteria -

- The premises shall not be needed for any government use in the immediate future;
- Leasing the premises shall not adversely affect any redevelopment/sales programme; and
- The premises must be considered not suitable for commercial use.

(b) *The prospective tenant*

Normally, market rental would be charged. However, a policy branch/department may consider a prospective tenant's application particularly worthy of government support through concessionary rent. In deciding whether an NGO applicant should benefit from nominal rentals in government premises, the relevant policy branch/department should take into account the following factors -

- The prospective tenant shall be a non-profit making NGO;
- The services to be provided by the NGO at the premises shall be compatible with Government's policy aims in the relevant programme area;
- The NGO shall operate to the satisfaction of the relevant policy branch/department;
- The NGO shall have been in operation for at least three years;
- The NGO should not have received a capital grant from Government for the purpose of constructing or buying its own premises unless the accommodation requirement is in respect of services not covered by the original grant. It may however be allowed to occupy surplus government accommodation temporarily until its permanent premises are built or bought; and

- The NGO's application shall be fully supported by the relevant policy branch/department.

(c) *The lease*

The detailed terms and conditions of the tenancy agreement will be subject to negotiation between GPA and the prospective tenant. Normally, tenancy shall be modelled on the following basis -

- The tenancy shall be normally of no more than two years on a certain basis and thereafter subject to three months' notice;
- The tenancy shall prohibit the use of the premises for purposes unrelated to the specified services supported by the relevant policy branch/department for the purpose of the concessionary tenancy;
- The tenant shall be responsible for interior maintenance and repair, management fees, utility and other charges in respect of the premises occupied; and
- The tenancy shall be subject to the standard Government 'non alienation' clause.

9. Where a prospective tenancy does not meet all of the criteria set out in paragraph 8 above GPA or the policy branch, as appropriate, may refer the application to the Secretary for the Treasury for a decision on whether a concessionary tenancy should be offered and, if so, under what terms and conditions.

10. Where, for historical reasons, an NGO is already enjoying the use of premises in a government building at a nominal rent, and such tenancy would not meet the criteria set out in paragraph 8 above, the charging of nominal rent may continue. Should Government agree to relocating the NGO to another building such concession should cease unless the Secretary for the Treasury decides that continuation of the concessionary terms are justified.

11. Where the premises being used by the NGO were, at the time of allocation, surplus to Government requirements but subsequently become unavailable, the Government is under no obligation to re-provision or relocate the NGO to another government building.

12. Where government-owned premises have been built or purchased specifically to provide permanent accommodation for an NGO, the rent will normally be nominal, but subject to confirmation in each case by Finance Branch.

Implementation

13. Branches and departments should ensure that this policy is followed with immediate effect. AR 611 is being amended concurrently to implement the changes in paragraphs 8-12 above.

IAN WOTHERSPOON
Government Property Administrator

To : Branches Secretaries
Heads of Department

c.c. Judiciary Administrator

Procedures on Allocation of Surplus Accommodation

Policy Branch

GPA

Non-Government Organisations (NGOs)

