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# Extension of Government Leases Bill

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# A BILL

## To

Provide for the extension of certain Government leases of land; and to provide for related matters.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

**1. Short title and commencement**

- (1) This Ordinance may be cited as the Extension of Government Leases Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

**2. Interpretation**

In this Ordinance—

*applicable lease* (適用租契), in relation to an Extension Notice, means a lease that—

- (a) is not a special purpose lease; or

(b) is regarded as not being a special purpose lease, as at the date of publication of the Extension Notice by virtue of section 6;

**appointed date** (指定日期) means the date on which this Ordinance comes into operation;

**Cap. 128** (《第128章》) means the Land Registration Ordinance (Cap. 128);

**Cap. 585** (《第585章》) means the Land Titles Ordinance (Cap. 585);

**Director** (署長) means the Director of Lands;

**expiry date** (屆滿日期), in relation to a lease, means the date on which the lease is due to expire;

**Extension Notice** (續期公告) means an Extension Notice published under section 7(1);

**lease** (租契) means a Government lease;

**NEL (Inclusion) Notice** (納入不予續期列表公告) means a Non-extension List (Inclusion) Notice published under section 10(2)(a);

**NEL (Removal) Notice** (剔出不予續期列表公告) means a Non-extension List (Removal) Notice published under section 11(2);

**Non-extension List** (不予續期列表) means a Non-extension List published under section 8(1);

**Opt-out Memorandum** (選不續期備忘錄) means an Opt-out Memorandum delivered for registration under section 9(2);

**register** (註冊)—

- (a) means register under Cap. 128 or Cap. 585 (whichever is appropriate); and
- (b) includes support a current entry in the Title Register kept in the Land Registry under Cap. 585 (where appropriate);

**Register** (登記冊) means—

- (a) a register kept in the Land Registry under Cap. 128; or
  - (b) the Title Register kept in the Land Registry under Cap. 585,
- whichever is appropriate;

**Secretary** (局長) means the Secretary for Development;

**short term tenancy** (短期租約) means a lease expressed as being granted for a term of not more than 7 years, excluding any past or future extension or renewal of the lease by virtue of the exercise of any right;

**special purpose lease** (特殊用途租契)—see section 6;

**specific expiry period** (特定屆滿時間範圍) means a specific expiry period specified under section 7(1);

**SPL cancellation note** (取消摘記) means a special purpose lease cancellation note made under section 5(1);

**SPL identification note** (識別摘記) means a special purpose lease identification note made under section 4(1).

### 3. Application

This Ordinance applies to a lease—

- (a) that expires on or after the appointed date;

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- (b) that does not contain a right of renewal for any further term, or for which such a right of renewal has been exercised; and
  - (c) that is not a short term tenancy.
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## Part 2

### Identification of Special Purpose Lease

#### 4. Identifying special purpose lease

- (1) If a lease is a special purpose lease, the Director must, in relation to the lease, cause a special purpose lease identification note to be made in the Register not later than the relevant date.
- (2) The SPL identification note must—
  - (a) state that the lease is a special purpose lease for the purposes of this Ordinance; and
  - (b) state the date on which the SPL identification note is made.
- (3) In this section—

**relevant date** (有關日期), in relation to a lease, means—

  - (a) if the lease is executed before the appointed date—
    - (i) if the expiry date of the lease falls within the period beginning on the appointed date and ending on 31 December 2030—the appointed date; or
    - (ii) if the expiry date of the lease falls on or after 1 January 2031—the date on which a period of 6 months after the appointed date expires or 31 December 2024 (whichever is earlier);
  - (b) if the lease is executed on or after the appointed date—the date on which the entry relating to the lease is made in the Register; or



- (c) if the lease, after its execution, is modified by an instrument on or after the appointed date, resulting in the lease being a special purpose lease—the date of registration of the instrument.

#### **5. Special purpose lease cancellation note**

- (1) If an SPL identification note is made in relation to a lease, but subsequently the lease is no longer, or should not be regarded as, a special purpose lease, the Director must then cause a special purpose lease cancellation note to be made in the Register in relation to the lease to cancel the SPL identification note.
- (2) The SPL cancellation note must—
  - (a) state that the SPL cancellation note cancels the SPL identification note made in relation to the lease for the purposes of this Ordinance;
  - (b) state the date on which the SPL identification note is made; and
  - (c) state the date on which the SPL cancellation note is made.

#### **6. How to determine nature of lease for purposes of Ordinance: special purpose lease or not**

- (1) For the purposes of this Ordinance and subject to subsection (2), if the expiry date of a lease falls within the specific expiry period specified in an Extension Notice—
  - (a) the lease is not a special purpose lease as at the date of publication of the Extension Notice (*publication date*), if, before the publication date—
    - (i) no SPL identification note has ever been made in relation to the lease; or

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- (ii) every SPL identification note made in relation to the lease has been cancelled by an SPL cancellation note; and
    - (b) the lease is regarded as not being a special purpose lease as at the publication date, if an SPL identification note (or, if there is more than one SPL identification note, the last one) made in relation to the lease is cancelled by an SPL cancellation note on or after the publication date.
  - (2) For the purposes of this Ordinance, if the expiry date of a lease falls within the specific expiry period specified in an Extension Notice, the lease is regarded as a special purpose lease as at the publication date if—
    - (a) an SPL identification note is made in relation to the lease on or after the publication date by virtue of a modification of the lease, resulting in it being a special purpose lease; and
    - (b) immediately before the expiry date of the lease, the SPL identification note is not cancelled by an SPL cancellation note.
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## Part 3

### Extension of Leases

#### Division 1—Extension Notice and Non-Extension List

##### 7. Extension Notice

- (1) The Director must publish in the Gazette an Extension Notice and specify in it a specific expiry period for extending, in accordance with section 12, applicable leases the expiry dates of which fall within the specific expiry period.
- (2) The Extension Notice must, subject to subsection (6), be published not later than the following day (*specified day*)—
  - (a) subject to paragraph (b)—the day immediately preceding a period of 6 years before the start date of the specific expiry period; or
  - (b) if the start date of the specific expiry period falls within the period beginning on the appointed date and ending on 31 December 2030—the appointed date.
- (3) If the expiry date of an applicable lease falls within the specific expiry period specified in an Extension Notice—
  - (a) the applicable lease is regarded as an applicable lease covered by the Extension Notice; and
  - (b) the term of the applicable lease is to be extended in accordance with section 12.

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- (4) An Extension Notice published in respect of applicable leases must—
    - (a) state the date of publication of the Extension Notice;
    - (b) specify the specific expiry period; and
    - (c) state that the terms of the applicable leases covered by the Extension Notice are, on their respective expiry dates, to be extended in accordance with section 12 as from the day following the expiry date.
  - (5) If an Extension Notice is published under subsection (1), the Extension Notice must also be published by the Director on the website of the Lands Department.
  - (6) If the Secretary is satisfied that exceptional circumstances exist for the publication of an Extension Notice, the Secretary may approve the postponement of the specified day for publication of the Extension Notice by a notice (*approval notice*).
  - (7) The Director must, if an approval is given under subsection (6)—
    - (a) publish the approval notice in the Gazette; and
    - (b) publish the approval notice on the website of the Lands Department.
  - (8) The approval notice must state—
    - (a) the specific expiry period specified in the Extension Notice; and
    - (b) the postponed specified day.
  - (9) To avoid doubt, an Extension Notice may be published under subsection (1) regardless of whether there is, or is to be, any applicable lease covered by the Extension Notice.

**8. Non-extension List in relation to Extension Notice**

- (1) At the time an Extension Notice is published, the Director must also publish in the Gazette a Non-extension List and specify in it which of the applicable leases that—
  - (a) is covered by the Extension Notice; and
  - (b) is not a special purpose lease as at the date of publication of the Extension Notice by virtue of section 6(1)(a),  
the term of which is not to be extended in accordance with section 12.
- (2) For the purposes of subsection (1), a Non-extension List must be published even if no applicable lease is specified in that List.
- (3) The Director must also—
  - (a) cause the Non-extension List to be registered in respect of each of the applicable leases (if any) specified in that List;
  - (b) publish the Non-extension List on the website of the Lands Department; and
  - (c) affix the Non-extension List on or near the land that is the subject of the applicable lease (if any) specified in that List.
- (4) Despite section 7, if a Non-extension List is published under subsection (1) and an applicable lease—
  - (a) is specified in that List; and
  - (b) is not subsequently removed from that List by virtue of an NEL (Removal) Notice,  
the term of the applicable lease is not to be extended in accordance with section 12.

## **Division 2—Opt-out Memorandum**

### **9. Option by lessee for non-extension of lease on expiry**

- (1) This section applies to an applicable lease—
  - (a) that—
    - (i) is covered by an Extension Notice; and
    - (ii) is not a special purpose lease as at the date of publication of the Extension Notice by virtue of section 6(1)(a); and
  - (b) that is not specified in a Non-extension List published in relation to the Extension Notice.
- (2) If the lessee of an applicable lease desires to exclude the applicable lease from the application of section 12, the lessee must deliver to the Land Registry for registration under Cap. 128 or Cap. 585 (whichever is appropriate) an Opt-out Memorandum, in a form specified by the Director and signed by all the persons specified in subsection (4)—
  - (a) subject to paragraph (b)—within one year after the date of publication of the Extension Notice; or
  - (b) if the expiry date of the applicable lease falls within the period beginning on the appointed date and ending on 31 December 2030—on or before 31 December 2024.
- (3) If a lessee fails to deliver an Opt-out Memorandum to the Land Registry in accordance with subsection (2), no registration of the Opt-out Memorandum may be made by the Land Registry.
- (4) The persons specified for the purposes of subsection (2) are—

- (a) the person who is registered, in the person's name, as the owner or leaseholder of the land that is the subject of the applicable lease, or a holder in respect of the person's interest under the applicable lease;
  - (b) any person who has an interest in the land under a subsisting agreement for sale, mortgage or charge, registered in respect of the land; and
  - (c) if there are two or more persons referred to in paragraph (a) or (b)—all of such persons.
- (5) An Opt-out Memorandum registered in respect of an applicable lease covered by an Extension Notice takes effect on the date of its registration, and accordingly—
- (a) the Extension Notice does not have effect with respect to the extension of the applicable lease; and
  - (b) section 12 is not to apply to the applicable lease.

### **Division 3—Inclusion in and Removal from Non-extension List**

#### **10. Non-extension List (Inclusion) Notice**

- (1) This section applies to a lease—
  - (a) the expiry date of which falls within the specific expiry period specified in an Extension Notice; and
  - (b) that is regarded as not being a special purpose lease as at the date of publication of the Extension Notice by virtue of section 6(1)(b).
- (2) If the term of a lease is not to be extended in accordance with section 12—

- (a) the Director must, at the same time when an SPL cancellation note is made in relation to the lease, publish in the Gazette a Non-extension List (Inclusion) Notice for including the lease in the Non-extension List published in relation to the Extension Notice; and
- (b) the Director must also—
  - (i) cause the NEL (Inclusion) Notice to be registered under Cap. 128 or Cap. 585 (whichever is appropriate) in respect of the lease;
  - (ii) publish that Notice on the website of the Lands Department; and
  - (iii) affix that Notice on or near the land that is the subject of the lease.
- (3) If an NEL (Inclusion) Notice is published in respect of a lease under subsection (2)(a), the lease is regarded as if it had been specified in the Non-extension List concerned.

## **11. Non-extension List (Removal) Notice**

- (1) This section applies to an applicable lease in respect of which a Non-extension List, or an NEL (Inclusion) Notice, is published.
- (2) The Director may publish in the Gazette a Non-extension List (Removal) Notice for excluding the applicable lease concerned from the Non-extension List or the NEL (Inclusion) Notice (as the case may be).
- (3) If an NEL (Removal) Notice is published under subsection (2), the Director must also—



- (a) cause that Notice to be registered under Cap. 128 or Cap. 585 (whichever is appropriate) in respect of the applicable lease concerned;
  - (b) publish that Notice on the website of the Lands Department; and
  - (c) affix that Notice on or near the land that is the subject of the applicable lease concerned.
- (4) If an NEL (Removal) Notice is published, the applicable lease concerned is regarded as if it had not been specified in the Non-extension List concerned or the NEL (Inclusion) Notice concerned (as the case may be).

#### **Division 4—Extension of Applicable Leases**

##### **12. Extension for applicable leases that are covered by Extension Notice and not specified in Non-extension List**

- (1) Subject to subsection (2) and Part 4, on the expiry of an applicable lease covered by an Extension Notice, unless the applicable lease is specified in a Non-extension List published in relation to the Extension Notice, the term of the applicable lease is extended, as from the day following its expiry date, for a term of 50 years without payment of any additional premium.
- (2) Subject to Part 4, if, in relation to an Extension Notice, a lease only falls within the definition of an applicable lease covered by the Extension Notice after the expiry date of the lease, unless the lease is specified in a Non-extension List published in relation to the Extension Notice, the term of the lease is regarded as being extended, as from the day following its expiry date, for a term of 50 years without payment of any additional premium.

- (3) The extension of an applicable lease under subsection (1) or (2) does not create a new lease of the land that is the subject of the applicable lease.

### 13. **Burdens and covenants etc.**

- (1) During the period of extension of an applicable lease in accordance with section 12, the applicable lease and any interest in it created by or under an instrument registered in respect of the applicable lease are, unless a contrary intention appears from the instrument, to be subject to the covenants and condition specified in subsection (2) and also to the following—
  - (a) the same encumbrances and interests as applied immediately before the period of the extension, including—
    - (i) any mortgage or charge, whether legal or equitable;
    - (ii) any public rights; and
    - (iii) any mutual covenants, rights, easements, tenancies or other burdens of any kind or nature;
  - (b) the same covenants, exceptions, reservations, stipulations, provisos and declarations (including the right of re-entry) as applied immediately before the period of the extension (except the covenant to pay rent);
  - (c) a covenant by the lessee to pay (as the case may be)—
    - (i) subject to subparagraph (ii)—the Government rent in accordance with the Government Rent (Assessment and Collection) Ordinance (Cap. 515); or

- (ii) in the case of an exemption from liability to pay Government rent under that Ordinance—the annual rent in the same manner and on the same days as applied in relation to the applicable lease immediately before the period of the extension.
- (2) The covenants and condition specified for the purposes of subsection (1) are as follows—
  - (a) a covenant that the lessee must throughout the period of the extension of the applicable lease, at all reasonable times, permit the Director (or the Director's authorized representatives), with or without notice, to enter in or on—
    - (i) the land that is the subject of the applicable lease;
    - (ii) any part of the land; or
    - (iii) any building or part of any building on the land,  
for the purpose of ascertaining that there is no breach of, or failure to observe, any of the covenants and conditions of the applicable lease;
  - (b) a covenant by the lessee that—
    - (i) no building may be erected on the land (or any part of the land) that is the subject of the applicable lease, or on any area outside the land; and
    - (ii) no development or use of the land (or any part of the land), or of any area outside the land, may take place,

which does not in all respects comply with the requirements of the Town Planning Ordinance (Cap. 131) and its subsidiary legislation, and any legislation amending that Ordinance and its subsidiary legislation;

- (c) a covenant by the lessee that any building erected, or to be erected, on the land that is the subject of the applicable lease must in all respects comply with the requirements of the Buildings Ordinance (Cap. 123) and its subsidiary legislation, and any legislation amending that Ordinance and its subsidiary legislation; and
- (d) a condition that on any failure or neglect by the lessee to perform, observe or comply with any of the covenants and conditions of the applicable lease—
  - (i) the Government is entitled to re-enter on, and take back possession of, the land that is the subject of the applicable lease, any part of the land, all or any buildings, erections and works erected or to be erected on the land or any part of the land, or any part of the buildings, erections or works; and
  - (ii) the rights of the lessee under the applicable lease is to absolutely cease and determine (or, if the re-entry relates to a part of the land, absolutely cease and determine in respect of such part) but without prejudice to the rights, remedies and claims that the Government have in respect of any breach, non-observance or non-performance of the covenants and conditions of the applicable lease.

- (3) The rights and obligations of any person under any encumbrance, interest, covenant, exception, reservation, stipulation, proviso or declaration mentioned in subsection (1)(a), (b) and (c) (*Encumbrance*) are, unless a contrary intention appears from the instrument creating the Encumbrance, to continue during the period of extension of the applicable lease in accordance with section 12 as if that period of extension were expressly mentioned in the instrument.
- (4) If the provisions of an applicable lease (the term of which has been extended in accordance with section 12)—
- (a) empower the lessor, subject to the payment of compensation to the lessee, to resume the land that is the subject of the applicable lease; and
  - (b) stipulate a method of calculating the compensation that includes references to—
    - (i) a fraction, the numerator of which is the figure one, of any sum; and
    - (ii) the portion of the term of the applicable lease that is unexpired at the date of resumption,the method of calculation must be applied in accordance with subsection (5).
- (5) The method of calculation must be applied as if the denominator in the fraction were greater by 50 than that specified in the applicable lease and as if the applicable lease had originally been expressed to be granted for a term that had included the period for which the term of the applicable lease is extended in accordance with section 12.

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Part 3—Division 4

Clause 13

C4339

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- (6) If any covenant, exception, reservation, stipulation, proviso or declaration in an applicable lease is inconsistent or in conflict with a provision in this Part, the provision is to prevail.
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## Part 4

### Special Provisions for Applicable Leases where Foreign-related Entities are Involved

#### 14. Interpretation of Part 4

(1) In this Part—

**consular post** (領館) means any consulate-general, consulate, vice-consulate or consular agency;

**foreign-related entity** (外國關連實體) means—

- (a) a foreign state, the government of a foreign state, or a person in the name of an office of a foreign government;
- (b) an international organization, or a person in the name of an office of an international organization; or
- (c) a person connected with any of the persons mentioned in paragraph (a) or (b);

**international organization** (國際組織) means—

- (a) an organization to which section 2 of the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) applies; or
- (b) an international organization as defined by section 2 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558);

**OCMFA** (公署) means the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region;

**Premises** (處所)—see section 16(1)(b);

*registered owner* (註冊擁有人), in relation to land or any relevant interest in land, means a person who appears from the Register to be, or whose name is entered in the Register as, the owner of the land or the relevant interest in the land;

*relevant interest* (有關權益), in relation to land, means any undivided share in the land and the building erected on the land, where the right to exclusive possession of any part of the building under the terms of an instrument (which is registered in respect of the land) is attached to the ownership of the undivided share;

*specified purposes* (指明用途)—see section 17;

*The Financial Secretary Incorporated* (財政司司長法團) means the corporation sole incorporated under section 2 of the Financial Secretary Incorporation Ordinance (Cap. 1015).

(2) To avoid doubt and without limiting the meaning given by section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), in this Part, a reference to a person includes a state, a government, an organization and other entity.

## 15. **Approval of OCMFA required for land held by foreign-related entities**

(1) This section applies to an applicable lease that is covered by an Extension Notice if all of the following conditions are met—

(a) a foreign-related entity is the registered owner, or one of the registered owners, of the land that is the subject of the applicable lease (but not of a relevant interest in the land) as at the expiry date of the applicable lease;



- (b) the land is used, whether wholly or partly, for any of the specified purposes as at the expiry date of the applicable lease.
- (2) The term of the applicable lease is to be extended in accordance with section 12 only if written approval for the extension is obtained by the foreign-related entity from OCMFA on or before the expiry date of the applicable lease.

**16. Approval of OCMFA required for relevant interest in land held by foreign-related entities**

- (1) This section applies to an applicable lease that is covered by an Extension Notice if all of the following conditions are met—
  - (a) a foreign-related entity is the registered owner, or one of the registered owners, of any relevant interest in the land that is the subject of the applicable lease as at the expiry date of the applicable lease;
  - (b) the part of the building erected on the land (the entitlement to exclusive possession of which part is attached to the relevant interest) (*Premises*) is used, whether wholly or partly, for any of the specified purposes as at the expiry date of the applicable lease.
- (2) The foreign-related entity may only hold the relevant interest as its registered owner, or one of its registered owners, on the extension of the term of the applicable lease in accordance with section 12 if written approval for the entity to do so is obtained by the entity from OCMFA on or before the expiry date of the applicable lease.

**17. Specified purposes**

The specified purposes referred to in sections 15 and 16 are—

- (a) the use for the purpose of a consular post, or as residence of the head or any staff member of a consular post; and
- (b) the use as the representative office of an international organization in HKSAR, or residence of the head or any staff member of the representative office.

**18. Consequences of failure to obtain approval under section 15**

- (1) If section 15 applies to an applicable lease and the foreign-related entity concerned has not obtained OCMFA's approval in relation to the applicable lease on or before the expiry date of the applicable lease—
  - (a) the term of the applicable lease is not to be extended in accordance with section 12; and
  - (b) the applicable lease is to come to an end on its expiry date.
- (2) Vacant possession of the land that is the subject of the applicable lease must be delivered by the foreign-related entity and (if applicable) the other co-owners of the land (*other co-owners*) to the Government on the expiry date of the applicable lease.
- (3) If the foreign-related entity and (if applicable) the other co-owners fail to comply with subsection (2), then, without limiting any other rights of the Government under the applicable lease, the entity and the other co-owners—
  - (a) are liable to the Government for the mesne profits for the period that—

- (i) begins on the day following the expiry date of the applicable lease; and
  - (ii) ends on the date on which vacant possession of the land is delivered to the Government; and
- (b) are to indemnify the Government for any other loss or damage sustained by the Government as a result of the entity's and (if applicable) the other co-owners' failure to comply with subsection (2).

**19. Consequences of failure to obtain approval under section 16**

- (1) If section 16 applies to an applicable lease and the foreign-related entity concerned has not obtained OCMFA's approval in relation to the relevant interest in the land that is the subject of the applicable lease on or before the expiry date of the applicable lease, the relevant interest is to be vested in The Financial Secretary Incorporated absolutely immediately on the extension of the term of the applicable lease in accordance with section 12 without any conveyance, and free from—
- (a) any mortgage or charge, whether legal or equitable and whether registered or not;
  - (b) any lien;
  - (c) any right vested in any person by which the relevant interest is or might become security for the payment or repayment of money; and
  - (d) any right or obligation contained in any instrument that is not registered.
- (2) Vacant possession of the Premises concerned must be delivered by the foreign-related entity and (if applicable) the other co-owners of the relevant interest (*other co-owners*) to The Financial Secretary Incorporated

immediately on the vesting of the relevant interest in The Financial Secretary Incorporated under subsection (1).

- (3) If the foreign-related entity and (if applicable) the other co-owners fail to comply with subsection (2), then, without limiting any other rights of the Government under the applicable lease, the entity and the other co-owners—
  - (a) are liable to the Government for the mesne profits for the period that—
    - (i) begins on the day on which the relevant interest is vested in The Financial Secretary Incorporated; and
    - (ii) ends on the date on which vacant possession of the Premises is delivered to The Financial Secretary Incorporated; and
  - (b) are to indemnify the Government for any other loss or damage sustained by the Government as a result of the entity's and (if applicable) the other co-owners' failure to comply with subsection (2).

## **20. Notice of failure to obtain approval**

- (1) If section 15 applies to an applicable lease and the foreign-related entity concerned has not obtained OCMFA's approval in relation to the applicable lease on or before the expiry date of the applicable lease, the Director may cause to be registered against the land that is the subject of the applicable lease a notice stating that, in view of the fact that the approval referred to in that section is not obtained, the term of the applicable lease is not to be extended in accordance with section 12, and has come to an end in accordance with section 18(1)(b).

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- (2) If section 16 applies to an applicable lease and the foreign-related entity concerned has not obtained OCMFA's approval in relation to the relevant interest in the land that is the subject of the applicable lease on or before the expiry date of the applicable lease, the Director may—
- (a) cause to be registered against the relevant interest a notice stating that, in view of the fact that the approval referred to in that section is not obtained, the relevant interest has been vested in The Financial Secretary Incorporated in accordance with section 19(1); or
  - (b) present a notice to the Land Registrar for registering The Financial Secretary Incorporated as the owner of the relevant interest under Cap. 585.
- (3) This section does not affect the operation of sections 18 and 19.
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## Part 5

### Miscellaneous

**21. Notices etc. not subsidiary legislation**

- (1) A Non-extension List and the notices specified in subsection (2) are not subsidiary legislation.
- (2) The notices are—
  - (a) an Extension Notice;
  - (b) an approval notice under section 7(6);
  - (c) an NEL (Inclusion) Notice; and
  - (d) an NEL (Removal) Notice.

**22. No waiver of right for breaches of covenants or conditions before expiry date**

Nothing in this Ordinance is to constitute a waiver of any right arising out of a breach of a covenant or condition in a lease committed before its expiry date.

**23. Power to make regulations**

The Chief Executive in Council may by regulation provide for the better carrying out of the provisions and purposes of this Ordinance.

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## Explanatory Memorandum

The main object of this Bill is to provide for the extension of a Government lease of land—

- (a) that expires on or after an appointed date;
- (b) that does not contain a right of renewal for any further term, or for which such a right of renewal has been exercised;
- (c) that is not a short term tenancy (as defined by clause 2); and
- (d) that is not a special purpose lease (as defined by clause 2),

unless specifically excluded.

### Part 1—Preliminary

2. Part 1 provides for preliminary matters, including short title, commencement arrangement, interpretative provision and scope of application.

### Part 2—Identification of Special Purpose Lease

3. Part 2 provides for matters related to the identification of a special purpose lease (*SPL*), including—
  - (a) the manner and time limit for the Director of Lands (*Director*) to cause an *SPL* identification note to be made with the Land Registry (*LR*) under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (Cap. 585) for an *SPL*;

- (b) the manner for making an SPL cancellation note with LR in respect of a lease to cancel its status as an SPL; and
- (c) how to determine whether a lease is not, or is regarded as not being, an SPL for the purposes of the Bill.

### **Part 3—Extension of Leases**

#### 4. Part 3—

- (a) sets out the arrangements—
  - (i) for the Director to publish Extension Notices to extend applicable leases expiring within a specified period, and a Non-extension List to specify applicable leases that are not to be extended;
  - (ii) for lessees to opt out from the extension of leases upon expiry; and
  - (iii) for the Director to publish a Non-extension List (Inclusion) Notice for not extending a lease re-classified into an applicable lease, and a Non-extension List (Removal) Notice to extend a lease previously placed on a Non-extension List or Non-extension List (Inclusion) Notice; and
- (b) specifies the burdens and covenants (i.e. the terms and conditions) etc. for leases extended under the Bill.



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**Part 4—Special Provisions for Applicable Leases where Foreign-related Entities are Involved**

5. Part 4 contains specific provisions for dealing with applicable leases where foreign-related entities are involved. Where a foreign-related entity is the registered owner, or one of the registered owners, of land, or any relevant interest in land, under an applicable lease, and the land or the property to which the relevant interest relates is used, whether wholly or partly, for a specified purpose as at the expiry date of the applicable lease, prior approval for extension of the applicable lease or for the entity to continue to hold the relevant interest under the extended lease as its registered owner must be obtained from the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region. Consequences of failure to obtain such approval are also set out in Part 4.

**Part 5—Miscellaneous**

6. Part 5 contains miscellaneous provisions providing for, among others, the power of the Chief Executive in Council to make regulations.