

# **Administrative Guidelines on the Use of Resumed or Acquired Land for Other Purpose(s) on a Temporary Basis**

## **Purpose**

These administrative guidelines are to be observed when using land resumed or acquired for a public purpose under the Lands Resumption Ordinance (Cap. 124) or the Land Acquisition (Possessory Title) Ordinance (Cap. 130), for any other purpose(s) on a temporary basis before the land is used for that public purpose. For the purposes of these guidelines, the land so resumed or acquired is collectively referred as “Public Purpose Land”.

## **Legislative background**

2. With effect from 1 September 2023<sup>1</sup>, statutory provisions are added under section 16AA of Cap. 124 and section 11A of Cap. 130 (hereafter “the statutory provisions concerned”) to provide that, if any land has been resumed or acquired for a public purpose under Cap. 124 or Cap. 130, the Government may use, or allow the use of, the land for any other purpose for a certain period of time before the land is used for that public purpose.

3. In general, the public purpose (including the necessary works for delivering the public purpose) for which the land is resumed or acquired should be implemented as soon as practicable after the land is resumed or acquired and cleared. This notwithstanding, where the land is vacated ahead of the originally scheduled time of implementing the authorised public purpose (for example, due to earlier departure of the affected persons upon receiving compensation or rehousing, or where the Government needs more time to implement the intended public purpose in light of preparatory work required or changing circumstances), it would be beneficial if the Public Purpose Land could be put to gainful use on a temporary basis before the intended public purpose can be implemented.

4. As eventually the Public Purpose Land is to be used for the authorised public purpose, the overriding principle is that the use of the

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<sup>1</sup> The Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2023, which added the relevant provisions to Cap. 124 and Cap. 130, has come into operation on 1 September 2023.

Public Purpose Land for other purpose(s) on a temporary basis should not affect the implementation of the public purpose for which the Public Purpose Land was resumed or acquired. That means, as soon as the public purpose is ready for implementation, the temporary use(s) of the Public Purpose Land should cease.

### **Administrative guidelines**

5. Having regard to the legislative background above, the administrative guidelines to be observed for using the Public Purpose Land for other purpose(s) on a temporary basis are as follows<sup>2</sup>.

#### ***Time limit***

6. To accord with the temporary nature of the other purpose(s) that the Public Purpose Land may be put to use and facilitate periodic review and monitoring by relevant ranks of public officers (see paragraph 8 below), the Public Purpose Land may be used for other purpose(s) on a temporary basis subject to time limits<sup>3</sup> of not more than **three years** for the initial term and not more than **two years** for each subsequent extension term.

#### ***Policy support and monitoring responsibilities***

7. Each proposed use of the Public Purpose Land for a purpose other than the public purpose for which the said land was resumed/acquired on a temporary basis should have the policy support jointly given by the policy bureau or department responsible for implementing the public purpose (the “Public Purpose User”) **and** the policy bureau or department responsible for the temporary use (the “Temporary User”). In the case where it is proposed to allow a non-Government party to use the land for the temporary use, the policy bureau or department which has an interest in the policy objectives to be achieved by the proposed temporary use will be the “Temporary User” to grant the aforementioned policy support. When giving the aforementioned policy support, the Public Purpose User should provide its assessment in order to confirm that the proposed temporary use

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<sup>2</sup> For the avoidance of doubt, this set of guidelines does not apply to continued occupation by the original land users who occupied the land prior to the resumption/acquisition of it.

<sup>3</sup> Such time limits would be set out in the relevant land instrument (see footnote 9 below) under which the Public Purpose Land is used or allowed to be used for the temporary use.

does not hinder the implementation of the public purpose<sup>4</sup>; the Temporary User should provide its assessment in order to confirm the policy merits of the proposed temporary use and that the proposal will not affect and delay the implementation of the public purpose, including its confirmation to vacate and hand over the Public Purpose Land to the Public Purpose User on time<sup>5</sup>.

8. Given the importance of ensuring timely implementation of the public purpose, policy support mentioned in paragraph 7 above should be given by officers of the following ranking<sup>6</sup> of both the Public Purpose User and the Temporary User:

- (a) initial term (not more than three years): Deputy Secretary or the Deputy Director<sup>7</sup>; and
- (b) each subsequent extension term (not more than two years each): Permanent Secretary or the Head of Department<sup>8</sup>.

Once policy support is obtained in accordance with paragraphs 7 and 8, and subject to the local consultation conducted by the Temporary User as mentioned in paragraph 9, the Lands Department will process the land instrument for the other purpose that the Public Purpose Land may be put to use on a temporary basis<sup>9</sup> in accordance with established mechanism.

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<sup>4</sup> The Public Purpose User is advised to take this opportunity to review the implementation schedule of the public purpose and the room for advancing the implementation schedule before giving policy support for the proposed temporary use.

<sup>5</sup> For the avoidance of doubt, no compensation or re-provisioning will be offered or arranged in respect of the temporary use upon termination.

<sup>6</sup> In some situations, the public purpose may take time to materialise after resumption and clearance of the Public Purpose Land (e.g. upon completion of site formation and infrastructure works of a new development area, the construction of superstructures on individual land parcels may take time due to ongoing studies/consultation or resource allocation priorities). To facilitate gainful use of land resources, where it is known at the outset that the public purpose will not be implemented for a duration that is longer than the initial term or an extension term, a policy support may cover more than one term, subject to the fulfillment of the criteria in paragraph 7 and the approval by officers of the relevant ranking according to paragraph 8.

<sup>7</sup> It depends on whether the responsible party is a policy bureau or department. For policy bureau, policy support shall be given by the Deputy Secretary; for departments, policy support shall be given by the Deputy Director.

<sup>8</sup> It depends on whether the responsible party is a policy bureau or department. For policy bureau, policy support shall be given by the Permanent Secretary; for departments, policy support shall be given by the Head of Department.

<sup>9</sup> The land instrument may take the form of a government land allocation to the Temporary User, or a short-term tenancy/licence to a non-governmental party supported by the Temporary User (at full market rent/fee and full administrative fee unless policy support for concessionary rent/fee is given).

### ***Measures for upholding transparency***

9. The Temporary User should conduct local consultation for the proposed temporary use in accordance with the established mechanism prior to the grant of the relevant land instrument, and handle all enquiries, complaints and objections received during the local consultation. The exact format of the local consultation may be determined by the Temporary User on a case by case basis, having regard to the nature and scale of the proposed temporary use, and the usual practice of the district in question.

10. After the land instrument mentioned in paragraph 8 above is granted, the information will be uploaded onto the GeoInfo Map of the Lands Department (<https://www.map.gov.hk/gm/>), with a marker to identify the Public Purpose Land, for public perusal.

**Development Bureau**  
**1 September 2023**