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HARYANA GOVERNMENT

GENERAL ADMINISTRATION DEPARTMENT
(MONITORING & COORDINATION CELL)

Notification

The 19th April, 2023

No. 5/9/2023-3MC.—

Comprehensive policy for all the Government Departments/Boards/Corporations/Authorities for disposing its properties (shops/houses/others) in possession of an individual or private entity(ies) by way of rent/lease, for 20 years or more.

The Governor of Haryana is pleased to notify the following policy to be applicable on the properties of all Government Departments/ Boards/ Corporations/ Authorities in the State of Haryana, in possession of individual or private entity by way of rent/ lease/ others, for last 20 years and more.

1. Short title, extent and commencement:

- (1) This Policy shall be called as the Haryana Disposal of Rented/ Leased Government Properties Policy-2023. It shall be applicable on the land of all Government Departments (except Tourism Department, Transport Department and Department of Health & Family Welfare) or Boards and Corporations under their Administrative Control.
- (2) The policy shall come into force from the date of its notification in official gazette:
Provided that the Government may enforce different provisions of the policy for different class or category of property(ies)/ persons on such date(s) as may be decided by the Government.
- (3) It is one time policy under which the applications will need to be moved within 3 months of the notification of this policy.
- (4) It will be applicable only to property parcels up to 100 Sq. Yards per beneficiary/ per land parcel for all such properties which had been leased/rented before 01.06.2001.
- (5) The land which is governed under specific departmental Acts and Statutory rules be excluded from this policy, listed here-under:
 - a. Haryana Evacuee Properties (Management and Disposal) Rules, 2011;
 - b. The Haryana Panchayati Raj Act, 1994, and
The Haryana Panchayati Raj Rules, 1995;
 - c. The Haryana Village Common Lands (Regulation) Act, 1961, and
The Haryana Village Common Lands (Regulation) Rules, 1964;
 - d. The Evacuee Properties (Management and Disposal) Act, 2008;

- e. The Haryana Ceiling on Land Holdings Act, 1972;
 - f. The Nazool Lands (Transfer) Rules, 1956.
2. Definitions: -
- (1) In this Policy, unless the context otherwise requires:-
- (a) "allottee" means the person/ entity to which the property or a part thereof was leased out / rented on payment of rent/ lease money/ license fee by the Government entity;
 - (b) "competent authority" means
 - i. "Commissioner" for the property(s) of respective Municipal Corporation.
 - ii. The Estate Officer of Excised Area for the Excised area falling within the Municipal Council of Ambala Sadar.
 - iii. "District Municipal Commissioners" in case of the property(s) of concerned Municipal Councils/ Committees.
 - iv. "Deputy Commissioner" of the district in case the property belongs to Provincial Government in the respective district.
 - v. "Executive Engineer" at District level of the respective Department in case the property belongs to Public Works Department (Building & Roads), Public Health and Engineering, Irrigation and Water Resources Department in the respective district.
 - vi. "Chief Medical Officer" of the district in case the property(s) belongs to Health Department falling in the respective district.
 - vii. an authority in the Department, Board, Corporation, Authority authorized to dispose-off the property under their respective Acts.
 - viii. an officer specifically authorized by the Department for this purpose for all other departments.
 - ix. The area referred to in common parlance as Ambala Cantonment excised area be treated as vesting in the Municipal Council, Ambala Sadar and may be allotted as per the policy of Urban Local Bodies Department, subject to limitation of 100 sq. yd., by the Estate Officer, Excised Area of the Ambala Cantonment.
 - (c) "encroachment" means any land, other than rented or leased for shop/ house/ others (but not on tehbajari) but adjoining to such land, which has been occupied by the allottee by way of raising construction thereupon or covering it, without authorization from the competent authority;
 - (d) "Government" means the Government of the State of Haryana through the respective Administrative Secretary of the respective Department/ Board/ Corporation/ Authority/ public sector undertaking, save as otherwise provided under this Policy;
 - (e) "Government entity" means the Government Department, board, corporation, authority, council, public sector undertaking, which owns/ manages the properties;
 - (f) "lawfully" means such property which was legitimately leased/ rented out/ granted and does not include any piece of land or structure that has been encroached upon or raised unauthorized (that is without obtaining lawful permission so to do) either within the premises so leased/ rented out/ granted or outside the said premises adjoining the said premises;
 - (g) "occupier" means a person or a legal entity who is in legal possession of whole or any part of the property as on 31.12.2022;
 - (h) "predecessor" means any other government entity from which the area along with its properties was transferred to the Government entity for management/ ownership purposes;
 - (i) "property" means any land, including the building or part thereof raised on the land owned or managed by the Government entity as on 31.12.2022 which is used as shop/ house/industry/vacant while being in possession of individual (person or entity) other than the respective Government entity while the said land/ construction raised thereupon was lawfully leased/ rented out/ granted by the Government entity or the predecessor government entity from which the ownership/ management has come to the Government entity;
 - (j) "transferee" means a person/ entity to whom the property was transferred, either with the permission of the Government entity or its predecessor or by some other understanding/ arrangement between the then occupier of the property and the successor person, with the said successor person to be known as the "transferee" for the time being;

- (k) “unauthorized construction” means any construction or coverage raised on the land and structure constructed thereupon, other than the one that was granted on rent or license fee or lease for shop/house (but not on tehbajari), without seeking the valid permission of the Government entity or its successor.
 - (l) “Tehbazari” means to utilize surface for the purpose to sell products by way of making payment to the authority.
3. Statutory provision:
 - (1) The Government entity shall dispose-off its properties under the provisions of their respective statutes.
4. Categories of eligible properties:
 - (1) The following properties owned/ managed by the Government entity which was leased/ rented on the basis of rent/ lease money/ license fee/ Tehbazari fee due/receivable to the Government entity, and:
 - (a) Vacant land
 - (b) Shop(s) and its individual floor(s), if any
 - (c) House(s) and its individual floor(s), if any
 - (d) Industry
 - (e) Vacant Land
 - (2) The properties has been leased or rented by the Government entity which is managing it, for a period of 20 years or more.
 Note: The properties which have been transferred to the Government entity (either its ownership or management) from other Government entities bodies (such as Panchayat, Improvement Trust, Mandi Township, Health Department, Irrigation Department, PWD (B&R), HSVP etc.), then in such cases, for the purposes of working out “duration of possession”, the period for which it remained in the ownership/ management of such predecessor bodies shall be included while working out eligibility.
 - (3) Any other class or category of persons/ properties on which the Government may, by order, specifically direct this Policy to be made applicable, either wholly or in part.
 - (a) The policy shall not be applicable on Shamilat lands, Panchayat lands, Panchayat Samiti and Zila Parishad lands.
 - (4) Any property falling or part thereof falling within Right of Way (RoW of any department and of any category for example road/ canal / electricity line / drain / any other linear project land) of Road leased/ rented shall not be permitted to sell under this policy.
 - (5) The properties from which the Government entities are receiving rent/ lease @ 8% and above of the collector rate value annually, then the competent authority is permitted to choose for not selling the property.
 - (6) All encroachments by the occupier on public space i.e., corridor/ verandah shall be removed by the Government entity owning or managing the property. Corridors/ verandah are designed to protect the user of the complex from harsh environmental conditions such as heat, rain, cold, etc. hence cannot be sold to encroachers/ occupiers.
 - (7) Selling property owned by other Government entity but managed by different Government entity
 - (a) The Government entity presently managing the property is required to take consent of the Government entity originally owning the land before selling it to the occupier under this policy.
 - (b) In case, the property is originally owned by Government entity different from the Government entity which at present is managing the property, then the amount recovered from the applicant/ occupier for the property shall be transferred to the Government entity originally owned the property, in ratio of 99:1. The Government entity managing the property is permitted to keep 1% amount as administrative charges.
5. Eligibility and other Conditions:
 - (1) The following categories of person(s) shall be eligible:
 - (a) An occupier of the property shall be in legal possession of the property or any part thereof on 31.12.2022.
 - (b) The occupier shall be in legal possession of such property or the part thereof while the said property or its said part remained in the possession of individual or entities other than the Government entity or its predecessor entity.

- (c) In all such cases, where there is some ongoing litigation before a court of law, but the occupier submits an affidavit that he is prepared to take the benefit of this policy solely on his own risk and cost and shall not involve the concerned Government entity in the said dispute in any manner what so ever:
- Provided that in all such cases where the Government entity has been lawfully prevented by any court of law not to transfer the ownership or to maintain status-quo relating to the property, such property shall not be eligible for transfer in terms of this policy.
6. Procedure to apply for seeking the benefit of this policy:
- (1) An eligible occupier desirous to seek the benefit of this policy may apply online on the web portal to the competent authority along with the following documents/proof:
- (a) Eligibility document(s) (in terms of clause 5 of the policy) supporting the claim that the applicant is in legal possession of the property or part thereof.
 - (b) A self-certified copy of letter (in the support of claim submitted by the occupier) mentioning the date/year from which the property or the relevant part thereof has been claimed to be under the possession of person(s)/entities other than the respective Government entity.
 - (c) Document(s) (in terms of clause 5 of the policy) supporting the claim that the property or the relevant part thereof (for which he is interested in availing the benefit of this policy) was under the possession of person(s)/entities other than the respective Government entity on the date/year claimed under clause 'b' above.
 - (d) A self-certified copy of site plan and floor wise constructed plan mentioning the total area and the total built up area which is under the possession of the applicant. (The area built up by the Government entity or its predecessor and handed over need not be included in the "total built up area" for the purposes of this clause.)
- Note 1: In all such cases, where documentary proof required are produced only for a part of property, only such part shall be considered for dispensing the benefit of this policy, subject to other conditions of this Policy.
- Note 2: While mentioning the built up area, total cumulative carpet area need to be mentioned (including the areas of all floors, if more than one constructed floor is claimed to be under his possession).
7. Documents that shall be considered as proof for establishing the possession of person(s)/entities:
- (1) Any one or more of the following documents shall be sufficient to establish the possession of person(s)/entities for the purposes of this policy:
- (a) Allotment letter issued in favor of the person(s)/entities by the respective Government entity or its predecessor.
 - (b) Transfer letter validated with the permission of the Government entity or its predecessor.
 - (c) Registered agreement with original allottee/ lawful transferee.
 - (d) Receipt(s) issued by the respective Government entity or its predecessor regarding payment of rent/tehbajari/license fee/lease money paid to the concerned Government entity or its predecessor.
 - (e) Copy of any Municipal Record/Record of its predecessor that established the property or any part thereof under the possession of person(s)/entities, including any property tax assessment order in favor of person(s)/entities by the Municipal body.
 - (f) Electricity Meter connection in the name of applicant person(s)/entities other than the respective Government entity or its predecessor pertaining to the property of any part thereof.
 - (g) Water supply connection in the name of person(s)/ entities other than the respective Government entity or its predecessor pertaining to the property of any part thereof.
 - (h) Any other document validly issued by the Government (of the State of Haryana or Central Government) pertaining either to the property or part thereof or pertaining to activities undertaken from the property or part thereof (clearly mentioning the description or address of the property), such as sales Tax/VAT/GST related registration number, IT Returns, Registration under Shop Act, Fire NOC, etc.

8. Time Frames for making decisions:

- (1) Monitoring and implementation of the policy will be carried out through the portal prepared for this purpose by Urban Local Bodies Department through which all applications, including the objections and claims, would be received and processed and, wherever required (optionally at the discretion of the applicant/ occupier), payments shall also be received on-line through the said web-portal;
- (2) Every application which is received shall be notified along with the uploaded documents on the web-portal and shall be made accessible to public at large;
- (3) Within one month counted from the date on which the application along with its detail is uploaded, it will be open for any person/entity to raise any claim or objection on the web portal;
- (4) Within the same one month as mentioned in sub-clause '3' above, the application received to be scrutinized and place before the Competent Authority. During the course of scrutiny, if there is any requirement to seek clarification/further supporting documents from the applicant, the same shall be procured. The report of scrutiny should be complete in all respect and shall also include the verification of the claimed area to be under the possession of occupier making the application;
- (5) On the expiry of the said one month, all the claims and objections received shall be examined and settled by the Competent Authority and a final decision on the application, by taking into consideration the scrutiny report and recommendation, shall be made by the Competent Authority within a period of further one month by passing order:

Provided that through such order, the application for grant of the benefit of this policy may also be declined by finding the application either not being in order or unfit for granting the benefit of this policy or due to any other reason as recorded in the order.

- (6) Once the Competent Authority finds the application to be in order and fit for granting the benefit of this policy, he shall make an order to this effect. Within 15 days of making of the said order, the concerned competent authority shall issue a demand notice to the applicant wherein the total liability of payment to be made in terms of this policy shall be mentioned;
- (7) Within 15 days counted from the date on which the demand notice was issued, an amount representing 25% of the 'total liability of payment' of the demand notice shall be deposited with the concerned authority by or on behalf of the applicant/occupier;
- (8) On depositing the said 25% of the "total liability of payment" and before the "total liability of payment" has been made and conveyance deed is executed, the applicant/occupier, in whose favour the Competent Authority has passed the order, may mortgage or create any right/ interest on the property only to secure the loan amount against the property in order to make the payment of the balance of the "total liability of payment" with the prior written permission of the respective Competent Authority (such a prior written permission shall be mandatory);
- (9) Under all circumstances, the 'total liability of payment' must be cleared within 3 months counted from the date on which the demand notice was issued;
- (10) Once the 'total liability of payment' has been made, the conveyance deed shall be executed between the concerned authority and the applicant/occupier. The entire cost of execution of the Conveyance Deed, including the applicable Stamp Duty. etc., shall be borne by the applicant/occupier.

9. Appeal

- (1) Any person aggrieved by any order made or action taken within the provisions of this policy may prefer a representation/ appeal before the Competent Authority within a period of one month from the date on which such order was passed or, as the case may be, such action was taken;
- (2) Any person aggrieved by any order passed by the Competent Authority within the provisions of this policy may prefer an Appeal within a period of one month from the date on which such order was passed before the Government in the respective Department/ Board/ Corporation/ Authority/ etc. or any other authority authorized by him in this behalf;
- (3) Any representation made/appeal preferred under this clause shall be decided as expeditiously as possible, but preferably within 3 months.

10. Liability to pay in cases where the claim has been found fit for execution of Conveyance Deed in terms of this Policy:

- (1) Base Rate: Base Rate of the property shall be the applicable collector rate on which the property is located. The collector rate shall be as per the use of the property.

(2) Concession on base rate on the basis of period of possession

Sr. No.	Duration of Continuous Possession	Base Rate
1	2	3
1.	For a period exceeding 20 years but less than 25 years	(80% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)
2.	For a period 25 years or more but less than 30 years	(75% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)
3.	For a period 30 years or more but less than 35 years	(70% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)
4.	For a period 35 years or more but less than 40 years	(65% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)
5.	For a period 40 years or more but less than 45 years	(60% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)
6.	For a period 45 years or more but less than 50 years	(55% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)
7.	For a period of 50 years or more	(50% of the Applicable Circle Rate of the relevant category of land on the date of issuance of demand notice multiplied by the leased area or verified area, whichever is lesser)

(3) Calculation of Chargeable Price of the property from the occupier

- (a) For the component of land and/or the structure constructed by the Competent Authority or its predecessor proposed to be transferred in terms of this policy.

The Chargeable price component of the land to be transferred and/ or the structure constructed by the Government or its entity or its predecessor to be transferred in terms of this policy shall be worked out in the following manner:

Sr. No.	Category of Occupier	Chargeable Rate
1	2	3
1.	Where the entire structure constructed by the Government or its entity or its predecessor raised on land and the land is to be transferred to a single occupier (irrespective of number of floors constructed there upon)	Base Rate
2.	Where the structure constructed by the Government or its entity or its predecessor is two storied and each of such story is to be transferred to different for occupiers.	i. 60% of Base Rate for the occupier of Ground Floor ii. 40% of the Base Rate for the occupier of First Floor.
3.	Where the structure constructed by the Government or its entity or its predecessor is three storied and it is to be transferred to more than one occupier.	i. 50% of the Base Rate for the occupier of Ground Floor. ii. 30% of the Base Rate for the occupier of First Floor. iii. 20% of the Base Rate for the occupier of Second Floor.

Note: In all such cases where the top floor has been acquired in terms of this policy, the roofrights shall vest in the occupier in whom the ownership of the top floor of the building vests. The roof rights, however, shall be confined only to the uses of the vacant portion of roof (after excluding the area of

roof utilized for common purposes of building or the essential purposes by the owners of the other floors, such as for purposes of keeping water tank, the outdoor unit of air conditioner plants, etc., but it shall not authorize the owner of the top floor to raise any construction, including constructing another floor.)

- (b) For the component of structure constructed by the person(s)/entities other than the Government entity or its predecessor on the land and/or building mentioned in (a) above and proposed to be transferred in terms of this policy:

(Rs. 1,000/-) multiplied by (the total carpet area constructed by the person(s)/ entities other than the Government entity or its predecessor represented in the unit of square meters) and approved to be transferred in terms of this policy.

- (c) Other dues

The applicant/occupier in whose favour the property is to be transferred by way of execution of Conveyance Deed shall be liable to make payment of all the established taxes and arrears thereof and rent/license fee and arrears thereof including property tax/ fire tax/profession tax/trade tax/calling and employment tax/ license fee/rent/ tehbajari/ lease money, etc., in addition to all the applicable taxes/dues of the Government or its entity or its predecessor or Government. The person or occupier, in whose favour the Conveyance Deed is proposed to be executed, shall be liable to make all such payment irrespective of whether the property was in his possession or not in the relevant time to which such tax/ dues or arrears thereof pertain.

Note 1: The liability under this sub-clause shall be worked out by the respective Government or its entity and conveyed along with demand notice.

Note 2: The terms/ arrears would include any interest chargeable or penalty leviable on the principal amount in arrears.

- (d) Arrears of Transfer fee

In all such cases where the applicant/ occupier in whose favour the property is to be transferred by way of execution of Conveyance deed in terms of this policy, happens to be the one who has not come to occupy the property by seeking lawful permission of the respective Government or its entity or its predecessor the said applicant/ occupier shall also be liable to pay a sum @ Rs. 1000 per sq. mtr. of floor area as a onetime transfer fee.

- (e) The total liability of payment

Total liability of payment shall be worked out by adding the liabilities as worked out for the applicant/ occupier under the sub-clause 'a', 'b', 'c', 'd' and 'e' above.

11. Other ancillary conditions:

- (1) The duration spent from the date appeal is filed and the appeal is decided in terms of this policy shall not be counted while working out the permissible time frame for making decisions in terms of clause 9 of this policy for all events that fall after the appeal is filed and before it has been finally decided.
- (2) The validity of the 'demand notice' issued under clause 10 of the policy shall be for 3 months counted from the date it is issued and whenever, due to any reason whatsoever, including the reason of delay due to filing of appeal and decision thereupon, the permissible validity expires but the permissibility of extending the benefit of this policy still subsists, subject to applicability of interest @ 10% on the demand amount shall be calculated upto the time of fresh request to the Government entity. In cases where the originally planned verandah have been covered/ encroached by the adjoining shop/houses leases/renters/license fee holders, it will not be permitted for the same to be sold.
- (3) In cases where without obtaining the sanction of the Government entity or their predecessor construction have been raised over and above the originally built up shops/houses (by the Government entity or their predecessors) and lease/rented not/granted on license fee and as the case may be constructions raised on the land granted on tehbajari, the same shall also be permissible to be regularized by realizing the composition fee as mentioned in Clause 10 of this policy subject to all the other provisions of this policy, provided they do not violate any other legal requirements (such as in contravention of the defense area regulations, control area regulations, etc.

12. Re-evaluation of rental in cases where the properties/occupier of the property failed to seek accommodation within this policy:

- (1) This policy happens to be a onetime amnesty dispensing opportunity to the eligible beneficiaries, it compromises the privileges of the Government or its entity in favour of the eligible beneficiaries but do not extinguish the lawful rights/ privileges of the Government or its entity. Thus, there would be

possibilities where some of the properties and their occupier do not find it worthwhile to seek accommodation within this policy owing to various reasons, including economic better prospect remaining with such property in exception to seeking such accommodation or where the Competent Authority has declined to grant of the benefit of this policy the status/rent of the respective property shall be reassessed based on following formulation:

- (a) In all such cases, where there are illegal constructions raised on the premises leased out, such illegal constructions shall be removed forthwith;
- (b) Wherever land, in excess to the one granted in terms of the original allotment have been occupied/brought under construction, the same shall be demolished and retrieved, while the cost of demolition shall remain chargeable from the occupier;
- (c) The rent shall be, after implementation of the provisions of (a) and (b) above shall be reassessed in terms of following formulation:

Fresh Rent annually =(Area of actual land after removal of encroachment afforded to the rent holder/lessee) multiplied by (the relevant collector rate at commercial valued land in the vicinity) multiplied by 8% or the highest rate of interest paid by the State Bank of India on Fixed Deposit annually, whichever is higher:

Note: The possession of the property, in absence of fully meeting the compliance asmentioned in provisions (a) and (b) above within a month shall amount to the possession being unlawful in the hands of occupier and shall be retrieved forth with by the respective Government or its entity.

- (d) Fresh rent/lease agreement under these terms shall be deemed to have been entered replacing the existing rent/ lease agreement, if objection is raised within one month of the decision under proviso of clause 10 of this policy or as the case may be after the expiry of the period of making an application seeking accommodation under this policy.
- (2) In the event of non-acceptance of the proposition, including the rent/lease amount fixed in terms of this policy as enumerated above, it shall be lawful for the respective Government entity to terminate the use of such property by sealing it and seeking back the possession of the property from its occupier.

13. Relaxations

The Government may, if it deems fit so to do, accord relaxation(s) in the provision(s) of this policy, either generally or targeted to any class or category of persons or properties.

14. Interpretation, clarification and removal of doubts

- (1) If, at any stage of implementation of this policy or otherwise, any doubt is raised or encountered about the interpretation of any provision(s) of this policy or about the procedure required to be followed in giving effect to the letter and spirit of this policy, then the matter shall be referred to the Government and the decision of the Government about such interpretation/doubt/procedure to be followed shall be final and binding on all concerned and shall be reckoned as a clarification part of this policy.
- (2) The Governor of Haryana is further pleased to direct that the provisions of this policy be implemented/given effect to all the concerned in earnest with immediate effect.

15. Miscellaneous

- (1) Each department of the Government of Haryana shall bring guidelines and standard operating procedures including rules of delegation at their level within a fortnight to implement the policy in their respective departments.

Chandigarh:
The 19th April, 2023.

SANJEEV KAUSHAL,
Chief Secretary to Government, Haryana.