

HOS Secondary Market Scheme (Green Form Status) Application Guide

(Rev. 9/2019)

GENERAL INFORMATION

1. Background

In an effort to increase the turnover of Home Ownership Scheme (HOS) flats and provide more choices for households of Public Rental Housing (PRH) units and Green Form Certificate holders to own a home, and at the same time more PRH units can be recovered for allocation to families in need, the Hong Kong Housing Authority (hereinafter abbreviated as HA) formally implemented the HOS Secondary Market Scheme (SMS) in June 1997.

2. What is meant by the HOS SMS?

2.1 The SMS is introduced to enable owners of flats sold by HA under various subsidised sale schemes (including HOS, Private Sector Participation Scheme (PSPS), Tenants Purchase Scheme (TPS) and Green Form Subsidised Home Ownership Pilot Scheme/Green Form Subsidised Home Ownership Scheme (GSH), hereinafter collectively referred to as “HOS flats”) to sell their flats to persons nominated by HA without having to pay a premium.

2.2 HOS flats are sold subject to the terms of the Government lease and for some flats, subject also to the terms covenants and conditions contained in the Schedule to the Housing Ordinance and any amendments thereto (hereinafter referred to as “the Schedule”). HOS flats which are subject to the Schedule can be sold under SMS from the third year from the date of the first assignment, at freely negotiated price. For other HOS flats, (i) within the first two years of the date of the first assignment, the HOS flat can be sold under SMS at a price not more than the original purchase price under the first assignment; and (ii) from the third year onwards, the HOS flat can be sold under SMS at freely negotiated price. HOS flat owners should refer to the first assignment to ascertain whether their flats are subject to the Schedule*^(Note 1).

Note 1: HOS owners may approach their respective District Tenancy Management Office or HOS SMS Unit for enquiry.

2.3 Transactions in the HOS Secondary Market are done more or less the same way as in the open market. The purchaser and the seller may negotiate on their own or make the transaction through an estate agent and sign the Provisional Agreement for Sale and Purchase. To comply with the requirements of SMS, both the purchaser and the seller shall apply to the HA for the requisite supporting documents (including a Certificate of Availability for Sale (CAS) for the seller, a Certificate of Eligibility to Purchase (CEP) and a Letter of Nomination (LN) for the purchaser). The Formal Agreement for Sale and Purchase and the Deed of Assignment shall be prepared by solicitors.

2.4 Not only does the SMS provide HOS flat owners with one more option, it also serves the purpose of improving the mobility of PRH households intending to own a home. PRH households who have successfully bought a flat in the HOS Secondary Market are required to surrender the PRH unit they are currently residing in to the HA for re-allocation to families in greater need. Holders of Green Form Certificate will have their registration numbers cancelled and be disqualified from PRH allocation upon their successful purchase of a flat in the HOS Secondary Market.

The mode of operation for purchase of flats in the HOS Secondary Market is illustrated in the flow chart on the last page.

3. Does the seller have to pay a premium first?

HOS flat owners who sell their flats in the HOS Secondary Market are not required to pay any premium to the HA. Purchasers of flats in the HOS Secondary Market, however, will be responsible for paying the premium when they sell, rent out or assign their flats in whatever manner in open market in the future. This should be clearly understood by both parties when they negotiate prices.

4. Who are eligible to apply?

4.1 The following persons may apply:

- (a) Households of PRH units managed by the HA or the Hong Kong Housing Society (HS)^{*(Note 2)} may apply (with the exception of tenants under conditional tenancies) so long as their eligibility as PRH households has been verified by their respective Estate Offices, on condition that their housing units be surrendered upon successful purchase of a flat in the HOS Secondary Market.

Note 2: PRH households of the HS may approach their estate offices for details on how to apply and deliver vacant possession of their PRH upon successful purchase of SMS flat.

HA households occupying two or more PRH units may apply subject to the following conditions:

- (i) Households consisting of one nuclear family are only allowed to buy one flat in the HOS Secondary Market and will have to surrender all their PRH units upon successful purchase of a flat in the HOS Secondary Market;
- (ii) Households consisting of two or more nuclear families are allowed to split and make separate applications on condition that —
 - (1) the current requirements for splitting of household are met;
 - (2) their applications have been verified and endorsed by their respective Estate Offices; and
 - (3) only two flats in the HOS Secondary Market may be purchased at the most (including the flat bought with loans or subsidies granted under the Home Assistance Loan Scheme (HALS)). They have to surrender one of their PRH units upon purchase of the first flat and all their remaining PRH units upon purchase of the second flat.
- (b) Authorised residents of Interim Housing managed by the HA may apply.
- (c) Persons falling under the following categories may also apply provided that they are holders of Green Form Certificate issued by the HA/Urban Renewal Authority (URA).

Upon their successful purchase of a flat in the HOS Secondary Market, their registration numbers for PRH application will be cancelled and they will not be allocated any PRH unit.

- (i) PRH applicants ;
 - (ii) Persons affected by clearances and victims of natural disasters;
 - (iii) Civil servants applying for PRH under the Civil Service Public Housing Quota (CSPHQ);
 - (iv) URA's clearees;
 - (v) HA's PRH residents who are issued with a valid Green Form Certificate due to divorce/splitting.
 - (vi) Former PRH tenants holding a valid "Letter of Assurance" (LA) issued by the HA whose eligibility for allocation of the PRH flat has been established.
- (d) Recipients of Rent Allowance for Elderly Scheme (RAES) may apply. Applications should be submitted to HA's Applications Section for verification. The RAES allowance will be automatically ceased after 60 days upon the execution of the deed of assignment.
- (e) Estate Assistants holding a LA issued by the HA may apply. They should submit applications together with their LA to their respective Estate Offices for verification.

4.2 All applicants have to meet the following eligibility criteria:

- (a) Single persons as well as families are eligible to apply. For families, the applicant and the family members must be of kin relationship. Spouse(s) of the married applicant/family members must be included in one and the same application form unless they are lawfully divorced, or without the right of residence in Hong Kong or deceased (provide relevant supporting documents in application of CEP);
- (b) Applicants must be at least 18 years old;
- (c) The PRH household, licensees of PRH or any member of the family has not breached any condition of their current PRH Tenancy Agreement/Licence;
- (d) The recipient of Rent Allowance for Elderly Scheme (RAES) or any member of the family has not breached any condition of the Agreement of RAES;
- (e) The applicant or any member of the family has not received any of the housing subsidies mentioned in Item 5 below.

4.3 From the date of completing the application form for PRH up to the time when the Green Form Certificate holder*^(Note 3) enters into a Provisional Agreement for Sale and Purchase in respect of a flat under the SMS, neither the applicant nor any family members listed in Part 1 of the application (including their spouse) shall:

- (a) have owned or co-owned any domestic property in Hong Kong or any interest in such kind of property*^(Note 4); or
- (b) have entered into any agreement (including preliminary agreement) to purchase any domestic property in Hong Kong; or
- (c) have owned more than 50% of the shares in a company which directly or through a subsidiary company owned any domestic property in Hong Kong; or
- (d) have been a beneficiary of any domestic property (including land) in Hong Kong.

Note 3: Green Form Certificate holder under CSPHQ must comply with the application regulations issued by Civil Services Bureau.

Note 4: Domestic property includes any domestic property, uncompleted private domestic property, rooftop structure approved by the Building Authority, domestic building lots and Small House Grants approved by the Lands Department in Hong Kong.

5. Who are not eligible to apply?

Families who have received the following housing subsidies may not apply:

- 5.1 Those who have purchased a flat or have obtained a loan or subsidies under the following subsidised ownership schemes, as well as their spouses (including the spouses of purchasers and loan/subsidies receivers who were unmarried at that time):
- (a) HOS;
 - (b) PSPS;
 - (c) GSH;
 - (d) Middle Income Housing Project at Melody Garden;
 - (e) HOS SMS/Extending the Home Ownership Scheme Secondary Market to White Form Buyers (Interim Scheme 2013 & 2015)/White Form Secondary Market Scheme (WSM);
 - (f) Mortgage Subsidy Scheme (MSS);
 - (g) TPS;
 - (h) Buy or Rent Option (BRO);
 - (i) any subsidised housing schemes administered by the HS (including loan/subsidies under any subsidised housing schemes);
 - (j) Home Purchase Loan Scheme (HPLS)/Home Assistance Loan Scheme (HALS);
 - (k) any subsidised housing schemes administered by the URA.
- Even though the relevant owner/borrower has sold the flat or repaid the loan, he/ she, as well as his/her spouse, are not eligible to apply. Other family members whose application for deletion from the household register concerned has been approved may apply separately provided that they meet all the eligibility criteria. The crucial members of 2-person families may apply for deletion from the household register concerned and for purchase of another flat under the SMS only 2 years after the purchase of the first flat (as from the date of execution of the Deed of Assignment). Former TPS owner who has been approved by the HA to revert his status to PRH household is exempted.
- 5.2 Members of Civil Servants' Co-operative Building Society or any housing scheme of a similar nature, or lessees under any Government Built Housing Scheme may not apply. PRH households are exempted from this requirement.
- 5.3 Kowloon Walled City clearerees who had received government compensation calculated with reference to HOS flat price and chosen to arrange for accommodation by themselves, and their spouse may not apply.
- 5.4 The HA reserves the right to reject applications after scrutiny, and the application fees will not be refunded.

6. What kind of flats may be sold in the HOS Secondary Market?

Owners of HOS flats sold subject to the Schedule may, from the third year onwards from the date of the first assignment, apply to the HA for a CAS for the purpose of selling their flats. Owners of other HOS flats may apply for a CAS after completion of the purchase of the flats. If HOS owners have paid the premium with the alienation restriction removed, their flats cannot be sold under SMS.

7. May an HOS owner apply for other housing subsidies after having sold his HOS/subsidised flat?

No. An HOS owner and his/her spouse having sold his/her HOS/subsidised flat may not apply for any other housing subsidies.

8. How are prices negotiated?

Transactions in the HOS Secondary Market are done more or less the same way as in the open market. The purchaser and the seller may negotiate on their own or conduct the transaction through an estate agent. For HOS flats not subject to the Schedule ^{*(Note 1)}, within the first two years of the date of the first assignment, the price shall not be more than the original purchase price under the first assignment. On the basis of the information provided in the CAS produced by the seller, and using the formula set out below, the purchaser can work out the discount rate for calculation of the premium payable when the flat is sold, rented out or assigned in any other way in open market in the future. The purchaser can then roughly assess the market value of the flat by reference to the transaction prices of other properties in the same district in the open market and make a deduction based on the discount rate to allow for his/her responsibility for premium payment in the future.

Example:

If an HOS flat has a current market value of about \$2,500,000 and a discount rate of 45%, the value of the flat would be about \$1,375,000, i.e. 55% of the market value.

9. How is the discount rate calculated?

$$\text{Discount rate for calculation of premium} = \frac{\text{Initial Market Value} - \text{Purchase Price}^{*(\text{Note 5})}}{\text{Initial Market Value}} \times 100\%$$

The Initial Market Value and the Purchase Price in the above formula are recorded in the assignment deed for the first assignment or, for resale flats, the assignment deed for the last assignment from HA to a purchaser.

Example:

Initial Market Value : \$2,000,000
Purchase Price : \$1,100,000

$$\text{Discount rate for calculation of premium} = \frac{\$(2,000,000 - 1,100,000)}{\$2,000,000} \times 100\% = 45\%$$

If an HOS flat owner applies to the HA for the payment of premium, the amount of premium payable will be assessed according to the following formula:

$$\text{Premium} = \text{market value at the time of the payment of premium} \times \text{discount rate}$$

* **Note 5:** For flats purchased by means of “immediate mortgage” in HOS Phases 13B to 16B and flats purchased under the TPS, the purchase price refers to the list price stated in the Deed of Assignment and not the actual sale price.

APPLICATION PROCEDURES FOR THE PURCHASE/SALE OF FLATS IN THE HOS SECONDARY MARKET

10. Where can application forms be obtained?

Both the purchaser and the seller are required to apply to the HA for the requisite documents, such as a CEP for the purchaser and a CAS for the seller. Application forms are obtainable at all Estate Offices of PRH estates and HA's District Tenancy Management Office and the HOS SMS Unit at Room 202, 2/F, Lung Cheung Office Block, 138 Lung Cheung Road, Kowloon, or download relevant application forms from the HAHD website at <http://www.housingauthority.gov.hk>.

11. Is it necessary to pay any fees at the time of application?

Applicants are required to pay an application fee. The application fee shall be paid in the form of a crossed cheque or a cashier order payable to the "Hong Kong Housing Authority" which should be submitted together with the application form. After screening and vetting, the HA may reject any application that fails to meet the eligibility criteria. The application fee paid will not be refunded under any circumstances. The HA may revise the application fee at any time.

11.1 Application fee for a CEP for the purchaser: HK\$770

11.2 Application fee for a CAS for the seller: HK\$810

The HA may revise the above application fees at any time.

12. Where should the application forms for CEP be returned?

12.1 Households of PRH estates managed by the HA or HS should submit their application together with an application fee in the form of a crossed cheque or a cashier order to their respective Estate Office/District Tenancy Management Office for verification. Households of the PRH units under the HS, should upon completion of verification and obtaining endorsement of the application by the HS, submit the application together with an application fee, photocopies of the HK Identity Cards of all family members and a copy of the Tenancy Agreement to the HOS SMS Unit in person. Please note that households should not submit the application in person or by mail to HOS SMS Unit as all applications unverified by their respective District Tenancy Management Office will not be entertained and will be returned to households.

12.2 Applicants who are holders of a Green Form Certificate issued by the HA should submit their application together with their valid Green Form Certificate, an application fee paid in the form of a crossed cheque or a cashier order, photocopies of HK Identity Card of the applicant and all family members and documents as mentioned on the above certificate to HOS SMS Unit. Holders of Green Form Certificate under the Civil Service Public Housing Quota should submit their application together with the above documents and a photocopy of their latest salary statement in person to HOS SMS Unit.

12.3 Applicants who are recipients of RAES should submit their application together with an application fee in the form of a crossed cheque or a cashier order and photocopy of HK Identity Card of the applicant to the Applications Section of the HA.

12.4 The Estate Assistant holding a LA may submit the application with an application fee in the form of a crossed cheque or a cashier order and the LA to the Estate Office where he is working for verification.

On receipt of the application with the application fee, the HA will issue an acknowledgement receipt to the applicant informing him/her of the application number, which should be quoted in all future correspondence.

13. Where should the application forms for CAS be returned ?

Owners applying for a CAS should submit their application together with an application fee paid in the form of a crossed cheque or a cashier order and a copy of the Deed of Assignment to their respective District Tenancy Management Offices. Enquiries on obtaining copies of Deed of Assignment may be made to the relevant mortgagee bank or to the Land Registry. Should there be any change of ownership, please submit copies of all the relevant Deed of Assignment.

On receipt of the application with the application fee, the HA will issue an acknowledgement receipt to the applicant informing him/her of his/her application number, which should be quoted in all future correspondence.

14. Is it necessary for applicants who did not succeed in making a transaction to apply again?

14.1 The CEP is valid for twelve months from the date of issue. Applicants, issued with a CEP, who are unable to sign a Provisional Agreement for Sale and Purchase for the purchase of a flat in the HOS Secondary Market within the validity period of the Certificate but still wish to purchase a flat under the SMS, must re-apply and pay the necessary fee again. There is no time limit on the validity of the CAS, but if there is any change of ownership, the respective owners must re-apply and pay the necessary fee again.

14.2 If a transaction is rescinded after the issue of LN but both parties still wish to make a transaction in the HOS Secondary Market, they must re-apply and pay the necessary fee again. The Green Form Certificate holder must obtain a fresh Green Form Certificate from HA before re-applying for a CEP.

15. How to complete a transaction?

15.1 The purchaser and the seller are required to produce to each other or the estate agent valid supporting documents, such as a valid CEP on the part of the purchaser and a CAS on the part of the seller, before the Provisional Agreement for Sale and Purchase is signed. The purchaser and the seller shall refer to the CAS for the price at which the flat can be sold and the categories of persons who are eligible to be nominated for the purchase. The Provisional Agreement for Sale and Purchase must be in the prescribed form specified by the HA.

15.2 The solicitor representing the purchaser(s) will apply to the HA on behalf of the purchaser for a LN within one month from the date of the Provisional Agreement for Sale and Purchase but in any event no later than five (5) working days (or otherwise as HA may specify) before the signing of the Formal Agreement for Sale and Purchase for confirmation of the eligibility of the purchaser(s), and that the purchaser(s) shall sign the Formal Agreement for Sale and Purchase and the Deed of Assignment to complete the transaction only after the issue of the LN.

15.3 If prior to the issue of a LN there should be any change of status as to render the purchaser ineligible for applying or if the purchaser should receive any subsidies provided by the HA or HS, the purchaser will not be issued a LN.

- 15.4 Other legal procedures for the execution of the Formal Agreement for Sale and Purchase and Deed of Assignment are largely similar to those required for property transactions in the open market. Both parties may appoint their own solicitors to represent them in completing the transaction.
- 15.5 Upon completion of the transaction, the solicitor representing the purchaser should notify the HOS SMS Unit within 10 days, so that the HA can arrange to recover the PRH unit concerned or cancel the Green Form Certificate holder's registration number and eligibility for PRH.
- 15.6 The purchaser shall not assign or sell any interest in the property or in the Provisional/Formal Agreement for Sale and Purchase to a third party before the transaction is completed.

16. How to apply for a LN?

- 16.1 Application for a LN should be made to HA by the solicitor representing the purchaser, enclosing the following documents to the HOS SMS Unit:
 - (a) The original and valid copy of the purchaser's CEP;
 - (b) The original of the seller's CAS;
 - (c) A Declaration in support of the Application for LN duly declared by the purchaser(s);
 - (d) A copy of the Provisional Agreement for Sale and Purchase duly signed in the prescribed form; and
 - (e) An application fee of HK\$920 paid in the form of a cheque signed by a solicitors' firm or a cashier order.
- 16.2 Up to the date of signing the Provisional Agreement for Sale and Purchase, the income and family status of the purchaser and the family members listed in the application must still meet the application criteria.
- 16.3 If by the day of the signing of the Provisional Agreement for Sale and Purchase the HA/HS has served a notice of termination of tenancy on any person concerned or if any person is found to have contravened Section 26(2) of the Housing Ordinance (Cap. 283) in his/her application for a CEP, the HA will not issue a LN.
- 16.4 Before signing the Provisional Agreement for Sale and Purchase, the tenant of PRH is not permitted to serve a Notice-to-Quit to the HA/HS and the tenancy should not be terminated, otherwise the HA will not issue a LN.
- 16.5 The HA will revoke the LN issued to any person if he/she is found to have contravened Section 26(2) of the Housing Ordinance (Cap. 283) after the LN is issued.

17. May an applicant apply at the same time for the purchase of HOS flats offered by the HA and for other subsidised housing?

Yes, so long as the applicant meets the eligibility criteria of the schemes concerned. If more than one of his/her applications under various subsidised housing schemes are approved, he/she may only opt for one of them and must cancel the others.

FINANCIAL AND ASSIGNING ARRANGEMENTS

18. Is joint ownership allowed?

Yes, provided that it is a joint tenancy and that the joint tenants are the applicant and one of the adult family members listed in the application.

19. How do purchasers obtain legal title to their flats?

When making a transaction in the HOS Secondary Market, the purchaser and the seller have to produce valid supporting documents and a LN issued by the HA. Moreover, the estate agent concerned and the solicitors representing the two parties are required to use prescribed forms specified by the HA, including a Provisional Agreement for Sale and Purchase, a Formal Agreement for Sale and Purchase and a Deed of Assignment. Legal documents other than these will be considered null and void, and the purchaser's title will consequently be affected. Any amendments to the clauses of the prescribed forms shall require the HA's prior approval and written consent.

20. How to arrange for a mortgage?

20.1 Purchasers of flats in the HOS Secondary Market may also enjoy special mortgage terms offered by the banks/financial institutions which entered into the Deed of Guarantee with the HA. They can apply to any participating bank/financial institution for special concessionary mortgage terms specified by the HA including:

- (a) Maximum loan: up to 95% of (i) the purchase price or (ii) the assessed value, whichever is the lower;
- (b) Mortgage interest rate: at a maximum of the Best Lending Rate quoted by the bank/financial institution concerned minus 0.5% per annum;
- (c) Repayment period: up to a maximum of 25 years.

The conditions are subject to final approval by the bank/financial institution concerned. Purchasers should contact individual participating bank/financial institution directly for any enquiries.

20.2 The actual amount of loan, repayment period, interest rate and other terms of the mortgage loan will be subject to the approval of the banks/financial institutions on a case by case basis according to the circumstances of the purchaser. The HA does not warrant that the purchaser can obtain the maximum mortgage loan (i.e. 95% of the purchase price or the assessed value, whichever is the lower), or any mortgage loan from any banks/financial institutions.

20.3 If the purchaser wishes to mortgage with other bank/financial institution, which is not the participating banks/financial institutions, the purchaser is required to obtain prior approval from the Director of Housing for such mortgage arrangement. The purchaser is reminded to allow sufficient time for processing of the above application in order to avoid any possible delay in the mortgage arrangement and an administrative fee is required for the above application.

20.4 The list of participating banks/financial institutions is subject to change without prior notice.

20.5 Before mortgage is arranged, the purchaser must obtain prior approval from the HA if he/she has accepted Home Mortgage Loan Scheme offered by his/her employer to pay for the balance of the purchase price.

20.6 Purchasers should assess one's own financial capability and eligibility for mortgage before entering into purchasing formalities.

21. What fees are incurred when completing the conveyance formalities?

Apart from the application fees paid to the HA for issue of the supporting documents and the LN mentioned above, the purchaser and seller, just as in the execution of any assignment in the open market, are required to pay their respective fees as follows:

- 21.1 Stamp duty, which is calculated on the basis of the market value assessed by the Rating and Valuation Department for the purpose of collecting stamp duty. It is not based on the purchase price of the flat;
- 21.2 Registration fees for the conveyance documents;
- 21.3 Legal fees charged by the solicitors with respect to the flat; and
- 21.4 The estate agent's commission (if the transaction is negotiated through an estate agent).

If the purchaser requires a mortgage loan to finance the purchase of the flat, he/she is required to pay:

- 21.5 A registration fee for the Mortgage Deed; and
- 21.6 Legal fee of the mortgagee's solicitors for arranging for the mortgage loan.

22. Are purchasers bound by any special provisions?

Flats purchased in the HOS Secondary Market shall be used, assigned or let in accordance with the terms and conditions of the Housing Ordinance / the Government lease and the relevant application criteria. The main conditions are:

- 22.1 Use — The flat shall be used only for residential purposes and for self-occupation by the purchaser and the family members listed in the application.
- 22.2 Assigning or letting —
 - (a) For flats sold subject to the Schedule^{*(Note 1)}, the purchaser may offer to sell the flat back to the HA. If the HA declines the offer, the HOS owner is free to assign or let the flat in the open market after payment of a premium calculated in accordance with sub-paragraph (d) below. **Please note that the HA has since 2007 ceased to accept any offer to sell the HOS flats to the HA.**
 - (b) The purchaser may without being required to pay a premium sell the flat in the HOS Secondary Market to the eligible applicants confirmed by the HA (from the third year from the date of the first assignment for flats sold subject to the Schedule; and from the date of the first assignment for other flats).
 - (c) After a specified period (5 years for flats sold subject to the Schedule, and 10 years for other flats) from the date of the first assignment, the purchaser may assign or let the flat in the open market after payment of a premium calculated in accordance with sub-paragraph (d) below.

- (d) The premium which the purchaser must pay prior to assigning or letting his/her flat in the open market as referred to in sub-paragraphs (a) and (c) above is assessed on the basis of the prevailing unrestricted full market value of the flat and the Initial Market Value and the Purchase Price*^(Note 6) of the flat stated in the first assignment or, for resale flats, in the last assignment from HA to a purchaser by applying the following formula. In other words, the premium payable is calculated by converting the discount in the original purchase price into its current value:

$$\text{Premium} = \text{Prevailing Market Value} \times \left[\frac{(\text{Initial Market Value} - \text{Purchase Price})}{\text{Initial Market Value}} \times 100\% \right]$$

***Note 6:** For flats purchased by means of an “immediate mortgage” in HOS Phases 13B to 16B and flats purchased under the TPS, the purchase price refers to the list price stated in the Deed of Assignment but not the actual sale price.

- 22.3 Mortgage — The purchaser may secure a first mortgage to cover the balance of the purchase price of the flat in accordance with conditions mentioned in Item 20 above. Except with the approval of the Director of Housing, the purchaser prior to payment of premium as mentioned in the preceding paragraph 22.2(d) shall not secure any other form of mortgage or increase the amount of the mortgage loan.

After purchase of a flat under the SMS, should the purchaser(s) mortgage the flat to the bank/financial institution which entered into the Deed of Guarantee with the HA and if default on mortgage payments before paying off the mortgage loan, the bank/financial institution concerned will sell the flat. Should the sale proceeds of the flat fail to cover the full outstanding balance of the mortgage and all the interest, legal costs, administration fees, etc. payable under the mortgage, the bank/financial institution will, pursuant to the Deed of Guarantee, make a claim against the HA for the payment of all the above arrears that the purchaser(s) owe. The HA shall under the Deed of Guarantee pay the same to the bank/financial institution. In relation to the payments made by the HA to the bank/financial institution, the HA will then claim from the purchaser(s) all the above arrears and the interest.

23. Warning

- 23.1 Any application which contains false or incorrect information statement or representation will be cancelled, that the eligibility of such application previously established on the basis of the false or misleading information will be revoked and fees paid will not be refunded. The decision of the HA, the HD and the HS on such false or incorrect information statement or representation shall be final.
- 23.2 Under Section 26(2) of the Housing Ordinance (Cap. 283), any person who makes any false statement or provides any information to the HA in respect of an application for purchasing a flat in the HOS Secondary Market which he knows to be false or misleading as to a material particular shall be guilty of an offence and liable on conviction to a fine of HK\$500,000 and imprisonment for 1 year. According to Section 26A of the Housing Ordinance (Cap. 283), where a court convicts a person of an offence under Section 26 (2) of the Housing Ordinance (Cap. 283), the Court shall order either (a) that the flat be transferred to the HA or the HA’s nominee; or (b) the offender forfeit to the HA a sum equivalent to the difference between the purchase price and the market value of the flat without any restriction as to alienation as at the date of the conviction.

23.3 If the court convicts another person under Section 26(2) of the Housing Ordinance (Cap. 283) in connection with the purchase of a flat by the purchaser, the Court may, according to Section 26B of the Housing Ordinance (Cap. 283), order either (a) that the flat be transferred to the HA or the HA's nominee; or (b) the purchaser to forfeit to the HA a sum equivalent to the difference between the purchase price and the market value of the flat without any restriction as to alienation as at the date of the order.

23.4 According to Section 22 of the Housing Ordinance (Cap.283), staff of HD are empowered to enter and inspect the flat. Any person who obstructs staff of HD in the exercise of any power or the performance of any duty conferred or imposed under Section 29 shall be guilty of an offence and liable on conviction to a fine at level 3 and to imprisonment for 6 months. According to Section 25 of the Housing Ordinance (Cap.283), staff of HD are empowered to require the owner or occupier of the flat to provide specified particulars. Any owner or occupier who refuses to provide the particulars required shall be guilty of an offence and liable on conviction to a fine at Level 4*^(Note 7) as specified in Schedule 8 of the Criminal Procedure Ordinance (Cap. 221) and to imprisonment for 3 months; any owner or occupier who makes a false statement shall also be guilty of an offence and liable to a fine at Level 5*^(Note 7) as specified in the same Schedule and to imprisonment for 6 months.)

***Note 7:** As at the date of compilation of this Application Guide, the maximum fines at Level 4 and Level 5 are HK\$25,000 and HK\$50,000 respectively.

23.5 Applicants should note that the only payment required by the HA for processing an application under the SMS is the application fee. If applicants are approached by any person who offers to assist in their application in return for remuneration, whether monetary or otherwise, they should report immediately to the Police, the ICAC or the HA. Furthermore, it is an offence for any person to offer any bribe of inducement to a civil servant. Any such attempt will result in the application concerned being cancelled, and legal action may be taken by the ICAC or the Police.

24. Enquiries

For enquiries or requests for information by fax, please call the HA hotline at 2712 2712. For further information or assistance, please contact the Estate Offices /Court Offices, District Tenancy Management Offices, or the HOS SMS Unit at 3162 0680.

The HA provides information about the transactions, names of courts/estates, names of banks and discount rates in the HOS SMS on the Internet. (Web Site: <http://www.housingauthority.gov.hk>)

25. Notes concerning the Collection of Personal Data

25.1 The personal data collected in the application form are used for processing applications under SMS and other matters pertaining to the enforcement of the Housing Ordinance (Cap. 283) or land lease related issues. The information provided may also be used by the HA, the HD and the HS for conducting statistical surveys and researches and to contact the applicants for such purposes. The personal data in the application form, including the declaration by the applicant and his/ her family members authorising the collection and comparison/ checking of their personal data, are provided by the applicant and his/ her family members on a voluntary basis. However, if insufficient information is provided, the HA, the HD and the HS may not be able to process the application. In that case, the application fee paid will not be refunded.

25.2 The personal data provided by the applicant and his/ her family members in the application form will be used by the HA, the HD and the HS for the purpose of preventing the applicant and his/ her family members from enjoying double housing benefits and for the purposes of

carrying out the checking/ verification and matching procedures. Such procedures include: (a) vetting the application and determining the eligibility of the applicant, (b) checking whether the applicant has applied for other subsidised housing schemes, (c) giving approval under SMS and handling any subsequent changes in family circumstances, property ownership, mortgage arrangements, sale of property, etc. and (d) the data are also used to prevent the purchaser and his/ her spouse from participating in any other subsidised housing schemes administered by the HA/ HS/ URA in future.

25.3 When assessing the eligibility to apply and purchase of the applicant and his/ her family member(s), the HA, the HD and the HS may compare and match the personal data provided in the application form with the relevant personal data collected (manually or otherwise) for other purposes in order to ascertain whether such information is false or misleading, and may take appropriate action against the person(s) concerned on the basis of the result of the data comparison and matching. The applicant and his/ her family member(s) should also authorise the HA, the HD and HS to disclose, verify and match the information concerned with other government departments (including but not limited to the Land Registry, Companies Registry, Transport Department, Immigration Department and Inland Revenue Department), public/ private organisations/ companies (including but not limited to the URA, the Mandatory Provident Fund Schemes Authority (MPFA), banks and financial institutions), or the employers concerned. Furthermore, the applicant and his/ her family member(s) should agree that any government departments (including but not limited to the Land Registry, Companies Registry, Transport Department, Immigration Department and Inland Revenue Department), public/ private organisations/ companies (including but not limited to the URA, the MPFA, banks and financial institutions), or the employers concerned may disclose the applicant's and his/ her family members' personal data (including but not limited to marital status and MPF contribution records) in their possession to the HA, the HD and the HS for the purpose of comparing and matching the information provided in the application form. The information provided may also be used by the HA, the HD and the HS for conducting statistical surveys and researches.

25.4 For the purposes stated above, the HA, the HD and the HS may disclose the personal data provided by the applicant and his/ her family member(s) in the application form to other government departments (including but not limited to the Land Registry, Companies Registry, Transport Department, Immigration Department and Inland Revenue Department), and to employers concerned or relevant public/ private organisations/ companies (including but not limited to the HS, the URA, the MPFA, banks and financial institutions) or check such data with these parties.

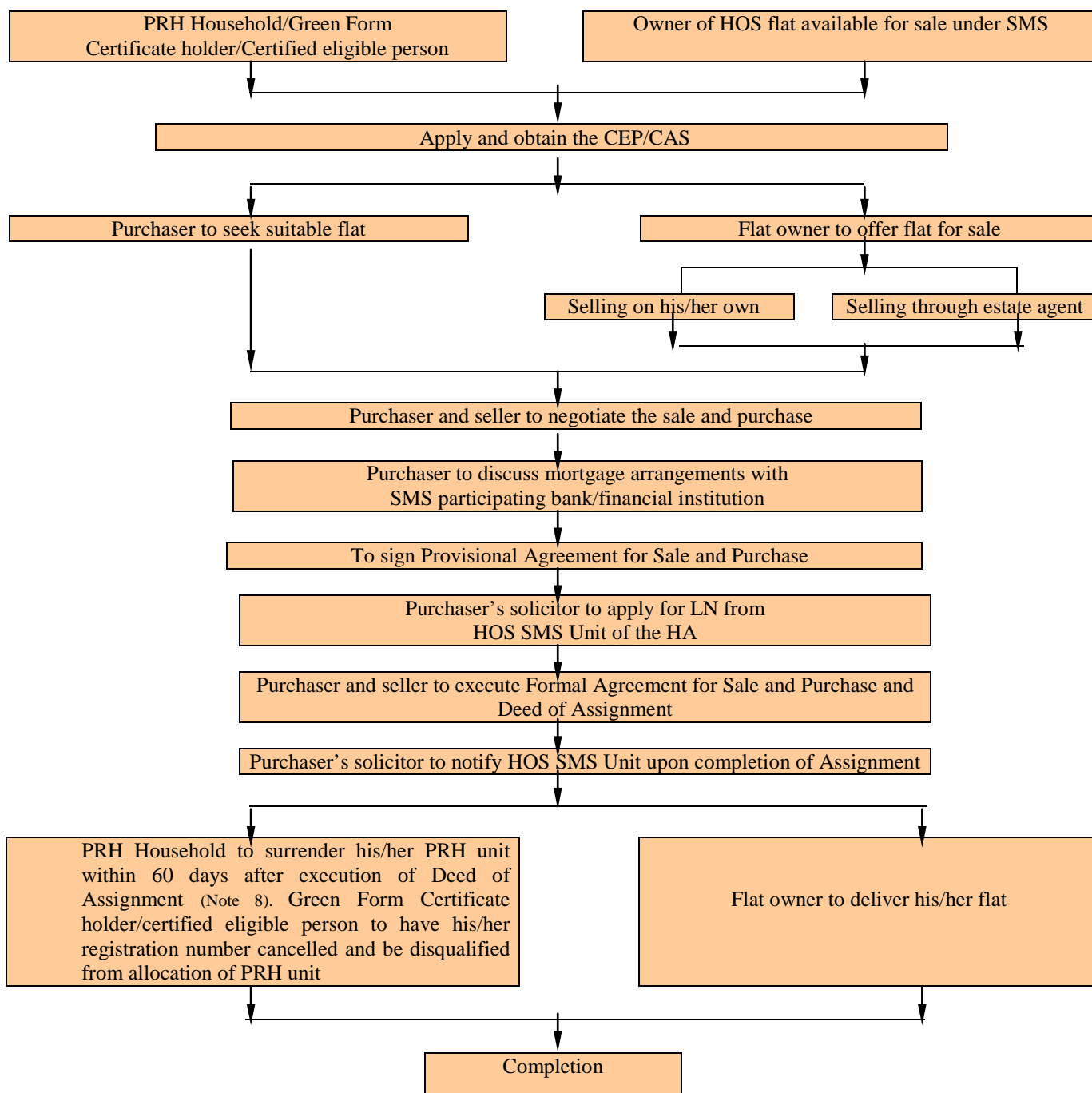
25.5 The personal data provided in the application form are for application under SMS. Pursuant to the Personal Data (Privacy) Ordinance (Cap. 486), the applicant and his/ her family member(s) are entitled to request access to or correction of the personal data stated in the application form. Where necessary, such requests should be made in writing and directed by post or fax (fax no. 2761 6363) to the Departmental Data Protection Officer of the HA Headquarters, 33 Fat Kwong Street, Kowloon. A fee may be charged for the request for access to personal data.

26. Points to Note:

26.1 This Application Guide is solely for explaining the sale and purchase mechanism of the HOS SMS and has no legal effect in itself.

26.2 The HA reserves the right to amend, correct or revise this Guide without prior notification.

Mode of Operation of the HOS Secondary Market Scheme (SMS)



Note 8: Upon completion of the deed of assignment of the purchased flat concerned, household of PRH unit or authorised resident of Interim Housing(IH) shall immediately serve a Notice to Quit to the HA to terminate the Tenancy Agreement/Temporary Tenancy Card in respect of the PRH unit/Interim Housing that they are residing in and deliver vacant possession of the said unit to the HA within 60 days or on/before the day on which the Tenancy Agreement/Temporary Tenancy Card is terminated. Tenants or authorised residents unable to return the unit within the specified period have to submit an application in advance to the HA for an extension of stay up to 30 days. If accepted, they will have to pay an occupation fee equal to three times the prevailing net rent of the unit plus rates. If the households/authorised residents have been paying market rent before the deadline for vacating the unit, the occupation fee for extended stay will be charged at either the rate of market rent or three times the prevailing net rent of the unit plus rates, whichever is the higher.