

**Home Ownership Scheme (HOS)(Phase 24A or before)/
Tenants Purchase Scheme (TPS)
Premium Payment Procedures for
Flats Within the 3rd to 5th year of the Alienation Restriction Period**

The owner submits the completed application form for assessment of premium for flats within 5-year alienation restriction period with copy/copies of assignment(s) and an administrative fee of \$4,220 [by crossed cheque or cashier order] by post or in person to:

- the respective District Tenancy Management Offices;
- or
- the Support Services Section (4), 1/F, Block 2, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon.

[If the premium is paid within the specified period, the administrative fee will be deducted from the premium.]

An owner of an HOS/TPS flat within the 3rd to 5th year of the alienation restriction period (3rd to 5th year flat) applies to HD for assessment of premium.

HD issues a letter to acknowledge the receipt of the premium application.*
A representative of HD (or its appointed surveyor) conducts an on-site flat inspection by appointment to carry out the assessment.

About 3 weeks from receipt of the application for assessment of premium and all required documents, HD (or its appointed surveyor) will issue the Notice of Premium Assessment.

The owner is required to pay the premium within 2 months from the date of the Notice of Premium Assessment. [Otherwise, the owner has to submit a fresh application for assessment of premium and pay an administrative fee of \$4,220.]

***Attention**
The owner may only enter into agreement for sale and purchase (including provisional / formal agreement) after receiving an acknowledgement of the premium application. Otherwise, he / she will be in breach of section 27A of the Housing Ordinance. The agreement for sale and purchase entered into by him / her will also be void. Any person who commits an offence under Section 27A of the Housing Ordinance is liable to a fine of \$500,000 and to imprisonment of one year.

The owner makes arrangements with his/her solicitor for registration of the Certificate for Removal of Alienation Restrictions at the Land Registry.

Upon payment of the premium (by cashier order or crossed solicitor's cheque), HD will issue a receipt immediately, and the Certificate for Removal of Alienation Restrictions shortly afterwards.

Notes: (i) This leaflet only serves as a brief introduction to the arrangements for assessment and payment of premium for an HOS/TPS flat within the 3rd to 5th year alienation restriction period and does not in itself carry any legal effect.

(ii) HA reserves the right to modify, alter or amend this leaflet without prior notice.

Home Ownership Scheme(Phase 24A or before) / Tenants Purchase Scheme Premium Payment Arrangements for Flats Within the 3rd to 5th Year of the Alienation Restriction Period

Background

The Home Ownership Scheme (HOS) was introduced by the Hong Kong Housing Authority (HA) to enable public housing tenants and households who meet the income limits to purchase domestic flats at below market prices. The Tenants Purchase Scheme (TPS) was introduced to enable public housing tenants to purchase the flats which they occupied at affordable prices. To curb speculative activities, HA imposes alienation restrictions on HOS/TPS flats. The discount rate that HOS/TPS owners enjoyed when purchasing their flats will form the basis for premium assessment for removal of the alienation restrictions.

Alienation Restrictions

Which flats are subject to alienation restrictions?

All HOS/Private Sector Participation Scheme/Mortgage Subsidy Scheme/ Buy or Rent Option/ Middle Income Housing Scheme (Melody Garden) flats offered for sale or resale by HA since the launch of HOS Phase 3B in May 1982, and all TPS flats offered for sale or resale by HA since the launch of TPS Phase 1 in 1998 are subject to alienation restrictions. Flats subject to alienation restrictions are not allowed to be sold, let or otherwise alienated in the open market. All flats sold since the launch of HOS Phase 3B in 1982 and the launch of TPS Phase 1 in 1998 are subject to alienation restrictions as stipulated in the Schedule to the Housing Ordinance (Cap. 283). The existing alienation restriction period is five years ^(Note 1).

Alienation Arrangements

HOS/TPS flat owners may alienate the flats under the following arrangements:

(1) Within the first two years from the date of first assignment

If HOS/TPS flat owners wish to sell their flats, they must first offer the flats for sale to HA or its nominees at the original purchase price (for HOS flats) or at the list price specified in the deed of assignment (for TPS flats) ^(Note 2).

(2) Within the third to fifth years from the date of first assignment

- HOS/TPS flat owners may opt to sell the flats back to HA or its nominees. The buy-back price is calculated on the basis of the assessed market value less the original purchase discount ^(Note 2); or

^(Note 1) Alienation restriction period is counted from the date of first assignment which refers to the date when the HA/developer (for PSPS flats) first assigns a flat to a purchaser. For returned flats bought back from individual purchasers and resold by the HA, the basis for identifying the date of first assignment shall remain the same and should not be interpreted as the date of the resale assignment executed by the current owner. For PSPS flats purchased from the developer by the HA and resold to individual purchasers, the date of the first assignment refers to the date when the HA first assigns such flats to purchasers.

^(Note 2) TPS flat owners shall return the actual amount of special credit enjoyed at the time of purchase to HA upon assignment.

- If HA declines the owners' offer to sell the flats back to HA, the owners may sell, let or otherwise alienate the flat in the open market after payment of a premium to the HA^(Note 3); or
 - HOS/TPS flat owners may opt to sell their flats in the HOS Secondary Market^(Note 4) to eligible persons in possession of Certificate of Eligibility for Purchase issued by HA at a freely negotiated price without payment of a premium;
- (3) Upon expiry of the 5-year alienation restriction period (i.e. 5 years from the date of first assignment)
- HOS/TPS flat owners may opt to sell their flats in the HOS Secondary Market^(Note 4) to eligible persons in possession of Certificate of Eligibility for Purchase issued by HA at a freely negotiated price without payment of a premium; or
 - HOS/TPS flat owners may sell, let or otherwise alienate their flats in the open market after payment of a premium to HA^(Note 5).

Under the current policy, HA will not accept the buy-back offer of flats for which the 5-year alienation restriction period has expired.

Entering into ASP, Sell/Let or Mortgage

For a flat within the 3rd to 5th year of the alienation restriction period, is it possible for the owner to enter into an agreement for sale and purchase before making application for premium assessment?

Pursuant to the Schedule to the Housing Ordinance, owner for flats within the 3rd to 5th year of the alienation restriction period may only enter into agreement for sale and purchase (including provisional / formal agreement) after HA has accepted his / her application for premium assessment (i.e. after his / her offer to assign the flat to HA is declined by HA). In other words, owner may enter into agreement for sale and purchase only after receiving an acknowledgement letter on premium application. If the owner enters into agreement for sale and purchase before HA's acceptance of his / her premium application, he / she will be in breach of section 27A of the Housing Ordinance (Cap. 283). The agreement for sale and purchase entered into by him / her will also be void. Any person who commits an offence under section 27A of the Housing Ordinance is liable to a fine of \$500,000 and to imprisonment of one year.

(Note 3) The Subsidised Housing Committee of HA endorsed a new arrangement for premium payment on 26 May 2005 in which HOS/TPS flat owners are allowed to choose to pay premium after the lapse of the first two years of the 5-year alienation restriction period.

(Note 4) For more information regarding the sale of flats in the HOS Secondary Market, please refer to the Application Guide for the HOS Secondary Market.

(Note 5) Please refer to the information leaflet on "Arrangements Upon Expiry of the 5-Year Alienation Restriction Period".

Is it possible to sell or let the flat before payment of the premium to HA?

It is necessary to pay the premium before a flat is sold, let or otherwise alienated. Nonetheless, flat owner may still enter into agreement for sale and purchase in respect of flats within the 3rd to 5th year of the alienation restriction period after HA has accepted his / her premium application, provided it is a condition of such agreement that the premium as assessed by the Director of Housing be paid prior to the assignment and within 28 days of the date of the agreement or within such period as may be otherwise stipulated by the Director of Housing. Any person who sells, lets or otherwise alienates a flat before payment of the assessed premium will be in breach of the Housing Ordinance and is liable on conviction to a fine of \$500,000 and to imprisonment of one year. Such agreement, assignment or alienation will also be void.

For a flat within the 3rd to 5th year of the alienation restriction period, is it possible for the owner to mortgage the flat for payment of the premium?

As with the case of selling a flat, it is, generally speaking, not allowable to mortgage a flat before payment of the premium or without the prior approval of the Director of Housing. However, HOS/TPS flat owners may make arrangements with their solicitors and banks to execute the mortgage deed on the day when the Certificate for Removal of Alienation Restrictions takes effect. Any person who mortgages his / her flat before payment of the premium or without the prior approval of the Director of Housing will be in breach of the Housing Ordinance, and the said mortgage deed will also be void.

Is it possible to pay the premium without selling the flat?

Yes. Owners can pay the premium without selling their flats. Upon payment of the premium, HOS/TPS owners will be issued a Certificate for Removal of Alienation Restrictions, which enables them to sell, let or otherwise alienate their flats freely in the open market.

Calculation of Premium

How is the premium assessed?

The premium is assessed with reference to the prevailing market value of the flat without alienation restrictions, the initial market value and purchase price / list price of the flat as specified in the first deed of assignment ^(Note 6) or (for a resale flat) the last deed of assignment between HA and a purchaser, and calculated by using the following formula as stipulated in the Schedule to the Housing Ordinance. In other words, the premium is calculated by applying the original discount of the purchase price ^(Note 7) / list price ^(Note 8) to the current value :

(Note 6) The discount at the time of purchase may vary for each flat. The owners should calculate the discount according to the difference between the full market value and the purchase price / list price of the flat as specified in the first deed of assignment or (for a resale flat) the last deed of assignment between HA and a purchaser.

(Note 7) Purchase price generally applies to HOS flats. If a List Price is specified in the relevant Deed of Assignment, the List price should be adopted.

(Note 8) List price generally applies to TPS flats. The list price does not include the special credit offered to the tenants who purchased their flats within a specific time limit.

$$\text{Premium} = \text{Prevailing Market Value} \times \frac{(\text{Initial Market Value} - \text{Purchase Price or List Price})}{\text{Initial Market Value}} \times 100\%$$

For example :

Prevailing Market Value	:	\$1,200,000
Initial Market Value (at the time of Purchase)	:	\$1,000,000
Purchase Price / List Price	:	\$600,000

$$\begin{aligned}\text{Premium} &= \$1,200,000 \times \frac{(\$1,000,000 - \$600,000)}{\$1,000,000} \times 100\% \\ &= \$1,200,000 \times 40\% \\ &= \$480,000\end{aligned}$$

Application Procedures

How to apply for assessment of the premium?

A completed application for assessment of premium for flats within the 3rd to 5th year of the alienation restriction period should be submitted to HD. In accordance with paragraph 1 of the Schedule to the Housing Ordinance (Cap. 283), for flats within the 3rd to 5th year of the alienation restriction period, HA will process the premium application only upon the owner's submission of an offer to assign the flat to HA and after HA has declined to accept the assignment. In this regard, the said application for premium assessment includes the application to assign the flat to HA and the application for assessment of premium. Upon receipt of the said application from the owners, HA may decline the application to assign the flat to HA and process the application for assessment of premium in accordance with paragraph 1 of the Schedule to the Housing Ordinance (Cap. 283).

Application forms for assessment of premium are available free of charge at the respective District Tenancy Management Offices or the Support Services Section (4). HD (or its appointed surveyor) will assess the prevailing market value of the flat and calculate the amount of premium payable.

Will an administrative fee be charged?

Yes. An administrative fee of \$4,220, which is subject to periodic adjustments, made payable to "Hong Kong Housing Authority" by crossed cheque / cashier order should be submitted together with the application form. The address of the property concerned should be stated on the back of the cheque / cashier order. If the premium is settled within a specific period, the administrative fee will be deducted from the premium.

Where should the application form be submitted?

The completed application form, together with the administrative fee and a copy/copies of the deed of assignment, should be delivered to or sent by post to the respective District Tenancy Management Offices or the Support Services Section (4) at 1/F, Block 2, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon.

Will the Certificate for Removal of Alienation Restrictions be issued after the payment of premium?

Yes. Upon payment of premium (only cashier order or solicitor's crossed cheque will be accepted) by HOS/TPS flat owner, HD will issue a Certificate for Removal of Alienation Restrictions certifying that the premium stipulated in the Schedule to the Housing Ordinance (Cap. 283) has been paid, and the alienation restrictions on the flat concerned have been removed. The HOS/TPS flat owner shall make arrangements with his/her solicitor for registration of the Certificate for Removal of Alienation Restrictions at the Land Registry.

For buy-back application submitted on or after 26 May 2005 which is still under processing, is it possible for owner to switch to application for assessment of premium?

The owner has to withdraw his / her buy-back application in writing first and submit a formal application for assessment of premium by completing the application form applicable for flats within the 3rd to 5th year of the alienation restriction period. He / She has to pay an administrative fee of \$4,220 for the premium application. Any paid administrative fee and conveyancing fee in relation to the buyback application cannot be refunded nor applied to other kinds of application. If the premium is settled within a specified period, the administrative fee for premium assessment will be deducted from the premium.

Premium Assessment

Who is responsible for the assessment of premium?

Assessment of premium will be carried out by HD (or its appointed surveyor).

Validity Period of the Assessed Premium

For how long will the assessed premium remain valid?

Currently, the assessed premium is valid for 2 months. If the assessed premium is not settled within the validity period, the assessment shall lapse. Any subsequent request for premium assessment will have to be made by submitting a fresh application together with an administrative fee. Any future changes in the validity period will be set out in the Notice of Premium Assessment.

Channels for Lodging an Objection / Appeal

What should I do if I disagree with the prevailing market value assessed by HD (or its appointed surveyor)?

HOS/TPS flat owners who disagree with the prevailing market value assessed by HD (or its appointed surveyor) may lodge an objection in writing to the Support Services Section (4) of HD or its appointed surveyor within 28 days from the date of the Notice of Premium Assessment. Pursuant to the Housing Ordinance, HOS / TPS flat owners may also lodge a formal appeal to the Lands Tribunal within 28 days from the date of the Notice of Premium Assessment. Late objections / appeals will not be accepted. The above procedure and objection / appeal period apply both to the initial premium assessment and subsequent review.

If the HOS/TPS flat owners have already lodged an appeal with the Lands Tribunal, can HD (or its appointed surveyor) revise the assessed premium before the case is heard?

HD (or its appointed surveyor) may revise the assessed premium at any time before the Lands Tribunal has made a determination.

Having lodged an objection with HD or an appeal with the Lands Tribunal, can the flat be sold, let, assigned or mortgaged?

Before concluding the objection/appeal, HOS/TPS flat owners may sell, let, mortgage or otherwise alienate the flat after payment of the premium within the time limit specified in the Notice of Premium Assessment. However, upon concluding the objection/appeal, if the assessed premium is reduced, the reduced amount will be refunded to the owner. On the other hand, if the assessed premium is increased, the owner will be required to pay the increased amount to HA.

Enquiries

For enquiries, please call the HA hotline at 2712 2712 or visit HA website :

<http://www.housingauthority.gov.hk>

For further information or assistance, please contact the respective District Tenancy Management Offices, or the Support Services Section (4) at 1/F, Block 2, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon.