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No.4(3)/87/I/L(Fy.II)
Government of India
Ministry of Defence
....

New Delhi, the 10th Aug.1990.

To

The Chairman,
Ordnance Factory Board,
Calcutta.

(with 80 spare copies)

Sub:- Policy guidelines for licence/lease of land/building in Ordnance Factories Estate.

Sir,

I Formulation of policy guidelines for lease/licence of defence lands/buildings in various Ordnance/Equipment Factories Estate has been under consideration of the Govt. for some time. The need for adoption of uniform policy for regularisation of the unauthorised occupancies of lands/ buildings has been felt while considering extension of lease period of shops in O.F. Bhandara Estate. After prolonged discussions/deliberations with the concerned agencies such as DGDE, Integrated Finance, Legal Adviser(Defence) and OF Board, the policy guidelines have been formulated as contained in the Annexure to this letter. These will be followed by OF Board in supersession/modifications of earlier instructions in this regard. The following points will also be kept in view by OF Board, in addition to the enclosed guidelines:-

a) Conveyance deeds for licences and leases should be standardised and the format prescribed by the OFB in consultation with their Associated Finance and the Legal Adviser, incorporating the features listed in the Annexure to this letter. Licences and leases will be executed in the name of the President of India by the General Manager, Ordnance Factory under whose charge the estate is.

b) Modification, if any, carried out in the policy guidelines by the Department of Defence will suo moto be applicable to the O.F. Organisation.

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c) The perspective plan for proper development of OF Estates should be drawn up so as to ensure development of proper parks, playgrounds, green belts and to prevent growth of slums and proper development of these should, invariably, be ensured. The land earmarked for parks/green belts should not be diverted for other uses. The people/residents of the estates and sourrounding areas, desirous of availing of the facility of playgrounds available in OF Estates, (other than playgrounds available in schools) should not be denied access to the facility by the O.F. management.

d) While no new land may be leased/licensed for agricultural purposes, kitchen-gardening should be encouraged to meet the vegetable requirement of the inhabitants of the estate.

e) No land should be leased/licensed for cultural purposes. However permission for fixing of tents etc. on temporary basis for cultural activities of the employees should not be objected to by the management.

f) As for the extent of land to be licenced/leased out a uniform policy will be decided and followed by OFB.

g) Only licensee Govt. servants should be allowed to live in the factory's accommodation.

h) Chairman, OFB should issue administrative directions to all General Managers that any deviations from the guidelines will be viewed seriously.

2. On matters not covered by this letter and in cases of doubt, decision of the OFB will be sought by General Manager of the factory. OFB will have discretion to clarify the doubts

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within the impost of the guide-lines or to refer it to the Govt. as deemed fit. All matters not covered by the guidelines shall be decided with Govt. approval.

3. This issues in consultation with our Integrated Finance (DP-I) vide I.D. No. 1150-S/Addl.FA(C) dated 31.7.90.

Yours faithfully;

(S.L. TRIPATHI)
DESK OFFICER.

Copy to:-

1. The CGDA, New Delhi.
2. DADS, New Delhi.
3. The Director of Audit (OFs), Calcutta.
4. The Controller of Accounts (Fys.), Calcutta.
5. The Chief Internal Audit Officer, OFB, Calcutta.
6. TF(DP-I)
7. DFA(Works)
8. DDG(Coord),OF Cell, New Delhi.
9. DGDE, RK Puram, New Delhi.
10. D(Lands)

ANNEXURE TO MINISTRY OF DEFENCE LETTER NO. 4(3)/87/I/D(Fy.II)
dated 10-8-90

POLICY GUIDELINES FOR LEASE OF DEFENCE LANDS FOR ORDNANCE FACTORY ESTATES.

1. General Principle

No private estate will be permitted to be created in the estates of the Ordnance Factories. Normally, lands and buildings will be only licensed and not leased out. A license will be given only to provide facilities or services to the Factory and its employees.

2. Unauthorised Occupancies

2.1 The General Manager holding charge of evey Ordnance Factory estate shall cause to be prepared, as on the date of issuance of this policy directive, a complete and accurate record of all occupancies of all lands and buildings by persons and entities other than the Ordnance Factory, with particulars like identification and extent of the land/ building occupied; the names and addresses of the persons/ entities occupying the land/building; the date of commencement of continuous occupancy; the fee paid in the past; the period for which fee had been paid; and the purpose of use and terms of approval wherever the occupancy had been authorised at the start, and the use to which the property is being put presently.

2.2 The General Manager, on the basis of the General Principle stated in para 1 above, shall decide which of the unauthorised occupancies should be regularised.

2.3 Immediate action shall be taken to terminate all occupancies which do not deserve to be regularised. This may be done either through administrative measures or by recourse to the Public Premises (Eviction of Unauthorised Occupants) Act 1971.

2.4 All the unauthorised occupancies arising after the issuance of this policy directive shall be removed expeditiously. No regularisation will be done in any of these cases.

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3. Existing Authorised Occupancies

All existing authorised occupancies shall be brought within the frame-work and the documentation of the policy contained herein on time-bound basis and in no case later than the date by which the existing Agreements are to expire.

4. Regularisation of Unauthorised Occupancies

4.1 The unauthorised occupancies could be with or without structure. No intermediary interest should be allowed while regularising the unauthorised occupancies. Thus, if during the period of the unauthorised occupancy the possession of the property has changed hand(s), the unauthorised occupancy should not be regularised and the premises should be got vacated. For the period until the commencement of a regular licence, an amount of licence fee/damages should be claimed and recovered. The licence fee/damages for the unauthorised period should be fixed by the General Manager, in consultation with the Defence Estates Officer having jurisdiction in the area and the Rep of the Member (Finance) OFB, giving due regard to the principles prevalent in regard to other defence lands. If the demand of licence fee/damages to regularise the past occupancy is not liquidated within a reasonable period, as specified by the General Manager, and the terms of regularisation, as would be communicated to the occupancy holder, are not accepted by him the offer for regularisation shall be cancelled and action should be taken to remove the unauthorised occupancy. Having regularised the unauthorised occupancy for the past period, the continuance of the occupancies for future will be regulated as indicated in the sub-para following.

4.2.1 Where occupancy of the land is without permanent or semi-permanent structures (i.e. like platform for selling fruit, vegetables etc.) the land may be licenced for an initial period of 5 years on a licence fee to be fixed in the manner indicated in the preceding sub-para. This period of 5 years should reckon from the date of commencement

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of the authorised occupancy. At the end of this initial period of 5 years if the facility being provided by the licensee is required to be continued, a fresh licence may be given after having a new licence Agreement for a further period of five years and the new licence fee to be fixed by the General Manager in accordance with the procedure given in para 4.1 above but with a minimum enhancement of 25% over the rate of licence fee of the immediately preceding period. Fresh licences may be given like-wise. On each expiry of the licence, the site shall be taken over/handed over.

4.2.2 Every licence Agreement shall provide for vacation of the site peaceably, free from any encumbrance, on giving one month's notice in writing if the General Manager holds that the site is required for any public purpose. No compensation shall be claimable as a consequence of cancellation of the licence. On the termination of the licence, the licensee shall be free to remove any materials he may have kept on the site.

4.3 Where the occupant has constructed permanent or semi-permanent structures on the site, these will vest with the Ordnance Factory management. The licence fee to be determined in such cases, will be on the same lines as indicated in sub-para 4.2.1 -4.2.2 above. As and when the site is resumed the licensee will be allowed to remove the structures and take away the released material but this process has to be completed by him within one month of the order of resumption issued by the Ordnance Factory. No compensation for the structures will be payable. Where, however, the structures were erected with the permission of the OFB/Factory Management, compensation, as fixed by the General Manager in consultation with DEO (having jurisdiction in that area) and rep. of Member, Fin. may be paid to the Licencee.

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5. Setting up Shopping Complexes.

5.1 No land shall be leased or licensed, except by way of the regularisation of the past occupancies, as referred to above, for setting up shopping complexes. If such facilities are required to be created, or supplemented, in any estate, the same shall be created in the following manner:-

The General Manager shall get from the MES (a) the lay-out; (b) the design; (c) the detailed plans of the Complex; and (d) the estimated costs of the complex including probable escalations. Based on the estimated costs, unit-wise costs including the share of cost of environmental development and of public conveniences, should be worked out. Once the OFB has approved the estimated cost and the unit costs, the right of occupancy of every unit on licence basis, for an initial period of 15 years should be put to auction for a licence fee. Only such persons/entities who are willing to deposit in advance Rs.....( ) (this should be equal to the cost of the unit being auctioned) and to also deposit the earnest money (10% of the deposit in advance) should be eligible to bid at the auction. Every unit of the Shopping Complex should be licensed to the highest bidder, provided the bid is more than the Reserve Price to be fixed by the OFB in consultation with their Finance. The buildings and facilities will be constructed through the agency of the General Manager, taken on the Register of the Factory, and maintained like other Defence buildings. From the completion and the handing over of the possession of the Unit of the building the licensee shall pay monthly, in advance, the amount of Licence Fee settled with him through auction held for the purpose after adjustment of advance already deposited at the rate of 50% of the Licence Fee or 1/180th of the deposit whichever is higher. Thereafter, full due licence fee shall be paid monthly in advance. The advance paid shall not bear any interest, for any purpose.

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On the expiry of the aforesaid period of 15 years, the licence fee shall be revised to a fair amount relevant for the date, but subject to a minimum of 50% enhancement over the rate of licence fee for the immediately previous period. This will remain in force for a period of 5 years. The procedure indicated in Para 4.1 above will be followed for fixing fair Licence Fee. Similar renewals may be made at the end of every five years, with a minimum enhancement of 25% over the Licence Fee for the immediately preceding period. Every Licence shall provide for vacation of the premises peaceably, free from encumbrances, on giving one month's notice in writing if the General Manager holds that the premises are required for any public purpose. On termination of the Licence or on the Licensee surrendering the Licence earlier, the Licensee shall be paid by the General Manager the unadjusted balance of amount out of the advance paid net of the demands, if any, of the General Manager on account of arrears of Licence Fee and damages, if any. Similarly in case of death of licensee before the expiry of 15 years from the date of taking over possession of shop, the unadjusted balance of advance deposited will be refunded to the legal heir of licensee after adjustment of dues, if any.

5.2 The premises that become vacant consequent upon:- (a) any Licensee surrendering occupancies as envisaged in paras 4.3 and 5.1 above; or (b) termination of the Licence for breach of the terms, may, if not required for the use of the Factory, be licensed afresh through public auction or be renewed in the manner indicated above.

5.3 Any building of the Ordnance Factory that can be spared to provide service/facility for the Factory and/or its workers may be licensed to the highest bidder at public auction at a Licence Fee, not less than the Reserved Licence Fee to be determined by the General Manager in consultation with rep. Member (Finance). The Licence will be for a period of five years at a time, subject to Licence Fee being revised at each renewal in accordance with the principles enumerated in para 4.2 above.

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6. Lands and buildings for educational purposes.

6.1 Lands and buildings desired by the Kendriya Vidyalaya Sangathan for establishing schools may be given on long term lease in accordance with the Scheme contained in the Ministry of Defence, Department of Defence letter No. PC(2) to MF 125/25/ADM/L&C/888-C/D(GS-II) dated the 24th May, 1976 as amended vide letter No.3(7)/77/D(GS.II) dated 25.5.78, No.3(4)/85/1900-B/D(GS.II) dated 25.7.85, No.3(4)/85-59-B/D(GS.II) dated 9.1.86, No. 3(4)/85-2334-B/D(GS.II) dated 23.9.1986 and No.18/33/L/L&C/67/1384-B/D(GS.II) dated 31.8.89. In implementing this scheme:-

(i) the powers delegated to the GOC-in-C Command therein will be exercised by the Ordnance Factory Board.

(ii) the powers and functions given to the Officer Commanding the Station and to the Defence Estates Officer will be exercised by the General Manager of the Factory.

6.2 Lands required for establishing educational institutions (other than Degree Colleges) by the State Government in the estates to meet predominantly the needs of the children of the employees of the Factory may be leased as in the case of Kendriya Vidyalaya Sangathan.

6.3 Licence for use of Defence land for play grounds (other than for Degree Colleges) to registered educational institutions will be regulated as per instructions contained in the Ministry of Defence letter No.740/1/L/L&C/70/3761/D(Lands) dated the 4th May, 1973, with the OFB exercising the powers entrusted to the Service HQrs and to the Director, Military Lands & Cantonments (now the Director General, Defence Estates) in that letter.

6.4 Where considered beneficial for the welfare of the children of the employees of the Factory, lands may also be leased out for educational institutions run by

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registered societies and public Trusts for establishing and maintaining educational institutions (other than Degree Colleges). The lease may initially be for a period of 30 years, renewable for two like periods. The lease rent for the first period of 30 years will be 1¼ (one and a quarter) percent of the estimated market value of the land at the time of grant of the lease with a premium equal to 12½ (twelve and half) per cent of such market value. The market value will be ascertained by the General Manager from the Local Revenue Authority. The Advice of Defence Estate Officer/Director Defence Estates having jurisdiction in the station/area shall also be procured. This advice is necessary in all matters of valuation, wherever needed and whatever may be the purpose of licence/lease. At the time of renewal of the lease, on the expiry of the 30 year period, the rent shall be enhanced but the extent of enhancement shall not be more than 50% of the immediately preceding rent. There should be one lease in respect of the land required for putting up constructions for educational buildings and for the land appurtenant to such buildings. In addition, where a separate piece of land is required for play-ground, the grant therefor should take the form of a licence on a nominal fee of Rs.1/- per year. This licence may be for a period of 5 years at a time and would be subject to the condition that no constructions except temporary sheds required for storing sports kits etc. or barbed wire fencing are constructed and that too, after obtaining permission from the General Manager. The Licence would also be subject to the condition that the land would be resumable at any time when required for public purpose, without payment of compensation. The lease for the portion other than the playground shall be on form as in Schedule VIII on P 92 to 95 of the Military Lands Manual (1945 Edition) to be suitably modified by Ordnance Factory Board. Approval of the lease will be given by Ordnance Factory Board and the deed will be executed and administered by the General Manager.

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7. Licence of sites for retail outlets of Petrol/ Diesel/Service Stations/LPG/Kerosene Oil Agencies

Such cases will require to be referred to the Department of Defence Production and Supplies for decision.

8. Licence of sites for Nationalised and Cooperative Banks.

Cases may be referred to the Deptt. of Defence Production and Supplies for decision.

9. Licence of sites for Cinemas.

9.1 No land will be given for the construction of a new Cinema building.

9.2 Regularisation of the existing occupancies will be considered by the Deptt. of Defence Production and Supplies after also taking into account the views of OFB.

10. Licence of land for religious purposes.

10.1 No land shall be allotted to any religious/charitable institution.

10.2 Existing occupancies for religious purposes may be regularised if the property is being managed and maintained by a registered Society or Public Trust and if the managing body pays an amount equal to the estimated market value of the site at the time of regularisation, the market value being ascertained by the General Manager from the Local Revenue Authority. The site will, in such case, be transferred free on perpetual lease, subject to the condition that if the site or part thereof is diverted for any other use, the lease will be terminated without payment of compensation and the site resumed. The land allotted for regularisation shall be the minimum required and used for the religious purposes and shall not cater for any allied purpose, like Dharmashala. The regularisation of lease will require approval of the OFB but be executed and administered by the General Manager.

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11. Allotment of land to the Central Govt./State Govt. their Departments and Public Sector Undertakings.

11.1 Where land is required for establishing Police post/Police Station, Telephone Exchanve, Post/Telegraph Office, Electricity Sub-Station, State Transport Authority etc. the Department/Undertaking requiring the site may be licenced the minimum requirement for such purpose on a nominal fee of Rs.1/- per annum, for an nitial period of thirty years and there-after the licence be renewed likewise, if the facility/service being provided is mainly for the benefit of the Factory and its employees. As and when the sites are not required or used for the purpose the site should revert to the Factory. The Deptt./ Undertaking may put up the minimum constructions required for their purpose, at their cost. On their vacating the site, when no longer required by them, they may dismantle the structure and take away the released material. If, however, the site is resumed at the instance of the Ordnance Factory, fair depreciated value of the structure will be paid to the Department/Undertaking.

11.2 If land is required by any of the above mentioned Department/Undertaking or other Central Govt. Department/ State Govt./Public Sector Undertaking for their normal activities and not because of any demand raised by the factory, and the land can be transferred without adversely affecting the long term requirements of the Factory, the land may be transferred on payment of the estimated market value with the specific prior approval of the Deptt. of Defence Production & Supplies.

12. Licensing of land for agricultural purposes.

12.1 No land will be leased/licensed for agricultural purposes.

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12.2 Where any site is already in occupancy on agricultural lease/licence or on expired lease/licence, the permission may be continued for a period of 5 years at a time, terminable at one month's notice, provided the cultivation is being carried out by a Registered Cooperative Society of the employees or their spouses and such Society is created to work for the benefit of the employees of the Factory. For such cases the Licence Fee will be determined by the DEO having jurisdiction in that area. In all other cases the existing occupancies will be got vacated and possession of the site taken over.

13. Licensing of land for Cultural Cooperative Credit and Thrift and Consumer Societies.

13.1 No land shall be leased or licensed to Cultural Societies or for such activities except as indicated in the covering letter.

13.2 However, Registered Cooperative Welfare Societies of the serving employees of the Factory and WWA may be given a site on licence for their approved welfare activities. This may be done on payment of a Licence Fee of Rs.1/-per annum for a period of 5 years at a time, on the condition that Licence can be terminated at one month's notice. In no case land will be licenced for running a cinema.

14. Licencing out of residential accommodation of the Factory.

14.1 No residential accommodation of the Factory will be licensed or rented out to anybody other than an employee of the Factory.

14.2 However, any residential accommodation already provided to employee(s) of any State Govt./Central Govt./ Public Sector Organisation rendering service to the Factory, viz employees of the Nationalised Banks, P&T Deptt.,

Police or the Electricity Board may be regularised, by Licencing the same in favour of the relevant organisation on a normal Licence Fee but not in the name of any employee of any of the Organisation. The liability for payment of the Licence Fee shall be of the organisation concerned. After regularisation of the past period, the Licence may be renewed from year to year. Also, where the General Manager is of the view that such organisation does not have accommodation within a reasonable distance from the Factory and that it would be in the interest of the better working of the Factory that such employee should be living in the Factory estate, the minimum residential accommodation required may be licensed to the organisation on a normal Licence Fee, on year to year basis, for a minimum period.

15. Delegation of powers.

Full powers are vested in the OFB for sanctioning the regularisation, licensing and subsequent renewals of the licences/leases in conformity with the above guidelines. The OFB may also delegate any of its powers, for any of the purposes specified in these guidelines, to any General Manager or Member of the OFB. Every delegation of power shall be with the concurrence of the Member (Finance), OFB. The General Manager shall exercise his delegated power with the concurrence of the Finance/Accounts Officer nominated by the Member(Finance). Where the value of any piece of land is to be estimated, the advice of the Defence Estates Officer/Director, Defence Estates having jurisdiction in the Station/ area shall be procured.

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