

28. मुंपोट्ट के नगरी क्षेत्रों मे न्या.सं. संख्या 222 वर्ष 2015 द्वारा अनुमोदन दरमानों 2012-17 में समावेश नहीं किया है ऐसे गृह तथा मिश्रित अधिभोगों, पीटी संरचनाओं तथा झोन्स (एनएचओ) के लिए 1.10.2012 से प्रभावी 30.9.2017 तक व 1.10.2017 से 30.9.2022 तक दरमानों (एसओआर) का नियतन तथा किराये/क्षतिपूर्ति का संशोधन.

Fixation of Scale of Rates (SoR) and Revision of Rent / Compensation w.e.f. 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.09.2022 for Home and Mixed occupations, PT Structures and zones (NHO) which are not covered in SoR 2012-17 approved by TR No.222 of 2015 in Township Areas of MbPT.

By TR No. 122 dated 3.8.2021, the Board has approved the LAC report dated 13.8.2019 recommending SoR 2012-2017 for Non-Home Occupations for all township areas falling in outside custom bond area. The EM has stated that however, based on LAC recommendation all Home and Mixed (Home + Non-Home) occupations and Port Trust structures (PT Structures), it was decided by Para No.7 of TR No. 122 dated 3.8.2021 that a separate proposal on the same be submitted to LAC and Board for consideration. Accordingly, this proposal is submitted to Board for approval of fixation of SoR for Home and Mixed (Home + Non-Home) occupations and Port Trust structures (PT Structures) for the period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022.

2. Brief Background:

2.1 Ministry of Shipping, Government of India forwarded Policy Guidelines for Land Management 2014 (excluding township areas) for all Major Ports (PGLM 2014) and the same was accepted by the Board by TR No.224 dated 7.3.2014. A Committee (LAC) constituted by TR No.146 dated 15.11.2014 and submitted its recommendations on SoR w.e.f. 1.10.2012 for Port lands outside custom bond area including Estate let out lands on 29.12.2014. By TR No.222 dated 16.1.2015, the Board had accepted the LAC report & proposed SoR for land areas outside custom bound area. Opinion of Attorney General of India (AG) on applicability of Supreme Court Judgment post 30.9.2012 was sought in the matter.

2.2. Further, Ministry issued amended PGLM 2015 on 17.7.2015. For the various issues arising from the implementation of PGLM 2015 and SOR framed under TR No.222 dated 16.1.2015, opinion was sought from Law Point and Shri T.L.S.Nirmal, P.T. Advocates along with applicability of Rent Control Act of Maharashtra for letting of structures. Also opinion of AG was sought on revision of rent w.e.f. 1.10.2012 in terms of TR No.222 of 2015. Detailed chronology of events from 2014 till date is at [*Annexure I](#).

*Printed as Annexure I

2.3. Since, PGLM 2015 was not applicable to Township Areas, clarification of Ministry was sought by DO letter to Joint Secretary (Ports) on 3.4.2018. The grey areas in the TR No.222 of 2015 were referred to P.T. Advocate Shri Buddy Ranganadhan and also taken up with Ministry of Shipping, Government of India. On seeking clarification on the issue of the applicability of PGLM 2015 to the Township areas of Mumbai, Kandla and Kolkata Ports.

3. Ministry by clarification No.1 of 2018 extended PGLM 2015 to Township Areas of Mumbai, Kandla and Kolkata Ports is as follows

“Issue: PGLM 2015 provides in Para 5 that this policy guidelines is applicable for all land in major ports except for the land relating to the township areas of Kandla, Mumbai and Kolkata Ports. For these townships a separate policy required to be formulated. Leases in these townships have been given mainly for residential and commercial purposes and some of these leases have either expired or are going to expire. Whether provisions of PGLM 2015 can be extended to these townships till formulation and application of separate policy?”

Clarification 5.1 :

Townships are broadly defined as well delineated residential developments with supporting infrastructure. Thus, the bulk of the development in such townships is of residential units with other infrastructure supporting the residential development. In Mumbai and Kolkata, such residential areas developed on port land over long periods of time essentially because of the port activities. Similarly, at Kandla, both Gandhidam and Kandla townships developed due to the development of the Deendayal Port (then Kandla Port). PGLM 2015 clearly mentions that these policy guidelines are not applicable to township areas of Kandla, Mumbai and Kolkata ports. However, since there is already a large tract of existing township, the spirit of the extant Policy Guidelines is that no new residential/real-estate development should take place in these places without a separate policy for residential/real-estate development in place. Considering this broad aspect, the following is decided for the township areas of only Mumbai Port, Deendayal Port (Kandla) and Kolkata Port, excluding Haldia Dock Complex:

- i. No new residential/real-estate development including individual residential unit should be taken up under PGLM 2015 except:
 - a. the township project at Gandhidham, Deendayal Port which was appraised by the PIB and approved by the Minister of Shipping and Minister of Finance and is an integral part of the Smart Industrial Port City, Kandla.*
 - b. allotment or development of land for residential purposes to Government Ministries/ Departments/ their subordinate, attached offices/ organizations. The allotment would be strictly subject to the condition that the development will be for their own use and cannot be sold, leases or let-out to any other person/ body in any manner whatsoever.**

- ii. *Even for old residential areas no new norms like increased FAR, etc., should be considered and taken up for development.*
- iii. *However, renewal of leases within existing development can be taken up following Para 11.3 of PGLM 2015 on policy of renewal of existing/earlier leases.*
- iv. *Land can be allotted by the way of fresh lease as per Para 11.2 (d) only for industrial, commercial purposes, etc., i.e. through tender-cum-auction methodology through a competitive bidding process over reserve price of such plots which shall be determined as per para 13.*
- v. *For establishment of common utilities only by local self-government bodies, methodology as indicated in Para 11.2 (g) may be adopted.*
- vi. *Land can also be allotted by the way of fresh lease to entities as mentioned in Para 11.2(h) on nomination basis on market value as determined under Para 13 i.e. without any concessions. This should be subject to the condition that the development will be for their own use and cannot be sold, leased or let-out to any other person/ body in any manner whatsoever.*
- vii. *All the above developments can be taken up provided these are in accordance with an approved Master Plan and the land is not required for the port's own use.”*

4. The EM has stated that since till date new Township Policy is not received from Ministry of Shipping, Government of India and the matter of seeking approval of TAMP to the SoR 2012-2017 and 2017-22 has remained pending and the TAMP is likely to cease to function after the notification of Major Port Authorities Act, 2021 comes into effect and it is necessary to obtain approval of TAMP to the SoR for the period 2012-2017 and 2017-22 for one sq. mtr. of land for each RR zone with FSI 1.00 as a base rate.

5. In the PGLM 2015 and clarifications No.1 of 14.5.2018, No.2 of 9.3.2019 and No.1 of 2019-2020, no distinction is made in the computation of SoR for Home occupations and Non-home Occupations. The methodology for fixation of SoR provided under para 13 (a) of PGLM 2015 states that “LAC may normally take into account the highest of the five factors to determine latest market value of Port Land” and Para 13 (b) of PGLM 2015 is “in no case be less than 6% of the latest market value recommended by the Port Trust”.

6. The SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-17 and 2017-22

By TR No.253 dated 13.8.1991, the Board had approved the compromise policy for settlement of litigation and renewal of leases and fixed SoR rates of Home and Non-Home occupations based percentage

return of land values based on Kirloskar Consultants report in 1981. In the said TR, the letting rates for Home occupations were 20% of the Non-Home occupation rates. Further, by TR No.31 dated 10.3.2004, approval was accorded to the acceptance of the Hon'ble Supreme Court Judgment dated 13.1.2004 with percentage return changed from 15% to 10% for Commercial occupations and 12% to 8% for residential occupations. The said SC Judgment rates were valid for 20 years from 1992 i.e. upto 30.9.2012. Further, on representation from residential occupants of MbPT land, Supreme Court vide order dated 9.1.2006, reduced the rate of return from 8% to 3% for residential (Home) occupations. Presently, all Home and Mixed (Home + Non-Home) occupations are billed as rent/compensation as per SC Judgment rates with 4% annual escalation in every October.

6.a. In the Ready Reckoner published by State Government, no distinction is made for land values (FMV) of Commercial (Non-Home occupations) and Residential (Home Occupations) lands. The same market value is recommended for residential use/ Home occupations as recommended for Non-Home occupations of the corresponding ready reckoner zones. Accordingly, the same FMV/SoR may be recommended to Mixed (Home + Non-Home) occupations. Since there is fixed percentage of return on FMV i.e. 6% provided in the PGLM 2015. Therefore, SoR for Home and Mixed (Home + Non-Home) occupations will be same as SoR of Non-Home occupations.

6.b The proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-17 is at [*Annexure II](#) based on 6% of return on land value as per Stamp Duty Ready Reckoner 2012 with annual escalation of 4% p.a. in every October and with revision of SoR every 5 years. Also for comparison, existing billed rates of compensation for these occupations as per SC Judgment rates are shown in [*Annexure II A](#).

6.c. The proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2017-22 is at [*Annexure III](#) based on 6% of return on highest of five factors i.e. Fair Market Value of land as per Valuer's report approved by the Board vide various TRs as recommended by LAC with annual escalation of 4% p.a. in every October and with revision of SoR every 5 years. Also for comparison, existing billed rates of compensation for these occupations as per SC Judgment rates are shown in [*Annexure III A](#).

7. Fixation of SoR for PT Structures for the period 2012-17 and 2017-22 –

The EM has stated that some of the PT structures in Township areas, were let out on Monthly Tenancy, Fifteen Monthly Lease and the leases of some cases have been expired. As per the practice approved by the Board by TR No.253 of 1991 and TR No.539 of 1994 for computation of rent/compensation of PT structures is fixed at 2.5 times of the applicable letting rates but since the maintenance of the structure is with

lessee/tenants, it was allowed to retain 0.5 times of the rate towards repairs and maintenance of the structures. By TR No.127 dated 22.8.2006, it was decided to fix rent rates at 6% per annum on tenement value. The lessees/tenants shall retain 20% of the rent for repairs and maintenance of structure to be done by lessee/ tenant and pay a net rent at 4.8% per annum return on tenement values.

Keeping the same analogy, it is proposed to fix the SoR for base rate for one Sq.M for FSI 1.00/ BUA of PT Structures on the basis of following formula

$$6\% \times [(FMV \text{ of land for } 1 \text{ SqM of BUA}) + (80\% \text{ of Depreciated cost of PT structure based on age of the Building and type of building})]$$

Note:

- i. Cost of the PT Structure for the period 1.10.2012 to 30.9.2017 has been provided in the RR Booklet 2012 annexed as [*Annexure IV](#) and percentage of depreciation shown in table No. B of the same booklet.
- ii. Cost of the PT Structure for the period 1.10.2017 to 30.9.2022 has been provided in the RR Booklet 2017-18 annexed as [*Annexure V](#) and percentage of depreciation shown in table No. B of the same booklet.
- iii. The above SoR rates will have annual escalation of 4% in every October and with revision of SoR every 5 years.

Table showing SoR 2012-17 for let out PT structures for different zones is at [*Annexure VI](#) and SoR 2017-22 table for let out PT structures for different zones is at [*Annexure VII](#).

8. Fixation of SoR rates for Ready Reckoner zones which are not covered in the proposal submitted to Board/TAMP for Non-Home occupations.

The EM has stated that earlier, by TR No.222 of 2015, the Board has approved rates for 23 Ready Reckoner zones and 3 No. of zones were not covered in the SoR approved by Board by TR No.222 of 2015. The same methodology of 6% return on Ready Reckoner 2012 with 4% annual escalation is adopted as base rate of SoR for remaining 3 no. of zones. List of zones is added in the [*Annexure VIII](#), will be made applicable for computation of rental/compensation for Non-Home Occupations, Home Occupations and Mixed (Home + Non-Home), P.T. Structure falling in these zones.

9. The EM has further stated that for computation of rentals/compensation based on FSI consumed and areas will be likely to be contentious issue even after base SoR rates for one sq. mtr. of land are approved by TAMP. Linking of SoR rates of land to FSI consumed of the buildings / structures have several repercussions and complexities such as

how to compute FSI, exemption of fungible FSI as per DC rules and permissible FSI, etc. Therefore, it is necessary to study these aspects in detail by committee of experts consisting of a retired Chief Engineer / Director of Planning of MCGM, Retired High Court Judge and a group of MbPT officials comprising Advisor (Planning), Chief Engineer, CLO, FA&CAO, Secretary and Estate Manager (I/C) alongwith Govt. registered Valuers on MbPT panel. Committee will give its recommendations on above issues and the matter will be brought before the LAC and Board for computation of actual rents/compensation on factors recommended by the Committee.

10. The EM has stated that all the demand notices of differential arrears as per the revised SoR for 2012-17 and 2017-22 will be issued to all monthly tenancies, fifteen monthly leases, expired leases and licenses as a compensation for wrongful use of the premises without interest and giving time limit of 3 months from the date of receipt of demand notices and interest at the applicable rates will be charged for delayed payments subject to TAMP's approval.

11. The EM has stated that it is proposed to write a D.O. letter to Secretary (Shipping), MoS, GoI requesting to relax the provisions given in clarification no.1 regarding prohibition of allotment of land to new residential development in the township areas. Since, many of the Port lands which are suitable for residential developments which can fetch substantial revenue to the Port from these lands.

12. The LAC's Recommendations are as follows:

- (a) to adopt the methodology for Home and Mixed (Home + Non-Home) occupations as mentioned in para 6(a).
- (b) to the proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-2017 as mentioned para 6(b).
- (c) to the proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2017-2022 as mentioned para 6(c).
- (d) to the proposed methodology for fixation of SoR for letout PT Structures for the period SoR 2012-2017 and SoR 2017-2022 as mentioned in para 7.
- (e) to the proposed SoR for Non-Home occupations for the zones not covered in the earlier proposal submitted to TAMP for the period 2012-2017 as mentioned in para 8.
- (f) for application of FSI factor in calculation of actual quantum of compensation as approved by the Committee as mentioned in para 9.
- (g) to write a DO letter to Secretary (Shipping) MoS, GoI requesting to relax the provision given in Clarification no.1 regarding prohibition of allotment of land to new residential development in the township areas.
- (h) The matter will be submitted to TAMP as per para 13 of PGLM 2015 after approval of the Board.

The LAC Report dated 18.8.2021 approved by the Chairman is at [*Annexure IX](#).

13(a). The course of action approved by the Board by TR 122 of 3.8.2021 regarding para 4(b)-penalty and additional rents, etc. for regularization of past breaches, para 4(c)-Levy of interest on differential arrears due to revision, 4(d) GST payable on arrears, will be made applicable to all the revisions of SoR proposals for period 2012-2017 and 2017-2022 and accordingly, action will be taken as approved under the said TR No.122 of 2021.

13(b). Action as per para 5 of TR No.122 of 2021 a Committee will be constituted for working of the actual quantum of compensation for all cases for each plot in all the RR Zones on the basis of factor approved by the Committee for higher or lower FSI as may be applicable in case by case. This will be made applicable to all the revisions of SoR proposals for period 2012-2017 and 2017-2022 and accordingly, action will be taken as approved under the said TR 122 of 2021.

14. In view of the afore-stated facts and the Chairman's approval to LAC Report dated 18.8.2021, the EM has requested the Board's approval to the Land Allotment Committee's recommendations as brought out in para 12 (a) to 12(h) and action as proposed in para 13 (a) and 13 (b) above.

15. The Board's approval is requested to the Land Allotment Committee's Recommendations at para 12 (a) to 12 (h) and action proposed by Estate Manager in para 13 (a) and 13 (b) above.

Note of discussions at the Board Meeting held on 24th August, 2021.

Estate Manager explained the proposal to the Board. The Board accepted the proposal.

संकल्प संख्या 153

24.8.2021

मंडल ने टिप्पणी के परिच्छेद 12 (ए) से 12(एच) तक की भूमि आबंटन समिति की सिफारिशों को एवं संपदा प्रबंधक के परिच्छेद 13(ए) तथा 13(बी) के प्रस्ताव को और उन्हे अनुमोदन हेतु टैम्प को अग्रेषित करने को अनुमोदन प्रदान किया.

Resolution No.153

24.8.2021

Board accorded approval to the Land Allotment Committee's recommendations at paras 12 (a) to 12 (h) and Estate Manager's proposals at para 13 (a) and 13 (b) of the note and to forward the same to the TAMP for approval.

c6/Pro 24 August 2021/SoR HO Mixed (Modified)

* Printed as Annexure IX