

LEGISLATIVE COUNCIL BRIEF

PROPOSED INCENTIVE SCHEME TO ENCOURAGE PROVISION OF RESIDENTIAL CARE HOMES FOR PERSONS WITH DISABILITIES IN NEW PRIVATE DEVELOPMENTS

INTRODUCTION

At the meeting of the Executive Council on 5 December 2023, the Council ADVISED and the Chief Executive ORDERED that—

- (a) the proposed Incentive Scheme to Encourage Provision of Residential Care Homes for Persons with Disabilities in New Private Developments (Incentive Scheme for RCHDs), modelling on the Incentive Scheme to Encourage Provision of Residential Care Homes for the Elderly Premises in New Private Developments (Incentive Scheme for RCHEs), should be introduced to incentivise private developers to provide RCHDs in new private developments to increase the supply of RCHDs; and
- (b) the enhanced features (as set out in paragraph 9 below) for the Incentive Scheme for RCHEs, introduced in June 2023 on a three-year pilot basis, should also be introduced to the Incentive Scheme for RCHDs on a three-year pilot basis.

JUSTIFICATIONS

Demand and Supply of RCHDs

2. There has been a keen demand for subsidised RCHDs. As at September 2023, the Social Welfare Department (SWD) provided a total of 15 344 subsidised RCHD places, and there were 11 068 persons on the waiting list for subsidised RCHD places. From 2023-24 to 2027-28, the Government is expected to provide about 1 900 additional subsidised residential care places, but this is still unable to meet the demand.

3. As at September 2023, there were 77 private RCHDs, providing 3 973 places.

Ageing Population of Persons with Disabilities

4. With longer life expectancy of the general population as well as persons with disabilities, it is expected that there will be greater demand for and slower turnover of RCHD places, thus aggravating the problem of long waiting time for subsidised RCHD places. On the other hand, the ageing population of persons with disabilities in RCHDs tends to make their service needs more uniform and more similar to elderly clients in RCHEs, allowing possible economy of scale in operating RCHDs.

Planning Standards and Guidelines for RCHDs

5. In planning rehabilitation facilities for sustainable development of services, the Government will take into account the planning standards and guidelines for rehabilitation services as incorporated in the Hong Kong Planning Standards and Guidelines in March 2022. The population-based planning standard of residential care services is 36 service places for every 10 000 persons aged 15 or above. It is hoped that the waiting list and waiting time for subsidised residential RCHDs can be reduced in the long run.

Calls for Incentive for Private RCHD Development

6. There have been calls from the Legislative Council (LegCo) for the Government to shorten the waiting time for RCHDs by expanding the scope of various measures (including the Incentive Scheme for RCHEs) to cover RCHDs. We have also received requests and enquiries from private developers and non-governmental organisations (NGOs) about whether the Incentive Scheme for RCHEs could be extended to RCHDs.

Proposed Incentive Scheme for RCHDs

7. Taking into account the considerations in paragraphs 2 to 6 above, when announcing the proposed enhancement measures for the Incentive Scheme for RCHEs in the 2023-24 Budget, the Financial Secretary also announced that the Development Bureau (DEVB) and the Labour and Welfare Bureau (LWB) would formulate a similar scheme for RCHDs so as to encourage the market to provide more quality private RCHDs.

Proposed Parameters

Standing Parameters

8. Given the similarity between RCHDs and RCHEs, we propose to apply the following parameters and operational details of the Incentive Scheme for RCHEs¹ to the Incentive Scheme for RCHDs to encourage developers to provide RCHDs in private developments –

- (a) one eligible RCHD premises in each development project will be exempted from payment of land premium for land transactions relating to lease modification, land exchange or private treaty grant for new private developments (excluding industrial developments)², subject to a total maximum gross floor area (GFA) of the RCHD premises of 5 400m²;
- (b) the size and location of every RCHD premises will have to be approved by SWD. No sub-division of RCHD premises will be allowed and assignment, mortgage, underletting, or other disposal of the premises will be prohibited except as a whole unit;
- (c) subject to the approval of SWD, developers will be allowed to either lease or sell the completed RCHD as a whole unit or operate the RCHD concerned by themselves, as long as the premises is used as an RCHD; and
- (d) the developer will be responsible for constructing and operating the RCHD at his own cost. Throughout the lease term of the land lease under which the RCHD premises are held, the RCHD premises should be managed and operated to the satisfaction of SWD. Safeguards will be incorporated into the land lease to ensure timely operation of the RCHD (through the imposition of a standard clause of “commence to operate”). Any unauthorised change of use of the RCHD premises or leaving the RCHD premises vacant for over 12 months as confirmed by SWD may render the premises liable for enforcement actions under the lease,

¹ In pursuance of the policy objective to encourage the provision of purpose-built RCHEs by developers in new private developments, the Incentive Scheme for RCHEs was launched in 2003 whereby the Lands Department (LandsD) may grant concession to exempt eligible RCHE premises from payment of land premium in respect of land transactions relating to lease modifications, land exchanges and private treaty grants. The Government announced in the 2022 Policy Address and 2023-24 Budget that enhancements to the Incentive Scheme for RCHEs would be introduced to give stronger incentives. The enhancement measures (as set out in paragraph 9) were subsequently introduced in June 2023.

² Addition to or alteration or conversion of existing building(s) will not be considered as constituting a new private development.

including re-entry proceedings and taking possession of the RCHD premises by the Government, without compensation.

Enhanced Parameters

9. In addition to the standing parameters set out in paragraph 8 above, the following enhanced features of the Incentive Scheme for RCHEs, introduced in June 2023 on a three-year pilot basis, will also be applied to the Incentive Scheme for RCHDs on a three-year pilot basis –

- (a) relaxing the number of RCHD premises eligible for land premium payment exemption in each development project from one RCHD premises to no limit on the number of RCHD premises as well as the maximum total GFA of 5 400 m² to 12 000 m² or 10% of the total permissible GFA under lease, whichever is the greater; and
- (b) when calculating the total GFA of the entire project, the total GFA of the eligible RCHD premises in the private development project will be exempted under lease and will not be counted in the original total permissible GFA of the entire project under lease, allowing the developers to use the original permissible GFA for other purposes.

10. To qualify for the GFA exemption under lease mentioned in paragraph 9(b) above, the eligible RCHD premises have to comply with the Town Planning Ordinance (TPO) (Cap. 131) and the Buildings Ordinance (BO) (Cap. 123), among others. A planning application under section 12A or section 16, as appropriate, of the TPO is required if the proposed RCHD is not a use that is always permitted and/or would result in exceedance of the maximum plot ratio/gross floor area (GFA)/building height permissible under the Notes of the relevant outline zoning plan. Besides, RCHD in private development is GFA accountable under the Building (Planning) Regulations (B(P)R) (Cap. 123F). Modification granted by the Building Authority is required when processing the general building plans to permit a higher plot ratio/GFA to accommodate the additional GFA of the RCHD in the development site under the BO if the proposed total GFA exceeds the limit stipulated in the B(P)R. The relevant authorities will consider giving support/granting modification based on the merits of the individual development.

11. Similar to the enhancements to the Incentive Scheme for RCHEs, the Government will review the enhancement to the Incentive Scheme for RCHDs after piloting for three years.

OTHER MEASURES TO INCREASE THE SUPPLY OF SUBSIDISED RCHDs

12. Apart from the proposed Incentive Scheme for RCHDs, the Government continues to make its best endeavour to increase the supply of subsidised RCHD places through different measures, including but not limited to the following –

- (a) reserving premises equivalent to about 5% of the total domestic GFA in future public housing development projects for different welfare uses, on the premise that the public housing supply and other ancillary facilities will not be affected;
- (b) developing Government buildings with different types of welfare facilities as well as stand-alone welfare blocks on suitable “Government, Institution or Community” sites;
- (c) making use of redevelopment/conversion projects of vacant school premises;
- (d) encouraging NGOs to make better use of their sites through expansion, redevelopment or new development to provide or increase much-needed welfare facilities through the Special Scheme on Privately Owned Sites for Welfare Uses;
- (e) purchasing places from private RCHDs under the Bought Place Scheme for Private RCHDs;
- (f) incorporating the population-based planning standard of residential care services in the Hong Kong Planning Standards and Guidelines (see paragraph 5 above); and
- (g) incorporating land sale conditions in suitable land sale sites, which require private developers to construct RCHDs. Such RCHDs would be returned to SWD as Government Accommodation.

IMPLEMENTATION TIMETABLE

13. The Government will launch the Incentive Scheme for RCHDs in December 2023.

IMPLICATIONS OF THE PROPOSAL

14. The proposal has economic, financial and civil service, sustainability, family and gender implications which are set out at **Annex**. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal has no productivity or environmental implication.

PUBLIC CONSULTATION

15. When the proposed enhancement measures for the Incentive Scheme for RCHEs were announced in the 2023-24 Budget, it was also announced that DEVB and LWB would formulate a similar scheme for RCHDs so as to encourage the market to provide more quality private RCHDs. We have not received any objection against the proposal since then. When we briefed the LegCo Panel on Welfare Services (Panel) on 12 June 2023 on the enhancement to the Incentive Scheme for RCHEs, we informed the Panel that DEVB/LandsD and LWB/SWD would model on the Incentive Scheme for RCHEs and introduce a similar scheme for RCHDs within 2023, with a view to encouraging developers to provide private RCHDs in private development projects. Members raised no objection to the proposed Incentive Scheme for RCHDs.

PUBLICITY

16. LandsD will issue a new Practice Note in parallel with a Guidance Note to be released by SWD. We will issue a press release. A spokesperson will be available to handle media and public enquiries.

ENQUIRY

17. Any enquiry on this brief can be directed to Miss Vega WONG, Commissioner for Rehabilitation, at 2810 2029 or Ms Fabia TAM, Principal Assistant Secretary (Planning & Lands)1, at 3509 8804.

**Labour and Welfare Bureau
Development Bureau
Social Welfare Department
13 December 2023**

ECONOMIC, FINANCIAL AND CIVIL SERVICE, SUSTAINABILITY, FAMILY, AND GENDER IMPLICATIONS

Economic Implications

The Incentive Scheme to Encourage Provision of Residential Care Homes for Persons with Disabilities in New Private Developments (Incentive Scheme for RCHDs) will offer greater incentives for developers to develop RCHDs in private development projects, which will in turn help increase the overall supply of RCHDs.

Financial and Civil Service Implications

2. The Incentive Scheme for RCHDs will result in land premium forgone in terms of waiving premium payment for the eligible RCHDs on lease modification, land exchange and private treaty grant under the Incentive Scheme. The estimated land premium to be forgone under the Incentive Scheme for RCHDs depends on the number and nature of projects participating in the Scheme and therefore cannot be ascertained.

3. The Government will not provide subsidies for the construction and operation of the RCHDs in these premises. The Incentive Scheme for RCHDs will generate additional workload on departments responsible for its implementation and enforcement, such as the Lands Department and the Social Welfare Department. The departments concerned will absorb the additional work within their existing resources.

Sustainability Implications

4. The proposal will facilitate the supply of private RCHDs to meet the demand. This is conducive to the sustainable and healthy development of the sector.

Family Implications

5. The proposal may help increase the supply of private RCHDs. For families with members who are persons with disabilities in need of out-of-home care, the proposal may generate market response to provide private RCHDs as an alternative to subsidised RCHDs, and provide a choice for families who are able to pay market determined rates, thereby relieving them

from the commitment and heavy stress of taking care of their family members concerned, and improve family relationships.

Gender Implications

6. The proposal may help increase the supply of private RCHDs. It should therefore be conducive to relieving the burden of carers of persons with disabilities who are often women and facilitating their participation in the work force.
