

## **LEGISLATIVE COUNCIL BRIEF**

### **DEVELOPMENT (TOWN PLANNING, LANDS AND WORKS) (MISCELLANEOUS AMENDMENTS) BILL 2022**

#### **INTRODUCTION**

At the meeting of the Executive Council on 6 December 2022, the Council ADVISED and the Chief Executive (CE) ORDERED that the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Bill 2022 (the Bill) at Annex A should be introduced into the Legislative Council (LegCo).

#### **JUSTIFICATIONS**

2. There is a persistent demand for more and quicker supply of developable land to respond to society's aspiration for better living environment and economic prosperity of Hong Kong. We need to expedite land development while ensuring that the development process remains professional with suitable public participation.

3. Over the years, an elaborate set of laws has been put in place to govern different processes in delivering developable land for the territory. These statutory requirements seek to uphold the integrity and professionalism of the regimes, and enable the diverse views of affected parties or interested members of the public to be duly considered in the processes.

4. Having said that, practical experiences have revealed that the running of these processes could take up a considerable, sometimes disproportionate, amount of time. Taking a housing development project as an example, it typically takes at least six years to transform a piece of land originally not designated for residential use into a "spade-ready", formed site for building works for housing development, longer in the cases of larger-scale or more complex projects. Matters of a similar nature, e.g. objections from the same individual, are sometimes handled repetitively. Procedures now running in a sequential manner have room for parallel processing.

5. Society has a broad consensus for the Government to take bolder steps to expedite the supply of land. Following a review, we have formulated a set of proposals to streamline and enhance some of the key processes in the development regimes. These proposals seek to compress and increase the efficiency of critical development processes while ensuring that the views of affected parties will continue to be duly considered under the streamlined procedures. Opportunity has also been taken to enhance certain procedures and arrangements having regard to operational experience.

6. The proposals set out in this Brief have taken into account public feedback solicited since March 2022.

## **LEGISLATIVE PROPOSALS**

7. The Bill covers legislative amendments mainly to six ordinances<sup>1</sup>, namely,

- the Lands Resumption Ordinance (Cap. 124);
- the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127);
- the Land Acquisition (Possessory Title) Ordinance (Cap. 130);
- the Town Planning Ordinance (Cap. 131);
- the Roads (Works, Use and Compensation) Ordinance (Cap. 370);  
and
- the Railways Ordinance (Cap. 519),

along the following five directions –

- (a) streamlining and shortening statutory time limits;
- (b) avoiding repetitive procedures of a similar nature;
- (c) providing an express mandate in the law for the Government to proceed with different procedures in parallel;
- (d) improving inconsistent or ambiguous arrangements; and
- (e) streamlining other miscellaneous processes for more effective use of public resources.

A summary of the major proposals is set out at **Annex B**.

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<sup>1</sup> Some of the proposals also involve corresponding amendments to the Water Pollution Control (Sewerage) Regulation (Cap. 358AL).

8. In addition, we recommend taking this opportunity to reform some enforcement-related provisions of Cap. 131, enabling the Director of Planning (Planning Authority) to more effectively protect rural areas with high ecological value and subject to development pressure and risks of environmental degradation. Details of the proposal are set out at **Annex C**.

## **OTHER OPTIONS**

9. The proposals have to be effected by legislative means. There is no alternative option.

## **THE BILL**

10. The main provisions of the Bill are summarised in the ensuing paragraphs having regard to the typical sequence of the development process.

11. The Town Planning Ordinance (Cap. 131) is amended (by Division 1 of Part 5 of the Bill) to –

- (a) shorten and improve the plan-making process by –
  - (i) retaining the procedures of receiving representations while dispensing with the procedures for receiving comments on representations and further representations to minimise repetition and enhance the efficiency of plan-making, thereby shortening the statutory time period for submitting plans to the Chief Executive in Council (CE-in-C) for approval from nine months to five months;
  - (ii) specifying that if a representation is made for a reason concerning compensation or assistance arising from resumption and clearance of land by the Government, such representation may be treated by the Town Planning Board (the Board) as not having been made, bearing in mind that the statutory planning regime should focus on consideration serving a planning purpose and the use of land;

- (iii) expressly providing that the Board may impose a time limit on oral presentation made by each representer or “authorised representative” at a meeting held by the Board for considering representations; and
  - (iv) requiring personal attendance of representers at the Board’s meetings and allowing a representer to appoint an “authorised representative” if the Board is satisfied that the representer is unable to attend because of exceptional circumstances;
- (b) simplify procedures relating to plan-making by –
  - (i) transferring the authority of making referrals of plans to the Board for amendment under section 12 (which is more a formality before the Board considers the substance of the proposed amendment) from CE-in-C to the Secretary for Development (SDEV); and
  - (ii) transferring the authority to grant extension(s) of time for submitting plans for CE-in-C’s approval under section 8 from the CE to SDEV;
- (c) enhance the plan-approval procedures by allowing the Board to submit plans to CE-in-C for approval in part to avoid development being held up by any controversial part of the draft plan, and enable acceleration of necessary projects, etc;
- (d) require an applicant to set out the applicant’s grounds for review when applying for review under section 17 on decisions made on planning applications to allow the Board to focus on matters which warrant re-consideration during review;
- (e) avoid duplicating with the public consultation during the subsequent plan amendment process following the acceptance of the application, the initial public consultation for applications concerning proposals to amend plans under section 12A (section 12A applications) will be removed. The eligibility for making such applications will also be specified to focus public resources on processing applications with realistic prospect of implementation;

- (f) enable the Board to impose a time limit for accepting further information for section 12A applications, planning applications under section 16 as well as applications for review under section 17, to avoid delay in the handling of applications; and
- (g) require information and/or notices that is necessary to be made available for public inspection to be publicised on the website of the Board, in lieu of the current requirement to publish information and/or notices on printed newspapers.

12. Cap. 131 is also amended (by Division 2 of Part 5 of the Bill) to prescribe a new power for SDEV to designate rural areas in the New Territories with high ecological value and subject to development pressure and risks of environmental degradation to be a “regulated area” for protecting the area from environmental degradation and promoting conservation of the area, so as to enable the Planning Authority to take enforcement and prosecution actions against unauthorised developments in such areas.

13. The Lands Resumption Ordinance (Cap. 124) is amended (by Part 2 of the Bill) to –

- (a) provide for statutory publication of notice of proposed resumption and a statutory objection-handling mechanism<sup>2</sup> with statutory time periods for handling objections aligning with the revised statutory time periods proposed for Cap. 127, Cap. 370 and Cap. 519, before seeking authorisation of the proposal for land resumption (as may be amended by any amendment notices) by CE-in-C;
- (b) specify that an objector may give any response (including any comment or request in connection with the Government’s written reply) within a period of 14 days after the Government gives the written reply to the objector, if the objector so wishes (^)<sup>3</sup>;

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<sup>2</sup> The publication of a land resumption proposal and objection-handling on land resumption are currently performed administratively.

<sup>3</sup> Proposals marked with (^) above apply to Cap. 124 under Part 2 of the Bill, Cap. 127 under Part 3 of the Bill, Cap. 370 under Part 6 of the Bill and Cap. 519 under Part 7 of the Bill.

- (c) state expressly that the notice of proposed resumption may be published on or after the date on which a plan, or an amendment to a plan or to a part of a plan, is exhibited or made available for public inspection under Cap. 131<sup>4</sup>, so that the handling of objections on land resumption may take place in parallel with the statutory planning process, and that the submission and authorisation of the proposal for land resumption under Cap. 124 must not be made before, respectively, the submission to and approval by CE-in-C of such plan or amendment under Cap. 131 (so as to ensure that the land use of the public purpose is approved before authorisation of land resumption);
- (d) specify the eligibility for lodging objections, i.e. the objector must be an owner or occupier, or a person who has any right in relation to the land concerned;
- (e) provide that an objection made on a ground relating to compensation (whether monetary or non-monetary) or any financial or other assistance in connection with the proposal for land resumption is treated as not having been made, bearing in mind that the purpose of the objection-handling process is to consider whether to proceed with land resumption and the established practice is to handle compensation or assistance matters under separate mechanisms after a decision to resume is made (^);
- (f) provide for the publication, objection-handling mechanism and authorisation by CE-in-C (or SDEV where no valid objection has been made) for proposed adjustment to land resumption boundary after land resumption has been authorised by CE-in-C or the land has been ordered to be resumed following CE-in-C's authorisation (to cater for unforeseen circumstances necessitating boundary adjustment); and provide for resumption on application by the owner of contiguous or adjacent land whether or not that land is required for the public purpose (if the CE is of the opinion that the land already resumed for a public purpose is reasonably necessary to the use and enjoyment of the contiguous or adjacent land), which follows a similar arrangement under Cap. 370 and Cap. 519;

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<sup>4</sup> Other than the exhibition or making available of an approved plan / partly approved plan under section 9D or section 11 of Cap. 131.

- (g) provide expressly that an authorisation of expenditure for any works for carrying out the public purpose is not a pre-requisite for land resumption and provision of compensation or assistance, with a view to allowing the Government to reach out to the affected parties to offer compensation or assistance early and respond to their aspirations for receiving the same early to plan ahead (^);
- (h) provide expressly for – (i) permanent use of land resumed for an alternative purpose (which is also a public purpose) subject to CE-in-C’s approval (to cater for unforeseen circumstances necessitating a change of use on a permanent basis); and (ii) temporary use of resumed land for any purpose for a certain period of time before it is used for the public purpose for which the land is resumed (to allow gainful use of land in the interim in circumstances where the land is handed to the Government earlier than planned or the implementation of the public purpose is pending);
- (i) provide certainty on the rate of interest for compensation not yet paid, by setting it at the one-month Hong Kong Dollar Interest Settlement Rate (which is an arithmetic mean of the Hong Kong Interbank Offered Rate (HIBOR) of banks as compiled by the Hong Kong Association of Banks) (^);
- (j) clarify the scope of “public purpose” under Cap. 124 to the effect that land resumption under Cap. 124 can cover land required for road, sewerage or railway works (proposed or to be proposed under Cap. 370 or Cap. 519) otherwise to be separately resumed under their respective ordinances (Cap. 370 or Cap. 519) where wholesale resumption under Cap. 124 (i.e. without apportioning the resumption boundary among Cap. 124 and other ordinances) would be more efficient; and
- (k) require information and/or notices that is necessary to be made available for public inspection to be publicised on the website of the Lands Department, in lieu of the current requirement to publish information and/or notices on printed newspapers.

14. The Land Acquisition (Possessory Title) Ordinance (Cap. 130) is amended (Part 4 of the Bill) to deal with matters similar to those mentioned in paragraph 13(g), (h), (i), (j) and (k) in the context of acquisition of possessory titles on government lands.

15. The Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) is amended (by Part 3 of the Bill) to –

- (a) provide that the preparation and publication of a plan for proposed reclamation, the receipt and handling of objections as well as the authorisation of the reclamation over and upon the foreshore and sea-bed under Cap. 127 do not require an outline zoning plan under Cap. 131 to be in place, as the preceding detailed planning and engineering studies and the land use proposals formulated thereunder would already provide sufficient basis to justify the need for as well as scope and feasibility of reclamation, and the works per se is required to go through the statutory procedures under Cap. 127;
- (b) introduce a “minor works” mechanism by adding a new provision and schedule to specify the types of reclamation works which are minor works involving a total area of the affected foreshore and sea-bed of not more than 0.5 hectares and which could be authorised by the Director of Lands without going through the statutory gazettal and objection-handling procedures (which takes reference from the “minor works” mechanism under Cap. 370 and Cap. 519);
- (c) provide expressly that an authorisation of expenditure for reclamation works is not a pre-requisite for the authorisation of the reclamation and “minor works” and the provision of compensation or assistance, with a view to allowing the Government to reach out to the affected parties to offer compensation or assistance early and respond to their aspirations for receiving the same early to plan ahead (^);
- (d) shorten and enhance the process in relation to objection handling under section 6 by –
  - (i) reducing the statutory time period for submission of the plan and scheme to CE-in-C from nine months to five



months, which aligns with the similar proposal under Cap. 124, Cap. 370 and Cap. 519 (^);

- (ii) transferring the authority of granting extension(s) of time for submission to CE-in-C from the CE to SDEV; and
  - (iii) specifying that an objector may give any response (including any comment or request in connection with the Government's written reply) within a period of 14 days after the Government's written reply to the objector, if the objector so wishes (^);
- (e) provide that an objection made on a ground relating to compensation (whether monetary or non-monetary) or any financial or other assistance in connection with the proposed reclamation is treated as not having been made, bearing in mind that the purpose of the objection-handling process is to consider whether to proceed with the reclamation and the established practice is to handle compensation or assistance matters under separate mechanisms after a decision on the reclamation proposal is made (^);
- (f) provide certainty on the rate of interest for compensation not yet paid (^); and
- (g) require information and/or notices that is necessary to be made available for public inspection to be publicised on the website of the relevant government departments, in lieu of the current requirement to publish information and/or notices on printed newspapers.

16. The Roads (Works, Use and Compensation) Ordinance (Cap. 370)<sup>5</sup> is amended (by Part 6 of the Bill) to –

- (a) provide expressly that an authorisation of expenditure for road works is not a pre-requisite for authorisation of the works, land resumption and exercise of other relevant powers (such as creation of an easement or a right of temporary occupation), and provision of compensation or assistance, with a view to allowing the Government to reach out to the affected parties to offer compensation or assistance early and respond to their aspirations for receiving the same early to plan ahead (^);
- (b) remove the statutory requirement to consider offering back the land resumed under Cap. 370 to the original land owner before disposing it to any other person;
- (c) expand the scope of “minor works” to the effect that the Secretary for Transport and Logistics (STL) may authorise and execute “minor works” without going through statutory gazettal and objection-handling procedures if, in STL’s opinion, (i) the physical or structural operations involved are minor; or (ii) the works would create only minimal adverse effect on the commuters and the people in the neighbourhood;
- (d) shorten and enhance the process in relation to objection-handling by –
  - (i) shortening the statutory time period for submission to CE-in-C from nine months to five months which aligns with the similar proposal under Cap. 124, Cap. 127, and Cap. 519 (^);
  - (ii) transferring the authority of granting extension(s) of time for submission to CE-in-C from the CE to FS; and

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<sup>5</sup> All proposals in paragraph 16 above also apply to Cap.358AL (except that under Cap. 358AL, the authority of granting extension(s) of time for submission to CE-in-C would be transferred from the CE to the Secretary for Environment and Ecology (as opposed to the Financial Secretary (FS)), either by virtue of section 26 of Cap. 358AL or by proposed amendment to Cap. 358AL as consequential amendments in Part 8 of the Bill.

- (iii) specifying that an objector may give any response (including any comment or request in connection with the Government’s written reply) within a period of 14 days after the Government gives the written reply to the objector, if the objector so wishes (^);
  - (e) provide that an objection made on a ground relating to compensation (whether monetary or non-monetary) or any financial or other assistance in connection with the road works or the use is treated as not having been made, bearing in mind that the purpose of the objection-handling process is to consider whether to proceed with the works and the established practice is to handle compensation or assistance matters under separate mechanisms after a decision on the works proposal is made (^);
  - (f) provide certainty on the rate of interest for compensation not yet paid (^); and
  - (g) require information and/or notices that is necessary to be made available for public inspection to be publicised on the website of the relevant government departments, in lieu of the current requirement to publish information and/or notices on printed newspapers.
17. The Railways Ordinance (Cap. 519) is amended (by Part 7 of the Bill) to –
- (a) provide that an objection made on a ground relating to compensation (whether monetary or non-monetary) or any financial or other assistance in connection with the railway scheme is treated as not having been made, bearing in mind that the purpose of the objection-handling process is to consider whether to proceed with the scheme and the established practice is to handle compensation or assistance matters under separate mechanisms after a decision on the scheme is made (^);
  - (b) provide expressly that an authorisation of expenditure for works to be carried out for a railway scheme is not a pre-requisite for authorisation of the scheme and “minor works”, land resumption and exercise of other relevant powers (such as creation of an easement or a right of temporary occupation), and

provision of compensation or assistance, with a view to allowing the Government to reach out to the affected parties to offer compensation or assistance early and respond to their aspirations for receiving the same early to plan ahead (^);

- (c) provide certainty on the rate of interest for compensation not yet paid (^);
- (d) expand the scope of “minor works” to the effect that STL may authorise and execute “minor works” without going through the statutory gazettal and objection-handling procedures (similar to the amendment under Cap. 370);
- (e) shorten and enhance the process in relation to objection handling by –
  - (i) shortening the statutory time period for submission to CE-in-C from nine months to five months which aligns with the similar proposal under Cap. 124, Cap. 127, and Cap. 370 (^);
  - (ii) transferring the authority of granting extension(s) of time for submission to CE-in-C from the CE to FS; and
  - (iii) specifying that an objector may give any response (including any comment or request in connection with the Government’s written reply) within a period of 14 days after the Government’s written reply to the objector, if the objector so wishes (^); and
- (f) require information and/or notices that is necessary to be made available for public inspection to be publicised on the website of the relevant government departments, in lieu of the current requirement to publish information and/or notices on printed newspapers.

The existing provisions to be amended are at **Annex D**.

## **LEGISLATIVE TIMETABLE**

18. The legislative timetable will be as follows -

Gazettal of the Bill	9 December 2022
First Reading and commencement of Second Reading debate	14 December 2022
Resumption of Second Reading debate, Committee Stage and Third Reading	to be notified

## **IMPLICATIONS OF THE PROPOSAL**

19. The streamlining proposals will bring long-term benefits. Upon implementation of the proposals, the procedures of turning a piece of “primitive land” into “spade-ready sites” (i.e. site with formation works completed and ready for construction therein) for relatively small scale projects outside New Development Areas (NDAs), which currently require at least six years, are expected to be reduced to around four years. For more complex projects which are larger in scale (e.g. NDAs), such time could be compressed from around 13 years to around seven years. It follows that public and private housing development and other uses could be expedited to benefit our society. This will bring positive impact on families as the proposals would address the high demand for housing by expediting the supply of additional housing units, which in turn improves the social well-being and living environment of families.

20. As for sustainability and economic implications, the streamlining proposals would help expedite the planning and land development processes such that land could be made ready for development in a more timely manner, thereby helping meet the long-term socio-economic needs of Hong Kong in a sustainable manner.

21. As for implications on civil service, in the long term, we expect the proposals would streamline the processing work of the relevant departments (e.g. reducing repetitions and invalidating out-of-scope objections). However, in the short term, DEVB and departments would need to undertake additional work to draw up implementation details for the various enhancement measures. We will absorb the extra work arising

with existing resources. DEVB and the relevant departments will keep the situation under review having regard to the scope and scale of developments projects in the pipeline, and, where necessary, additional manpower and resources may be sought in accordance with the established mechanism.

22. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. They have no environmental, productivity or gender implications. The proposals will not affect the current binding effect of the Ordinances and subsidiary legislation.

## **PUBLIC CONSULTATION**

23. DEVB briefed the LegCo Panel on Development on general directions of the legislative proposals on 22 March 2022. DEVB also engaged various stakeholders, including statutory bodies, industry representatives, professional institutes, think-tanks, and green groups, etc. through 17 consultation sessions to gauge their views and garner their support. The LegCo Panel on Development invited the public to submit written views from May to June 2022 on DEVB's legislative proposals. A total of 29 submissions were received. Stakeholders consulted were generally supportive of our proposals, while some tendered suggestions or expressed concerns on individual proposals. We have refined some of our proposals in the light of valid concerns.

## **PUBLICITY**

24. A press release has been issued and a spokesperson will be available to answer enquiries.

## **ENQUIRIES**

25. Enquiries relating to this brief can be addressed to Principal Assistant Secretaries (Planning and Lands) of DEVB -- Miss Ingrid YU at 3509 8779 (on town planning matters), Miss Polly CHONG at 3509 8830 (on land resumption matters) or Ms Fabia TAM at 3509 8804 (on works matters).

## **BACKGROUND**

26. Apart from the above review of statutory processes, we will continue to review other administrative processes, covering topics including but not limited to streamlining approval processes related to trees, reviewing existing guidelines on processing of development applications in Wetland Buffer Areas, promoting wider use of pre-submission enquiries for planning application, etc.

27. The Environment and Ecology Bureau (EEB) has also reviewed the Environmental Impact Assessment Ordinance (EIAO) to optimise the process, enhance its operational efficiency and focus more on environmental outcomes. EEB aims to streamline the EIA processing time to 18 months for typical projects and 24 months for major or complicated projects. The recommendations have been submitted to the LegCo Panel on Environmental Affairs for discussion on 12 Dec 2022. Their goal is to submit the proposed amendments of Schedules 2 and 3 of the EIAO and the revised relevant technical memorandum to the LegCo in the second quarter of 2023 for negative vetting.

**Development Bureau**  
**8 December 2022**

**Development (Town Planning, Lands and Works)  
(Miscellaneous Amendments) Bill 2022**

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## A BILL

### To

Amend the Town Planning Ordinance to improve the existing town planning regime (including by improving the statutory plan making procedures and town planning process, empowering the Secretary for Development to designate certain areas to be regulated areas and expanding the existing enforcement powers of the Director of Planning under the Town Planning Ordinance so that the Director may exercise those powers in relation to the regulated areas); to amend the Lands Resumption Ordinance and the Land Acquisition (Possessory Title) Ordinance to improve certain procedures and other matters relating to the resumption or acquisition of lands for public purposes (including by introducing mechanisms under the Lands Resumption Ordinance for proposing resumption of lands and for adjusting the boundaries of the lands authorized or ordered to be resumed, making clear the scope of the public purposes for which lands may be resumed or acquired, allowing change of use of lands resumed or acquired, and prescribing the interest rates for compensation); to amend the Foreshore and Sea-bed (Reclamations) Ordinance, the Roads (Works, Use and Compensation) Ordinance and the Railways Ordinance to improve certain procedures and other matters relating to execution of works (including by improving the objection handling arrangements, introducing or expanding the mechanisms for executing minor works, and prescribing the interest rates for compensation); to adapt the Roads (Works, Use and Compensation) Ordinance to bring it into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China; to make minor or textual amendments to the Ordinances; and to provide for related matters.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

##### 1. Short title and commencement

- (1) This Ordinance may be cited as the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

##### 2. Enactments amended

The enactments specified in Parts 2 to 8 are amended as set out in those Parts.

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## Part 2

### Amendments to Lands Resumption Ordinance (Cap. 124)

#### 3. Part 1 heading added

Before section 1—

**Add**

#### “Part 1

#### Preliminary”.

#### 4. Section 2 amended (interpretation)

(1) Section 2—

**Renumber the section as section 2(1).**

(2) Section 2(1), Chinese text, definition of 業主—

**Repeal**

“政府”.

(3) Section 2(1)—

**Repeal the definitions of *non-working day*, *note-issuing bank*, *resumption for a public purpose* and *working day*.**

(4) Section 2(1)—

**Add in alphabetical order**

“*amendment notice* (修訂公告) means a notice published under section 2C(1);

*notice of proposed resumption* (建議收地公告) means a notice published under section 2A(1);

*proposal for land resumption* (收回土地建議) means a proposal for the resumption of any land—

(a) as stated in a notice of proposed resumption; and

(b) (if applicable) as amended by an amendment notice;

*reference interest rate* (參考利率) means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day;

*Secretary* (局長) means the Secretary for Development.”.

(5) After section 2(1)—

**Add**

“(2) In this Ordinance, a reference to resumption of any land for a public purpose includes—

(a) resumption of insanitary property for the purpose of securing the erection of improved dwellings or buildings on the property or the sanitary improvement of the property;

(b) resumption of any land on which any building is erected which, by reason of its proximity to or contact with another building, seriously interferes with ventilation or otherwise makes or conduces to make that other building to be in a condition unfit for human habitation or dangerous or injurious to health;

(c) resumption of any land for any purpose connected with the Hong Kong Garrison;

- (d) resumption of any land for the purposes of, or incidental to, any works, or any use, as defined by section 2(1) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), proposed or to be proposed under that Ordinance;
- (e) resumption of any land for the purposes of, or incidental to, any works proposed or to be proposed under the Roads (Works, Use and Compensation) Ordinance (Cap. 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL);
- (f) resumption of any land for the purposes of, or incidental to, any scheme, as defined by section 2 of the Railways Ordinance (Cap. 519), proposed or to be proposed under that Ordinance; and
- (g) resumption of any land for any purpose (of whatever description, and whether or not of the same kind as a purpose described in another paragraph of this subsection) decided by the Chief Executive in Council to be a public purpose.”.

5. **Part 2 added**

After section 2—

**Add**

**“Part 2**

**Proposal for Land Resumption**

**2A. Notice of proposed resumption**

- (1) If the Authority proposes that any land is to be resumed for a public purpose, the Authority must publish a notice of the proposal in the Gazette.
- (2) The notice of proposed resumption must—
  - (a) describe the public purpose for which the land is proposed to be resumed;
  - (b) describe the land proposed to be resumed;
  - (c) refer to a plan that shows the land proposed to be resumed in a manner sufficient to identify the land (*relevant plan*); and
  - (d) state how the public may inspect a copy of the relevant plan.
- (3) The Authority must—
  - (a) deposit a copy of the notice of proposed resumption and of the relevant plan in the Land Registry;
  - (b) publish a copy of the notice of proposed resumption and of the relevant plan on the website of the Authority;
  - (c) make a copy of the notice of proposed resumption and of the relevant plan available for inspection by the public free of charge at the time and place as the Authority reasonably directs; and

- (d) affix a copy of the notice of proposed resumption in a conspicuous place on or near the land proposed to be resumed.

(4) If—

- (a) a plan, or an amendment to a plan or to a part of a plan, is exhibited or made available for public inspection under any provision (other than section 9D or 11) of the Town Planning Ordinance (Cap. 131);
- (b) the plan or amendment shows or makes provision for any land for a particular use; and
- (c) such use of the land is the public purpose for which the Authority proposes to resume the land,

the Authority may publish a notice of proposed resumption in respect of the land on or after the date on which the plan or amendment begins to be so exhibited or made available.

**2B. Objections relating to notice of proposed resumption**

- (1) Within 60 days after a notice of proposed resumption is published, the following person may object to the proposal for the resumption of the land stated in the notice by delivering an objection in writing to the Authority—
  - (a) an owner or occupier of that land; or
  - (b) a person having any right in relation to that land.
- (2) An objection made by a person (*objector*) must—
  - (a) sufficiently identify the objector as a person falling within subsection (1); and
  - (b) describe the manner in which the objector alleges the objector will be affected by the proposal.

- (3) An objection that is not made by a person falling within subsection (1), or that does not comply with subsection (2), is invalid and treated as not having been made for the purposes of section 2G.

**2C. Amendment notice**

- (1) The Authority may, by notice published in the Gazette, amend a proposal for land resumption before the proposal is submitted to the Chief Executive in Council under section 2G.
- (2) The amendment notice must—
  - (a) describe the amendment to the proposal for land resumption;
  - (b) refer to a plan that shows the amendment (*relevant plan*); and
  - (c) state how the public may inspect a copy of the relevant plan.
- (3) The Authority must—
  - (a) deposit a copy of the amendment notice and of the relevant plan in the Land Registry;
  - (b) publish a copy of the amendment notice and of the relevant plan on the website of the Authority;
  - (c) make a copy of the amendment notice and of the relevant plan available for inspection by the public free of charge at the time and place as the Authority reasonably directs; and
  - (d) affix a copy of the amendment notice in a conspicuous place on or near the land affected by the amendment.
- (4) If—

- (a) a plan, or an amendment to a plan or to a part of a plan, is exhibited or made available for public inspection under any provision (other than section 9D or 11) of the Town Planning Ordinance (Cap. 131);
  - (b) the plan or amendment shows or makes provision for any land for a particular use; and
  - (c) an amendment to be made by an amendment notice under subsection (1) relates to such use of the land,
- the Authority may publish the amendment notice on or after the date on which the plan or the amendment to the plan or the part begins to be so exhibited or made available.

**2D. Objections relating to amendment notice**

- (1) Within 60 days after an amendment notice is published, the following person may object to the amendment made by the notice by delivering an objection in writing to the Authority—
  - (a) an owner or occupier of the land affected by the amendment; or
  - (b) a person having any right in relation to that land.
- (2) An objection made by a person (*objector*) must—
  - (a) sufficiently identify the objector as a person falling within subsection (1); and
  - (b) describe the manner in which the objector alleges the objector will be affected by the amendment.
- (3) An objection that is not made by a person falling within subsection (1), or that does not comply with subsection

(2), is invalid and treated as not having been made for the purposes of section 2G.

**2E. Supplementary provisions relating to objections**

- (1) This section applies if a person (*objector*) makes an objection under section 2B or 2D (*objection*).
- (2) An objection made on a ground relating to any compensation (whether monetary or non-monetary) or any financial or other assistance (*compensation or assistance*) in connection with the proposal for land resumption is, to the extent that it is made on that ground, invalid and treated as not having been made for the purposes of section 2G.
- (3) In subsection (2), the reference to a ground relating to any compensation or assistance includes—
  - (a) a ground relating to whether any compensation or assistance is to be provided, whether or not under an enactment; and
  - (b) a ground relating to the amount, extent or form of the compensation or assistance, or the time for its provision.
- (4) If the Authority gives any written reply to an objection, the objector may give a response to the reply (including any comment on, or any request in connection with, the reply) within the period of 14 days after the day on which the reply is given.
- (5) For subsection (4), the mere notification by the Authority that the objection is treated as unwithdrawn and will be submitted to the Chief Executive in Council does not constitute a reply.

- (6) A response that is given after the 14-day period mentioned in subsection (4) is treated as not having been given.
- (7) An objector may, by writing to the Authority—
  - (a) amend an objection made by the objector within the relevant period for making objections; or
  - (b) withdraw the objection in whole or in part before the proposal for land resumption is submitted under section 2G.
- (8) An objection (or a part of an objection) that has been withdrawn is treated as not having been made for the purposes of section 2G.
- (9) An objection, an amendment or withdrawal of an objection, or a response (referred to in subsection (4)) may be given to the Authority by—
  - (a) delivering it to an officer who is authorized by the Authority to receive it on the Authority's behalf;
  - (b) sending it by ordinary or registered post;
  - (c) sending it by electronic mail transmission to an electronic mail address specified by the Authority; or
  - (d) sending it by fax transmission to a fax number specified by the Authority.
- (10) A reply (referred to in subsection (4)) may be given to the objector by—
  - (a) delivering it to the objector personally;
  - (b) leaving it at the objector's last known address;
  - (c) sending it by ordinary or registered post addressed to the objector at the objector's last known address;

- (d) sending it by electronic mail transmission to the objector's last known electronic mail address; or
- (e) sending it by fax transmission to the objector's last known fax number.

**2F. Decision not to proceed with proposal for land resumption**

- (1) Before a proposal for land resumption is submitted to the Chief Executive in Council under section 2G, if the Authority decides not to proceed with the proposal, the Authority must publish a notice of the decision in the Gazette.
- (2) The Authority must—
  - (a) deposit a copy of the notice in the Land Registry;
  - (b) publish a copy of the notice on the website of the Authority; and
  - (c) affix a copy of the notice in a conspicuous place on or near the land originally proposed to be resumed under the proposal for land resumption.
- (3) A decision under subsection (1) does not affect anything lawfully done under this Ordinance before the decision is made.

**2G. Submission of proposal for land resumption to Chief Executive in Council**

- (1) The Authority must, before the expiry of the period determined in accordance with subsections (2) and (3), submit to the Chief Executive in Council for consideration—
  - (a) the proposal for land resumption;

- (b) any objection made under section 2B within the period for making objections under that section; and
  - (c) if an amendment notice is published in relation to the proposal—any objection made under section 2D within the period for making objections under that section.
- (2) Except as extended under subsection (3), the period mentioned in subsection (1) is—
- (a) unless paragraph (b) applies—5 months after the date of expiry of the time for making objections under section 2B; or
  - (b) if one or more amendment notices are published in relation to the proposal for land resumption—whichever of the following periods that ends later—
    - (i) the period mentioned in paragraph (a);
    - (ii) 3 months after the date of expiry of the time for making objections under section 2D in respect of the amendment notice (or the last of the amendment notices).
- (3) The Secretary may, on application by the Authority—
- (a) extend the period mentioned in subsection (2) for 2 months if the Secretary considers it appropriate to do so in a particular case; and
  - (b) further extend the period on not more than 2 occasions and for 2 months for each extension if the Secretary is satisfied that exceptional circumstances exist in a particular case.
- (4) Despite subsections (1), (2) and (3), if—
- (a) the notice of proposed resumption is published in the circumstances described in section 2A(4); or

- (b) an amendment notice in respect of the proposal for land resumption is published in the circumstances described in section 2C(4),

the submission to the Chief Executive in Council under subsection (1) may not be made before the plan or amendment referred to in section 2A(4)(a) or 2C(4)(a) (as the case may be) is submitted to the Chief Executive in Council for approval under the Town Planning Ordinance (Cap. 131).

- (5) If subsection (4) applies, the submission to the Chief Executive in Council under subsection (1) must be made within a reasonable time after the plan or amendment is submitted as described in subsection (4).”.

**6. Part 3 heading added**

Before section 3—

**Add**

**“Part 3**

**Resumption of Land for Public Purpose”.**

**7. Section 3 substituted**

Section 3—

**Repeal the section**

**Substitute**

**“3. Authorization of and order for resumption of land**

- (1) The Chief Executive in Council, after considering a proposal for land resumption and any objection submitted under section 2G, may—
  - (a) authorize the resumption of the land for a public purpose—
    - (i) with or without any modification to the proposal; and
    - (ii) subject to any condition that the Chief Executive in Council considers appropriate; or
  - (b) decline to authorize the resumption of the land.
- (2) The Chief Executive in Council may reconsider a proposal for land resumption and—
  - (a) authorize the resumption of the land for a public purpose which the Chief Executive in Council has previously declined to authorize under subsection (1)(b); or
  - (b) remove or amend any modification or condition referred to in subsection (1)(a) in relation to an authorization previously made under that subsection.
- (3) If the Chief Executive in Council authorizes the resumption of any land under subsection (1) or (2), the Chief Executive may order the resumption of the land in accordance with the authorization.
- (4) Despite subsections (1) and (2), if—
  - (a) the notice of proposed resumption is published in the circumstances described in section 2A(4); or

- (b) an amendment notice in respect of the proposal for land resumption is published in the circumstances described in section 2C(4),

the Chief Executive in Council may make an authorization under subsection (1) or (2) only if the plan or amendment referred to in section 2A(4)(a) or 2C(4)(a) (as the case may be) has been approved by the Chief Executive in Council under the Town Planning Ordinance (Cap. 131).

- (5) If the Chief Executive in Council declines to authorize the resumption of the land under subsection (1)(b), the Authority must—
  - (a) publish a notice of that fact in the Gazette;
  - (b) deposit a copy of the notice in the Land Registry;
  - (c) publish a copy of the notice on the website of the Authority; and
  - (d) affix a copy of the notice in a conspicuous place on or near the land.”.

**8. Section 4 amended (notices)**

After section 4(3)—

**Add**

“(3A) Also, the Authority must—

- (a) publish a copy of the notice on the website of the Authority; and
- (b) make a copy of the notice available for inspection by the public free of charge at the time and place as the Authority reasonably directs.”.

9. **Part 4 added**

After section 5—

**Add**

**“Part 4**

**Adjustment to Land Boundary after  
Authorization**

**5A. Interpretation of Part 4**

In this Part—

*notice of proposed adjustment* (建議調整公告) means a notice published under section 5B(1);

*proposed adjustment* (建議調整) means a proposal for adjusting the boundary of the subject land as stated in a notice of proposed adjustment;

*subject land* (所涉土地) means the land described in section 5B(1)(a) or (b) the boundary of which is proposed to be adjusted.

**5B. Notice of proposed adjustment**

- (1) Subject to subsection (2), after an authorization is made under section 3(1) or (2) (*authorization*), the Authority may, by notice published in the Gazette, propose either or both of the following—
  - (a) that the boundary of the land authorized to be resumed under the authorization is to be adjusted;
  - (b) that the boundary of the land ordered to be resumed under an order made under section 3(3) in accordance with the authorization is to be adjusted.

- (2) The proposed adjustment must not affect any part of the subject land—
  - (a) in respect of which a notice has been published, served or affixed under section 4; or
  - (b) that has reverted to the Government under section 5.
- (3) The notice of proposed adjustment must—
  - (a) describe the proposed adjustment;
  - (b) refer to a plan that shows the proposed adjustment (*relevant plan*); and
  - (c) state how the public may inspect a copy of the relevant plan.
- (4) The Authority must—
  - (a) deposit a copy of the notice of proposed adjustment and of the relevant plan in the Land Registry;
  - (b) publish a copy of the notice of proposed adjustment and of the relevant plan on the website of the Authority;
  - (c) make a copy of the notice of proposed adjustment and of the relevant plan available for inspection by the public free of charge at the time and place as the Authority reasonably directs; and
  - (d) affix a copy of the notice of proposed adjustment in a conspicuous place on or near the land affected by the proposed adjustment.
- (5) If—
  - (a) a plan, or an amendment to a plan or to a part of a plan, is exhibited or made available for public inspection under any provision (other than section



- 9D or 11) of the Town Planning Ordinance (Cap. 131);
- (b) the plan or amendment shows or makes provision for any land for a particular use; and
  - (c) the proposed adjustment to be described in a notice of proposed adjustment relates to such use of the land,

the Authority may publish the notice of proposed adjustment on or after the date on which the plan or amendment begins to be so exhibited or made available.

#### 5C. Objections to proposed adjustment

- (1) Within 60 days after a notice of proposed adjustment is published, the following person may object to the proposed adjustment by delivering an objection in writing to the Authority—
  - (a) an owner or occupier of the land affected by the proposed adjustment; or
  - (b) a person having any right in relation to that land.
- (2) An objection made by a person (*objector*) must—
  - (a) sufficiently identify the objector as a person falling within subsection (1); and
  - (b) describe the manner in which the objector alleges the objector will be affected by the proposed adjustment.
- (3) An objection that is not made by a person falling within subsection (1), or that does not comply with subsection (2), is invalid and treated as not having been made for the purposes of sections 5F and 5G.

- (4) An objection made on a ground relating to any compensation (whether monetary or non-monetary) or any financial or other assistance (*compensation or assistance*) in connection with the proposed adjustment is, to the extent that it is made on that ground, invalid and treated as not having been made for the purposes of sections 5F and 5G.
- (5) In subsection (4), the reference to a ground relating to any compensation or assistance includes—
  - (a) a ground relating to whether any compensation or assistance is to be provided, whether or not under an enactment; and
  - (b) a ground relating to the amount, extent or form of the compensation or assistance, or the time for its provision.

#### 5D. Supplementary provisions to section 5C

- (1) If the Authority gives any written reply to an objection made under section 5C, the person making the objection (*objector*) may give a response to the reply (including any comment on, or any request in connection with, the reply) within the period of 14 days after the day on which the reply is given.
- (2) For subsection (1), the mere notification by the Authority that the objection is treated as unwithdrawn and will be submitted to the Chief Executive in Council does not constitute a reply.
- (3) A response that is given after the 14-day period mentioned in subsection (1) is treated as not having been given.
- (4) An objector may, by writing to the Authority—

- (a) amend an objection made by the objector within the period for making objections; or
- (b) withdraw the objection in whole or in part before the proposed adjustment is submitted under section 5G.
- (5) An objection (or a part of an objection) that has been withdrawn is treated as not having been made for the purposes of sections 5F and 5G.
- (6) An objection, an amendment or withdrawal of an objection, or a response (referred to in subsection (1)) may be given to the Authority by—
  - (a) delivering it to an officer who is authorized by the Authority to receive it on the Authority's behalf;
  - (b) sending it by ordinary or registered post;
  - (c) sending it by electronic mail transmission to an electronic mail address specified by the Authority; or
  - (d) sending it by fax transmission to a fax number specified by the Authority.
- (7) A reply (referred to in subsection (1)) may be given to the objector by—
  - (a) delivering it to the objector personally;
  - (b) leaving it at the objector's last known address;
  - (c) sending it by ordinary or registered post addressed to the objector at the objector's last known address;
  - (d) sending it by electronic mail transmission to the objector's last known electronic mail address; or
  - (e) sending it by fax transmission to the objector's last known fax number.

**5E. Decision not to proceed with proposed adjustment**

- (1) Before a proposed adjustment is authorized by the Secretary under section 5F or submitted to the Chief Executive in Council under section 5G, if the Authority decides not to proceed with the proposed adjustment, the Authority must publish a notice of the decision in the Gazette.
- (2) The Authority must—
  - (a) deposit a copy of the notice in the Land Registry;
  - (b) publish a copy of the notice on the website of the Authority; and
  - (c) affix a copy of the notice in a conspicuous place on or near the land affected by the proposed adjustment.
- (3) A decision under subsection (1) does not affect anything lawfully done under this Ordinance before the decision is made.

**5F. Authorization of adjustment to land boundary if no objection made**

- (1) If no objection has been made to a proposed adjustment within the period for making objections under section 5C(1), the Secretary may authorize the adjustment to the boundary of the subject land in accordance with the proposed adjustment.
- (2) Despite subsection (1), if the notice of proposed adjustment is published in the circumstances described in section 5B(5), the Secretary may make an authorization under that subsection only if the plan or amendment referred to in section 5B(5)(a) has been approved by the

Chief Executive in Council under the Town Planning Ordinance (Cap. 131).

- (3) If the Secretary declines to authorize, under subsection (1), the adjustment to the boundary of the subject land, the Authority must—
  - (a) publish a notice of that fact in the Gazette;
  - (b) deposit a copy of the notice in the Land Registry;
  - (c) publish a copy of the notice on the website of the Authority; and
  - (d) affix a copy of the notice in a conspicuous place on or near the land affected by the proposed adjustment.

**5G. Authorization of adjustment to land boundary if objection made**

- (1) If an objection has been made to a proposed adjustment within the period for making objections under section 5C(1) (*objection period*), the Authority must, within 3 months (*submission period*) after the end of the objection period, submit the proposed adjustment and every objection so made to the Chief Executive in Council for consideration.
- (2) The Secretary may, on application by the Authority—
  - (a) extend the submission period for 2 months if the Secretary considers it appropriate to do so in a particular case; and
  - (b) further extend the period on not more than 2 occasions and for 2 months for each extension if the Secretary is satisfied that exceptional circumstances exist in a particular case.

- (3) Despite subsections (1) and (2), if the notice of proposed adjustment is published in the circumstances described in section 5B(5), the submission to the Chief Executive in Council under subsection (1) may not be made before the plan or amendment referred to in section 5B(5)(a) is submitted to the Chief Executive in Council for approval under the Town Planning Ordinance (Cap. 131).
- (4) If subsection (3) applies, the submission to the Chief Executive in Council under subsection (1) must be made within a reasonable time after the plan or amendment is submitted as described in subsection (3).
- (5) The Chief Executive in Council, after considering the proposed adjustment and the objections submitted under subsection (1), may—
  - (a) authorize the adjustment to the boundary of the subject land—
    - (i) with or without any modification to the proposed adjustment; and
    - (ii) subject to any condition that the Chief Executive in Council considers appropriate; or
  - (b) decline to authorize the adjustment to the boundary of the subject land.
- (6) The Chief Executive in Council may reconsider a proposed adjustment and—
  - (a) authorize the adjustment to the boundary of the subject land which the Chief Executive in Council has previously declined to authorize under subsection (5)(b); or
  - (b) remove or amend any modification or condition referred to in subsection (5)(a) in relation to an

authorization previously made under that subsection.

- (7) Despite subsections (5) and (6), if the notice of proposed adjustment is published in the circumstances described in section 5B(5), the Chief Executive in Council may make an authorization under subsection (5) or (6) only if the plan or amendment referred to in section 5B(5)(a) has been approved by the Chief Executive in Council under the Town Planning Ordinance (Cap. 131).
- (8) If the Chief Executive in Council declines to authorize the adjustment under subsection (5)(b), the Authority must—
  - (a) publish a notice of that fact in the Gazette;
  - (b) deposit a copy of the notice in the Land Registry;
  - (c) publish a copy of the notice on the website of the Authority; and
  - (d) affix a copy of the notice in a conspicuous place on or near the land affected by the proposed adjustment.

**5H. Effect of authorization of adjustment to land boundary**

- (1) If an adjustment to the boundary of the subject land is authorized under section 5F(1) or 5G(5) or (6), then either or both of the following (as may be appropriate) are taken to be varied to the extent of the adjustment so authorized—
  - (a) the authorization made under section 3(1) or (2) (*relevant authorization*);
  - (b) the order made under section 3(3) (*relevant order*), and a reference to the relevant authorization or the relevant order in this Ordinance or any other Ordinance is

a reference to the relevant authorization or the relevant order as so varied.

- (2) If any land is authorized to be resumed under the relevant authorization because of the variation, an order may be made under section 3(3) in relation to the land.
- (3) If any land is ordered to be resumed under the relevant order because of the variation, section 4 applies in relation to the land.
- (4) A variation under subsection (1) does not affect—
  - (a) a notice published, served or affixed under section 4 before the variation;
  - (b) the reversion of any land to the Government under section 5 before the variation;
  - (c) anything lawfully done under this Ordinance before the variation; or
  - (d) any right (including right to compensation) accrued under this Ordinance before the variation.”.

**10. Part 5 heading added**

Before section 6—

**Add**

**“Part 5**

**Claim for and Assessment of Compensation”.**

**11. Section 7 amended (power of entry)**

Section 7(1)—

**Repeal**

everything before “into and upon”

**Substitute**

- “(1) If a notice has been given under section 4, it is lawful for the Chief Executive or any person authorized by the Chief Executive to enter, without the consent of the owner or occupier,”.

**12. Section 11 amended (principles of assessment of compensation)**

- (1) Section 11(1)(b)—

**Repeal**

“of intended resumption”

**Substitute**

“under section 4(1)”.

- (2) Section 11(1), English text—

**Repeal**

“thereof shall”

**Substitute**

“of the interest is to”.

**13. Part 6 heading added**

Before section 16—

**Add**

**“Part 6**

**Disposal and Use of Land Resumed”.**

**14. Section 16AA added**

After section 16—

**Add**

**“16AA. Use of land resumed for alternative purpose**

- (1) If any land has been resumed pursuant to an authorization of the resumption of the land for a public purpose made under section 3(1) or (2), the Government may use, or allow the use of, the land for any other purpose for a certain period of time before the land is used for that public purpose.

- (2) If—

- (a) any land has been resumed pursuant to an authorization of the resumption of the land for a public purpose (*original purpose*) made under section 3(1) or (2); and

- (b) the Chief Executive in Council is of the opinion that the land—

- (i) is no longer required for the original purpose; and

- (ii) is required for another public purpose (*alternative purpose*),

the Chief Executive in Council may approve the use of the land for the alternative purpose.

- (3) If an approval is made under subsection (2), the Authority must publish—

- (a) a notice of the approval in the Gazette stating the alternative purpose; and
  - (b) a copy of the notice on the website of the Authority.
- (4) In subsection (2)(b)(ii), the reference to public purpose is to be construed in accordance with section 2(2), as if a reference to resumption of land in that section were a reference to use of land.”.

**15. Part 7 heading added**

Before section 16A—

**Add**

**“Part 7**

**Payment of Compensation and Interest”.**

**16. Section 16A amended (provisional payment pending determination of compensation)**

Section 16A(1A)—

**Repeal paragraphs (a) and (b)**

**Substitute**

- “(a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and
- (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.”.

**17. Section 17 amended (payment of compensation and interest)**

- (1) Section 17(3)—

**Repeal**

“shall bear interest”

**Substitute**

“bears interest, calculated on a daily basis in accordance with subsection (3A),”.

- (2) Section 17(3), English text—

**Repeal**

“shall be”

**Substitute**

“is”.

- (3) Section 17—

**Repeal subsection (3A)**

**Substitute**

“(3A) For subsection (3), the rate of interest payable—

- (a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and
  - (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.”.
- (4) Section 17—
- Repeal subsection (3B).**

**18. Part 8 heading and section 18A added**

After section 18—

**Add**

## “Part 8

### Miscellaneous

#### 18A. Resumption of contiguous or adjacent land on application

- (1) The owner of any land (*relevant land*) that is contiguous or adjacent to land that has been resumed pursuant to an authorization made under section 3(1) or (2) (*resumed land*) may apply to the Chief Executive for the resumption of the relevant land.
- (2) On the application, the Chief Executive may order the resumption of the relevant land, whether or not the resumption is required for a public purpose, if the Chief Executive is of the opinion that—
  - (a) the resumed land is reasonably necessary to the use and enjoyment of the relevant land; and
  - (b) it would be just and equitable to make an order for the relevant land to be resumed.
- (3) A person aggrieved by a decision of the Chief Executive not to order resumption under subsection (2) may apply to the Lands Tribunal to review the decision.
- (4) On an application under subsection (3), the Lands Tribunal may, if it is satisfied as to the matters mentioned in subsection (2)(a) and (b), order the resumption of the relevant land, whether or not the resumption is required for a public purpose, and compensation for the resumption is to be assessed under this Ordinance.”.

#### 19. Section 19 amended (effect as evidence of notice of resumption)

- (1) Section 19—

#### Repeal

everything after “any notice” and before “is required for”

#### Substitute

“published under section 4(1), it is sufficient to state that the resumption of the land”.

- (2) Section 19, English text—

#### Repeal

“shall be conclusive”

#### Substitute

“is conclusive”.

#### 20. Section 19A added

After section 19—

#### Add

#### “19A. Absence of authorization of expenditure for works not prevent certain matters

The fact that the expenditure for any works for carrying out the public purpose for which any land (*land*) is to be resumed has not been approved or authorized under the Public Finance Ordinance (Cap. 2) or any other enactment does not prevent—

- (a) the authorization of the resumption of the land under section 3(1) or (2);
- (b) the order for the resumption of the land under section 3(3);
- (c) the publication of a notice in respect of the resumption of the land under section 4;

- (d) the order for the resumption of any land contiguous or adjacent to the land (*contiguous or adjacent land*) under section 18A; or
- (e) the provision of any compensation (whether monetary or non-monetary) or any financial or other assistance, whether or not under an enactment, in connection with the resumption of the land or the contiguous or adjacent land.”.

**21. Section 23 added**

After section 22—

**Add**

**“23. Transitional provisions for Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) For the purposes of subsection (2), the Secretary may, by notice published in the Gazette, specify a project proposed by the Authority if the boundary of the land proposed to be resumed for the purpose of the project (*relevant boundary*) has been made available to the public (or a section of the public) before the commencement date of sections 5 and 7 of the Amendment Ordinance, whether or not the relevant boundary is varied on or after that commencement date.
- (2) In relation to a project specified under subsection (1) and the resumption of any land for the purpose of the project—
  - (a) the following provisions do not apply—
    - (i) Part 2 (as added by section 5 of the Amendment Ordinance); and
    - (ii) section 3 (as amended by section 7 of the Amendment Ordinance); and

- (b) section 3 as in force immediately before the commencement date of section 7 of the Amendment Ordinance continues to apply as if section 7 of the Amendment Ordinance had not been enacted.
- (3) If any land has reverted to the Government under section 5 before the commencement date of sections 16 and 17 of the Amendment Ordinance, sections 16A and 17 as in force immediately before that commencement date continue to apply in relation to the compensation in respect of the resumption of the land as if sections 16 and 17 of the Amendment Ordinance had not been enacted.
- (4) In this Ordinance—
  - (a) a reference to an authorization made by the Chief Executive in Council under section 3(1) or (2) includes a decision made by the Chief Executive in Council under section 3 as in force immediately before the commencement date of section 7 of the Amendment Ordinance; and
  - (b) a reference to an order made by the Chief Executive under section 3(3) includes an order made by the Chief Executive under section 3 as in force immediately before the commencement date of section 7 of the Amendment Ordinance.
- (5) In this section—

*Amendment Ordinance* (《修訂條例》) means the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022).”.



### Part 3

## Amendments to Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)

#### 22. Section 2 amended (interpretation)

(1) Section 2—

**Repeal the definitions of *non-working day*, *note-issuing bank* and *working day*.**

(2) Section 2—

**Add in alphabetical order**

***“reference interest rate* (參考利率) means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day;**

***Secretary* (局長) means the Secretary for Development.”.**

#### 23. Section 2A added

After section 2—

**Add**

##### **“2A. Assumption and delegation by Director**

(1) The Director may act under this Ordinance in relation to any reclamation proposed by the Director to be executed by—

- (a) a person who is not a public officer; or
- (b) a public officer on the Director’s behalf, and this Ordinance applies to the reclamation.

(2) If the Director proposes that any reclamation be executed by another person, any compensation payable in respect of the reclamation is, subject to any agreement, payable by the Government.

(3) The Director may in writing authorize any person, either generally or in any particular case, to exercise any of the powers, functions and duties conferred or imposed on the Director under this Ordinance.”.

#### 24. Section 5 amended (publication)

(1) Section 5(1)—

**Repeal**

“shall”

**Substitute**

“must”.

(2) Section 5(1)—

**Repeal paragraph (b)**

**Substitute**

“(b) on the website specified by the Director; and”.

(3) Section 5(1)—

**Repeal paragraph (c).**

#### 25. Section 6 amended (objections)

Section 6—

**Repeal subsection (3)**

**Substitute**

“(3) An objection made on a ground relating to any compensation (whether monetary or non-monetary) or

- any financial or other assistance (*compensation or assistance*) in connection with the proposed reclamation is, to the extent that it is made on that ground, invalid and treated as not having been made for the purposes of sections 7 and 8.
- (4) In subsection (3), the reference to a ground relating to any compensation or assistance includes—
- (a) a ground relating to whether any compensation or assistance is to be provided, whether or not under an enactment; and
- (b) a ground relating to the amount, extent or form of the compensation or assistance, or the time for its provision.
- (5) If the Director gives any written reply to an objection, the objector may give a response to the reply (including any comment on, or any request in connection with, the reply) within the period of 14 days after the day on which the reply is given.
- (6) For subsection (5), the mere notification by the Director that the objection is treated as unwithdrawn and will be submitted to the Chief Executive in Council does not constitute a reply.
- (7) A response that is given after the 14-day period mentioned in subsection (5) is treated as not having been given.
- (8) An objector may, by writing to the Director—
- (a) amend an objection made by the objector within the period for making objections; or
- (b) withdraw the objection in whole or in part before the proposed reclamation is submitted under section 8(1).

- (9) An objection (or a part of an objection) that has been withdrawn is treated as not having been made for the purposes of sections 7 and 8.
- (10) An objection, an amendment or withdrawal of an objection, or a response (referred to in subsection (5)) may be given to the Director by—
- (a) delivering it to an officer who is authorized by the Director to receive it on the Director's behalf;
- (b) sending it by ordinary or registered post;
- (c) sending it by electronic mail transmission to an electronic mail address specified by the Director; or
- (d) sending it by fax transmission to a fax number specified by the Director.
- (11) A reply (referred to in subsection (5)) may be given to the objector by—
- (a) delivering it to the objector personally;
- (b) leaving it at the objector's last known address;
- (c) sending it by ordinary or registered post addressed to the objector at the objector's last known address;
- (d) sending it by electronic mail transmission to the objector's last known electronic mail address; or
- (e) sending it by fax transmission to the objector's last known fax number.”.

**26. Section 8 amended (authorization procedure if objection made)**

- (1) Section 8(1)—

**Repeal**

everything after “under that section,” and before “submit to”

**Substitute**

“the Director must, within the period determined in accordance with subsections (1A) and (1B),”.

- (2) Section 8(1), English text—

**Repeal**

“shall consider”

**Substitute**

“must consider”.

- (3) Section 8(1)(b), English text—

**Repeal**

“such future time as the Chief Executive in Council shall specify,”

**Substitute**

“a future time specified by the Chief Executive in Council”.

- (4) After section 8(1)—

**Add**

“(1A) Except as extended under subsection (1B), the period mentioned in subsection (1) is 5 months after the date of expiry of the time for making objections under section 6.

(1B) The Secretary may, on application by the Director—

- (a) extend the period mentioned in subsection (1A) for 2 months if the Secretary considers it appropriate to do so in a particular case; and
- (b) further extend the period on not more than 2 occasions and for 2 months for each extension if the Secretary is satisfied that exceptional circumstances exist in a particular case.”.

**27. Section 14 amended (provisional payment pending determination of compensation)**

Section 14(1A)—

**Repeal paragraphs (a) and (b)**

**Substitute**

- “(a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and
- (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.”.

**28. Section 15 amended (payment of compensation and interest)**

(1) Section 15(3)—

**Repeal**

“shall bear interest”

**Substitute**

“bears interest, calculated on a daily basis in accordance with subsection (4),”.

(2) Section 15(3)—

**Repeal**

“shall be”

**Substitute**

“is”.

(3) Section 15—

**Repeal subsection (4)**

**Substitute**

- “(4) For subsection (3), the rate of interest payable—
- (a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and
  - (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.”.

(4) Section 15—

**Repeal subsection (4A).**

**29. Sections 16A, 16B and 16C added**

After section 16—

**Add**

**“16A. Minor works**

- (1) The Director may authorize any works over and upon any foreshore and sea-bed, the total area of foreshore and sea-bed affected by which is not more than 0.5 hectare, to construct any one or more of the items specified in the Schedule.
- (2) A person has no right against the Government or any other person to—
  - (a) compel or restrain any works authorized under subsection (1); or
  - (b) recover any money, under this Ordinance or otherwise, in respect of any such works.
- (3) Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 do not apply in relation to any works authorized under subsection (1).

- (4) The Secretary may, by notice published in the Gazette, amend the Schedule.

**16B. Absence of authorization of expenditure for works not prevent certain matters**

The fact that the expenditure for any works to be executed for a reclamation has not been approved or authorized under the Public Finance Ordinance (Cap. 2) or any other enactment does not prevent—

- (a) the authorization of the reclamation under section 7 or 8;
- (b) the authorization of the works under section 16A; or
- (c) the provision of any compensation (whether monetary or non-monetary) or any financial or other assistance, whether or not under an enactment, in connection with the reclamation or the works.

**16C. Absence of plan under Town Planning Ordinance not prevent certain matters**

The fact that no draft plan, approved plan or partly approved plan within the meaning of the Town Planning Ordinance (Cap. 131) has been prepared under that Ordinance in relation to any foreshore and sea-bed does not prevent the doing of any of the following things in relation to the foreshore and sea-bed—

- (a) the preparation of a plan under section 3;
- (b) the publication of a notice of a plan under section 5;
- (c) the authorization of a reclamation under section 7 or 8;
- (d) the authorization of works under section 16A.”.

**30. Section 21 added**

After section 20—

**Add**

**“21. Transitional provisions for Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) If the date of the first publication in the Gazette of a notice mentioned in section 5(1) in respect of a proposed reclamation falls before the commencement date of sections 24, 25 and 26 of the Amendment Ordinance, sections 5, 6 and 8 as in force immediately before that commencement date continue to apply in relation to the proposed reclamation as if sections 24, 25 and 26 of the Amendment Ordinance had not been enacted.
- (2) If a notice mentioned in section 9(1) in respect of a reclamation is published in the Gazette before the commencement date of sections 27 and 28 of the Amendment Ordinance, sections 14 and 15 as in force immediately before that commencement date continue to apply in relation to the compensation in respect of the reclamation as if sections 27 and 28 of the Amendment Ordinance had not been enacted.
- (3) In this section—

*Amendment Ordinance* (《修訂條例》) means the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022).”

**31. Schedule added**

At the end of the Ordinance—

**Add**

**“Schedule**

[s. 16A]

**Minor Works**

1. Landing steps
2. Harbour steps
3. Slipway
4. Mooring dolphin
5. Beacon
6. Floating pontoon
7. Submarine pipeline or outfall
8. Diffuser for open sea discharge
9. Seawater intake
10. Peripheral structure or feature associated with a marine structure”.

## Part 4

### Amendments to Land Acquisition (Possessory Title) Ordinance (Cap. 130)

#### 32. Section 2 amended (interpretation)

(1) Section 2—

**Renumber the section as section 2(1).**

(2) Section 2(1)—

**Repeal the definitions of *acquisition for a public purpose*, *non-working day*, *note-issuing bank* and *working day*.**

(3) Section 2(1)—

**Add in alphabetical order**

**“reference interest rate (参考利率)** means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day.”

(4) After section 2(1)—

**Add**

“(2) In this Ordinance, a reference to acquisition of any land for a public purpose includes—

- (a) acquisition of insanitary property for the purpose of securing the erection of improved dwellings or buildings on the property or the sanitary improvement of the property;
- (b) acquisition of any land on which any building is erected which, by reason of its proximity to or contact with another building, seriously interferes

with ventilation or otherwise makes or conduces to make that other building to be in a condition unfit for human habitation or dangerous or injurious to health;

- (c) acquisition of any land for any purpose connected with the Hong Kong Garrison;
- (d) acquisition of any land for the purposes of, or incidental to, any works, or any use, as defined by section 2(1) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), proposed or to be proposed under that Ordinance;
- (e) acquisition of any land for the purposes of, or incidental to, any works proposed or to be proposed under the Roads (Works, Use and Compensation) Ordinance (Cap. 370) as applied by section 26 of the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL);
- (f) acquisition of any land for the purposes of, or incidental to, any scheme, as defined by section 2 of the Railways Ordinance (Cap. 519), proposed or to be proposed under that Ordinance; and
- (g) acquisition of any land for any purpose (of whatever description, and whether or not of the same kind as a purpose described in another paragraph of this subsection) decided by the Chief Executive in Council to be a public purpose.”

#### 33. Section 3 amended (acquisition of land for a public purpose)

Section 3(2)—

**Repeal**

everything before “the Director may”

**Substitute**

“(2) If the Chief Executive in Council authorizes the resumption of any land for a public purpose under section 3(1) or (2) of the Lands Resumption Ordinance (Cap. 124),”.

**34. Section 4 amended (notices and plans)**

(1) Section 4(1)(a) and (b), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(2) Section 4(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website of the Director; and”.

(3) Section 4(1)(b)—

**Repeal subparagraph (iii).**

(4) Section 4(1)(c), English text—

**Repeal**

“shall”

**Substitute**

“must”.

**35. Section 8 amended (rules for assessing compensation)**

(1) Section 8(4)(b)—

**Repeal**

“of intended resumption under”

**Substitute**

“under section 4(1) of”.

(2) Section 8(4), English text—

**Repeal**

“thereof shall”

**Substitute**

“of the interest, right or easement is to”.

**36. Section 9 amended (provisional payment pending determination of compensation)**

Section 9(1A)—

**Repeal paragraphs (a) and (b)**

**Substitute**

“(a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and

(b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.”.

**37. Section 10 amended (payment of compensation and interest)**

(1) Section 10(3)—

**Repeal**

“shall bear interest”

**Substitute**

“bears interest, calculated on a daily basis in accordance with subsection (4),”.

- (2) Section 10(3), English text—

**Repeal**

“shall be”

**Substitute**

“is”.

- (3) Section 10—

**Repeal subsection (4)**

**Substitute**

“(4) For subsection (3), the rate of interest payable—

- (a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and
- (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.”.

- (4) Section 10—

**Repeal subsection (4A).**

**38. Section 11A added**

After section 11—

**Add**

**“11A. Use of land acquired for alternative purpose**

- (1) If any land has been acquired for a public purpose under this Ordinance, the Government may use, or allow the use of, the land for any other purpose for a certain period of time before the land is used for that public purpose.
- (2) If—

- (a) any land has been acquired for a public purpose (*original purpose*) under this Ordinance; and

- (b) the Chief Executive in Council is of the opinion that the land—

(i) is no longer required for the original purpose; and

(ii) is required for another public purpose (*alternative purpose*),

the Chief Executive in Council may approve the use of the land for the alternative purpose.

- (3) If an approval is made under subsection (2), the Director must publish—

(a) a notice of the approval in the Gazette stating the alternative purpose; and

(b) a copy of the notice on the website of the Director.

- (4) In subsection (2)(b)(ii), the reference to public purpose is to be construed in accordance with section 2(2), as if a reference to acquisition of land in that section were a reference to use of land.”.

**39. Sections 14 and 15 added**

After section 13—

**Add**

**“14. Absence of authorization of expenditure for works not prevent certain matters**

The fact that the expenditure for any works for carrying out the public purpose for which any land is to be acquired has not been approved or authorized under the Public Finance Ordinance (Cap. 2) or any other enactment does not prevent—



- (a) the decision to acquire the land under section 3(1);
- (b) the making of an acquisition order for the acquisition of the land under section 3(1) or (2);
- (c) the publication of a notice of the acquisition order for the acquisition of the land under section 4; or
- (d) the provision of any compensation (whether monetary or non-monetary) or any financial or other assistance, whether or not under an enactment, in connection with the acquisition of the land.

**15. Transitional provisions for Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) If any land has vested in the Government under section 5 before the commencement date of sections 36 and 37 of the Amendment Ordinance, sections 9 and 10 as in force immediately before that commencement date continue to apply in relation to the compensation in respect of the acquisition of the land as if sections 36 and 37 of the Amendment Ordinance had not been enacted.
- (2) In section 3(2), a reference to an authorization made by the Chief Executive in Council under section 3(1) or (2) of the Lands Resumption Ordinance (Cap. 124) includes a decision made by the Chief Executive in Council under section 3 of that Ordinance as in force immediately before the commencement date of section 7 of the Amendment Ordinance.
- (3) In this section—

*Amendment Ordinance* (《修訂條例》) means the Development (Town Planning, Lands and Works)

(Miscellaneous Amendments) Ordinance 2022 ( of  
2022).”.

## Part 5

### Amendments to Town Planning Ordinance (Cap. 131)

#### Division 1—Amendments Regarding Improvement of Procedures under Town Planning Ordinance

##### 40. Section 1A amended (interpretation)

(1) Section 1A—

**Renumber the section as section 1A(1).**

(2) Section 1A(1)—

**Add in alphabetical order**

**“*approved part* (已核准部分)—**

(a) means—

(i) any part of a plan mentioned in subsection (2)(b)(i); or

(ii) any part of a plan that is approved under section 9(2); and

(b) includes any part of a plan that is taken to be an approved part of the plan because of section 12(7);

***approved plan* (核准圖)—see subsection (2)(b);**

***Board* (規劃委員會) means the Town Planning Board appointed under section 2;**

***outstanding part* (待核准部分)—see subsections (3), (4) and (5);**

***partly approved plan* (局部核准圖)—see subsection (2)(a);”.**

(3) After section 1A(1)—

#### Add

“(2) For the purposes of this Ordinance—

(a) a plan is a partly approved plan if—

(i) there is any approved part in respect of the plan; but

(ii) the plan is not an approved plan; and

(b) a plan is an approved plan if—

(i) the whole plan is approved under section 9; or

(ii) all parts of the plan are approved parts.

(3) For the purposes of this Ordinance, subject to subsection (4), if a part of a partly approved plan is not an approved part (***subject part***), the subject part is the outstanding part of the plan.

(4) If there is more than one subject part in respect of a partly approved plan, the subject parts together constitute the outstanding part of the plan.

(5) If the outstanding part (or any part of the outstanding part) of a plan is amended by the Board under this Ordinance, except otherwise provided in this Ordinance, a reference to the outstanding part of the plan is a reference to that part as amended.

(6) For the purposes of this Ordinance—

(a) if the Chief Executive in Council refuses to approve a plan under section 9, the plan is taken as not having been prepared from the date of the refusal; and

(b) if the Chief Executive in Council refuses to approve any part of a plan under section 9, the part so refused is not to be treated as part of the plan from the date of the refusal.”.

**41. Section 2 amended (appointment of Town Planning Board)**

- (1) Section 2(5)(c), after “sections”—

**Add**

“6B(4A)(b),”.

- (2) Section 2(5), English text—

**Repeal**

“shall, with necessary modifications,”

**Substitute**

“are, with necessary modifications, to”.

**42. Section 2A amended (appointment of committees by the Board)**

- (1) Section 2A(1)—

**Repeal**

“6C, 6D, 6E, 6F, 6G”

**Substitute**

“6E”.

- (2) Section 2A(1), English text—

**Repeal**

“shall, with necessary modifications, be construed and have”

**Substitute**

“are, with necessary modifications, to be construed and to have”.

**43. Section 2C amended (meetings of Board and of committees)**

- (1) Section 2C(2)(a)—

**Repeal**

“6F,”.

- (2) Section 2C(2)(a)—

**Repeal**

“6F(8) (whether with or without application of section 6F(9)),”.

- (3) After section 2C(3)—

**Add**

“(4) Without affecting subsection (3), the Board may determine—

- (a) the length of time for a person who makes a representation under section 6(1) (*specified person*) to present the person’s case at a meeting held under section 6B; and
- (b) the length of time for a person who is authorized by one or more specified persons to present the specified persons’ cases at such a meeting.”.

**44. Section 4 amended (contents of lay-out plans and powers of the Board)**

- (1) Section 4(2)—

**Repeal**

“a draft or approved plan or”

**Substitute**

“a draft plan, approved plan or partly approved plan, or”.

- (2) Section 4(2)—

**Repeal**

“shall be deemed”

**Substitute**

“is taken”.

**45. Section 5 amended (exhibition of draft plans)**

- (1) Section 5, English text—

**Repeal**

“shall be”

**Substitute**

“must be”.

- (2) Section 5—

**Repeal**

“period the Board shall advertise once a week in 2 daily Chinese language local newspapers and 1 daily English language local newspaper and shall notify”

**Substitute**

“period, the Board must publish on the Board’s website and notify”.

- (3) Section 5, English text—

**Repeal**

“shall supply”

**Substitute**

“must supply”.

**46. Section 6 amended (representations relating to draft plans)**

- (1) Section 6(2), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Section 6(2)(a)(i) and (iii)—

**Repeal**

“draft”.

- (3) After section 6(3)—

**Add**

“(3A) If, in the opinion of the Board, any reason for the representation is a reason concerning compensation or assistance relating to, or arising from, any of the following matters—

- (a) the resumption, or acquisition, of any land by the Government under an enactment;
- (b) the clearance, or obtaining vacant possession, of any land by the Government,

the representation, to the extent that it is made for that reason, may be treated by the Board as not having been made.

(3B) For the purposes of subsection (3A), a reason concerning compensation or assistance relating to, or arising from, any of the matters mentioned in subsection (3A)(a) and (b) includes—

- (a) a reason relating to whether any compensation or assistance is to be provided, whether or not under an enactment, to a person affected by any of those matters; and
- (b) a reason relating to the amount, extent or form of the compensation or assistance mentioned in paragraph (a) or the time for its provision.

(3C) In this section—

*compensation or assistance* (補償或協助) means any compensation (whether monetary or non-monetary) or any financial or other assistance.”

- (4) Section 6(4), English text—

**Repeal**

“shall,”

**Substitute**

“must,”.

- (5) Section 6(4)—

**Repeal**

“all representations”

**Substitute**

“every representation”.

- (6) Section 6(4), English text—

**Repeal**

“shall continue”

**Substitute**

“must continue”.

- (7) Section 6(4)—

**Repeal**

“in respect of the draft plan in question under section 9”

**Substitute**

“under section 9 in respect of the plan or the subject part of the plan”.

- (8) Section 6—

**Repeal subsections (5) and (6).**

- (9) At the end of section 6—

**Add**

“(7) In this section—

*subject part* (標的部分), in relation to a representation made under this section, means the part or parts of the plan to which the representation relates.”.

**47. Section 6A repealed (comments on representations)**

Section 6A—

**Repeal the section.**

**48. Section 6B amended (consideration of representations, etc.)**

- (1) Section 6B, heading, after “representations”—

**Add**

“made under section 6”.

- (2) Section 6B—

**Repeal subsections (1), (2), (3) and (4)**

**Substitute**

“(1) If a person makes a representation under section 6(1), the Board must, as soon as reasonably practicable after the period of 2 months mentioned in that section expires, hold a meeting to consider the representation.

(2) For the purposes of subsection (1), the Board must give reasonable notice of the particulars of the meeting (including the date, time and place of the meeting) to the person who makes the representation (*Person A*).

(3) Person A is entitled to attend and to be heard at the meeting.

- (4) If Person A is not a natural person, Person A may authorize a natural person to attend the meeting on Person A's behalf.
- (4A) If—
- (a) Person A is a natural person; and
- (b) the Board is satisfied that Person A is unable to attend the meeting because of exceptional circumstances,
- Person A may authorize another natural person to attend the meeting on Person A's behalf.
- (4B) If neither Person A nor the person authorized under subsection (4) or (4A) by Person A attends the meeting, the Board may—
- (a) proceed with the meeting in their absence; or
- (b) adjourn the meeting to a further date the Board considers appropriate.”.
- (3) Section 6B(5)—
- Repeal**
- “(4)”
- Substitute**
- “(4B)”.
- (4) Section 6B—
- Repeal subsection (6)**
- Substitute**
- “(6) If there is more than one representation under section 6(1) in respect of the plan in question—

- (a) the Board may direct that all or some of the representations be considered at the same meeting; and
- (b) if the Board makes a direction under paragraph (a), the Board may consider any of the representations to which the direction relates individually or collectively.”.
- (5) Section 6B(7)(a)—
- Repeal**
- “(4)”
- Substitute**
- “(4B)”.
- (6) Section 6B—
- Repeal subsection (8)**
- Substitute**
- “(8) If, after considering any representation under this section, the Board decides to amend the plan, the Board may amend the plan—
- (a) in the manner proposed in the representation; or
- (b) in any other manner that, in the opinion of the Board, will meet the representation.”.
- 49. Sections 6C and 6D repealed**
- Sections 6C and 6D—
- Repeal the sections.**
- 50. Section 6E substituted**
- Section 6E—

**Repeal the section**

**Substitute**

**“6E. Withdrawal of representations made under section 6**

- (1) This section applies if—
  - (a) a person makes a representation under section 6(1); and
  - (b) the representation has not yet been considered at a meeting under section 6B(1).
- (2) The person may, by written notice to the Board, withdraw the representation.
- (3) After a representation is withdrawn under subsection (2), the representation is to be treated as not having been made.”.

**51. Sections 6F and 6G repealed**

Sections 6F and 6G—

**Repeal the sections.**

**52. Section 6H substituted**

Section 6H—

**Repeal the section**

**Substitute**

**“6H. Effect of amendments made under section 6B(8)**

- (1) If the Board amends a plan under section 6B(8)—
  - (a) the plan is to be read as including the amendment; and

- (b) a reference to the plan (however described) in this Ordinance or any other enactment is, unless the context otherwise requires, to be construed accordingly.

- (2) If, because of subsection (1), a plan is read as including an amendment, the Board—

- (a) must, as soon as reasonably practicable after the amendment is made, make the amendment available for public inspection at reasonable hours; and

- (b) must continue to do so until the Chief Executive in Council has made a decision under section 9 in respect of the plan or the part of the plan to which the amendment relates.”.

**53. Section 7 amended (amendment of draft plans by the Board)**

- (1) Section 7—

**Repeal subsection (1)**

**Substitute**

“(1) Without affecting sections 6, 6B, 6E and 6H, the Board may, at any time—

- (a) after the exhibition of a plan under section 5; and

- (b) before approval is given by the Chief Executive in Council under section 9 in respect of the plan or a part of the plan,

make any amendment to the plan or the part (as the case requires).”.

- (2) Section 7(2)—

**Repeal**

“to a draft plan made under this section shall be exhibited”

**Substitute**

“made under subsection (1) must be exhibited”.

(3) Section 7(2)—

**Repeal**

“period the Board shall advertise once a week in 2 daily Chinese language local newspapers and 1 daily English language local newspaper and shall notify”

**Substitute**

“period, the Board must publish on the Board’s website and notify”.

(4) Section 7(2)—

**Repeal**

“to the draft plan”.

(5) Section 7(3)—

**Repeal**

“shall supply a copy of an amendment to a draft plan made under this section”

**Substitute**

“must supply a copy of an amendment made under subsection (1)”.

(6) Section 7—

**Repeal subsection (4)**

**Substitute**

“(4) If the Board makes an amendment under subsection (1), sections 6, 6B, 6E and 6H apply, with necessary modifications, to and in relation to the amendment.

- (4A) Without affecting subsection (4), if the Board makes an amendment under subsection (1), sections 6, 6B, 6E and 6H are to apply as if—
- (a) the reference to “the period of 2 months during which a draft plan is exhibited under section 5” in section 6(1) were a reference to the period of 2 months during which the amendment is exhibited under subsection (2);
  - (b) the reference to “the draft plan” in section 6(1) were a reference to the amendment;
  - (c) each of the references to “the plan” in section 6(2)(a) were a reference to the amendment;
  - (d) the reference to “the part or parts of the plan to which the representation relates” in the definition of *subject part* in section 6(7) were a reference to the part or parts of the plan concerning any area covered by the amendment to which the representation relates;
  - (e) the reference to “the plan in question” in section 6B(6) were a reference to the amendment;
  - (f) each of the references to “the plan” in section 6B(8) were a reference to the part or parts of the plan concerning any area covered by the amendment to which the representation relates;
  - (g) the reference to “a plan under section 6B(8)” in section 6H(1) were a reference to the part or parts of the plan to which section 6B(8) (as modified by this subsection) applies;
  - (h) the reference to “the plan” in section 6H(1)(a) were a reference to the part or parts of the plan to which



- section 6B(8) (as modified by this subsection) applies; and
- (i) the reference to “a plan” in section 6H(2) were a reference to the part or parts of the plan to which section 6B(8) (as modified by this subsection) applies.”.
- (7) Section 7(5)—  
**Repeal**  
“6A, 6B, 6C, 6D, 6E, 6F, 6G”  
**Substitute**  
“6B, 6E”.
- (8) Section 7(5)—  
**Repeal**  
“subsection (4)”  
**Substitute**  
“subsections (4) and (4A)”.
- (9) Section 7(5), English text—  
**Repeal**  
“shall, with necessary modifications, be”  
**Substitute**  
“is, with necessary modifications, to be”.
- (10) Section 7—  
**Repeal subsection (6)**  
**Substitute**  
“(6) Subject as otherwise provided in this Ordinance, if the Board makes any amendment to a plan under subsection (1)—

- (a) the plan is to be read as including the amendment; and
- (b) a reference to the plan (however described) in this Ordinance or any other enactment is, unless the context otherwise requires, to be construed accordingly.”.
- 54. Sections 8 and 9 substituted**  
Sections 8 and 9—  
**Repeal the sections**  
**Substitute**
- “8. Submission of considered draft plan to Chief Executive in Council**
- (1) Before the specified period in relation to a draft plan expires, the Board must submit the plan to the Chief Executive in Council—
- (a) for approval in whole; or
- (b) for approval of the part or parts of the plan specified by the Board.
- (2) Subsection (1)(b) however does not apply to a plan to which this Ordinance applies because of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563).
- (3) The Board must submit the plan to the Chief Executive in Council under subsection (1) together with—
- (a) if the submission is made under subsection (1)(a)—
- (i) a schedule containing every representation made under section 6(1) in respect of the plan, including every representation made under that

- section in respect of any amendment made under section 7 to the plan; and
- (ii) a schedule containing every amendment made by the Board under this Ordinance to the plan; and
- (b) if the submission is made under subsection (1)(b)—
- (i) a schedule containing every representation made under section 6(1) in respect of the submitted part, including every representation made under that section in respect of any amendment made under section 7 to the submitted part; and
  - (ii) a schedule containing every amendment made by the Board under this Ordinance to the submitted part.
- (4) For submission of a plan to the Chief Executive in Council under subsection (1)(a), the specified period is, subject to subsection (6)—
- (a) if there is no amendment under section 7 to the plan—the period of 5 months after the period of 2 months mentioned in section 5 expires; and
  - (b) if there is any amendment under section 7 to the plan—
    - (i) where there is only one amendment under section 7—the period of 5 months after the period of 2 months mentioned in section 7(2) expires; and
    - (ii) where there is more than one amendment under section 7—the period of 5 months after the period of 2 months mentioned in section

- 7(2) in relation to the last of those amendments expires.
- (5) For submission of a plan to the Chief Executive in Council under subsection (1)(b), the specified period is, subject to subsection (6)—
- (a) if there is no amendment under section 7 to the submitted part—the period of 5 months after the period of 2 months mentioned in section 5 expires; and
  - (b) if there is any amendment under section 7 to the submitted part—
    - (i) where there is only one amendment under section 7—the period of 5 months after the period of 2 months mentioned in section 7(2) expires; and
    - (ii) where there is more than one amendment under section 7—the period of 5 months after the period of 2 months mentioned in section 7(2) in relation to the last of those amendments expires.
- (6) If the period of 5 months mentioned in subsection (4)(a) or (b)(i) or (ii) or (5)(a) or (b)(i) or (ii) (*5-month period*) is extended under subsection (7) or (8)(a) or (b), the specified period is to be the period extended under subsection (7) or (8)(a) or (b) (as the case requires) for the submission.
- (7) If the Secretary for Development considers it appropriate to do so in a particular case, the Secretary may extend the 5-month period for 2 months (*2-month period*).

- (8) If, in respect of a particular case, the Secretary is satisfied that exceptional circumstances exist, the Secretary may—
- (a) extend the 2-month period for 2 months; and
  - (b) further extend the period extended under paragraph (a) for another 2 months.
- (9) In this section—
- specified period* (指明期間)—see subsections (4), (5) and (6);
- submitted part* (呈交部分), in relation to a plan submitted under subsection (1)(b)—
- (a) if the Board specifies only one part of the plan for the Chief Executive in Council’s approval—means the specified part; and
  - (b) if the Board specifies more than one part of the plan for the Chief Executive in Council’s approval—means all those parts of the plan that are specified by the Board.

**9. Powers of Chief Executive in Council on submission of draft plans**

- (1) On submission of a plan under section 8(1)(a) for approval, the Chief Executive in Council may—
- (a) approve the plan;
  - (b) refuse to approve the plan; or
  - (c) refer the plan to the Board for consideration and amendment.
- (2) On submission of a plan under section 8(1)(b) for approval of the submitted part, the Chief Executive in Council may—
- (a) approve the submitted part;

- (b) refuse to approve the submitted part; or
  - (c) refer the plan to the Board for consideration and amendment of the submitted part.
- (3) The Chief Executive in Council may approve a plan under subsection (1)(a), or the submitted part of a plan under subsection (2)(a), even though a requirement of this Ordinance that is applicable to the plan, or to the submitted part, has not been complied with.
- (4) In this section—
- submitted part* (呈交部分) has the meaning given by section 8(9).”.

**55. Sections 9A to 9D added**

After section 9—

**Add**

**“9A. Amendment of draft plan or submitted part because of section 9(1)(c) or (2)(c)**

- (1) This section applies if a plan is referred to the Board under section 9(1)(c) or (2)(c).
- (2) For a referral under section 9(1)(c), the Board may make amendment under section 7 to any part of the plan.
- (3) For a referral under section 9(2)(c), the Board may make amendment under section 7 to the specified part of the plan.
- (4) Subject to subsection (5), section 7 applies, with necessary modifications, for the purposes of this section.
- (5) Section 7(1) is to be construed as if the words “Without affecting sections 6, 6B, 6E and 6H,” were omitted.

- (6) If any amendment is made by the Board under section 7 (as applied by this section), subject to subsection (7), sections 8 and 9 apply, with necessary modifications, to the plan or the part or parts of the plan for which approval of the Chief Executive in Council is sought.
- (7) In applying section 8(3), the Board must submit the plan together with—
- (a) for a submission made under section 8(1)(a)—
- (i) a schedule containing every amendment made under section 7 (as applied by this section) (*Section 7*) to the plan;
- (ii) a schedule containing every representation made under section 6(1) (as applied by Section 7) in respect of the amendment; and
- (iii) a schedule containing every other amendment made by the Board under this Ordinance to the plan; and
- (b) for a submission made under section 8(1)(b)—
- (i) a schedule containing every amendment made under Section 7 to the submitted part;
- (ii) a schedule containing every representation made under section 6(1) (as applied by Section 7) in respect of the amendment; and
- (iii) a schedule containing every other amendment made by the Board under this Ordinance to the submitted part.
- (8) In this section—
- specified part* (指明部分)—

- (a) in relation to a plan referred to the Board under section 9(2)(c) for consideration and amendment to a particular part of the plan—means the particular part; and
- (b) in relation to a plan referred to the Board under section 9(2)(c) for consideration and amendment to more than one part of the plan—means all those parts;

*submitted part* (呈交部分) has the meaning given by section 8(9).

**9B. Submission for approval of outstanding part of plan etc.**

- (1) Subsections (2) and (3) apply if a draft plan (*subject plan*) becomes a partly approved plan.
- (2) Sections 7, 8, 9 and 9A apply, with necessary modifications, to the outstanding part of the subject plan as if the outstanding part itself were a draft plan.
- (3) Without affecting subsection (2), section 7(1) is to apply as if—
- (a) the words “Without affecting sections 6, 6B, 6E and 6H,” in section 7(1) were omitted;
- (b) the reference to “exhibition of a plan” in section 7(1)(a) were a reference to the exhibition of the subject plan;
- (c) the reference to “the plan or a part of the plan” in section 7(1)(b) were a reference to the outstanding part, or a part of the outstanding part (*specified part*), of the subject plan; and

- (d) the reference to “the plan or the part” in section 7(1) were a reference to the outstanding part, or the specified part, of the subject plan.
- (4) If, but for this section, section 9A would have applied in relation to an amendment to a plan, section 9A continues to apply to the amendment as if this section had not been enacted.

**9C. Correction of errors in approved plans and approved parts of partly approved plans**

The Chief Executive in Council may, by notification in the Gazette, correct any omission for or error in—

- (a) an approved plan; or  
(b) an approved part of a partly approved plan.

**9D. Exhibition of approved plans and partly approved plans and provision of copies of plans**

- (1) This section applies if a plan or a part of a plan is approved under section 9.
- (2) As soon as reasonably practicable after approval is given to a plan or a part of a plan under section 9, the Board—
- (a) must cause the plan so approved or the plan with the part so approved to be printed and exhibited for public inspection at a place the Board considers appropriate; and
- (b) must notify in the Gazette the fact that the approval is given and that the plan is so exhibited.
- (3) On payment by a person of the fee the Board determines, the Board must provide a copy of the approved plan or partly approved plan to the person.”.

**56. Sections 10 and 11 substituted**

Sections 10 and 11—

**Repeal the sections**

**Substitute**

**“10. Refusal to approve plans or part of plans under section 9**

- (1) This section applies if the Chief Executive in Council refuses to approve a plan or a part of a plan under section 9.
- (2) The Board must notify the refusal in the Gazette.
- (3) The refusal does not prevent the preparation of a new draft plan and its submission under this Ordinance.

**11. Copies of approved plans and partly approved plans to be deposited in Land Registry etc.**

- (1) After a plan or a part of a plan is approved under section 9, the Chairman of the Board is to cause a copy of the approved plan or partly approved plan, that is certified by the Chairman, to be deposited in the Land Registry.
- (2) Every copy deposited under subsection (1) is to be made available by the Land Registrar for public inspection free of charge.
- (3) After a copy of the plan is deposited in the Land Registry (*fact*), the Land Registrar must cause a notice, in both the English language and the Chinese language, to be displayed in a prominent place in the Land Registry informing members of the public of the fact.”.

**57. Section 12 amended (revocation, replacement and amendment of approved plans)**

(1) Section 12—

**Repeal subsection (1)**

**Substitute**

“(1) The Chief Executive in Council may revoke in whole or in part—

- (a) an approved plan; or
- (b) an approval given under section 9 to a part of a partly approved plan.

(1A) Subject to subsection (1B), the Secretary for Development may—

- (a) refer an approved plan to the Board for—
  - (i) replacement by a new plan; or
  - (ii) amendment; or
- (b) refer a partly approved plan to the Board for amendment of an approved part (*referred part*).

(1B) The power under subsection (1A)(b) however may not be exercised in relation to a part of a plan that is taken to be an approved part under subsection (7).”

(2) Section 12(2)—

**Repeal**

“shall be”

**Substitute**

“or (1A) must be”.

(3) Section 12(3)—

**Repeal**

“(1)(b)”

**Substitute**

“(1A)”.

(4) Section 12(3)—

**Repeal**

“amendments to the plan referred, as the case may be, shall be”

**Substitute**

“amendment to the plan referred or to the referred part, as the case requires, must be”.

(5) Section 12(3)—

**Repeal**

“amendments amend, as the case may be, and to this intent where the reference is under subsection (1)(b)(ii)”

**Substitute**

“amendment amends, as the case requires, and to this intent where the reference is under subsection (1A)(a)(ii) or (b)”.

(6) Section 12(3)(a)—

**Repeal**

“6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7, 8, 9, 10 and 11 shall apply”

**Substitute**

“6B, 6E, 6H, 7, 8, 9, 9A, 9B, 9C, 9D, 10 and 11 (*specified provisions*) are to apply”.

(7) Section 12(3)(a), English text—

**Repeal**

“amendments”

**Substitute**

“amendment”.

(8) Section 12(3)—

**Repeal paragraph (b)**

**Substitute**

“(b) the specified provisions are to so apply as if—

- (i) the reference to “the draft plan” in section 6(1) were a reference to the amendment;
- (ii) each of the references to “the plan” in section 6(2)(a) were a reference to the amendment;
- (iii) the reference to “the part or parts of the plan to which the representation relates” in the definition of *subject part* in section 6(7) were a reference to the part or parts of the plan concerning any area covered by the amendment to which the representation relates;
- (iv) the reference to “the plan in question” in section 6B(6) were a reference to the amendment;
- (v) each of the references to “the plan” in section 6B(8) were a reference to the part or parts of the plan concerning any area covered by the amendment to which the representation relates;
- (vi) the reference to “a plan under section 6B(8)” in section 6H(1) were a reference to the part or parts of the plan to which section 6B(8) (as modified by this subsection) applies;
- (vii) the reference to “the plan” in section 6H(1)(a) were a reference to the part or parts of the plan to which section 6B(8) (as modified by this subsection) applies; and

- (viii) the reference to “a plan” in section 6H(2) were a reference to the part or parts of the plan to which section 6B(8) (as modified by this subsection) applies.”.

(9) Section 12(3A)—

**Repeal**

“sections 3, 4, 4A, 5, 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7, 8, 9, 10 and 11”

**Substitute**

“the specified provisions”.

(10) Section 12(3A), English text—

**Repeal**

“shall, with necessary modifications, be”

**Substitute**

“is, with necessary modifications, to be”.

(11) After section 12(3A)—

**Add**

“(3B) If—

- (a) an approved plan (*original plan*) or an approved part of a partly approved plan (*original part of the original plan*) is referred to the Board under this section for amendment; and
- (b) a part of the plan prepared under subsection (3) because of the referral is approved under section 9 (as applied by this section) (*latest approved part*),  
the original plan or the original part of the original plan, as the case requires, is to be read with the latest approved part.”.

(12) Section 12(4)—

**Repeal**

“shall be replaced by the new plan or the plan showing the amendments as approved under section 9, as the case may be. The Land Registrar shall”

**Substitute**

“is to be replaced by the new plan or the plan showing the amendment as approved under section 9, as the case requires. The Land Registrar must”.

(13) Section 12(5)—

**Repeal**

“amendments as prepared under sections 3 and 4 shall be deemed”

**Substitute**

“amendment as prepared under sections 3 and 4 is taken”.

(14) After section 12(5)—

**Add**

“(6) Subsection (7) applies if a part of a plan prepared under subsection (3) (*specified plan*) is refused under section 9 (as applied by this section).

(7) Despite section 1A(6)(b), the part of the plan referred under subsection (1A) that is covered by the refused part of the specified plan forms part of the specified plan and is taken to be an approved part of the specified plan.”.

**58. Section 12A amended (amendment of plans on application to the Board)**

(1) Section 12A—

**Repeal subsection (1)**

**Substitute**

“(1) Subject to subsection (2), an eligible person may apply to the Board for consideration of any proposal in relation to—

- (a) any part of an approved plan that is an original approved plan; or
- (b) any approved part of a partly approved plan that is an original approved plan.”.

(2) Section 12A—

**Repeal subsections (6), (7), (8), (9), (10), (11) and (12).**

(3) Section 12A(13)(a)—

**Repeal**

“after an application is made under subsection (1) but before consideration by the Board of the application at a meeting under subsection (16)”

**Substitute**

“during the period specified by the Board under subsection (24A)”.

(4) After section 12A(13)—

**Add**

“(13A) The Board must not accept any further information given by the applicant to the Board for the purposes of the application after the period specified under subsection (24A) expires.”.

(5) Section 12A(14)(a)—

**Repeal**

“paragraphs (b) and (c), the further information shall”



- Substitute**  
“paragraph (c), the further information is to”.
- (6) Section 12A(14)(a)—  
**Repeal the semicolon**  
**Substitute**  
“; and”.
- (7) Section 12A(14)—  
**Repeal paragraphs (b) and (c)(i).**
- (8) Section 12A(14)(c)(ii), English text—  
**Repeal**  
“shall”  
**Substitute**  
“is to”.
- (9) Section 12A(16)—  
**Repeal**  
“shall within 3 months”  
**Substitute**  
“must within 2 months”.
- (10) Section 12A—  
**Repeal subsection (22).**
- (11) Section 12A(24), English text—  
**Repeal**  
“Board shall”  
**Substitute**  
“Board must”.

- (12) Section 12A(24)(a)—  
**Repeal**  
“Chief Executive in Council”  
**Substitute**  
“Secretary for Development”.
- (13) Section 12A(24)(a)—  
**Repeal**  
“12(1)(b)(ii)”  
**Substitute**  
“12(1A)(a)(ii) or (b)”.
- (14) Section 12A(24)(b)—  
**Repeal**  
“section 12(1)(b)(ii) but”  
**Substitute**  
“the old section 12(1)(b)(ii) or section 12(1A)(a)(ii) or (b) but”.
- (15) Section 12A(24)(b)(i) and (ii), English text—  
**Repeal**  
“amendments”  
**Substitute**  
“the amendment”.
- (16) Section 12A(24)(b)(iii)—  
**Repeal**  
“Chief Executive in Council”  
**Substitute**  
“Secretary”.

(17) Section 12A(24)(b)(iii)—

**Repeal**

“12(1)(b)(ii)”

**Substitute**

“12(1A)(a)(ii) or (b)”.

(18) Section 12A(24)(c)—

**Repeal**

“section 12(1)(b)(ii) and”

**Substitute**

“the old section 12(1)(b)(ii) or section 12(1A)(a)(ii) or (b) and”.

(19) Section 12A(24)(c)(i), English text—

**Repeal**

“amendments”

**Substitute**

“the amendment”.

(20) Section 12A(24)(c)(ii)—

**Repeal**

“Chief Executive in Council”

**Substitute**

“Secretary”.

(21) Section 12A(24)(c)(ii)—

**Repeal**

“12(1)(b)(ii)”

**Substitute**

“12(1A)(a)(ii) or (b)”.

(22) After section 12A(24)—

**Add**

“(24A) The Board may, by notice published in the Gazette, specify the period during which an applicant may give further information to the Board to supplement the information included in the application.

(24B) A notice published under subsection (24A) is not subsidiary legislation.”.

(23) Section 12A(25), definition of *original approved plan*—

**Repeal paragraph (a)**

**Substitute**

“(a) an approved plan or partly approved plan; or”.

(24) Section 12A(25), definition of *referred approved plan*—

**Repeal**

“section 12(1)(b)(ii)”

**Substitute**

“the old section 12(1)(b)(ii) or section 12(1A)(a)(ii) or (b)”.

(25) Section 12A(25), definition of *referred approved plan*—

**Repeal**

“approved under”

**Substitute**

“approved (whether in whole or in part) under”.

(26) Section 12A(25), definition of *relevant approved plan*—

**Repeal**

“approved plan which has further to the reference of the plan to the Board for amendment under section 12(1)(b)(ii) been approved as such”

**Substitute**

“plan which has further to the reference of the original approved plan to the Board for amendment under the old section 12(1)(b)(ii) or section 12(1A)(a)(ii) or (b) been approved (whether in whole or in part)”.

(27) Section 12A(25), definition of *relevant draft plan*—

**Repeal**

“the plan”

**Substitute**

“the original approved plan”.

(28) Section 12A(25), definition of *relevant draft plan*—

**Repeal**

“section 12(1)(b)(ii)”

**Substitute**

“the old section 12(1)(b)(ii) or section 12(1A)(a)(ii) or (b)”.

(29) Section 12A(25)—

**Add in alphabetical order**

“*eligible person* (合資格人士), in relation to an application made under subsection (1) for consideration of any proposal relating to any part of an original approved plan (*specified part*), means—

- (a) a person whose name is registered in the Land Registry as that of an owner of any non-Government land covered by the specified part;
- (b) a person who has obtained written consent from a person mentioned in paragraph (a);

- (c) a person who has obtained written consent of the Director of Lands in relation to any Government land covered by the specified part;
- (d) a public officer; or
- (e) a public body as defined by section 2 of the Prevention of Bribery Ordinance (Cap. 201);

*Government land* (政府土地) means—

- (a) any unleased land as defined by section 2 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28); or
- (b) any land that is the subject of a short term tenancy (as defined by section 3(1) of the New Territories Leases (Extension) Ordinance (Cap. 150)) granted by or on behalf of the Government;

*non-Government land* (非政府土地) means any land other than Government land;

*old section 12(1)(b)(ii)* (原有第 12(1)(b)(ii)條) means section 12(1)(b)(ii) as in force before the commencement of section 58 of the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022);”.

**59. Section 13 amended (approved plans to serve as standards)**

(1) Section 13, heading, after “plans”—

**Add**

“and approved parts of partly approved plans”.

(2) Section 13—

**Repeal**

“shall”

**Substitute**

“and approved parts of partly approved plans must”.

**60. Section 16 amended (applications for permission in respect of plans)**

(1) Section 16(1)—

**Repeal**

“plan or”

**Substitute**

“plan, partly approved plan or”.

(2) Section 16(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(3) Section 16(2D)(a), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(4) Section 16(2D)(b), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(5) Section 16(2D)(b)—

**Repeal**

“in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week”

**Substitute**

“on the Board’s website”.

(6) Section 16(2J)(a)—

**Repeal**

“after an application is made under subsection (1) but before consideration by the Board of the application at a meeting under subsection (3)”

**Substitute**

“during the period specified by the Board under subsection (7A)”.

(7) After section 16(2J)—

**Add**

“(2JA) The Board must not accept any further information given by the applicant to the Board for the purposes of the application after the period specified under subsection (7A) expires.”.

(8) Section 16(7)—

**Repeal**

“shall not be a contravention of any approved plan or draft plan prepared under this Ordinance.”

**Substitute**

“is not a contravention of—

- (a) any approved plan or partly approved plan under this Ordinance; or

(b) any draft plan prepared under this Ordinance.”.

(9) After section 16(7)—

**Add**

“(7A) The Board may, by notice published in the Gazette, specify the period during which an applicant may give further information to the Board to supplement the information included in the application.

(7B) A notice published under subsection (7A) is not subsidiary legislation.”.

**61. Section 17 amended (right of review)**

(1) Section 17(1)—

**Repeal**

“Where”

**Substitute**

“Subject to subsection (1A), if”.

(2) Section 17(1)—

**Repeal**

“in writing”.

(3) After section 17(1)—

**Add**

“(1A) The application—

(a) must be in writing; and

(b) must set out the grounds for the review.

(1B) The Board must refuse an application if the application does not set out any grounds for the review.”.

(4) Section 17(2B)(a), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(5) Section 17(2B)(b), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(6) Section 17(2B)(b)—

**Repeal**

“in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week”

**Substitute**

“on the Board’s website”.

(7) Section 17(2H)(a)—

**Repeal**

“after an application is made under subsection (1) but before review of the decision in question under this section”

**Substitute**

“during the period specified by the Board under subsection (8)”.

(8) After section 17(2H)—

**Add**

“(2HA) The Board must not accept any further information given by the applicant to the Board for the purposes of the

application after the period specified under subsection (8) expires.”.

- (9) At the end of section 17—

**Add**

“(8) The Board may, by notice published in the Gazette, specify the period during which an applicant may give further information to the Board to supplement the information included in the application.

- (9) A notice published under subsection (8) is not subsidiary legislation.”.

**62. Section 23 amended (enforcement on land within a development permission area)**

Section 23(11)(b)—

**Repeal**

“or”

**Substitute**

“plan, partly approved plan or”.

**63. Section 27 amended (Board to supply copies of documents or materials)**

Section 27—

**Repeal**

“6A(4), 6C(1), 6D(4), 6H(2), 12A(6) or (12), 16(2C) or (2I) or 17(2A) or (2G), the Board shall”

**Substitute**

“6H(2), 16(2C) or (2I) or 17(2A) or (2G), the Board must”.

**64. Section 29 added**

After section 28—

**Add**

**“29. Transitional and saving provisions relating to Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) Subsections (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14) apply to a plan if the first day on which the plan is exhibited under section 5 falls on a day before the commencement date (*exhibited plan*).
- (2) If the last day of the period for which the plan is required to be exhibited under section 5 falls on or after the commencement date, section 5 of the pre-amended Ordinance applies to the plan.
- (3) Subject to subsection (4), sections 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G and 6H of the pre-amended Ordinance apply, with necessary modifications, to an exhibited plan.
- (4) For the purposes of subsection (3), for a plan to which section 9 of the Amended Ordinance applies because of subsection (8)—
  - (a) the references in sections 6(4) and 6A(4) of the pre-amended Ordinance to “a decision in respect of the draft plan in question” made by the Chief Executive in Council under section 9 are references to a decision made by the Chief Executive in Council under section 9 of the Amended Ordinance in respect of the plan or the part or parts of the plan to which the representation relates;
  - (b) the reference in section 6C(1) of the pre-amended Ordinance to “a decision in respect of the draft plan

- in question” made by the Chief Executive in Council under section 9 is a reference to a decision made by the Chief Executive in Council under section 9 of the Amended Ordinance in respect of the plan or the part or parts of the plan to which the amendment proposed under section 6B(8) of the pre-amended Ordinance relates;
- (c) the reference in section 6D(4) of the pre-amended Ordinance to “a decision in respect of the draft plan in question” made by the Chief Executive in Council under section 9 is a reference to a decision made by the Chief Executive in Council under section 9 of the Amended Ordinance in respect of the plan or the part or parts of the plan to which the further representation relates; and
- (d) the reference in section 6H(2) of the pre-amended Ordinance to “a decision in respect of the draft plan” made by the Chief Executive in Council under section 9 is a reference to a decision made by the Chief Executive in Council under section 9 of the Amended Ordinance in respect of the plan or the part or parts of the plan to which the amendments relate.
- (5) Section 7 of the pre-amended Ordinance applies to an amendment made under that section to an exhibited plan if the first day on which the amendment is exhibited under that section falls on a day before the commencement date.
- (6) Section 9 of the pre-amended Ordinance (*pre-amended section 9*) applies to an exhibited plan if the submission of the plan was made under section 8 before the commencement date but a decision under section 9 is pending immediately before that date.

- (7) If, because of subsection (6), an exhibited plan is referred to the Board under the pre-amended section 9 for further consideration and amendment, the Board may make any amendment under section 7 (as applied by section 9A of the Amended Ordinance) to the referred plan.
- (8) For an exhibited plan in respect of which submission has not been made under section 8 before the commencement date, subject to subsections (9), (10), (11), (12) and (13), sections 8 and 9 of the Amended Ordinance apply to the plan.
- (9) If, because of subsection (8), section 8 of the Amended Ordinance applies to a plan, the period before the expiry of which the plan must be submitted under that section (*specified period*) is—
- (a) for a submission under section 8(1)(a) of the Amended Ordinance, subject to subsection (10)—
- (i) where there is no amendment under section 7 of Cap. 131 to the plan—the period of 9 months after the period of 2 months mentioned in section 5 expires;
- (ii) where there is only one amendment under section 7 of Cap. 131 to the plan—the period of 9 months after the period of 2 months mentioned in section 7(2) expires; and
- (iii) where there is more than one amendment under section 7 of Cap. 131 to the plan—the period of 9 months after the period of 2 months mentioned in section 7(2) in relation to the last of those amendments expires; and
- (b) for a submission under section 8(1)(b) of the Amended Ordinance, subject to subsection (10)—

- (i) where there is no amendment under section 7 of Cap. 131 to the submitted part—the period of 9 months after the period of 2 months mentioned in section 5 expires;
  - (ii) where there is only one amendment under section 7 of Cap. 131 to the submitted part—the period of 9 months after the period of 2 months mentioned in section 7(2) expires; and
  - (iii) where there is more than one amendment under section 7 of Cap. 131 to the submitted part—the period of 9 months after the period of 2 months mentioned in section 7(2) in relation to the last of those amendments expires.
- (10) If the period of 9 months mentioned in subsection (9)(a)(i), (ii) or (iii) or (b)(i), (ii) or (iii) (**9-month period**) is extended under subsection (11) or (12)(a) or (b), the specified period is to be the period extended under subsection (11) or (12)(a) or (b) (as the case requires) for the submission.
- (11) If the Secretary for Development considers it appropriate to do so in a particular case, the Secretary may extend the 9-month period for 2 months (**2-month period**).
- (12) If, in respect of a particular case, the Secretary is satisfied that exceptional circumstances exist, the Secretary may—
- (a) extend the 2-month period for 2 months; and
  - (b) further extend the period extended under paragraph (a) for another 2 months.

- (13) Where a submission is made under section 8 (as applied by subsection (8)) (**new section 8**), without affecting subsection (3) of the new section 8—
- (a) for a submission under subsection (1)(a) of the new section 8, if—
    - (i) any representations, comments, further representations or amendments have been made under section 6, 6A, 6D, 6F, 6G or 7 before the commencement date in relation to the exhibited plan; or
    - (ii) any representations, comments, further representations or amendments have been made under section 6, 6A, 6D, 6F, 6G or 7 (which applies because of subsection (3) or (5)) in relation to the plan,the Board must comply with section 8(1A) of the pre-amended Ordinance (**pre-amended section 8(1A)**); and
  - (b) for a submission under subsection (1)(b) of the new section 8, if—
    - (i) any representations, comments, further representations or amendments have been made under section 6, 6A, 6D, 6F, 6G or 7 before the commencement date in relation to the submitted part of the exhibited plan; or
    - (ii) any representations, comments, further representations or amendments have been made under section 6, 6A, 6D, 6F, 6G or 7 (which applies because of subsection (3) or (5)) in relation to the submitted part of the plan,



- the Board must comply with the pre-amended section 8(1A) in so far as the submitted part is concerned.
- (14) Section 12 of the pre-amended Ordinance applies to a plan referred to the Board under section 12 before the commencement date if a new plan prepared for replacement of the plan referred, or a plan showing any amendment to the plan referred, is an exhibited plan.
- (15) Subject to subsection (16), section 12A of the pre-amended Ordinance applies to an application made under section 12A before the commencement date.
- (16) For the purposes of subsection (15)—
- (a) the references in section 12A(24)(a), (b)(iii) and (c)(ii) of the pre-amended Ordinance to “the Chief Executive in Council” are to be construed as references to the Secretary for Development;
  - (b) the reference in section 12A(24)(a) of the pre-amended Ordinance to “section 12(1)(b)(ii)” is to be construed as a reference to section 12(1A)(a)(ii) or (b) of the Amended Ordinance;
  - (c) the first reference in section 12A(24)(b) of the pre-amended Ordinance to “section 12(1)(b)(ii)” is to be construed as a reference to section 12(1)(b)(ii) as in force before the commencement date or section 12(1A)(a)(ii) or (b) of the Amended Ordinance (as the case requires);
  - (d) the reference in section 12A(24)(b)(iii) of the pre-amended Ordinance to “section 12(1)(b)(ii)” is to be construed as a reference to section 12(1A)(a)(ii) or (b) of the Amended Ordinance;

- (e) the first reference in section 12A(24)(c) of the pre-amended Ordinance to “section 12(1)(b)(ii)” is to be construed as a reference to section 12(1)(b)(ii) as in force before the commencement date or section 12(1A)(a)(ii) or (b) of the Amended Ordinance (as the case requires);
  - (f) the reference in section 12A(24)(c)(ii) of the pre-amended Ordinance to “section 12(1)(b)(ii)” is to be construed as a reference to section 12(1A)(a)(ii) or (b) of the Amended Ordinance; and
  - (g) the definitions of *original approved plan*, *referred approved plan*, *relevant approved plan* and *relevant draft plan* in section 12A(25) of the pre-amended Ordinance are to be respectively replaced by the definitions of *original approved plan*, *referred approved plan*, *relevant approved plan* and *relevant draft plan* in section 12A(25) of the Amended Ordinance.
- (17) Section 16 of the pre-amended Ordinance applies to an application made under section 16 before the commencement date.
- (18) A reference in section 16A to section 16 includes section 16 as applied by subsection (17).
- (19) Section 17 of the pre-amended Ordinance applies to—
- (a) an application for a review of a decision of the Board made under section 16 in respect of an application made under section 16(1) before the commencement date; and
  - (b) an application for a review of a decision of the Board made under section 16A in respect of an application

- made under section 16A(2) before the commencement date.
- (20) A reference in section 17 of the Amended Ordinance to section 16 includes section 16 as applied by subsection (17).
- (21) A reference in section 17 of the Amended Ordinance to section 16A is to be read with subsection (18).
- (22) References in section 17B to section 17 and section 17(6) include section 17 and section 17(6) of the pre-amended Ordinance as applied by subsection (19).
- (23) For the purposes of this section—
- (a) references to sections 5, 7(1) to (3), 8, 12A, 16 and 16A in section 2(5)(a) of the Amended Ordinance include references to those sections in the pre-amended Ordinance as applied by this section;
- (b) references to sections 12A(13) and (15), 16(2J) and (2L) and 17(2H) and (2J) in section 2(5)(c) of the Amended Ordinance include references to those sections in the pre-amended Ordinance as applied by this section;
- (c) the power of the Board under section 2A of the Amended Ordinance to appoint committees from among its members to exercise any of the Board's powers and functions under sections 6B, 6E and 6H includes a power of the Board to appoint committees from among its members to exercise any of the Board's powers and functions under sections 6B, 6C, 6D, 6E, 6F, 6G and 6H of the pre-amended Ordinance as applied by this section;

- (d) section 2C(2)(a) of the pre-amended Ordinance applies in relation to a meeting held under or for the purposes of section 6B, 6F, 12A, 16, 16A or 17 of the pre-amended Ordinance as applied by this section; and
- (e) section 27 of the pre-amended Ordinance applies to any document or material that is available for public inspection under section 6(4), 6A(4), 6C(1), 6D(4), 6H(2), 12A(6) or (12), 16(2C) or (2I) or 17(2A) or (2G) of the pre-amended Ordinance as applied by this section.
- (24) In this section—
- Amended Ordinance** (《經修訂條例》) means Cap. 131 as amended by the Amendment Ordinance;
- Amendment Ordinance** (《修訂條例》) means the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022);
- Cap. 131** (《第 131 章》) means the Town Planning Ordinance (Cap. 131);
- commencement date** (生效日期) means the date on which Division 1 of Part 5 of the Amendment Ordinance comes into operation;
- pre-amended Ordinance** (《原有條例》) means Cap. 131 as in force immediately before the commencement date.”

## Division 2—Amendments Regarding Expansion of Enforcement Powers of Director of Planning under Town Planning Ordinance

### 65. Long title amended

- (1) The long title, English text—

#### Repeal

“as well as for the types of building suitable for erection therein”

#### Substitute

“(as well as for the types of building suitable for erection in those areas)”.

- (2) The long title, after “development”—

#### Add

“, including making provision for the enforcement of this Ordinance and for related matters”.

### 66. Section 1A amended (interpretation)

- (1) Section 1A(1), English text, definition of *unauthorized development*—

#### Repeal

“means”.

- (2) Section 1A(1), definition of *unauthorized development*, paragraph (a)—

#### Repeal

“or described in section 20(7),”

#### Substitute

“, land to which section 20(7) applies, or a regulated area, means”.

- (3) Section 1A(1), English text, definition of *unauthorized development*, paragraph (b)—

#### Repeal

“23(4),”

#### Substitute

“23(4), means”.

- (4) Section 1A(1), Chinese text, definition of *監督*—

#### Repeal

“長。”

#### Substitute

“長；”。

- (5) Section 1A(1)—

#### Add in alphabetical order

“*material date* (關鍵日期) means 9 December 2022;

*pre-material-date use* (關鍵日期前用途), in relation to a regulated area, means a use of a building or land that was in existence immediately before the material date;

*regulated area* (受規管地區) means—

- (a) an area designated under section 21A(3); or
- (b) an area modified under section 21A(5)(a);

*regulated area designation* (受規管地區指定) means—

- (a) a designation under section 21A(3); or
- (b) a designation mentioned in paragraph (a) as modified from time to time by section 21A(5)(a);

*regulated area plan* (受規管地區圖則) means a plan prepared and signed under section 21B;”.

**67. Cross-heading before section 20 repealed**

Cross-heading before section 20—

**Repeal the cross-heading.**

**68. Section 20 amended (development permission area plans)**

(1) Section 20(7), English text—

**Repeal**

“no person shall undertake”

**Substitute**

“a person must not undertake”.

(2) Section 20(7)—

**Repeal paragraph (b)**

**Substitute**

“(b) the development on that land is permitted under a plan—

(i) that is prepared under section 3(1)(a) (whether or not the plan is approved in whole or in part under section 9); and

(ii) that is the latest plan in relation to the land; or”.

**69. Section 21 amended (offence of unauthorized development)**

(1) Section 21, heading, after “development”—

**Add**

“—development permission area”.

(2) Section 21—

**Repeal subsection (1)**

**Substitute**

“(1) While a plan of a development permission area is effective, a person must not undertake or continue development in the development permission area unless—

(a) the development in the area is an existing use;

(b) the development in the area is permitted under a plan—

(i) that is prepared under section 3(1)(b) (whether or not the plan is approved in whole or in part under section 9); and

(ii) that is the latest plan in relation to the area; or

(c) permission to do so has been granted under section 16.”.

**70. Sections 21A to 21F added**

After section 21—

**Add**

**“21A. Regulated area**

(1) This section applies to an area that is included in a plan under this Ordinance.

(2) However, this section does not apply to an area—

(a) that is within the Hong Kong Island, Kowloon, or the New Kowloon; or

(b) that is any land included in a plan of a development permission area or is any land to which section 20(7) applies.

- (3) The Secretary for Development may, by notice published in the Gazette, designate an area to be a regulated area for either or both of the following purposes—
  - (a) protecting the area from environmental degradation;
  - (b) promoting conservation of the area.
- (4) A notice under subsection (3) must describe and delineate the area concerned by reference to a plan prepared and signed under section 21B.
- (5) The Secretary may, by notice published in the Gazette—
  - (a) modify a regulated area designation, including—
    - (i) expanding the area covered by the designation for either or both of the purposes mentioned in subsection (3)(a) and (b) (*designated area*); and
    - (ii) reducing the designated area; or
  - (b) revoke a regulated area designation.
- (6) A notice under subsection (5)(a)(i) or (ii) must describe and delineate the expanded area or reduced area (as the case requires) by reference to a plan prepared and signed under section 21B.
- (7) A notice made under subsection (3) or (5) is not subsidiary legislation.

**21B. Plan to be prepared and signed by Secretary for Development for purposes of section 21A(4) or (6)**

- (1) The Secretary for Development may prepare a plan for the purposes of section 21A(4) or (6).
- (2) The Secretary must sign the plan prepared under subsection (1).

**21C. Copies of regulated area plan to be deposited in Land Registry etc.**

- (1) After a designation or modification is made under section 21A(3) or (5)(a), the Secretary for Development is to cause a copy of the regulated area plan to which the designation or modification relates to be deposited in the Land Registry.
- (2) Every copy deposited under subsection (1) is to be made available by the Land Registrar for public inspection free of charge.
- (3) The Secretary may, on payment of the fee determined under subsection (4), provide a copy of the regulated area plan to a person.
- (4) The Secretary may determine the fee to be paid by a person for the provision of a copy under subsection (3).

**21D. When regulated area designation takes effect or ceases to be effective**

- (1) A designation of regulated area under section 21A(3) takes effect on the date of publication of the notice by which the designation is made.
- (2) A modification of a regulated area designation under section 21A(5)(a) takes effect on the date of publication of the notice by which the modification is made.
- (3) A regulated area designation is effective until it is modified or revoked under section 21A(5).

**21E. When revocation of designation takes effect**

A revocation made under section 21A(5)(b) in relation to a regulated area designation takes effect on the date of publication of the notice by which the revocation is made.

**21F. Offence of unauthorized development—regulated area**

- (1) While a regulated area designation is effective, a person must not undertake or continue development in the regulated area unless—
  - (a) the development in the area is a pre-material-date use;
  - (b) the development in the area is permitted under a plan—
    - (i) that is prepared under section 3(1)(a) (whether or not the plan is approved in whole or in part under section 9); and
    - (ii) that is the latest plan in relation to the area; or
  - (c) permission to do so has been granted under section 16.
- (2) A person who contravenes subsection (1) commits an offence and is liable—
  - (a) on a first conviction—to a fine of \$500,000; and
  - (b) on a second or subsequent conviction—to a fine of \$1,000,000.
- (3) Subsection (2) has effect subject to section 111 of the Private Columbaria Ordinance (Cap. 630)."

**71. Section 22 amended (power to inspect and require provision of information)**

- (1) Section 22(5), English text—

**Repeal**

"him enters"

**Substitute**

"the Authority enters".

- (2) Section 22(5)—

**Repeal**

"he may require any person present at that place"

**Substitute**

", the Authority or the authorized person may exercise any of the following powers".

- (3) Section 22(5)—

**Repeal paragraph (a)**

**Substitute**

"(a) require any person present at that place to give details of the person's identity, name and address, and produce the person's identity card issued under the Registration of Persons Ordinance (Cap. 177) for inspection by the Authority or the authorized person;"

- (4) Section 22(5)(b), before "who"—

**Add**

"require any person present at that place".

- (5) Section 22(5)(b)—

**Repeal**

"him to carry out his"

**Substitute**

"the Authority or the authorized person to carry out their".

- (6) Section 22(7)—

**Repeal**

"21" (wherever appearing)

**Substitute**

“21, 21F”.

- (7) Section 22(7), English text—

**Repeal**

“him”

**Substitute**

“the person”.

**72. Section 23 amended (enforcement on land within a development permission area)**

- (1) Section 23, heading, after “**permission area**”—

**Add**

“**or regulated area**”.

- (2) Section 23(3)—

**Repeal**

everything after “service of the notice”

**Substitute**

“—

- (a) if the land is included in a plan of a development permission area or is a land to which section 20(7) applies—
- (i) to the condition it was in immediately before the development permission area became effective; or
- (ii) to any other condition, more favourable to the person, that the Authority considers satisfactory; and

- (b) if the land is in a regulated area—

- (i) to the condition it was in immediately before the material date; or
- (ii) to any other condition, more favourable to the person, that the Authority considers satisfactory.”.

- (3) Section 23(9)(a)—

**Repeal**

“he”

**Substitute**

“the defendant”.

- (4) Section 23(9)(b)—

**Repeal**

“which existed according to the opinion of the Authority”

**Substitute**

“on land included in a plan of a development permission area or on land to which section 20(7) applies, which existed according to the opinion of the Authority,”.

- (5) After section 23(9)(b)—

**Add**

“(ba) the unauthorized development in the regulated area which existed according to the opinion of the Authority in fact was a pre-material-date use;”.

- (6) Section 23(9)(c)—

**Repeal**

“under the plan”

**Substitute**

“under the latest plan”.

- (7) Section 23(9)(c)—

**Repeal**

“; or”

**Substitute a semicolon.**

- (8) After section 23(9)(c)—

**Add**

“(ca) the unauthorized development which existed according to the opinion of the Authority in fact is permitted under a plan—

- (i) that is prepared under section 3(1)(a) (whether or not the plan is approved in whole or in part under section 9); and
- (ii) that is the latest plan in relation to the land; or”.

**Part 6**

**Amendments to Roads (Works, Use and Compensation)  
Ordinance (Cap. 370)**

**73. Section 4 amended (minor works)**

- (1) Section 4(1)—

**Repeal paragraph (a)**

**Substitute**

“(a) that, in the Secretary’s opinion—

- (i) only involve minor physical or structural operations; or
- (ii) only create minimal adverse effect on the commuters and the people in the neighbourhood; and”.

- (2) Section 4(1)(b)—

**Repeal**

“him are”

**Substitute**

“the Secretary are any one or more of the following”.

- (3) Section 4(1)(b)(i)—

**Repeal**

“his”

**Substitute**

“the Secretary’s”.

- (4) Section 4(2)—



**Repeal**

“, including the closures mentioned in subsection (1)(b), and the use shall be”

**Substitute**

“(including, if the exercise of a power mentioned in subsection (1)(b)(i), (ii) or (iii) is required, a closure mentioned in that subsection) and the use is”.

**74. Section 8 amended (deposit and publication)**

- (1) Section 8(3), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Section 8(3)—

**Repeal paragraph (b)**

**Substitute**

“(b) on the website specified by the Secretary; and”.

- (3) Section 8(3)—

**Repeal paragraph (c).**

- (4) Section 8(4), English text—

**Repeal**

“shall, by notice in writing, advise the District Board”

**Substitute**

“must, by notice in writing, advise the District Council”.

- (5) Section 8(4), English text—

**Repeal**

“that District Board”

**Substitute**

“that District Council”.

**75. Section 10 amended (objections)**

- (1) Section 10(1)—

**Repeal**

everything after “both”

**Substitute a full stop.**

- (2) Section 10—

**Repeal subsection (3)**

**Substitute**

“(3) An objection lodged on a ground relating to any compensation (whether monetary or non-monetary) or any financial or other assistance (*compensation or assistance*) in connection with the works or the use is, to the extent that it is lodged on that ground, invalid and treated as not having been lodged for the purposes of section 11.

- (4) In subsection (3), the reference to a ground relating to any compensation or assistance includes—

- (a) a ground relating to whether any compensation or assistance is to be provided, whether or not under an enactment; and  
(b) a ground relating to the amount, extent or form of the compensation or assistance, or the time for its provision.

- (5) If the Secretary gives any written reply to an objection, the objector may give a response to the reply (including

- any comment on, or any request in connection with, the reply) within the period of 14 days after the day on which the reply is given.
- (6) For subsection (5), the mere notification by the Secretary that the objection is treated as unwithdrawn and will be submitted to the Chief Executive in Council does not constitute a reply.
- (7) A response that is given after the 14-day period mentioned in subsection (5) is treated as not having been given.
- (8) An objector may, by writing to the Secretary—
- (a) amend an objection lodged by the objector within the period for lodging objections; or
  - (b) withdraw the objection in whole or in part before the plan and scheme are submitted under section 11(1A).
- (9) An objection (or a part of an objection) that has been withdrawn is treated as not having been lodged for the purposes of section 11.
- (10) An objection, an amendment or withdrawal of an objection, or a response (referred to in subsection (5)) may be given to the Secretary by—
- (a) delivering it to an officer who is authorized by the Secretary to receive it on the Secretary's behalf;
  - (b) sending it by ordinary or registered post;
  - (c) sending it by electronic mail transmission to an electronic mail address specified by the Secretary; or
  - (d) sending it by fax transmission to a fax number specified by the Secretary.

- (11) A reply (referred to in subsection (5)) may be given to the objector by—
- (a) delivering it to the objector personally;
  - (b) leaving it at the objector's last known address;
  - (c) sending it by ordinary or registered post addressed to the objector at the objector's last known address;
  - (d) sending it by electronic mail transmission to the objector's last known electronic mail address; or
  - (e) sending it by fax transmission to the objector's last known fax number."

**76. Section 11 amended (procedure after publication of plan and scheme)**

Section 11—

**Repeal subsection (1A)**

**Substitute**

- “(1A) Subject to subsection (1), the Secretary must, before the expiry of the period determined in accordance with subsections (1AB) and (1AC), submit the plan and scheme and every objection lodged under section 10(1) to the Chief Executive in Council for consideration.
- (1AB) Except as extended under subsection (1AC), the period mentioned in subsection (1A) is—
- (a) unless paragraph (b) applies—5 months after the date of expiry of the time for lodging objections under section 10(1) in respect of the works or the use; or

- (b) if one or more amendments are made to the plan or scheme under section 7—whichever of the following periods that ends later—
- (i) the period mentioned in paragraph (a);
  - (ii) 3 months after the date of expiry of the time for lodging objections under section 10(1) in respect of the amendment (or the last of the amendments).

(1AC) The Financial Secretary may, on application by the Secretary—

- (a) extend the period mentioned in subsection (1AB) for 2 months if the Financial Secretary considers it appropriate to do so in a particular case; and
- (b) further extend the period on not more than 2 occasions and for 2 months for each extension if the Financial Secretary is satisfied that exceptional circumstances exist in a particular case.”.

**77. Section 14 amended (notices of resumption of land)**

- (1) Section 14(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Section 14(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website specified by the Secretary; and”.

- (3) Section 14(1)(b)—

**Repeal subparagraph (iii).**

**78. Section 16 amended (notices of creation of easements or other rights)**

- (1) Section 16(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Section 16(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website specified by the Secretary; and”.

- (3) Section 16(1)(b)—

**Repeal subparagraph (iii).**

**79. Section 18 amended (notices of orders made under section 17)**

- (1) Section 18(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Section 18(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website specified by the Secretary; and”.

- (3) Section 18(1)(b)—  
**Repeal subparagraph (iii).**

**80. Section 33 amended (interest)**

- (1) Section 33(1)(b)—  
**Repeal**  
everything after “thinks fit”  
**Substitute a full stop.**

- (2) Section 33—  
**Repeal subsections (2) and (3)**  
**Substitute**

- “(2) For subsection (1)(b), the rate of interest payable—  
(a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and  
(b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.

- (3) In this section—  
*reference interest rate* (参考利率) means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day.”.

**81. Section 36 amended (certain statements to be conclusive evidence)**

- (1) Section 36(c)—  
**Repeal subparagraph (i)**

**Substitute**

- “(i) any works only involve minor physical or structural operations;  
(ia) any works only create minimal adverse effect on the commuters and the people in the neighbourhood; or”.

- (2) Section 36, English text—

**Repeal**

“shall”

**Substitute**

“must”.

**82. Section 37 amended (disposal of lands and easements)**

Section 37—

**Repeal**

everything after “whatsoever”

**Substitute a full stop.**

**83. Section 37A added**

After section 37—

**Add**

**“37A. Absence of authorization of expenditure for works or use not prevent certain matters**

The fact that the expenditure for any works or any use has not been approved or authorized under the Public Finance Ordinance (Cap. 2) or any other enactment does not prevent—

- (a) the authorization of the works or the use under section 4 or 11(1), (2), (4) or (5);

- (b) the exercise of a power under section 11(7), 13, 15, 17, 19, 20, 21, 22 or 23; or
- (c) the provision of any compensation (whether monetary or non-monetary) or any financial or other assistance, whether or not under an enactment, in connection with the works or the use.”.

**84. Section 42 repealed (transitional)**

Section 42—

**Repeal the section.**

**85. Section 43 added**

At the end of Part V—

**Add**

**“43. Transitional provisions for Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) If a copy of a plan and scheme has been deposited in the Land Registry under section 8(1) before the commencement date of sections 74(2) and (3), 75, 76, 77, 78 and 79 of the Amendment Ordinance, sections 8(3), 10, 11, 14, 16 and 18 as in force immediately before that commencement date continue to apply in relation to the plan and scheme as if sections 74(2) and (3), 75, 76, 77, 78 and 79 of the Amendment Ordinance had not been enacted.
- (2) The amendment made to section 37 by section 82 of the Amendment Ordinance has effect in relation to any land resumed (whether before, on or after the commencement

date of section 82 of the Amendment Ordinance) under this Ordinance.

- (3) If the period specified in the fourth column of Part II of the Schedule in relation to a matter specified in the first column of that Part begins before the commencement date of section 80 of the Amendment Ordinance, section 33 as in force immediately before that commencement date continues to apply in relation to the compensation in respect of the matter as if section 80 of the Amendment Ordinance had not been enacted.

- (4) In this section—

*Amendment Ordinance* (《修訂條例》) means the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022).”.

**86. Schedule amended**

The Schedule—

**Repeal**

“27 & 28]”

**Substitute**

“6, 27, 28, 29, 33 & 43]”.

**87. “Government” substituted for “Crown”**

- (1) Section 2(1), Chinese text, definition of 擁有人, paragraph (b)—

**Repeal**

“官方”

**Substitute**

“政府”.

(2) The following provisions—

- (a) section 3(2);
- (b) section 4(3);
- (c) section 19(1);
- (d) section 21(4);
- (e) section 25;
- (f) section 26;
- (g) section 27(1);
- (h) section 28(4);
- (i) section 29(6)(a);
- (j) section 34(b)—

**Repeal**

“Crown” (wherever appearing)

**Substitute**

“Government”.

**88. “Chief Executive” substituted for “Governor”**

(1) The following provisions—

- (a) section 5(b)(iv);
- (b) section 13(1) and (3);
- (c) section 14(2)(d);
- (d) section 15(1), (3) and (4);
- (e) section 16(2)(d);
- (f) section 17(1);
- (g) section 22(7);

(h) section 23(1) and (2)—

**Repeal**

“Governor” (wherever appearing)

**Substitute**

“Chief Executive”.

(2) The following provisions—

- (a) section 13, heading;
- (b) section 15, heading—

**Repeal**

“Governor” (wherever appearing)

**Substitute**

“Chief Executive”.

(3) Section 22(9)—

**Repeal**

“, the Governor”

**Substitute**

“, the Chief Executive”.

**89. “Chief Executive in Council” substituted for “Governor in Council”**

The following provisions—

- (a) section 11(3), (4), (5), (6), (7) and (9)(b), (c) and (d);
- (b) section 12;
- (c) section 22(3), (8) and (9);
- (d) section 27(3)—

**Repeal**

“Governor in Council” (wherever appearing)

**Substitute**

“Chief Executive in Council”.

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**Part 7**

**Amendments to Railways Ordinance (Cap. 519)**

**90. Section 6 amended (deposit and publication of schemes)**

(1) Section 6(6)—

**Repeal paragraph (b)**

**Substitute**

“(b) on the website specified by the Secretary; and”.

(2) Section 6(6)—

**Repeal paragraph (c).**

(3) Section 6(7), English text—

**Repeal**

“Board” (wherever appearing)

**Substitute**

“Council”.

**91. Section 10 amended (objections)**

(1) After section 10(3)—

**Add**

“(3A) An objection lodged on a ground relating to any compensation (whether monetary or non-monetary) or any financial or other assistance (*compensation or assistance*) in connection with the scheme is, to the extent that it is lodged on that ground, invalid and treated as not having been lodged for the purposes of section 11.

- (3B) In subsection (3A), the reference to a ground relating to any compensation or assistance includes—
- (a) a ground relating to whether any compensation or assistance is to be provided, whether or not under an enactment; and
  - (b) a ground relating to the amount, extent or form of the compensation or assistance, or the time for its provision.
- (3C) If the Secretary gives any written reply to an objection, the person lodging the objection (*objector*) may give a response to the reply (including any comment on, or any request in connection with, the reply) within the period of 14 days after the day on which the reply is given.
- (3D) For subsection (3C), the mere notification by the Secretary that the objection is treated as unwithdrawn and will be submitted to the Chief Executive in Council does not constitute a reply.
- (3E) A response that is given after the 14-day period mentioned in subsection (3C) is treated as not having been given.”.

- (2) Section 10(4)—

**Repeal**

“A person making an objection”

**Substitute**

“An objector”.

- (3) Section 10(4)(b)—

**Repeal**

everything after “scheme is”

**Substitute**

“submitted under section 11(2).”.

- (4) After section 10(6)—

**Add**

- “(7) An objection, an amendment or withdrawal of an objection, or a response (referred to in subsection (3C)) may be given to the Secretary by—
- (a) delivering it to an officer who is authorized by the Secretary to receive it on the Secretary’s behalf;
  - (b) sending it by ordinary or registered post;
  - (c) sending it by electronic mail transmission to an electronic mail address specified by the Secretary; or
  - (d) sending it by fax transmission to a fax number specified by the Secretary.
- (8) A reply (referred to in subsection (3C)) may be given to the objector by—
- (a) delivering it to the objector personally;
  - (b) leaving it at the objector’s last known address;
  - (c) sending it by ordinary or registered post addressed to the objector at the objector’s last known address;
  - (d) sending it by electronic mail transmission to the objector’s last known electronic mail address; or
  - (e) sending it by fax transmission to the objector’s last known fax number.”.

**92. Section 11 amended (procedure after publication of scheme)**

Section 11—

**Repeal subsection (2)**



**Substitute**

- “(2) Subject to subsection (1), the Secretary must, before the expiry of the period determined in accordance with subsections (2A) and (2B), submit the scheme and every objection lodged under section 10(1) to the Chief Executive in Council for consideration.
- (2A) Except as extended under subsection (2B), the period mentioned in subsection (2) is—
- (a) unless paragraph (b) applies—5 months after the date of expiry of the time for lodging objections under section 10(1) in respect of the scheme; or
  - (b) if one or more amendments are made to the scheme under section 7—whichever of the following periods that ends later—
    - (i) the period mentioned in paragraph (a);
    - (ii) 3 months after the date of expiry of the time for lodging objections under section 10(1) in respect of the amendment (or the last of the amendments).
- (2B) The Financial Secretary may, on application by the Secretary—
- (a) extend the period mentioned in subsection (2A) for 2 months if the Financial Secretary considers it appropriate to do so in a particular case; and
  - (b) further extend the period on not more than 2 occasions and for 2 months for each extension if the Financial Secretary is satisfied that exceptional circumstances exist in a particular case.”.

**93. Section 15 amended (minor works)**

- (1) Section 15(1), after “boundaries of the scheme”—

**Add**

“referred to in paragraph (b)”.

- (2) Section 15(1)—

**Repeal paragraphs (a) and (b)**

**Substitute**

“(a) that, in the Secretary’s opinion—

(i) only involve minor physical or structural operations;  
or

(ii) only create minimal adverse effect on the commuters and the people in the neighbourhood;

(b) that are required for the purposes of a scheme, or required for the purposes of a scheme intended to be proposed; and”.

- (3) Section 15(1)(c)—

**Repeal**

“him are”

**Substitute**

“the Secretary are any one or more of the following”.

- (4) Section 15(1)(c)(i)—

**Repeal**

“his”

**Substitute**

“the Secretary’s”.

**94. Section 19 amended (notices of resumption of land)**

- (1) Section 19(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website specified by the Secretary; and”.

- (2) Section 19(1)(b)—

**Repeal subparagraph (iii).**

**95. Section 21 amended (notices of creation of easements or other rights)**

- (1) Section 21(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website specified by the Secretary; and”.

- (2) Section 21(1)(b)—

**Repeal subparagraph (iii).**

**96. Section 23 amended (notices of orders for closure of roads, etc.)**

- (1) Section 23(1)(b)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) on the website specified by the Secretary; and”.

- (2) Section 23(1)(b)—

**Repeal subparagraph (iii).**

**97. Section 38 amended (interest)**

- (1) Section 38(1)(b)—

**Repeal**

everything after “thinks fit”

**Substitute a full stop.**

- (2) Section 38—

**Repeal subsections (2) and (3)**

**Substitute**

“(2) For subsection (1)(b), the rate of interest payable—

- (a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and

- (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.

- (3) In this section—

*reference interest rate* (参考利率) means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day.”.

**98. Section 41 amended (certain statements to be evidence)**

- (1) Section 41(c)—

**Repeal subparagraph (i)**

**Substitute**

“(i) any works only involve minor physical or structural operations;

(ia) any works only create minimal adverse effect on the commuters and the people in the neighbourhood; or”.

- (2) Section 41, English text—

**Repeal**

“shall”

**Substitute**

“must”.

**99. Section 42A added**

After section 42—

**Add**

**“42A. Absence of authorization of expenditure for works not prevent certain matters**

The fact that the expenditure for any works to be carried out for a scheme has not been approved or authorized under the Public Finance Ordinance (Cap. 2) or any other enactment does not prevent—

- (a) the authorization of the scheme under section 11 or 12;
- (b) the authorization of the works under section 15;
- (c) the exercise of a power under section 13(2), 16, 20, 22, 24, 25, 26, 27 or 28; or
- (d) the provision of any compensation (whether monetary or non-monetary) or any financial or other assistance, whether or not under an enactment, in connection with the scheme or the works.”

**100. Section 48 added**

At the end of Part V—

**Add**

**“48. Transitional provisions for Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) If a copy of a scheme has been deposited in the Land Registry under section 6(1) before the commencement date of sections 90(1) and (2), 91, 92, 94, 95 and 96 of the Amendment Ordinance, sections 6(6), 10, 11, 19, 21 and 23 as in force immediately before that commencement date continue to apply in relation to the scheme as if sections 90(1) and (2), 91, 92, 94, 95 and 96 of the Amendment Ordinance had not been enacted.
- (2) If the period specified in column 4 of Part II of the Schedule in relation to a matter specified in column 1 of that Part begins before the commencement date of section 97 of the Amendment Ordinance, section 38 as in force immediately before that commencement date continues to apply in relation to the compensation in respect of the matter as if section 97 of the Amendment Ordinance had not been enacted.
- (3) In this section—

*Amendment Ordinance* (《修訂條例》) means the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022).”.

**101. Schedule amended**

The Schedule—

**Repeal**

“& 38]”

**Substitute**

“, 38 & 48]”.

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## Part 8

### Related Amendments to Other Enactments

#### Division 1—Amendments to Buildings Ordinance (Cap. 123)

**102. Section 4B amended (duties of prescribed building professional appointed or nominated in respect of minor works commenced under simplified requirements)**

(1) Section 4B(2)(e)—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) any approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or any draft plan prepared under that Ordinance;”.

(2) Section 4B(2)(f)—

**Repeal**

“or draft plan prepared under the Town Planning Ordinance (Cap. 131)”

**Substitute**

“plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance”.

**103. Section 16 amended (grounds on which approval or consent may be refused)**

(1) Section 16(1)(d)—

**Repeal**

“or draft plan prepared under the Town Planning Ordinance (Cap. 131)”

**Substitute**

“plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or any draft plan prepared under that Ordinance”.

(2) Section 16(1)—

**Repeal paragraph (da)**

**Substitute**

“(da) the building works—

- (i) are within a comprehensive development area of an approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance; and
- (ii) contravene a master lay-out plan approved by the Town Planning Board under section 4A(2) of that Ordinance;”.

**104. Section 24AA amended (order for demolition, removal, or alteration of minor works commenced under simplified requirements)**

(1) Section 24AA(1)—

**Repeal paragraph (b)**

**Substitute**

“(b) an approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance; or”.

(2) Section 24AA(2)(b)—

**Repeal**

“approved or”

**Substitute**

“approved plan, partly approved plan or”.

**Division 2—Amendment to Country Parks Ordinance (Cap. 208)**

**105. Section 16 amended (control of use of land in country park)**

Section 16(6)—

**Repeal**

everything after “purposes of”

**Substitute**

“that Ordinance, the resumption of that land is taken to be required for a public purpose within the meaning of section 2(2) of that Ordinance.”.

**Division 3—Amendment to Mining Ordinance (Cap. 285)**

**106. Section 65 amended (resumption of land required for public purposes)**

Section 65—

**Repeal subsection (2)**

**Substitute**

“(2) The reference to the resumption of the land for a public purpose in subsection (1) is to be construed in accordance with section 2(2) of the Lands Resumption Ordinance (Cap. 124), but that Ordinance does not otherwise apply to a resumption under subsection (1).”.

**Division 4—Amendments to Hotel and Guesthouse  
Accommodation Ordinance (Cap. 349)**

**107. Section 12N amended (consideration of views of affected persons)**

(1) Section 12N(5)(b)(i)—

**Repeal**

“plan or”

**Substitute**

“plan, a partly approved plan or”.

(2) Section 12N(5)(b), Chinese text—

**Repeal**

“草圖或核准圖或”

**Substitute**

“圖則或”.

(3) Section 12N(5)(b)(ii), Chinese text—

**Repeal**

“草圖或核准圖”

**Substitute**

“圖則”.

**Division 5—Amendment to Water Pollution Control  
Ordinance (Cap. 358)**

**108. Section 8 amended (prohibited discharges into waters of Hong Kong and inland waters)**

Section 8(3)(e)(ii)—

**Repeal**

“or 8”

**Substitute**

“, 8 or 16A”.

**Division 6—Amendments to Water Pollution Control  
(Sewerage) Regulation (Cap. 358 sub. leg. AL)**

**109. Section 22 amended (interest)**

(1) Section 22(1)(b)—

**Repeal**

everything after “considers appropriate”

**Substitute a full stop.**

(2) Section 22—

**Repeal subsections (2) and (3)**

**Substitute**

“(2) For subsection (1)(b), the rate of interest payable—

(a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and

(b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.

(3) In this section—

*reference interest rate* (參考利率) means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day.”.

**110. Section 30 added**

After section 29—

**Add**

**“30. Transitional provisions for Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022**

- (1) If the period specified in column 5 of Part I of Schedule 1 in relation to a matter specified in column 2 of that Part begins before the commencement date of section 109 of the Amendment Ordinance, section 22 as in force immediately before that commencement date continues to apply in relation to the compensation in respect of the matter as if section 109 of the Amendment Ordinance had not been enacted.

- (2) In this section—

*Amendment Ordinance* (《修訂條例》) means the Development (Town Planning, Lands and Works) (Miscellaneous Amendments) Ordinance 2022 ( of 2022).”.

**111. Schedule 1 amended (compensation rights and assessment)**

Schedule 1—

**Repeal**

“& 22]”

**Substitute**

“, 22 & 30]”.

**112. Schedule 2 amended (application of the Roads (Works, Use and Compensation) Ordinance)**

- (1) Schedule 2, Part I—

**Repeal**

“and 36 to 38.”

**Substitute**

“, 36, 37, 37A, 38 and 43(1), (2) and (4).”.

- (2) Schedule 2, English text, Part II, under heading “**General Modifications and Additions**”, section 1(1), after “11”—

**Add**

“(except any reference to “Financial Secretary” in section 11(1AC))”.

- (3) Schedule 2, Part II, under heading “**Particular Modifications and Additions**”—

**Repeal**

“10 In subsection (1), repeal everything after “both” and substitute a full stop.”

**Substitute**

“11 In subsection (1AC), repeal “Financial Secretary” (wherever appearing) and substitute “Secretary for Environment and Ecology”.”.

**Division 7—Amendments to Land Drainage Ordinance  
(Cap. 446)**

**113. Section 42 amended (interest)**

- (1) Section 42(1)(b)—

**Repeal**

everything after “thinks fit”

**Substitute a full stop.**

- (2) Section 42—

**Repeal subsections (2) and (3)**

**Substitute**

- “(2) For subsection (1)(b), the rate of interest payable—
- (a) in respect of a day on which the reference interest rate is published (*publication day*)—is the reference interest rate; and
- (b) in respect of a day other than a publication day—is the reference interest rate published on the last publication day before that day.
- (3) In this section—
- reference interest rate* (参考利率) means the 1-month Hong Kong Dollar Interest Settlement Rate published by The Hong Kong Association of Banks by the close of business on a day.”.

**Division 8—Amendments to Non-local Higher and Professional Education (Regulation) Rules (Cap. 493 sub. leg. B)**

**114. Section 5 amended (premises in which registered course or exempted course is conducted)**

- (1) Section 5(3)(c), English text—

**Repeal**

“Upon an application to him”

**Substitute**

“On an application to the Registrar”.

- (2) Section 5(3)(c)—

**Repeal**

“any part thereof”

**Substitute**

“any part of the course”.

- (3) Section 5(3)(c), English text—

**Repeal**

“he”

**Substitute**

“the Registrar”.

- (4) Section 5(3)(c)—

**Repeal**

“available to him”

**Substitute**

“available to the Registrar”.

- (5) Section 5(3)(c)—

**Repeal subparagraph (vi)**

**Substitute**

- “(vi) the conduct of the course or the part of the course, as the case requires, will not result in a contravention of—
- (A) an approved plan or partly approved plan under the Town Planning Ordinance (Cap. 131) or a draft plan prepared under that Ordinance; or



- (B) any terms or conditions of the Government lease of the land in which the premises are comprised; and”.

### **Division 9—Amendments to Environmental Impact Assessment Ordinance (Cap. 499)**

#### **115. Schedule 1 amended (interpretation)**

- (1) Schedule 1, definition of *coastal protection area*—

**Repeal**

everything after “in”

**Substitute**

“a draft plan prepared under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance;”.

- (2) Schedule 1, definition of *conservation area*—

**Repeal**

everything after “in”

**Substitute**

“a draft plan prepared under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance;”.

- (3) Schedule 1, definition of *planned use*—

**Repeal**

everything after “in”

**Substitute**

“—

- (a) a draft plan prepared under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance; or
- (b) any other land use plans published by the Government;”.

### **Division 10—Amendment to Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (Cap. 545 sub. leg. A)**

#### **116. Section 2 amended (interpretation)**

Section 2, definition of *industrial zone*—

**Repeal**

everything after “use in”

**Substitute**

“a draft plan prepared by the Town Planning Board under the Town Planning Ordinance (Cap. 131) or an approved plan or partly approved plan under that Ordinance;”.

### **Division 11—Amendments to Electronic Transactions Ordinance (Cap. 553)**

#### **117. Schedule 3 amended (service of documents)**

- (1) Schedule 3, item 5—

**Repeal**

“Sections 10(1) and (3) and”

**Substitute**

“Section”.

- (2) Schedule 3, item 6—

**Repeal**

“10(1) and (4),”.

**Division 12—Amendments to Urban Renewal Authority  
Ordinance (Cap. 563)**

**118. Section 25 amended (development schemes)**

- (1) Section 25(8)—

**Repeal**

“6F(8) (whether with or without application of section 6F(9) of that Ordinance) or 6G of that Ordinance or section”

**Substitute**

“6B(8) or”.

- (2) Section 25(8)—

**Repeal**

“shall be the date when the proposed amendments in question are first made available for public inspection under section 6C(1) of that Ordinance or the date when the amendments are first exhibited for public inspection under section 7 of that Ordinance, as the case may be”

**Substitute**

“is to be the date when the amendments are first made available for public inspection under section 6H(2) of that Ordinance or the date when the amendments are first exhibited for public inspection under section 7 of that Ordinance, as the case requires”.

- (3) Section 25(8), English text—

**Repeal**

“shall remain”

**Substitute**

“is to remain”.

- (4) Section 25(9), English text—

**Repeal**

“shall”

**Substitute**

“is to”.

- (5) Section 25(9)—

**Repeal**

“draft or approved plan”

**Substitute**

“draft plan, partly approved plan or approved plan”.

- (6) Section 25(10)—

**Repeal**

“shall be notified in the Gazette and shall revive any draft or approved plan”

**Substitute**

“must be notified in the Gazette and must revive any draft plan, partly approved plan or approved plan”.

**119. Section 26 amended (development projects to accord with Town  
Planning Ordinance)**

- (1) Section 26(2), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (2) Section 26(2)—

**Repeal**

“draft or approved plan”

**Substitute**

“draft plan, partly approved plan or approved plan”.

**Division 13—Amendments to Residential Properties (First-hand Sales) Ordinance (Cap. 621)**

- 120. Section 19 amended (contents of sales brochure: information required to be set out)**

Section 19(2)(h)(i)—

**Repeal**

“, whether in draft or approved form, that is prepared”

**Substitute**

“(whether in draft, partly approved or approved form)”.

- 121. Section 48 amended (plans and documents to be made available to general public)**

Section 48(1)(a)(i)—

**Repeal**

“, whether in draft or approved form, that is prepared”

**Substitute**

“(whether in draft, partly approved or approved form)”.

- 122. Section 73 amended (additional requirements for printed advertisement)**

Section 73(9)(a)—

**Repeal**

“, whether in draft or approved form, prepared”

**Substitute**

“(whether in draft, partly approved or approved form)”.

**Division 14—Amendments to Private Columbaria Ordinance (Cap. 630)**

- 123. Section 17 amended (no specified instrument issued if columbarium subject to specified law enforcement action)**

(1) Section 17(2)(a)—

**Repeal**

“or 21(1)”

**Substitute**

“, 21(1) or 21F(1)”.

(2) Section 17(2)(b)(i)—

**Repeal**

“or 21(2)”

**Substitute**

“, 21(2) or 21F(2)”.

- 124. Section 111 amended (effect of Town Planning Ordinance modified)**

Section 111(1)—

**Repeal**

“21(2)”

**Substitute**

“21(2), 21F(2)”.

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**Explanatory Memorandum**

This Bill mainly introduces amendments to various Ordinances relating to town planning, lands and works for the purposes set out in the long title of the Bill.

2. The Bill comprises 8 Parts.

**Part 1—Preliminary**

3. Part 1 sets out the short title and provides for commencement.

**Part 2—Amendments to Lands Resumption Ordinance (Cap. 124)**

4. Part 2 amends the Lands Resumption Ordinance (Cap. 124) (*Cap. 124*) mainly—
  - (a) to make clear the scope of the public purposes for which lands may be resumed (new section 2(2) of Cap. 124 added by clause 4(5));
  - (b) to introduce a new mechanism for the steps taken before the authorization of the resumption of any land for a public purpose, including making a proposal for land resumption by publishing a notice of proposed resumption, amending the proposal and handling objections to the proposal (new Part 2 of Cap. 124 added by clause 5 and section 3 of Cap. 124 as amended by clause 7);
  - (c) to provide that a notice of proposed resumption or amendment notice in relation to a proposal for land resumption may be published on or after the date on which the relevant plan, or the relevant amendment to a plan or to a part of a plan, is exhibited or made available for public inspection under any provision (other than

- section 9D or 11) of the Town Planning Ordinance (Cap. 131) (*Cap. 131*) (new sections 2A(4) and 2C(4) of Cap. 124);
- (d) to require a copy of a notice published under section 4 of Cap. 124 to be published on the website of the Director of Lands (*Director*) and made available for inspection (clause 8);
  - (e) to introduce a new mechanism for proposing and authorizing an adjustment to the boundary of the land authorized or ordered to be resumed (new Part 4 of Cap. 124 added by clause 9);
  - (f) to provide for the permanent or temporary use of any land for a purpose other than the public purpose for which it is resumed (new section 16AA of Cap. 124 added by clause 14);
  - (g) to prescribe the interest rate for compensation (clauses 16 and 17);
  - (h) to provide for the resumption of certain land contiguous or adjacent to resumed land on application by the owner (new section 18A of Cap. 124 added by clause 18); and
  - (i) to provide that the absence of an authorization of expenditure for any works for carrying out a public purpose does not prevent the resumption of any land for that public purpose and certain other matters (new section 19A of Cap. 124 added by clause 20).

**Part 3—Amendments to Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)**

5. Part 3 amends the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) (*Cap. 127*) mainly—

- (a) to enable the Director to act in relation to a reclamation proposed to be executed by another person (new section 2A of Cap. 127 added by clause 23);
  - (b) to require a notice of a plan to be published on the website specified by the Director instead of in newspapers (clause 24);
  - (c) to improve the procedures for proposing a reclamation and handling objections to a proposed reclamation (see paragraph 6);
  - (d) to prescribe the interest rate for compensation (clauses 27 and 28);
  - (e) to introduce a new mechanism for authorizing minor works over and upon any foreshore and sea-bed (new section 16A of Cap. 127 added by clause 29 and new Schedule to Cap. 127 added by clause 31);
  - (f) to provide that the absence of an authorization of expenditure for any works to be executed for a reclamation does not prevent the authorization of the reclamation and certain other matters (new section 16B of Cap. 127 added by clause 29); and
  - (g) to provide that the absence of a plan prepared under Cap. 131 does not prevent the authorization of a reclamation and certain other matters (new section 16C of Cap. 127 added by clause 29).
6. In particular, clauses 25 and 26 amend sections 6 and 8 of Cap. 127 to deal with the improvement of procedures mentioned in paragraph 5(c), which includes—
- (a) providing that an objection made on a ground relating to compensation or assistance is invalid;

- (b) requiring an objector to give any response to a reply by the Director to the objection within 14 days after the reply is given;
- (c) reducing the time period within which a proposed reclamation must be submitted to the Chief Executive in Council; and
- (d) empowering the Secretary for Development (*Secretary*) to grant extension of time for the submission.

**Part 4—Amendments to Land Acquisition (Possessory Title) Ordinance (Cap. 130)**

7. Part 4 amends the Land Acquisition (Possessory Title) Ordinance (Cap. 130) (*Cap. 130*) mainly—
- (a) to make clear the scope of the public purposes for which lands may be acquired (new section 2(2) of Cap. 130 added by clause 32(4));
  - (b) to require a notice of an acquisition order to be published on the website of the Director instead of in newspapers (clause 34);
  - (c) to prescribe the interest rate for compensation (clauses 36 and 37);
  - (d) to provide for the permanent or temporary use of any land for a purpose other than the public purpose for which it is acquired (new section 11A of Cap. 130 added by clause 38); and
  - (e) to provide that the absence of an authorization of expenditure for any works for carrying out a public purpose does not prevent the acquisition of any land for that public purpose and certain other matters (new section 14 of Cap. 130 added by clause 39).

**Part 5—Amendments to Town Planning Ordinance (Cap. 131)**

8. Part 5 seeks to introduce amendments to Cap. 131. Part 5 is divided into 2 Divisions.
9. Division 1 of Part 5 (clauses 40 to 64) contains amendments to Cap. 131 to improve the existing procedures in relation to town planning.
10. In brief, Division 1 of Part 5 seeks to give effect to the following legislative proposals (*legislative proposals*)—
- (a) Proposal 1—to remove the existing procedures of inviting comments on representations under section 6A of Cap. 131 and further representations in respect of proposed amendments made by the Town Planning Board (*Board*) under section 6D of Cap. 131, and to require a natural person who makes a representation under section 6 of Cap. 131 (*representation*) to attend in person the meeting held to consider the representation except for exceptional circumstances;
  - (b) Proposal 2—to expressly provide that the Board may impose a time limit for the person who makes the representation to present the person's case at the meeting and to specify that if a reason for the representation concerns compensation or assistance relating to or arising from certain matters, the Board may, to the extent that the representation is made for that reason, treat the representation as not having been made;
  - (c) Proposal 3—to shorten the statutory time limit for submission of draft plan to the Chief Executive in Council, including revising the extension period that may be granted under section 8 of Cap. 131 for the submission, and to transfer the power to grant the extension from the Chief Executive to the Secretary;

- (d) Proposal 4—to empower the Board to submit a draft plan to the Chief Executive in Council for approval of a part of the plan specified by the Board (*specified part*), and to expand the power of the Chief Executive in Council under section 9 of Cap. 131 so that it may approve, or refuse to approve, the specified part, or refer a draft plan to the Board for consideration and amendment of the specified part;
- (e) Proposal 5—to empower the Board to submit a partly approved plan to the Chief Executive in Council for approval of any part that is yet to be approved under Cap. 131 (*outstanding part*), to amend such outstanding part before the submission and to empower the Chief Executive in Council to approve, or refuse to approve, the outstanding part (whether or not amendment has been made by the Board), or refer the plan to the Board for consideration and amendment of the outstanding part;
- (f) Proposal 6—to transfer the power to refer an approved plan to the Board for amendment from the Chief Executive in Council to the Secretary, and to expand the power to include the power to refer a plan to the Board for amendment of an approved part;
- (g) Proposal 7—to remove the requirement of public consultation under section 12A of Cap. 131, and to provide for the eligibility for making an application under that section to the Board for consideration of a proposal in relation to an original approved plan (as defined by that section);
- (h) Proposal 8—to require an applicant under section 17 of Cap. 131 to set out the grounds for the review being applied for under that section;

- (i) Proposal 9—to empower the Board not to accept any further information in relation to an application made under section 12A, 16 or 17 of Cap. 131 received after the period specified by the Board; and
  - (j) Proposal 10—to replace the existing requirement regarding publication of certain information in newspapers by a requirement to publish the information on the Board's website.
11. Clause 40 amends section 1A of Cap. 131 to add new defined terms. Examples of those new defined terms are *approved part*, *outstanding part* and *partly approved plan*.
  12. Clauses 43, 46, 47, 48, 49, 50, 51 and 52 seek to amend sections 2C, 6, 6B, 6E and 6H of Cap. 131 and repeal sections 6A, 6C, 6D, 6F and 6G of Cap. 131 to mainly give effect to Proposal 1 and Proposal 2.
  13. Clauses 45, 53, 60 and 61 contain amendments made to sections 5, 7, 16 and 17 of Cap. 131. The amendments mainly relate to Proposal 10. Clause 61 also contains amendments relating to Proposal 8.
  14. The amendments under clauses 54, 55, 56 and 57 mainly relate to Proposal 3, Proposal 4, Proposal 5 and Proposal 6.
  15. Clause 58 amends section 12A of Cap. 131 to give effect to Proposal 7.
  16. For Proposal 9, the related amendments are included in clauses 58, 60 and 61.
  17. The other amendments in Division 1 of Part 5 are either amendments related to any of the legislative proposals or textual amendments to improve the drafting of the existing provisions of Cap. 131.
  18. Division 2 of Part 5 (clauses 65 to 72) contains amendments to Cap. 131 to expand the existing enforcement power of the Director of Planning under Cap. 131.

19. Clause 66 amends section 1A of Cap. 131 to include the definitions of certain new expressions to be used in Cap. 131 after the commencement of Division 2 of Part 5. Those expressions include *pre-material-date use*, *regulated area*, *regulated area designation* and *regulated area plan*.
20. Clause 70 seeks to add new provisions (new sections 21A to 21F) to Cap. 131. Once the new provisions come into operation, the Secretary would be able to designate certain areas to be regulated areas. Under the new sections 21A to 21E, a regulated area designation must be made by notice published in the Gazette and by reference to a plan prepared and signed by the Secretary. The time from which the designation is to take effect and the time from which it ceases to have effect are also provided for in the new provisions.
21. The new section 21F is a new offence provision. Under that section, unless a development satisfies any of the specified conditions, a person commits an offence if the person undertakes or continues the development in a regulated area.
22. Clause 66 amends the definition of *unauthorized development* in section 1A of Cap. 131 and clauses 71 and 72 respectively amend sections 22 and 23 of Cap. 131 so that after the commencement of those clauses (if enacted), the Director of Planning may exercise the powers under the amended sections 22 and 23 of Cap. 131 in relation to a regulated area.

**Part 6—Amendments to Roads (Works, Use and Compensation) Ordinance (Cap. 370)**

23. Part 6 amends the Roads (Works, Use and Compensation) Ordinance (Cap. 370) (*Cap. 370*) mainly—
  - (a) to expand the mechanism for executing minor works (clauses 73 and 81);

- (b) to require certain notices to be published on the website specified by the Secretary for Transport and Logistics instead of in newspapers (clauses 74(2) and (3), 77, 78 and 79);
  - (c) to improve the procedures for proposing to execute works and handling objections to the works or the use (see paragraph 24);
  - (d) to prescribe the interest rate for compensation (clause 80); and
  - (e) to provide that the absence of an authorization of expenditure for any works or any use does not prevent the authorization of the works or the use and certain other matters (new section 37A of Cap. 370 added by clause 83).
24. In particular, clauses 75 and 76 amend sections 10 and 11 of Cap. 370 to deal with the improvement of procedures mentioned in paragraph 23(c), which includes—
  - (a) providing that an objection lodged on a ground relating to compensation or assistance is invalid;
  - (b) requiring an objector to give any response to a reply by the Secretary for Transport and Logistics to the objection within 14 days after the reply is given;
  - (c) reducing the time period within which the plan and scheme must be submitted to the Chief Executive in Council; and
  - (d) empowering the Financial Secretary to grant extension of time for the submission.
25. Clauses 87, 88 and 89 seek to adapt Cap. 370 to bring it into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.



**Part 7—Amendments to Railways Ordinance (Cap. 519)**

26. Part 7 amends the Railways Ordinance (Cap. 519) (*Cap. 519*) mainly—

- (a) to require certain notices to be published on the website specified by the Secretary for Transport and Logistics instead of in newspapers (clauses 90(1) and (2), 94, 95 and 96);
- (b) to improve the procedures for proposing a scheme for a railway and handling objections to the scheme (see paragraph 27);
- (c) to expand the mechanism for authorizing the carrying out of minor works (clauses 93 and 98);
- (d) to prescribe the interest rate for compensation (clause 97); and
- (e) to provide that the absence of an authorization of expenditure for any works to be carried out for a scheme does not prevent the authorization of the scheme and certain other matters (new section 42A of Cap. 519 added by clause 99).

27. In particular, clauses 91 and 92 amend sections 10 and 11 of Cap. 519 to deal with the improvement of procedures mentioned in paragraph 26(b), which includes—

- (a) providing that an objection lodged on a ground relating to compensation or assistance is invalid;
- (b) requiring an objector to give any response to a reply by the Secretary for Transport and Logistics to the objection within 14 days after the reply is given;
- (c) reducing the time period within which the scheme must be submitted to the Chief Executive in Council; and

- (d) empowering the Financial Secretary to grant extension of time for the submission.

**Part 8—Related Amendments to Other Enactments**

28. Part 8 makes related amendments to other enactments.

**SUMMARY OF MAJOR LEGISLATIVE PROPOSALS UNDER THE  
DEVELOPMENT (TOWN PLANNING, LANDS AND WORKS) (MISCELLANEOUS AMENDMENTS) BILL 2022**

Ordinance(s)	Current arrangement	Proposals
<b>(1) Streamlining and shortening statutory time limits</b>		
<ul style="list-style-type: none"> <li>Town Planning Ordinance (Cap. 131)</li> </ul>	<ul style="list-style-type: none"> <li>One major function of the Town Planning Board (the Board) is to prepare statutory plans for different parts of Hong Kong. Currently, a person may make a representation on a draft plan, and then has a separate chance to comment on any representation made by any person. Representers and commenters may attend a hearing before the Board to express views. Furthermore, if the Board proposes an amendment to the draft plan to meet the representations, further representations will be invited with the possibility of another round of hearings. The completion of the whole process may take as long as 17 months. Views collected on different occasions are often repetitive.</li> <li>The Board, assisted by the Secretariat, is spending a considerable amount of time in handling representations or comments received, and listening to views expressed at meetings of the Board (commonly referred to as “public hearings”), before a decision is</li> </ul>	<ul style="list-style-type: none"> <li>We propose retaining the procedure of inviting representations while dispensing with the procedures for receiving comments and further representations to minimise repetition and increase the efficiency of the plan-making process. <b>[Proposal 1(a)]</b></li> <li>Public hearings will remain to be available for all representers to participate and make oral representation. Representers will be required to attend the hearings in person. A representer may appoint an “authorised representative” if the Board is satisfied that the representer is unable to attend the hearing because of exceptional circumstances. We also propose to expressly specify in the law that the Board may impose a time limit on oral presentation of each representer (to present his/her case) or of authorised representative (to present the cases of the persons they represent), in order to allow better time management of hearings. These updated arrangements will allow hearings to be run in a more effective and focused manner. <b>[Proposal 1(b)]</b></li> </ul>

Ordinance(s)	Current arrangement	Proposals
	reached in respect of a draft plan.	<ul style="list-style-type: none"> <li>• In view of the two proposals above, we propose to reduce the statutory time period for submitting plans to the Chief Executive in Council (CE-in-C) for approval from nine months to five months. We also propose to transfer the authority to grant extension of time for submitting plans from the Chief Executive (CE) to the Secretary for Development (SDEV). The time extension that may be granted will be reduced from six months to initially two months. Under exceptional circumstances, SDEV may grant, on top of the first time extension, up to two further time extensions of two months each (i.e. three extensions with a total of six months).</li>   <li>• Our target is to reduce the time spent on a plan-making process from 17 months now to around nine months in future. This shortening of timeframe may be achieved by Proposals 1(a) and 1(b).</li> </ul>

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370) <sup>1</sup></li> <li>• Railways Ordinance (Cap. 519)</li> </ul>	<ul style="list-style-type: none"> <li>• Currently, major road/railway schemes and all reclamation works have to be gazetted and authorised in accordance with the respective ordinances before implementation. Any person affected could lodge an objection within 60 days / two months after the notice covering the road scheme, railway scheme or reclamation had been gazetted. The ordinances impose a statutory time limit of nine months for dealing with objections lodged and submission of the plan and scheme and the objections lodged, unless the CE grants an extension of up to six months (Cap. 370) or any specified period (Cap. 519).</li> <li>• We need to refine the mechanism to better respond to the present day circumstances, without deviating from the objective of allowing a reasonable period of time for both the Government and objectors to resolve objections.</li> </ul>	<ul style="list-style-type: none"> <li>• With reference to the proposals to shorten the plan-making process under Cap. 131, we propose to similarly reduce the timeframe on the objection handling process under Cap. 127, Cap. 370 and Cap. 519.</li> <li>• We also propose to transfer the authority to grant extension of time for submitting to CE-in-C for consideration the plan and scheme and any objections lodged under relevant provisions of Cap. 370 and Cap. 519 from the CE to the Financial Secretary (FS); and from the CE to SDEV under Cap. 127.<sup>2</sup> The time extension that may be granted will be reduced from six months to two months. Under exceptional circumstances, FS/SDEV may grant up to two further time extensions of two months each (i.e. three times of extensions with a total of six months). <b>[Proposal 1(c)]</b></li> <li>• On top of the proposed legislative amendments, we propose to align the administrative procedure in handling objections under Cap. 519 with that under Cap. 127 and Cap. 370. This means that we will not conduct hearings<sup>3</sup> for unresolved objections to gazetted railway schemes before putting forward the unresolved objections to CE-in-C for consideration and authorisation of railway schemes.</li> </ul>

<sup>1</sup> Amendment for this proposal also applies to the Water Pollution Control (Sewerage) Regulation (Cap. 358AL) by virtue of section 26 of Cap. 358AL.

<sup>2</sup> Currently it is the Secretary for Transport and Logistics (STL) who shall execute works, prepare plans and schemes and handle objections under Cap. 370 and Cap. 519. It would be appropriate to transfer the authority to grant extension under the two ordinances from the CE to FS. As for Cap. 127, currently it is the Director of Lands who shall prepare plans and deal with objections. We consider it appropriate to transfer the authority to grant extension under the ordinance from the CE to SDEV.

<sup>3</sup> The objection hearing process is the Government's administrative procedure in response to the concerns raised by Legislative Council (LegCo) members at the bill examination for the introduction of Cap. 519 in 1997 to ascertain that objections would be handled in a fair, open and transparent manner. In this connection, a Railway Objections Hearing Panel (ROHP) was set up in 1998 to conduct hearings for unresolved objections to railway schemes gazetted under Cap. 519 before submission to

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370)</li> <li>• Railways Ordinance (Cap. 519)</li> </ul>	<ul style="list-style-type: none"> <li>• At present, the objection handling procedures are not explicitly set out under the ordinances. There lacks certainty as to when the Government can submit the objections to CE-in-C for consideration after issuing a response to address the objector’s comments.</li> <li>• According to the Cap. 370 and Cap. 519, STL may execute any works which, in STL’s opinion, are minor in respect of any physical or structural operations involved, and fall within the scope of “minor works”, without the need to go through the gazettal procedures required for major works.</li> <li>• Unlike Cap. 370 and Cap. 519, there is no mechanism for “minor works” under Cap. 127. All projects, regardless of its nature, are subject to the gazettal procedures.</li> </ul>	<ul style="list-style-type: none"> <li>• We propose specifying the objection-handling procedures in the law for certainty. We propose to set out in the law that after the Government provides a written reply to an objector, the objector may provide response (including any comment or request in connection with the Government’s written reply) within a period of 14 days, if he so wishes. The objection (if maintained), together with any further comments, would be put forward to CE-in-C for consideration. <b>[Proposal 1(d)]</b></li> <li>• We propose to expand the existing scope of “minor works” under Cap. 370 and Cap. 519 to the effect that STL may authorise/execute works, without undergoing statutory gazettal or objection handling process, that, in STL’s opinion (i) the physical or structural operations involved are minor or (ii) the works would create only minimal adverse effect on the commuters and the people in the neighbourhood; the additional factor at (ii) will allow bureaux/departments to authorise/execute works which may involve larger scale physical or structural operations if such works would create only minimal adverse effect on commuters and the people in the neighbourhood. <b>[Proposal 1(e)]</b></li> <li>• As for Cap. 127, we propose to introduce a “minor works” mechanism whereby specified types of reclamation works with the affected foreshore and sea-bed area of not larger than 0.5 hectares in total can be authorized by Director of Lands without going through gazettal procedures. <b>[Proposal 1(f)]</b></li> </ul>

CE-in-C for scheme authorisation. Since the Government has strictly followed the objection-handling procedures stipulated in Cap. 519, the ROHP had not identified any major non-compliance on the handling of unresolved objections to railway schemes gazetted under Cap. 519, including mega projects like Shatin to Central Link and Guangzhou-Shenzhen-Hong Kong Express Rail Link (Hong Kong Section). The hearing process for a typical railway scheme normally takes around three months and such duration could be saved if it is no longer required to conduct the hearing process.

Ordinance(s)	Current arrangement	Proposals
<b>(2) Avoiding repetitive procedures of a similar nature</b>		
<ul style="list-style-type: none"> <li>Town Planning Ordinance (Cap. 131)</li> </ul>	<ul style="list-style-type: none"> <li>Currently, any person may submit an application for an amendment to a plan (usually for rezoning) under section 12A (section 12A application) for the Board's consideration. The Board shall publish the application for public inspection. Any person may make comment to the Board in respect of the application.</li> <li>If the section 12A application is accepted by the Board, the Board will arrange amendments to the statutory plan in question at an opportune time. As part of the plan amendment process, the amendments will be exhibited for another round of public consultation.</li> </ul>	<ul style="list-style-type: none"> <li>To avoid duplicating with the public consultation during the subsequent plan amendment process following the acceptance of the application, we propose dispensing with the initial process to invite public comments when the Board gives consideration to a section 12A application. The processing time of a section 12A application will be reduced from three months to two months. This streamlining arrangement is proposed with the consideration that where the Board accepts a section 12A application, any person may submit a representation to the Board during the stage when the amendment concerned is subsequently incorporated in a statutory plan. <b>[Proposal 2(a)]</b></li> </ul>
<b>(3) Providing an express mandate in the law for the Government to proceed with different procedures in parallel</b>		
<ul style="list-style-type: none"> <li>Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)</li> </ul>	<ul style="list-style-type: none"> <li>For any reclamation project to proceed, it has been the Government's practice to establish the need for reclamation and confirm the technical feasibility and environmental acceptability of the location and extent of reclamation through detailed planning and engineering (P&amp;E) studies and public engagement which could take a substantial period of time. Land use proposals showing residential, commercial and other zonings for the reclaimed land will also be formulated under the P&amp;E study. These land use proposals then form the basis for preparing the</li> </ul>	<ul style="list-style-type: none"> <li>As the detailed P&amp;E studies and the land use proposals formulated thereunder are already detailed enough to help justify the need for as well as extent and feasibility of reclamation, there appears no need for the statutory processes of reclamation to commence after the completion of the statutory OZP process under Cap. 131. We propose to expressly provide in the law that reclamation proposed and authorised under Cap. 127 does not require an OZP under the Cap. 131 to be in place. Allowing the gazettal of reclamation proposal under Cap. 127 and relevant procedures to run (e.g. the receipt and handling of objections) without having to wait for the completion of statutory town planning process would <b>accelerate the</b></li> </ul>

Ordinance(s)	Current arrangement	Proposals
	<p>statutory outline zoning plan (OZP) under Cap. 131.</p> <ul style="list-style-type: none"> <li>While there is currently no statutory requirement that a statutory OZP in respect of the foreshore and sea-bed to be affected by the proposed reclamation must have been prepared and authorised under Cap. 131 before the statutory procedures for proposing reclamation under Cap. 127 are set in motion, as an administrative practice the Government would prepare the detailed land use plan (usually in the form of an OZP) preceding the gazettal of the aforementioned reclamation scheme. Such an arrangement may delay the commencement of reclamation and the resultant land supply.</li> </ul>	<p><b>commencement of reclamation projects by at least nine months</b> (assuming the streamlined town planning process as suggested under Proposals 1(a) and 1(b) above would take nine months) in their individual programmes.</p> <ul style="list-style-type: none"> <li>The above notwithstanding, any proposed reclamation still needs to go through the statutory procedures under Cap. 127 requiring the handling of objections and seeking of authorisation before commencement of reclamation.</li> </ul> <p><b>[Proposal 3(a)]</b></p>
<ul style="list-style-type: none"> <li>Lands Resumption Ordinance (Cap. 124)</li> </ul>	<ul style="list-style-type: none"> <li>At present, consultation with relevant parties and seeking authorisation from CE-in-C for land resumption takes place in a sequential manner some time after completion of the statutory planning procedures. Despite the rationale to first confirm the planning intention for formulating the “public purpose” for land resumption, this sequential manner of work takes time.</li> </ul>	<ul style="list-style-type: none"> <li>The objection handling procedures leading to the authorisation of land resumption are proposed to be advanced, so that the procedures can kick-start in parallel with, or closer to the time of, the statutory planning process for the concerned land resumption for public purpose. Suitable provisions are proposed to be included to allow objection-handling for land resumption to take place <i>on or after</i> the date of the relevant plan, or amendment to a plan or to a part of a plan, is exhibited or made available for public inspection under the statutory planning process, such that the objection-handling processes of the two regimes can run in parallel and the authorisation of land resumption can be sought as soon as the land use under the statutory planning regime is approved.</li> </ul> <p><b>[Proposal 3(b)]</b></p>

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Lands Resumption Ordinance (Cap. 124)</li> <li>• Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)</li> <li>• Land Acquisition (Possessory Title) Ordinance (Cap. 130)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370)<sup>4</sup></li> <li>• Railways Ordinance (Cap. 519)</li> </ul>	<ul style="list-style-type: none"> <li>• Cap. 124 and other related ordinances on resumption does not specify the timing at which the Government can commence resumption and clearance for a project and make payment for compensation to the affected persons. As an administrative practice, the Government usually proceeds with land resumption, clearance and compensation only upon obtaining funding approval for the associated capital works<sup>5</sup>.</li> <li>• There is a strong case to advance land resumption in order to allow the Government to reach out to affected parties to discuss the compensation package and appeal to their early departure so that the site could be cleared earlier for works to begin as soon as funding is obtained. This would also respond to the aspiration of some affected persons to receive compensation earlier to plan ahead.</li> </ul>	<ul style="list-style-type: none"> <li>• New provisions are proposed to be introduced to put beyond doubt that authorisation of expenditure for works for delivering the relevant public purpose or plan and scheme is not a pre-requisite to the commencement of or otherwise proceeding with land resumption/acquisition (and the exercise of other relevant powers under Cap. 370 and Cap. 519, such as creation of an easement or a right of temporary occupation), and provision of compensation or assistance<sup>6</sup>. The Lands Department (LandsD) and other relevant departments would proceed with land resumption/acquisition (and the exercise of other relevant powers where applicable), and provision of compensation or assistance as soon as the land resumption/acquisition or the relevant plan and scheme is authorised by CE-in-C or the relevant authorities within the Government. <b>[Proposal 3(c)]</b></li> <li>• Proposals 3(b) and 3(c) taken together may advance the completion of resumption and clearance process by around 18 months.</li> </ul>

<sup>4</sup> Amendment for this proposal also applies to Cap. 358AL by virtue of section 26 of Cap. 358AL.

<sup>5</sup> Unless agreed by the relevant Panel of LegCo to advance on a case-by-case basis.

<sup>6</sup> The funding required for payment of compensation, which is provided for under block allocations subject to the LegCo's approval on an annual basis, will be secured before resuming land as per the established practice.



Ordinance(s)	Current arrangement	Proposals
<b>(4) Improving inconsistent or ambiguous arrangements</b>		
<ul style="list-style-type: none"> <li>Town Planning Ordinance (Cap. 131)</li> </ul>	<ul style="list-style-type: none"> <li>Submission and approval of draft plans are key steps in the plan-making process. The Board must submit a draft plan together with amendments to CE-in-C for approval within a specified period of time.</li> <li>A draft plan usually covers a number of sites as amendment items. In many instances, amendments are proposed to the zoning or other development parameters in respect of different sites on the same plan. It is also possible that these amendments are published on separate occasions, and in different times. The current provisions of Cap. 131 operates in the manner that approval of CE-in-C can only be granted to a draft plan in whole which may cover amendments in respect of different sites. There have been instances where submission and approval of a draft plan were held up by individual controversial amendment item (notably an amendment item being the subject matter at a judicial review case) such that the approval of remaining amendment items on the same plan were delayed altogether.</li> </ul>	<ul style="list-style-type: none"> <li>We propose to introduce new provisions in the law to enable the approval of a plan <i>in part</i>. This will enable development of specific sites to proceed and remain unaffected by other sites with controversy (e.g. subject to judicial review) on the same plan, and enable acceleration of necessary housing projects. <b>[Proposal 4(a)]</b></li> </ul>
<ul style="list-style-type: none"> <li>Town Planning Ordinance (Cap. 131)</li> </ul>	<ul style="list-style-type: none"> <li>The current arrangement allows any person to submit a section 12A application. Such an application may trigger substantial changes to the planning context of the land under application. It may carry significant implications over the development potentials and restriction of the application site and the interest of</li> </ul>	<ul style="list-style-type: none"> <li>We propose specifying in the law that eligible applicants for a section 12A application should be a landowner of the application site or own part of the application site (or any person with the consent of the current landowner), or any person with the consent of the Director of Lands for application site containing government land, or a public officer or public body. The threshold for meeting this requirement is</li> </ul>

Ordinance(s)	Current arrangement	Proposals
	<p>landowner(s). In some instances, the Board’s acceptance of a section 12A application may result in amendments of plan which affect the development right of a land owner (for example, in rezoning a residential site to “Government, Institution or Community” use).</p> <ul style="list-style-type: none"> <li>• If an applicant does not own the site under application or does not have any right to control or develop the site, it seems implausible that the applicant has the ability to implement the rezoning (even if approved). Without any realistic prospect of implementation, it calls into question whether it is worth the substantial time and resources which the Board and government departments have to deploy in processing such applications.</li> </ul>	<p>intended to be low. Anyone who own any portion of land in the site to which the proposal for amending plans relates may make a section 12A application.</p> <p><b>[Proposal 4(b)]</b></p>
<ul style="list-style-type: none"> <li>• Town Planning Ordinance (Cap. 131)</li> </ul>	<ul style="list-style-type: none"> <li>• As mentioned in Proposal 1(a) above, any person may submit representations at different junctures of the plan-making process. Often, the concerns about compensation were brought up. However, compensation should not be a relevant consideration for land use, and there is a separate set of procedures to deal with compensation after the plan-making process.</li> </ul>	<ul style="list-style-type: none"> <li>• Representation to the extent that it is made for a reason concerning compensation or assistance relating to or arising from certain matters including resumption and clearance of land by the Government, may be treated as not having been made, bearing in mind that the statutory planning regime should focus on consideration serving a planning purpose and the use of land. Compensation matters should be dealt with in accordance with the relevant statutory provisions on compensation and/or promulgated policy on compensation and rehousing.</li> </ul> <p><b>[Proposal 4(c)]</b></p>

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Lands Resumption Ordinance (Cap. 124)</li> <li>• Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370)<sup>7</sup></li> <li>• Railways Ordinance (Cap. 519)</li> </ul>	<ul style="list-style-type: none"> <li>• While the objective of inviting objections to a land resumption proposal under Cap. 124 is to give the persons who may be affected an opportunity to make representations before a decision is made, the reality is that objections may be received from those who do not have any right in the matter. Considerable time and efforts would be spent on handling such objections, which should more appropriately be handled in the applicable statutory regimes for town planning or works.</li> <li>• Moreover, there are often objections received on compensation matters. The relevant Ordinances stipulate that compensation is a consequential follow-up after a land resumption proposal or a scheme is authorised, and the compensation offer is to be made and negotiated with the affected persons individually. By experience, it is counter-productive to handle objections on compensation matters at a time when the question of whether to proceed with the scheme or land resumption is still under deliberation, such that the Government is not yet in a position to offer and discuss compensation matters with the affectees. It is inappropriate to digress to compensation matters as the statutory processes were designed to deal with the decision to resume or proceed with a works scheme rather than compensation, which are governed by separate arrangements/regimes.</li> </ul>	<ul style="list-style-type: none"> <li>• Objections which fail to meet the criteria below would be treated as invalid and not having been made– <ul style="list-style-type: none"> <li>■ <i>(apply to Cap. 124)</i> A person is qualified to make an objection in relation to the land if the person is an owner or occupier of, or a person having any right in relation to, the land proposed to be resumed.</li> <li>■ <i>(apply to Cap. 124, 127, 370, 519)</i> Objections on ground relating to any matters on compensation or assistance in monetary form or otherwise (including but not limited to whether compensation or assistance is to be provided, whether or not under any enactment, the amount, extent, or form of the compensation or assistance, or the timing of its provision) are invalid and treated as not having been made. This is in line with the current spirit of the relevant ordinances, in which it is stated that compensation matters are something to be dealt with <i>after</i> the authorisation of the land resumption or scheme is sought. Such matters should be dealt with in accordance with the relevant statutory provisions on compensation and/or promulgated policy on compensation and rehousing. <b>[Proposal 4(d)]</b></li> </ul> </li> <li>• Cap. 370 and Cap. 519 already contain similar provisions requiring the objector to describe the objector’s interest and the manner in which the objector will be affected by the works or scheme. We do not propose to apply similar requirement to require objectors under Cap. 127 to describe their interest, because it is difficult to define who has an interest in the foreshore and sea-bed that would be affected by the proposed reclamation works.</li> </ul>

<sup>7</sup> Amendment for this proposal also applies to Cap. 358AL by virtue of section 26 of Cap. 358AL.

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>Lands Resumption Ordinance (Cap. 124)</li> </ul>	<ul style="list-style-type: none"> <li>Currently, Cap. 124 does not specify the procedures and time limits for consultation, objection handling and obtaining authorisation for land resumption. The Government follows an established administrative practice to consult the relevant parties, handle their objections and submit any objections not withdrawn to CE-in-C when seeking authorisation for land resumption. The lack of statutory milestones causes uncertainty to affectees on the steps and pace of the way forward, and does not guarantee the completion of the procedures by a definitive time frame.</li> </ul>	<ul style="list-style-type: none"> <li>A statutory objection-handling mechanism will be introduced to institutionalise the requirements in Cap. 124 for publication of the land resumption proposal, receipt and handling of objections prior to seeking authorisation from CE-in-C within statutory time periods. Where land is proposed to be resumed, the Director of Lands must first publish a notice of proposed resumption, upon which objections may be made by qualified persons within a period of 60 days. The proposal for land resumption together with any valid objections not withdrawn must be submitted to CE-in-C for consideration within five months after expiration of the period for lodging objections (with SDEV authorised to grant a maximum of three extensions with two months for each extension, i.e. a total of time extension of six months). This new statutory mechanism will replace the established administrative practices for consulting relevant parties on land resumption. <b>[Proposal 4(e)]</b></li> <li>To cater for unforeseen circumstances necessitating amendments/adjustment of the land resumption proposal before and after authorisation thereof, the following amendment/adjustment mechanisms are proposed – <ul style="list-style-type: none"> <li>■ If an amendment is required to be made to a proposed resumption boundary <i>prior</i> to CE-in-C’s authorisation of the land resumption, an amendment mechanism (with two months for receipt of objections and three months for objection-handling before submission to CE-in-C) will be introduced.</li> <li>■ If an adjustment is required to be made to the resumption boundary <i>after</i> CE-in-C’s authorisation of the land resumption or after CE’s order for resumption in accordance with CE-in-C’s authorisation, an adjustment mechanism adopting the same arrangements and time limits for invitation of objections,</li> </ul> </li> </ul>

Ordinance(s)	Current arrangement	Proposals
		<p>objection-handling and submission to CE-in-C as the above amendment mechanism will be introduced, except where no objections have been lodged against the proposed adjustment, SDEV may authorise the relevant adjustment to the resumption boundary. The adjustment mechanism does not apply to any land in respect of which a notice has been published, served or affixed under section 4 of Cap. 124, or any land which has already reverted to the Government.</p> <ul style="list-style-type: none"> <li>■ By drawing reference from similar provisions under the existing Cap. 370 and Cap. 519, new provisions will be introduced into Cap. 124 to allow landowners of any land that is contiguous or adjacent to the land resumed to apply for resumption of their land, whether or not the land is required for the public purpose. If the CE is of the opinion that the resumed land is reasonably necessary to the use and enjoyment of the contiguous or adjacent land under application for resumption and it would be just and equitable to make an order for the land to be resumed, the CE may order the resumption, whether or not the land is required for the public purpose. As an example, there may be situations where a portion of a private lot has been resumed by the Government and the remaining portion of the lot may be rendered incapable of reasonable beneficial use (e.g. by reason of its relatively small size or irregular shape), or where a private lot is one of the several private lots accommodating an occupier (e.g. a business operation or a household) and upon resumption of the lot, the occupier can no longer reasonably continue its original use in the remaining lots and chooses to depart and terminate the tenancy with the landowner. Applications of this kind will be considered case-by-case on individual facts and merits.</li> </ul>

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Lands Resumption Ordinance (Cap. 124)</li> <li>• Land Acquisition (Possessory Title) Ordinance (Cap. 130)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370)<sup>8</sup></li> </ul>	<ul style="list-style-type: none"> <li>• There may be instances where the resumed land has to be used for a different public purpose from the one for which it was resumed (due to, for instance, changes in policy or circumstances, or discrepancy between the eventual land requirement and the resumed land as transpired by unforeseen technical circumstances), or at times to use a resumed site for gainful purpose temporarily in the interim period pending the implementation of the purpose of resumption.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>(apply to Cap.124 &amp; 130)</i> We propose to expressly provide for (i) permanent use of land resumed/acquired for an alternative purpose (which is also a public purpose); (ii) temporary use of resumed/acquired land for any purpose for a certain period of time before the implementation of the public purpose for which the land has been resumed. In general, the Government will use the resumed land for the public purpose for which it was resumed in a timely manner so as to realise the supply of land, housing and relevant facilities in accordance with the committed development schedules. The proposed provisions are to cater for unforeseen circumstances necessitating a permanent change of the public purpose (e.g. a subsequent review of the land use against unforeseen changes in the circumstances in the locality), and to provide flexibility for gainful use of land on a temporary basis (e.g. temporary carparks, works sites) before realisation of the intended public purpose for resumption (for instance, where the relevant landowner and/or occupier departs earlier than planned due to earlier receipt of compensation or rehousing as allowed under Proposal 3(c), or where the Government needs more time to implement the intended public purpose in light of ongoing studies or changing circumstances). The proposed provision will provide room for the Government to make good use the land resources to meet the needs of the community where considered appropriate in the circumstance. <b>[Proposal 4(f)]</b></li> <li>• <i>(apply to Cap. 370)</i> For consistency with Cap. 519, the requirement of giving consideration to offering back the land resumed to the person from whom it was resumed before disposing it to any other person is proposed to be removed, as the original owner has been properly compensated upon resumption by the Government.</li> </ul>

<sup>8</sup> Amendment for this proposal also applies to Cap. 358AL by virtue of section 26 of Cap. 358AL.

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Lands Resumption Ordinance (Cap. 124)</li> <li>• Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127)</li> <li>• Land Acquisition (Possessory Title) Ordinance (Cap. 130)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370)</li> <li>• Railways Ordinance (Cap. 519)</li> </ul>	<ul style="list-style-type: none"> <li>• Currently, Cap. 124 and other related ordinances on land resumption provide that interest (of rate not lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks) should be paid on any compensation for the period between the date of land reversion and the date such payment is made.</li> <li>• While LandsD generally pays interest according to the minimum requirement under the law (i.e. currently at 0.375% per annum), there have been claims from landowners/business operators for higher interest rate (with some claiming as high as P+1%, where P being 5.375% at present).</li> <li>• We acknowledge that the minimum rate paid at present may fall short of that required to compensate claimants for being kept out of the money. It is necessary to improve the rate on one hand, and define it in more definitive terms on the other hand to provide certainty and facilitate timely conclusion of compensation matters.</li> </ul>	<ul style="list-style-type: none"> <li>• We propose to specify a definitive level of interest rate payable on compensation for the period between the date of land reversion and the date such payment is made by adopting the one-month Hong Kong Dollar Interest Settlement Rate (i.e. the arithmetic mean of the Hong Kong Interbank Offered Rates (HIBOR rates) of various banks compiled and published by the Hong Kong Association of Banks) to provide more certainty and facilitate timely conclusion of compensation matters. With the level of rate set in a definitive manner, the existing provision empowering the Lands Tribunal to determine a different level of interest rate is also proposed to be removed. <b>[Proposal 4(g)]</b></li> </ul>
<ul style="list-style-type: none"> <li>• Lands Resumption Ordinance (Cap. 124)</li> </ul>	<ul style="list-style-type: none"> <li>• Cap. 124 and Cap. 130 provide that land required for a public purpose may be resumed/acquired.</li> <li>• For government developments such as New Development Areas and public housing projects, Cap.</li> </ul>	<ul style="list-style-type: none"> <li>• We propose to make clear that a “public purpose” under Cap. 124 and Cap. 130 may include resumption/acquisition of land required for road works to be proposed under Cap. 370, sewerage works to be proposed under Cap. 370 as applied by Cap. 358AL, or railway works to be proposed under Cap. 519. Such resumption/acquisition will be</li> </ul>

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>Land Acquisition (Possessory Title) Ordinance (Cap. 130)</li> </ul>	<p>124 is usually invoked for resuming land for the development areas, and Cap. 370 for areas required for the associated road works specifically. In seeking authorisation from CE-in-C, while it is the current practice to delineate and apportion areas required to be resumed under the respective ordinances, there is room to streamline the preparation work by using Cap. 124 to resume all the land required, especially when the detailed design for road works within the main development boundary in some projects may not be completed by the time when land resumption procedures are ready to commence, hence possibly holding up the procedures for land resumption under Cap. 124.</p>	<p>carried out on the pre-requisite that all the land within the main development boundary should be confirmed to be required (either for the development works or the road/sewerage/railway works). Instead of the current practice where such land may only be resumed by Cap. 370, Cap. 370 as applied by Cap. 358AL, or Cap. 519, the new arrangement allows such land to be resumed using Cap. 124, which would be more efficient.</p> <p><b>[Proposal 4(h)]</b></p>
<p><b>(5) Streamlining other miscellaneous processes for more effective use of public resources</b></p>		
<ul style="list-style-type: none"> <li>Town Planning Ordinance (Cap. 131)</li> </ul>	<ul style="list-style-type: none"> <li>An applicant who is aggrieved by the Board’s decision over a planning application may apply in writing for a review. However, in many cases the applicants for such review have not set out any grounds for requesting a review.</li> <li>While there is a specific time limit within which the Board must consider section 12A applications, planning applications under section 16 or applications for review under section 17, the Board may accept further information (“FI”) submitted by an applicant at any time before the Board considers the application, so long as the FI does not result in a material change of the nature of the application. Unless exemption is</li> </ul>	<ul style="list-style-type: none"> <li>We propose requiring the applicant to set out the grounds for lodging the review application. This will enable TPB to focus on the matters which warrant attention or re-consideration during the review.</li> <li>We propose enabling the Board to specify a clear time limit after which the Board will not accept any FI and has to proceed with deciding the application, so as to ensure that the submission of FI will not cause unreasonable delay in decision making. It is always an applicant’s responsibility to ensure that any application made is of sufficient quality and clarity to enable the Board to appraise the application accordingly.</li> </ul> <p><b>[Proposal 5(a)]</b></p> <p><b>[Proposal 5(b)]</b></p>



Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>Town Planning Ordinance (Cap. 131)</li> </ul>	<p>granted, the submission of FI would restart the counting of statutory time limit for the Board to consider the application. Successive rounds of FI submission may result in unreasonable delay for the Board to consider an application.</p> <ul style="list-style-type: none"> <li>Town planning is a continuous process under which statutory plans covering different parts of Hong Kong are reviewed and amended from time to time, so as to cater for changing planning circumstances and development needs of the society. As a matter of procedure, to start off an amendment to a statutory plan, the Board has to seek agreement from CE-in-C to refer an approved plan to the Board for replacement by a new plan or for amendment (“reference back”). In practice, the “reference back” procedure is a matter of formality.</li> </ul>	<ul style="list-style-type: none"> <li>Stakeholders relayed during consultation that there were times when FI was submitted by an applicant in response to government departments’ requests. We are working with the Planning Department to update relevant administrative circulars or guidelines to require departments to timely follow up on applicants’ submissions.</li> <li>We propose empowering SDEV to refer any approved plan to the Board for replacement or amendment (which is more a formality before the Board considers the substance of the proposed amendment), in lieu of the current practice of bothering CE-in-C. This may <b>speed up the process by around two months</b>. In any event, CE-in-C will in due course make a final decision on a plan that incorporates the amendment recommended by the Board. <b>[Proposal 5(c)]</b></li> </ul>
<ul style="list-style-type: none"> <li>Lands Resumption Ordinance (Cap. 124)</li> <li>Foreshore and Sea-bed (Reclamations) Ordinance (Cap.127)</li> </ul>	<ul style="list-style-type: none"> <li>There are provisions in the ordinances which require the relevant authorities to publicise information for public inspection on local printed newspapers. We observe that in recent years, the public is becoming more accustomed to surfing the internet and browsing the newsfeed of relevant websites to get the latest information on government initiatives. We should modernise the means by which government information under those ordinances may best reach members of the public.</li> </ul>	<ul style="list-style-type: none"> <li>In place of the existing statutory requirement to publish information and/or notices on printed newspapers, we propose requiring information and/or notices that is necessary to be made available for public inspection to be publicised on relevant websites of government departments or statutory boards. <b>[Proposal 5(d)]</b></li> </ul>

Ordinance(s)	Current arrangement	Proposals
<ul style="list-style-type: none"> <li>• Land Acquisition (Possessory Title) Ordinance (Cap.130)</li> <li>• Town Planning Ordinance (Cap. 131)</li> <li>• Roads (Works, Use and Compensation) Ordinance (Cap. 370)</li> <li>• Railways Ordinance (Cap.519)</li> </ul>		

**ENHANCING ENFORCEMENT-RELATED PROVISIONS OF  
TOWN PLANNING ORDINANCE (CAP. 131)**

**Current Arrangement**

The Town Planning Ordinance (Cap. 131) empowers the Town Planning Board to designate any area of Hong Kong, as directed by the Chief Executive, as a development permission area (DPA), except for those areas which have already been covered by an outline zoning plan (OZP). Where land is currently or was previously covered by a plan of DPA (DPA Plan), the Director of Planning (Planning Authority) is empowered to take enforcement and prosecution actions against unauthorised developments on such land under the Cap. 131.

**Constraint in Implementation**

2. The proliferation of landfilling and other land uses causing environmental damage to rural areas has become a rising concern in recent years. While the Planning Authority has power to take enforcement and prosecution action in a significant portion of rural areas that are currently or were previously covered by DPA Plans, the current provisions prevent some areas of high ecological value and subject to development pressures and risk of environmental degradation from being designated as a DPA if they have already been included in an OZP. In respect of these special areas worthy of protection, the Planning Authority is unable to take enforcement action against development not conforming to the OZP.

**Current Proposal Recommended**

3. We propose prescribing a new power under the Cap. 131, such that the Secretary for Development may designate areas in the New Territories to be a “regulated area” for the purposes of protecting the area from environmental degradation and promoting conservation of the area, if the area is covered by an OZP but not previously designated as a DPA. By this new designation, the relevant enforcement provisions under the Cap. 131 currently applicable to a DPA and an offence for unauthorized development will likewise apply to a designated “regulated area”.

**Annex D - Existing provisions**

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## 2. Interpretation

In this Ordinance, unless the context otherwise requires—

**Authority** (主管當局) means—

- (a) in relation to land to which Part II of the New Territories Ordinance (Cap. 97) does not apply, the Director of Lands; and (*Amended L.N. 107 of 1978; L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993*)
- (b) in relation to land to which Part II of the New Territories Ordinance (Cap. 97) applies, the Director of Lands; (*Added 63 of 1974 s. 2. Amended L.N. 370 of 1981; L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993*)

**former owner** (前業主) means, in relation to land resumed by the Government, the person who was the owner of the land immediately before the land reverted to the Government under section 5; (*Added 63 of 1974 s. 2. Amended 29 of 1998 s. 105*)

**land** (土地) means Government land of whatever description (whether held under Government lease or other title recognized by the Government), or any part or section thereof in Hong Kong and the New Territories, and includes buildings erected thereon; (*Amended 50 of 1911; 51 of 1911; 1 of 1912 Schedule; 2 of 1912 Schedule; 29 of 1998 s. 105*)

**non-working day** (非工作日) means a day that is not a working day; (*Added 6 of 2001 s. 2*)

**note-issuing bank** (發鈔銀行), for the purposes of sections 16A and 17, has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65); (*Added 6 of 2001 s. 2*)

**owner** (業主) means the person registered or entitled to be registered in the Land Registry in respect of any land sought to be resumed, or, if such person is absent from Hong Kong, or cannot be found, or is bankrupt or dead, his agent or representative in Hong Kong; (*Amended 50 of 1911 s. 4; 51 of 1911; 1 of 1912 Schedule; 2 of 1912 Schedule; 21 of 1912 s. 2; 8 of 1993 s. 2; 3 of 2000 s. 3*)

**resumption for a public purpose** (收回作公共用途) includes—

- (a) resumption of insanitary property for the purpose of securing the erection of improved dwellings or buildings thereon or the sanitary improvement of such property; and *(Amended 51 of 1911; 2 of 1912 Schedule)*
- (b) resumption of any land upon which any building is erected which, by reason of its proximity to or contact with any other buildings, seriously interferes with ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; and *(Amended 51 of 1911; 2 of 1912 Schedule)*
- (c) resumption for any purpose connected with the Hong Kong Garrison; and *(Replaced 2 of 2012 s. 3)*
- (d) resumption for any purpose of whatsoever description whether ejusdem generis with any of the above purposes or not, which the Chief Executive in Council may decide to be a public purpose; *(Amended 51 of 1911; 2 of 1912 Schedule; 3 of 2000 s. 3)*

**working day** (工作日), for the purposes of sections 16A and 17, means any day other than—

- (a) a public holiday; or
- (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1). *(Added 6 of 2001 s. 2)*

*(Amended 50 of 1911 s. 4)*

### **3. Resumption of land for public purpose**

Whenever the Chief Executive in Council decides that the resumption of any land is required for a public purpose, the Chief Executive may order the resumption thereof under this Ordinance.

*(Replaced 27 of 1930 s. 2. Amended 63 of 1974 s. 3; 3 of 2000 s. 3)*

### **4. Notices**

- (1) Where resumption is ordered a notice that the land is required for a public purpose and will be resumed shall be published in the Gazette in English and Chinese. *(Amended 63 of 1974 s. 4)*
- (2) A copy of such notice shall be served on the owner, if he can be found, and a further notice shall be affixed upon a conspicuous part of the land to be resumed or, where the land is divided into lots, sections or subsections, if practicable, upon each lot, section or subsection affected.

- (3) The notice affixed to the land shall state the date on which it has been so affixed. It shall also state that the land will be resumed on the expiration of 1 month from such date, unless the Chief Executive shall have authorized the giving of a longer period of notice, in which case the longer period shall be stated. *(Amended 3 of 2000 s. 3)*
- (4) A notice published and served or affixed under this section shall be deemed to be notice to the owner of the land and every person interested in the land or having any right or easement therein.

*(Replaced 27 of 1930 s. 2)*

## **7. Power of entry**

- (1) In any case where notice of intended resumption has been given it shall be lawful for the Chief Executive and all other persons authorized by him and without the consent of the owner or occupier thereof to enter into and upon any land intended to be resumed for the purpose of surveying and taking levels of such land and doing all necessary acts for setting out the line of works. *(18 of 1910 s. 6 incorporated. Amended 28 of 1911 s. 6(c); 51 of 1911; 2 of 1912 Schedule; 63 of 1974 s. 8; 3 of 2000 s. 3)*
- (2) If any damage is caused by reason of the entry into and upon the land or of any works performed under subsection (1) either the owner or occupier may submit to the Authority a claim for compensation in respect of such damage. *(Added 63 of 1974 s. 8)*
- (3) The Authority may compromise or settle any claim submitted under subsection (2), or failing agreement, either party may refer the matter to the Lands Tribunal for determination of the amount of compensation to be paid. *(Added 63 of 1974 s. 8)*

## **11. Principles of assessment of compensation**

- (1) When any property is resumed, the Lands Tribunal in determining the compensation to be paid and in estimating the value of the land resumed and of any buildings thereon, may — *(Amended 28 of 1911 s. 6(i); 50 of 1911; 1 of 1912 Schedule)*
  - (a) take into consideration the nature and existing condition of the property, and the probable duration of the buildings in their existing state, and the state of repair thereof; and



- (b) decline to make any compensation for any addition to or improvement of the property made after the date of the publication in the Gazette of the notice of intended resumption (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repair): *(Amended 27 of 1937 Schedule)*

Provided that, in the case of any interest acquired after the date of such publication, no separate estimate of the value thereof shall be made so as to increase the amount of compensation.

- (2) The Lands Tribunal may also receive evidence to prove — *(Amended 28 of 1911 s. 6 (i))*

- (a) that the rental of the buildings or premises was enhanced by reason of the same being used as a brothel, or as a gaming house, or for any illegal purpose; or

- (b) that the buildings or premises are in such a condition as to be a nuisance within the meaning of any Ordinance relating to buildings or to public health, or are not in reasonably good repair; or *(Amended 50 of 1911; 51 of 1911; 1 of 1912 Schedule; 2 of 1912 Schedule; 20 of 1948 s. 4)*

- (c) that the buildings or premises are unfit, and not reasonably capable of being made fit, for human habitation. *(Amended 51 of 1911; 2 of 1912 Schedule)*

- (3) If the Lands Tribunal is satisfied by such evidence, then the compensation—

- (a) shall, in the first case, so far as it is based on rental, be based on the rental which would have been obtainable if the building or premises had not been occupied as a brothel, or as a gaming house, or for an illegal purpose; and *(Amended 51 of 1911; 2 of 1912 Schedule)*

- (b) shall, in the second case, be the amount estimated as the value of the building or premises if the nuisance had been abated or if they had been put into reasonably good repair, after deducting the estimated expense of abating the nuisance or putting them into such repair, as the case may be; and *(Amended 50 of 1911; 51 of 1911; 1 of 1912 Schedule; 2 of 1912 Schedule)*

- (c) shall, in the third case, be the value of the land and of the materials of the buildings thereon.

*(Amended 28 of 1911 s. 6(d); 14 of 1921 s. 7; 63 of 1974 s. 11)*

## **16A. Provisional payment pending determination of compensation**

- (1) Where, in the case of land resumed under an order made under section 3 on or after the commencement\* of the Crown Lands Resumption (Amendment) Ordinance 1984 (5 of 1984), any offer of compensation made by the Authority to any person under this Ordinance in respect of any claim is not accepted, the Authority may, pending the determination by the Lands Tribunal of the compensation, if any, payable in respect of such claim under this Ordinance, pay—
  - (a) an amount as a provisional payment of the amount payable by virtue of such determination; and
  - (b) interest on any payment made under paragraph (a), for the period from the date on which the land reverts to the Government under section 5, until the date on which the payment is made, calculated on a daily basis according to subsection (1A). (*Amended 62 of 1985 s. 2; 29 of 1998 s. 105; 6 of 2001 s. 2*)
- (1A) For the purposes of subsection (1)(b), the rate of interest paid—
  - (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 2*)
- (2) Any payment made by the Authority under subsection (1) in respect of any claim shall be without prejudice to the claim or the submission thereof to, or the determination thereof by, the Lands Tribunal under this Ordinance; but the amount of compensation payable by virtue of such determination in respect of such claim shall be reduced by the amount of such payment. (*Amended 62 of 1985 s. 2*)
- (3) Where the amount of compensation payable by virtue of a determination of the Lands Tribunal under this Ordinance is reduced under subsection (2) by the amount of any payment made under subsection (1), such compensation shall not as from the date on which the payment is made bear interest except on the amount thereof as so reduced. (*Replaced 62 of 1985 s. 2*)

- (4) Where the amount of any payment made by the Authority under subsection (1) in respect of any claim exceeds the amount of the compensation determined by the Lands Tribunal in respect of such claim, the amount of the excess shall be recoverable by the Authority as a civil debt. (*Amended 62 of 1985 s. 2*)

(*Added 5 of 1984 s. 7*)

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Editorial Note:

For the validation of interest payments and application provisions relating to the amendments made by 6 of 2001—see section 13 of 6 of 2001.

\* Commencement date: 13 January 1984.

## **17. Payment of compensation and interest**

- (1) All sums of money agreed or determined as compensation (together with interest thereon as hereinafter mentioned), and all costs and remuneration awarded against the Government, shall be paid out of the general revenue. (*Amended 63 of 1974 s. 13; 3 of 2000 s. 3*)
- (2) At any time after agreement or determination by the Lands Tribunal of the amount of compensation to be paid under this Ordinance, the Authority may by notice published in the Gazette require the person entitled to such compensation to collect the same within the time and at the place specified in the notice. (*Replaced 63 of 1974 s. 13*)
- (3) Subject to section 16A(3), any sum of money payable as compensation by virtue of a determination of the Lands Tribunal or an agreement under this Ordinance shall bear interest from the date of resumption of the land until the expiration of the time specified in the notice referred to in subsection (2). No interest shall be payable on any costs or remuneration. (*Replaced 63 of 1974 s. 13. Amended 5 of 1984 s. 8*)
- (3A) Subject to subsection (3B), the rate of interest for the purposes of subsection (3) shall be such rate as the Lands Tribunal may fix. (*Replaced 6 of 2001 s. 2*)
- (3B) The rate of interest fixed under subsection (3A)—
- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and

- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 2*)
- (4) If no claim be made for the compensation money at the place, and within the time appointed, the officer appointed as aforesaid shall cause such money to be paid into the Treasury.
- (5) The money thus paid into the Treasury or any part of it may, within a period of 5 years from the expiration of the time referred to in subsection (2), be claimed by the person entitled thereto and upon such claim being substantiated shall be paid to the person so entitled.
- (6) At the expiration of the said period of 5 years the money or such part of it as remains unpaid shall be transferred to the general revenue. (*Amended 71 of 1971 s. 3; 3 of 2000 s. 3*)

*(Replaced 33 of 1929 s. 2)*

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Editorial Note:

For the validation of interest payments and application provisions relating to the amendments made by 6 of 2001—see section 13 of 6 of 2001.

## **19. Effect as evidence of notice of resumption**

In any notice to resume any land, it shall be sufficient to state that the resumption of such land is required for a public purpose, without stating the particular purpose for which the land is required; and a notice containing such statement shall be conclusive evidence that the resumption is for a public purpose.

*(Amended 28 of 1911 s. 6(f))*

## 2. Interpretation

In this Ordinance, unless the context otherwise requires—

**Director** (署長) means the Director of Lands; (*Amended L.N. 94 of 1986; L.N. 291 of 1993*)

**foreshore and sea-bed** (前濱及海床) means the shore and bed of the sea and of any tidal water within Hong Kong, below the line of the high water mark; (*Amended E.R. 6 of 2019*)

**non-working day** (非工作日) means a day that is not a working day; (*Added 6 of 2001 s. 3*)

**note-issuing bank** (發鈔銀行), for the purposes of sections 14 and 15, has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65); (*Added 6 of 2001 s. 3*)

**reclamation** (填海工程) includes any work over and upon any foreshore and sea-bed;

**working day** (工作日), for the purposes of sections 14 and 15, means any day other than—

- (a) a public holiday; or
- (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1). (*Added 6 of 2001 s. 3*)

## 5. Publication

- (1) Upon completion of the preparation of a plan under section 3, the Director shall cause notice of the plan to be published—
  - (a) in 2 issues of the Gazette in both the Chinese and English languages;
  - (b) in 2 issues of a Chinese language newspaper;
  - (c) in 2 issues of an English language newspaper; and
  - (d) by affixing copies in the Chinese and English languages in such prominent positions within or near the foreshore and sea-bed affected by the notice, as may be appropriate for the purposes of drawing the notice to the attention of the public.
- (2) The notice referred to in subsection (1) shall—

- (a) describe the foreshore and sea-bed affected and describe the manner in which it will be affected by the proposed reclamation;
  - (b) either be published together with a copy of the plan to which it relates, or state where and at what times a copy of the plan may be inspected; and
  - (c) state that any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed so described, may object to the proposal under section 6.
- (3) A notice published under this section shall be deemed to be notice to every person who has an interest, right or easement in or over the foreshore and sea-bed described therein.

## **6. Objections**

- (1) Any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed described in a notice published under section 5 may, by notice in writing delivered to the Director before the expiration of such time being not less than 2 months as shall be specified in the notice, object to the proposed reclamation.
- (2) A notice of objection shall describe the interest, right or easement of the objector and the manner in which he alleges he will be affected.
- (3) An objection delivered under subsection (1) may be amended or withdrawn in writing at any time before the proposed reclamation is considered under section 7 or 8; and if withdrawn, shall be treated for the purposes of those sections as not having been made.

## **8. Authorization procedure if objection made**

- (1) Where at the expiry of the time for the making of objections under section 6 in respect of a proposed reclamation any objection has been delivered under that section, the Director shall, within a period of 9 months after the expiry of that time, or within such further period of not more than 6 months after the expiry of that period as may, upon the application of the Director, be allowed by the Chief Executive having regard to the circumstances of the case, submit to the Chief Executive in Council for consideration the proposed reclamation and any such objection, and the Chief Executive in Council shall consider the proposed reclamation and every objection and may—
  - (a) decline to authorize the reclamation;

- (b) authorize the reclamation in part only and defer for further consideration at such future time as the Chief Executive in Council shall specify, any objection which relates to the remaining part of the reclamation not so authorized; or
  - (c) authorize the whole of the reclamation. (*Amended 17 of 1998 s. 2*)
- (2) Where a reclamation is authorized under subsection (1)(b) or (c), the plan relating to such reclamation shall be subject to such modifications and conditions as the Chief Executive in Council thinks fit. (*Amended 62 of 2000 s. 3*)

**14. Provisional payment pending determination of compensation**

- (1) The Director may, pending the determination by the Lands Tribunal of the compensation payable under this Ordinance, pay—
- (a) an amount as a provisional payment of the amount payable by virtue of such determination; and
  - (b) interest on any payment made under paragraph (a), for the period from the date of publication of the notice of authorization in the Gazette under section 9(1)(b) relating to the reclamation in question, until the date on which the payment is made, calculated on a daily basis according to subsection (1A). (*Amended 6 of 2001 s. 3*)
- (1A) For the purposes of subsection (1)(b), the rate of interest paid —
- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 3*)
- (2) Any payment made by the Director under subsection (1) shall be without prejudice to the claim for compensation under this Ordinance or the submission under this Ordinance of the matter to the Lands Tribunal for determination of the amount of compensation to be paid, or the determination thereof by it under this Ordinance but the amount of compensation payable by virtue of such determination shall be reduced by the amount of such payment.

- (3) Where the amount of compensation payable by virtue of a determination of the Lands Tribunal under this Ordinance is reduced under subsection (2) by the amount of any payment made under subsection (1), such compensation shall not as from the date on which the payment is made, bear interest except on the amount thereof as so reduced.
- (4) Where the amount of any payment made by the Director under subsection (1) exceeds the amount of the compensation payable by virtue of a determination by the Lands Tribunal, the amount of the excess shall be recoverable by the Director as a civil debt.

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Editorial Note:

For the validation of interest payments and application provisions relating to the amendments made by the Interest Rates (Miscellaneous Amendments) Ordinance 2001 (6 of 2001)—see section 13 of 6 of 2001.

## **15. Payment of compensation and interest**

- (1) All sums of money payable as compensation under this Ordinance together with interest thereon and all costs and remuneration awarded against the Government, shall be paid out of the general revenue. (*Amended 62 of 2000 s. 3*)
- (2) At any time after an agreement under section 13(2) or a determination by the Lands Tribunal of the amount of compensation payable under this Ordinance, the Director may by notice published in the Gazette require the person entitled to the compensation to collect it by the date and at the place specified in the notice.
- (3) Subject to section 14(3), any sum of money payable as compensation by virtue of an agreement under section 13(2) or a determination of the Lands Tribunal under this Ordinance shall bear interest from the date of publication of the notice of authorization in the Gazette under section 9(1)(b) relating to the reclamation in question, until the date specified in the notice published under subsection (2) of this section but no interest shall be payable in respect of the amount of any costs or remuneration.
- (4) Subject to subsection (4A), the rate of interest for the purposes of subsection (3) shall be such rate as the Lands Tribunal may fix. (*Replaced 6 of 2001 s. 3*)
- (4A) The rate of interest fixed under subsection (4)—



- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 3*)
- (5) If no claim is made for the payment out of the compensation money at the place and by the date specified in the notice published under subsection (2), the Director shall pay such money to the Director of Accounting Services.
- (6) The money paid to the Director of Accounting Services under subsection (5) or any part of it may, before the expiry of 5 years from the date specified in the notice published under subsection (2), be claimed by the person entitled thereto and upon such claim being substantiated shall be paid to the person so entitled.
- (7) On the expiry of the period of 5 years referred to in subsection (6) the money or such part of it as remains unpaid shall be transferred to the general revenue.

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Editorial Note:

For the validation of interest payments and application provisions relating to the amendments made by the Interest Rates (Miscellaneous Amendments) Ordinance 2001 (6 of 2001)—see section 13 of 6 of 2001.

## 2. Interpretation

In this Ordinance, unless the context otherwise requires—

**acquisition for a public purpose** (徵用作公共用途) includes—

- (a) acquisition of insanitary property for the purpose of securing the erection of improved dwellings or buildings thereon or the sanitary improvement of such property;
- (b) acquisition of any land upon which any building is erected which, by reason of its proximity to or contact with any other buildings, seriously interferes with ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health;
- (c) acquisition for any purpose connected with the Hong Kong Garrison; and (*Replaced 2 of 2012 s. 3*)
- (d) acquisition for any purpose of whatsoever description, whether ejusdem generis with any of the above purposes or not, which the Chief Executive in Council may decide to be a public purpose; (*Amended 62 of 2000 s. 3*)

**acquisition order** (徵用令) means an acquisition order made under section 3(1) or (2);

**claim of ownership** (擁有權申索) means a claim of possessory title;

**compensation** (補償) means compensation under this Ordinance;

**date of vesting** (轉歸日期) means the date on which land acquired under this Ordinance vests in the Government under section 5; (*Amended 29 of 1998 s. 105*)

**Director** (署長) means the Director of Lands; (*Amended L.N. 94 of 1986; L.N. 291 of 1993*)

**land** (土地) means immovable property;

**non-working day** (非工作日) means a day that is not a working day; (*Added 6 of 2001 s. 4*)

**note-issuing bank** (發鈔銀行), for the purposes of sections 9 and 10, has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65); (*Added 6 of 2001 s. 4*)

**owner** (擁有人) means a person who has a possessory title to land;

**possessory title** (管有業權) means a possessory title against the Government to land by virtue of sections 7(1) and 17 of the Limitation Ordinance (Cap. 347); (*Amended 29 of 1998 s. 105*)

**working day** (工作日), for the purposes of sections 9 and 10, means any day other than—

- (a) a public holiday; or
- (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1). (*Added 6 of 2001 s. 4*)

### 3. **Acquisition of land for a public purpose**

- (1) Whenever the Chief Executive in Council decides that the acquisition of any land is required for a public purpose, the Director may make an acquisition order for the acquisition of it under this Ordinance if it appears to the Director that any person claims, or may claim, that the land is held under a possessory title.
- (2) Whenever the Chief Executive in Council decides, under section 3 of the Lands Resumption Ordinance (Cap. 124), that the resumption of any land is required for a public purpose, the Director may make an acquisition order for the acquisition of that land or any part of it under this Ordinance if it appears to the Director that any person claims, or may claim, that the land or that part is held under a possessory title. (*Amended 29 of 1998 s. 43*)

*(Amended 62 of 2000 s. 3)*

### 4. **Notices and plans**

- (1) Where an acquisition order has been made in respect of any land, a notice thereof—
  - (a) shall be served by the Director—
    - (i) on every person who appears to the Director to be a person who may make a claim of ownership in respect of the land or any part thereof; and
    - (ii) on every person who appears to the Director to be an occupier of the land or any part thereof, if such person can be found;
  - (b) shall be published by the Director—
    - (i) in one issue of the Gazette in both the English and Chinese languages;
    - (ii) in one issue of an English language newspaper;

- (iii) in one issue of a Chinese language newspaper; and
  - (iv) by affixing a copy in the English and Chinese languages upon a conspicuous part of the land; and
  - (c) shall be made available by the Director for inspection by the public free of charge at such offices of the Government as the Director may direct, during the hours when those offices are normally open to the public.
- (2) A notice under subsection (1) shall—
- (a) be in such form as the Director may from time to time determine;
  - (b) describe the land to be acquired and state that an acquisition order has been made in respect thereof;
  - (c) state where and at what times a copy of the acquisition order and, where appropriate, a plan of the land may be inspected in pursuance of subsection (1)(c);
  - (d) state the day on which the notice was affixed upon the land;
  - (e) declare that the land described in the notice shall, on the expiration of 1 month from the date stated under paragraph (d) or on the expiration of a longer period determined by the Director and stated in the notice, by virtue of section 5 vest in the Government and that every interest, right or easement of any person in or over the land shall be extinguished; (*Amended 29 of 1998 s. 105*)
  - (f) state that every person making a claim of ownership to the land described in the notice or to any part thereof, or claiming any interest, right or easement in or over it, shall, in accordance with section 6(1), submit to the Director a written notice of his claim together with such evidence as he may possess to substantiate it, before the date of vesting or within such further period, if any, as the Director may permit.
- (3) A notice served and published under this section shall be deemed to be notice to every person who has a claim of ownership in respect of the land, and every other person having any interest, right or easement in or over the land.

## **8. Rules for assessing compensation**

- (1) The Lands Tribunal shall determine the amount of compensation (if any) payable in respect of a claim referred to it under section 7 on the basis of the loss or damage suffered by the claimant due to the acquisition of the land specified in the claim.

- (2) The Lands Tribunal shall determine the compensation (if any) payable under subsection (1) on the basis of—
  - (a) the value of the land acquired together with any buildings erected thereon at the date of vesting;
  - (b) the value of any interest, right or easement in or over the land acquired, owned, held or enjoyed by the claimant at the date of vesting;
  - (c) the amount of loss or damage suffered by the claimant due to the severance of the land acquired or any building erected thereon from any other land of the claimant, or building erected thereon, contiguous or adjacent thereto;
  - (d) the amount of loss or damage to a business conducted by the claimant at the date of vesting on the land acquired or in any building erected thereon, due to the removal of the business from that land or building as a result of the acquisition;
  - (e) the amount of any expenses reasonably incurred by the claimant in moving from any premises owned or occupied by him on the land acquired to, or in connection with the acquisition of, alternative land or land and buildings, but excluding any amount to which paragraph (d) applies.
- (3) In the determination of the compensation (if any) payable under subsection (1)—
  - (a) no allowance shall be made on account of the acquisition being compulsory;
  - (b) no account shall be taken of the fact that the land lies within or is affected by any area, zone or district reserved or set apart for the purposes specified in section 4(1)(a), (c), (d), (e), (f), (g), (h) or (i) of the Town Planning Ordinance (Cap. 131); (*Amended 2 of 1988 s. 8; 4 of 1991 s. 10*)
  - (c) subject to subsection (4), the value of the land acquired shall be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realize.
- (4) When any land is acquired, the Lands Tribunal in determining the compensation (if any) payable under subsection (1) and in estimating the value of the land acquired together with any buildings erected thereon, may—
  - (a) take into consideration the nature and existing condition of the land and the probable duration of the buildings in their existing state, and the state of repair thereof; and

- (b) decline to make any compensation for any addition to or improvement of the land made after the date of publication in the Gazette of the notice under section 4, or any notice of intended resumption under the Lands Resumption Ordinance (Cap. 124) (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repair): (*Amended 29 of 1998 s. 43*)

Provided that, in the case of any interest, right or easement acquired after the date of such publication, no separate estimate of the value thereof shall be made so as to increase the amount of compensation.

- (5) The Lands Tribunal may also receive evidence to prove that—
  - (a) the rental of the buildings or premises was enhanced by reason of the same being used as a brothel, or as a gaming house, or for any illegal purpose;
  - (b) the buildings or premises are in such a condition as to be a nuisance within the meaning of any Ordinance relating to buildings or to public health, or are not in reasonably good repair; or
  - (c) the buildings or premises are unfit, and not reasonably capable of being made fit, for human habitation.
- (6) If the Lands Tribunal is satisfied by such evidence, then the compensation shall—
  - (a) in the first case, so far as it is based on rental, be based on the rental which would have been obtainable if the buildings or premises had not been occupied as a brothel, or as a gaming house, or for an illegal purpose;
  - (b) in the second case, be the amount estimated as the value of the buildings or premises if the nuisance had been abated or if they had been put into reasonably good repair, after deducting the estimated expense of abating the nuisance or putting them into such repair, as the case may be; and
  - (c) in the third case, be the value of the land and of the materials of the buildings thereon.

## **9. Provisional payment pending determination of compensation**

- (1) The Director may, pending the determination by the Lands Tribunal of the compensation (if any) payable under this Ordinance in respect of the acquisition of any land, pay—
  - (a) an amount as a provisional payment of the amount (if any) payable by virtue of such determination; and

- (b) interest on any payment made under paragraph (a), for the period from the date of vesting, until the date when the payment is made, calculated on a daily basis according to subsection (1A). (*Amended 64 of 1985 s. 2; 6 of 2001 s. 4*)
- (1A) For the purposes of subsection (1)(b), the rate of interest paid —
- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 4*)
- (2) Any payment made by the Director under subsection (1) in respect of any acquisition of land shall be without prejudice to the claim for compensation under this Ordinance or the submission under this Ordinance of the matter to the Lands Tribunal for determination of the amount of compensation (if any) to be paid, or the determination thereof by it under this Ordinance; but the amount of compensation payable by virtue of such determination in respect of the acquisition shall be reduced by the amount of such payment. (*Amended 64 of 1985 s. 2*)
- (3) Where the amount of compensation payable by virtue of a determination of the Lands Tribunal under this Ordinance in respect of any acquisition of land is reduced under subsection (2) by the amount of any payment made under subsection (1), such compensation shall not as from the date on which the payment is made bear interest except on the amount thereof as so reduced. (*Replaced 64 of 1985 s. 2*)
- (4) Where the amount of any payment made by the Director under subsection (1) in respect of any acquisition of land exceeds the amount of the compensation payable by virtue of a determination by the Lands Tribunal under this Ordinance in respect of such acquisition, the amount of the excess shall be recoverable by the Director as a civil debt. (*Amended 64 of 1985 s. 2*)

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Editorial Note:

For the validation of interest payments and application provisions relating to the amendments made by the Interest Rates (Miscellaneous Amendments) Ordinance 2001 (6 of 2001), please see section 13 of that Ordinance.

## 10. Payment of compensation and interest

- (1) All sums of money agreed or determined as compensation (together with interest thereon as hereinafter mentioned), and all costs and remuneration awarded against the Government, shall be paid out of the general revenue. (*Amended 62 of 2000 s. 3*)
- (2) At any time after agreement or determination by the Lands Tribunal of the amount of compensation payable under this Ordinance, the Director may by notice published in the Gazette require the person entitled to the compensation to collect it within the time and at the place specified in the notice.
- (3) Subject to section 9(3), any sum of money payable as compensation by virtue of an agreement or determination of the Lands Tribunal under this Ordinance shall bear interest from the date of vesting until the expiration of the time specified in the notice published under subsection (2). No interest shall be payable on any costs or remuneration.
- (4) Subject to subsection (4A), the rate of interest for the purposes of subsection (3) shall be such rate as the Lands Tribunal may fix. (*Replaced 6 of 2001 s. 4*)
- (4A) The rate of interest fixed under subsection (4)—
  - (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 4*)
- (5) If no claim be made for the compensation money at the place, and within the time, specified in the notice published under subsection (2), the Director shall pay such money into the Treasury.
- (6) The money thus paid into the Treasury or any part of it may, within a period of 5 years from the expiration of the time specified in the notice published under subsection (2), be claimed by the person entitled thereto and upon such claim being substantiated shall be paid to the person so entitled.



- (7) At the expiration of the said period of 5 years the money or such part of it as remains unpaid shall be transferred to the general revenue.

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Editorial Note:

For the validation of interest payments and application provisions relating to the amendments made by the Interest Rates (Miscellaneous Amendments) Ordinance 2001 (6 of 2001), please see section 13 of that Ordinance.

## 1A. Interpretation

In this Ordinance, unless the context otherwise requires—

**Appeal Board** (上訴委員會) means an Appeal Board constituted under section 17A; (*Added 101 of 1991 s. 2*)

**Authority** (監督) means the Director of Planning;

**building** (建築物) includes a structure or part of a structure;

**container** (貨櫃) includes a container converted for use as an accommodation or as storage or for any other use; (*Added 22 of 1994 s. 2*)

**development** (發展) means carrying out building, engineering, mining or other operations in, on, over or under land, or making a material change in the use of land or buildings;

**development permission area** (發展審批地區) means an area so designated in a plan prepared under sections 3(1)(b) and 20 but does not include land included in a plan of an interim development permission area;

**existing use** (現有用途), in relation to a development permission area, means a use of a building or land that was in existence immediately before the publication in the Gazette of notice of the draft plan of the development permission area; (*Amended E.R. 1 of 2021*)

**interim development permission area** (中期發展審批地區) means an area so designated in a plan prepared under section 26;

**land owner** (土地擁有人) has the same meaning as **owner** in section 2(1) of the Buildings Ordinance (Cap. 123);

**material change in the use of land or buildings** (土地或建築物用途的實質改變) includes depositing matter on land, notwithstanding that all or part of the land is already used for depositing matter, if the area, height or amount of the deposit is increased;

**occupier** (佔用人) includes a tenant of a land owner whether or not he pays rent, a person who resides in a building and a person who carries on a full-time occupation in a building;

**prescribed fee** (訂明費用), in relation to any matter, means the fee prescribed in relation to that matter by a regulation made under section 14(2); (*Added 25 of 2004 s. 2*)

**property** ( 財產 ) includes anything contained in a vehicle or a container, but does not include immovable property; (*Added 22 of 1994 s. 2*)

**unauthorized development** ( 違例發展 ) means—

- (a) in relation to land included in a plan of a development permission area or described in section 20(7), development in contravention of this Ordinance; and
- (b) in sections 22 and 23, in relation to land referred to in section 23(4), development other than development permitted under a plan of an interim development permission area, undertaken on or after the date on which notice of that plan is gazetted.

*(Added 4 of 1991 s. 3)*

## 2. **Appointment of Town Planning Board**

- (1) The Chief Executive may appoint a Town Planning Board consisting of such official and unofficial members as he may nominate, and may appoint any member of the Board, either ex officio or personally, as chairman or vice-chairman and any public officer as secretary thereof. (*Amended 62 of 2000 s. 3*)
- (2) 5 members of the Board, one of whom must be the chairman or vice-chairman, shall form a quorum at any meeting of the Board.
- (3) For the better discharge of the functions of the Board under this Ordinance the Chief Executive may, by notice in the Gazette, from among the members of the Board, appoint committees of the Board and a chairman and vice-chairman of each committee. (*Added 4 of 1991 s. 4. Amended 62 of 2000 s. 3*)
- (4) 5 members of a committee appointed under subsection (3), one of whom must be the chairman or a vice-chairman and 3 of whom must be persons who are not official members, shall form a quorum at any meeting of the committee. (*Added 4 of 1991 s. 4*)
- (5) The Board may delegate any of its powers and functions—
  - (a) under sections 3, 4(1), 4A, 5, 7(1) to (3), 8, 12A, 16, 16A and 20(1) to a committee appointed under subsection (3);
  - (b) to a public officer or class of public officer in respect of—
    - (i) an application made under section 16A(2); and (*Replaced 25 of 2004 s. 3*)

- (ii) an application for permission for development within a development permission area on condition that the development is discontinued and the land reinstated, as directed by the public officer, within 6 months after the permission is granted; and
- (c) under sections 12A(13) and (15), 16(2J) and (2L) and 17(2H) and (2J) to the secretary of the Board, *(Added 25 of 2004 s. 3)*

and, for the avoidance of doubt, the provisions of this Ordinance shall, with necessary modifications, be construed and have application accordingly. *(Added 4 of 1991 s. 4. Amended 25 of 2004 s. 3)*

## **2A. Appointment of committees by the Board**

- (1) Notwithstanding section 2(3), the Board may appoint committees from among its members to exercise any of the Board's powers and functions under sections 6B, 6C, 6D, 6E, 6F, 6G and 6H, and, for the avoidance of doubt, the provisions of this Ordinance shall, with necessary modifications, be construed and have application accordingly. *(Amended 25 of 2004 s. 4)*
- (2) A committee appointed under this section shall consist of not less than 5 members, at least 3 of whom are not public officers. *(Amended E.R. 1 of 2021)*
- (3) The Board shall, from the members of a committee appointed under this section, appoint one member to be Chairman of the committee and one member to be Deputy Chairman of the committee.
- (4) The quorum for a committee is the Chairman or Deputy Chairman and 2 members.
- (5) Notwithstanding subsection (4), a committee shall not meet or continue to meet unless a majority of those present are not public officers.

*(Added 16 of 1998 s. 2)*

## **2C. Meetings of Board and of committees**

- (1) Subject to subsection (2), all meetings of the Board or of any committee appointed under section 2(3) or 2A shall be open to the public.
- (2) Subsection (1) does not apply to—

- (a) in the case of any meeting held under or for the purposes of section 6B, 6F, 12A, 16, 16A or 17, such part or parts of the meeting that are held for deliberation by the Board or the committee, as the case may be, for making any decision under section 6B(8), 6F(8) (whether with or without application of section 6F(9)), 12A(23), 16(3), 16A(5) or 17(6), after hearing any person who, not being a member of the Board or the committee, as the case may be, is entitled or allowed to be heard or otherwise has an opportunity of making representations or providing information at the meeting; and
- (b) in the case of any other meeting, the meeting or any part or parts of the meeting if in the opinion of the Board or the committee, as the case may be, it is likely that—
  - (i) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would not be in the public interest;
  - (ii) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in premature release of information that would prejudice the position of the Board, the Government, the Chief Executive or the Chief Executive in Council or, in the case of a meeting of the committee, the committee in carrying out its or his functions under this Ordinance;
  - (iii) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in a disclosure of information in breach of any duty of confidentiality owed to any person by the Board or the Government or, in the case of a meeting of the committee, the committee, or owed to the Government by the Board or, in the case of a meeting of the committee, the committee, by virtue of any law or any requirement under any law, or in contravention of any prohibition by any order of a magistrate or a court or by any law or any requirement under any law;
  - (iv) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in a disclosure of information in respect of which a claim to legal professional privilege could be maintained in law; or

- (v) any matter transacted at such meeting or such part or parts of the meeting, as the case may be, would be relevant to the institution or conduct of any legal proceedings.
- (3) Subject to the provisions of this Ordinance, the Board or any committee appointed under section 2(3) or 2A may determine its practice and procedure at its meeting.

*(Added 25 of 2004 s. 5)*

#### **4. Contents of lay-out plans and powers of the Board**

- (1) The Board's draft plans prepared under section 3(1)(a) for the lay-out of any such area may show or make provision for — *(Amended 4 of 1991 s. 6)*

- (a) streets, railways and other main communications;
- (b) zones or districts set apart for use for residential, commercial, industrial or other specified uses;
- (c) reserves for Government, institution or community purposes;
- (d) parks, recreation grounds and similar open spaces;
- (e) zones or districts set apart for undetermined uses;
- (f) comprehensive development areas; *(Added 2 of 1988 s. 2)*
- \*(g) country parks, coastal protection areas, sites of special scientific interest, green belts or other specified uses that promote conservation or protection of the environment; *(Added 4 of 1991 s. 6)*
- \*(h) zones or districts set apart for use for village type development, agriculture or other specified rural uses; *(Added 4 of 1991 s. 6)*
- \*(i) zones or districts set apart for use for open storage, *(Added 4 of 1991 s. 6)*

and any matter whatsoever may be shown or provided for or specified in or in respect of the plans by means of such diagrams, illustrations, notes or descriptive matter as the Board thinks appropriate; and any such diagrams, illustrations, notes and descriptive matter shall be part of the plans. *(Replaced 59 of 1974 s. 2)*

- (2) The Board may recommend to the Chief Executive in Council the resumption of any land that interferes with the lay-out of an area shown on a draft or approved plan or on a master lay-out plan approved under section 4A; and resumption to avoid such interference shall be deemed to be resumption for a public purpose within the meaning of the Lands Resumption Ordinance (Cap. 124). (*Amended 2 of 1988 s. 2; 29 of 1998 s. 44; 62 of 2000 s. 3*)
- (3) Except in the case of resumption under the said Ordinance no compensation shall be paid to the proprietor or any person interested in any holding by reason of the fact that it lies within or is affected by any zone or district set apart under subsection (1)(b).

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Editorial Note:

\* Deemed to have come into operation on 27 July 1990—see section 1(2) of 4 of 1991.

## **5. Exhibition of draft plans**

Any draft plan, prepared under sections 3 and 4 under the direction of the Board, which the Board deems suitable for publication, shall be exhibited by the Board for public inspection at reasonable hours for a period of 2 months. During such period the Board shall advertise once a week in 2 daily Chinese language local newspapers and 1 daily English language local newspaper and shall notify in each issue of the Gazette the place and hours at which such plan may be inspected. The Board shall supply a copy of such plan to any person on payment of such fee as the Board may determine.

*(Amended 26 of 1956 s. 2; 59 of 1969 s. 3; 2 of 1988 s. 4; 25 of 2004 s. 6)*

## **6. Representations relating to draft plans**

- (1) Within the period of 2 months during which a draft plan is exhibited under section 5, any person may make representation to the Board in respect of the draft plan.
- (2) A representation referred to in subsection (1) shall—
  - (a) indicate—
    - (i) the particular matter in the draft plan to which the representation relates;
    - (ii) the nature of and reasons for the representation; and
    - (iii) the amendments (if any) proposed by the person to the draft plan; and
  - (b) be made in such manner as the Board requires.

- (3) Where a representation referred to in subsection (1)—
  - (a) is made to the Board after the expiration of the period of 2 months referred to in subsection (1), it shall be treated as not having been made; or
  - (b) does not comply with any of the requirements specified in or made under subsection (2), it may be treated as not having been made.
- (4) The Board shall, as soon as reasonably practicable after the expiration of the period of 2 months referred to in subsection (1), make all representations made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9.
- (5) In respect of any representations which are available for public inspection under subsection (4), the Board shall cause a notice that complies with subsection (6) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period during which the representations are so available for public inspection.
- (6) A notice referred to in subsection (5) shall—
  - (a) specify the place and hours at which the representations to which the notice relates are available for public inspection under subsection (4); and
  - (b) indicate that comments may be made to the Board in respect of the representations under section 6A(1) and specify the place and hours at which any comments so made will be available for public inspection under section 6A(4).

*(Replaced 25 of 2004 s. 7)*

#### **6A. Comments on representations**

- (1) Within the first 3 weeks of the period during which any representation is available for public inspection under section 6(4), any person may make comment to the Board in respect of the representation.
- (2) Any comment referred to in subsection (1) shall be made in such manner as the Board requires.
- (3) Where any comment referred to in subsection (1)—



- (a) is made to the Board after the expiration of the period of 3 weeks referred to in subsection (1), it shall be treated as not having been made; or
  - (b) does not comply with any of the requirements made under subsection (2), it may be treated as not having been made.
- (4) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (1), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9.

*(Added 25 of 2004 s. 8)*

**6B. Consideration of representations, etc.**

- (1) Where any representation is made under section 6(1), the Board shall hold a meeting to consider the representation, as well as any comment made in respect of the representation under section 6A(1), as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in section 6A(1).
- (2) The Board shall, in respect of any meeting to be held under subsection (1), give reasonable notice of particulars of the meeting (including the date, time and place of the meeting) to —
- (a) the person who made the representation to which the meeting relates under section 6(1); and
  - (b) the persons (if any) who made any comment in respect of the representation under section 6A(1).
- (3) At a meeting held under subsection (1)—
- (a) the person who made the representation to which the meeting relates under section 6(1); and
  - (b) the persons (if any) who made any comment in respect of the representation under section 6A(1),
- are entitled to attend and to be heard, either in person or by an authorized representative.
- (4) If, at a meeting held under subsection (1), any of the persons entitled to attend and to be heard at the meeting under subsection (3) fails to attend, either in person or by an authorized representative, the Board may—
- (a) proceed with the meeting in his absence; or

- (b) adjourn the meeting to such date as it considers appropriate.
- (5) Without prejudice to subsection (4), where the Board is satisfied that there are reasonable grounds to do so, it may adjourn any meeting held or to be held under subsection (1) to such date as it considers appropriate.
- (6) The Board may direct that all or some of the representations made in respect of the draft plan in question under section 6(1) shall be considered at the same meeting, whereupon such representations, as well as any comment made in respect of any of such representations—
  - (a) shall be considered at the same meeting; and
  - (b) may be considered by the Board either individually or collectively as it may determine.
- (7) Where—
  - (a) any meeting is adjourned under subsection (4) or (5); or
  - (b) the Board makes a direction under subsection (6),the provisions of this section also apply, with necessary modifications, to the meeting so adjourned or the meeting held in accordance with the direction, as the case may be, save to the extent that the Board otherwise directs.
- (8) Upon consideration of any representation, as well as any comment, at a meeting under subsection (1), the Board shall decide whether or not to propose amendments to the draft plan in question in the manner proposed in the representation or otherwise in the manner that, in the opinion of the Board, will meet the representation.

*(Added 25 of 2004 s. 8)*

**6C. Proposed amendments under section 6B(8) to be made available for public inspection**

- (1) Where the Board proposes any amendments under section 6B(8), the Board shall, as soon as reasonably practicable after the amendments are proposed, make the proposed amendments available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9.

- (2) In respect of any proposed amendments which are available for public inspection under subsection (1), the Board shall cause a notice that complies with subsection (3) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period during which the proposed amendments are so available for public inspection.
- (3) A notice referred to in subsection (2) shall—
  - (a) specify the place and hours at which the proposed amendments to which the notice relates are available for public inspection under subsection (1); and
  - (b) indicate that further representations may be made to the Board in respect of the proposed amendments under section 6D(1) and specify the place and hours at which any further representations so made will be available for public inspection under section 6D(4).

*(Added 25 of 2004 s. 8)*

**6D. Further representations in respect of proposed amendments**

- (1) Where the Board proposes any amendments under section 6B(8), within the first 3 weeks of the period during which the proposed amendments are available for public inspection under section 6C(1), any person, other than that who has made any representation or comment after consideration of which the proposed amendments are proposed under section 6B(8), may make further representation to the Board in respect of the proposed amendments.
- (2) A further representation referred to in subsection (1) shall—
  - (a) indicate—
    - (i) the proposed amendments to which the further representation relates;
    - (ii) whether the further representation is made in support of, or in opposition to, the proposed amendments; and
    - (iii) the reasons for the further representation; and
  - (b) be made in such manner as the Board requires.
- (3) Where a further representation referred to in subsection (1)—
  - (a) is made to the Board after the expiration of the period of 3 weeks referred to in subsection (1), it shall be treated as not having been made; or

- (b) does not comply with any of the requirements specified in or made under subsection (2), it may be treated as not having been made.
- (4) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (1), make all further representations made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan in question under section 9.

*(Added 25 of 2004 s. 8)*

**6E. Withdrawal of representations, etc.**

- (1) Any person who makes any representation under section 6(1), or makes any comment in respect of any such representation under section 6A(1), may by notice in writing to the Board withdraw the representation or comment, as the case may be, at any time before the representation or comment, as the case may be, has been considered at a meeting under section 6B(1).
- (2) Any person who makes any further representation under section 6D(1) may by notice in writing to the Board withdraw the further representation at any time before the further representation has been considered at a meeting under section 6F(1).
- (3) Where any representation, comment or further representation is withdrawn under subsection (1) or (2)—
  - (a) the representation, comment or further representation, as the case may be, shall thereafter be treated as not having been made; and
  - (b) in the case of the withdrawal of any representation, any comment made under section 6A(1) in respect of the representation shall thereafter be treated as not having been made.

*(Added 25 of 2004 s. 8)*

**6F. Consideration of further representations in respect of proposed amendments**

- (1) Where any further representation is made under section 6D(1), the Board shall hold a meeting to consider the further representation as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in that section.

- (2) The Board shall, in respect of any meeting to be held under subsection (1), give reasonable notice of particulars of the meeting (including the date, time and place of the meeting) to —
  - (a) the person who made the further representation to which the meeting relates under section 6D(1); and
  - (b) the person who made any representation or comment after consideration of which the proposed amendments in question are proposed under section 6B(8).
- (3) At a meeting held under subsection (1)—
  - (a) the person who made the further representation to which the meeting relates under section 6D(1); and
  - (b) the person who made any representation or comment after consideration of which the proposed amendments in question are proposed under section 6B(8),are entitled to attend and to be heard, either in person or by an authorized representative.
- (4) If, at a meeting held under subsection (1), any of the persons entitled to attend and to be heard at the meeting under subsection (3) fails to attend, either in person or by an authorized representative, the Board may—
  - (a) proceed with the meeting in his absence; or
  - (b) adjourn the meeting to such date as it considers appropriate.
- (5) Without prejudice to subsection (4), where the Board is satisfied that there are reasonable grounds to do so, it may adjourn any meeting held or to be held under subsection (1) to such date as it considers appropriate.
- (6) The Board may direct that all further representations made in respect of the proposed amendments in question under section 6D(1) shall be considered at the same meeting, whereupon such further representations—
  - (a) shall be considered at the same meeting; and
  - (b) may be considered by the Board either individually or collectively as it may determine.
- (7) Where—
  - (a) any meeting is adjourned under subsection (4) or (5); or
  - (b) the Board makes a direction under subsection (6),the provisions of this section also apply, with necessary modifications, to the meeting so adjourned or the meeting held

in accordance with the direction, as the case may be, save to the extent that the Board otherwise directs.

- (8) Upon consideration of any further representation at a meeting under subsection (1), the Board shall decide whether or not to amend the draft plan in question, either by the proposed amendments in question, or by the proposed amendments as further varied in such manner as it considers appropriate.
- (9) Where, in respect of any proposed amendments proposed under section 6B(8), any further representation is made under section 6D(1) but no such further representation indicates under section 6D(2)(a)(ii) that it is made in opposition to the proposed amendments—
  - (a) subsections (3) and (4) shall not have application to any meeting to be held under subsection (1) in respect of any such further representation, and the other provisions of this section shall, with necessary modifications, be construed and have application accordingly; and
  - (b) subsection (8) shall be construed as requiring the Board, upon consideration of any such further representation, to amend the draft plan in question by the proposed amendments.

*(Added 25 of 2004 s. 8)*

**6G. Cases where there are no further representations in respect of proposed amendments**

Where, in respect of any proposed amendments proposed under section 6B(8), no further representation is made under section 6D(1) within the period of 3 weeks referred to in that section, the Board shall, as soon as reasonably practicable after the expiration of the period, amend the draft plan in question by the proposed amendments.

*(Added 25 of 2004 s. 8)*

**6H. Effect of amendments under section 6F or 6G**

- (1) Where the Board amends a draft plan under section 6F(8) (whether with or without application of section 6F(9)) or 6G, the draft plan shall thereafter be read as including the amendments, and, for the avoidance of doubt, any reference to the draft plan (however described) in this or any other Ordinance shall, unless the context otherwise requires, be construed accordingly.

- (2) Where any draft plan is read as including any amendments under subsection (1), the Board shall, as soon as reasonably practicable thereafter, make the amendments available for public inspection at reasonable hours, and shall continue to do so until the Chief Executive in Council has made a decision in respect of the draft plan under section 9.

*(Added 25 of 2004 s. 8)*

## **7. Amendment of draft plans by the Board**

- (1) Without prejudice to sections 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G and 6H, the Board may, at any time after exhibition of a draft plan under section 5 and before approval by the Chief Executive in Council under section 9, make amendments to a draft plan. *(Amended 62 of 2000 s. 3; 25 of 2004 s. 9)*
- (2) Every amendment to a draft plan made under this section shall be exhibited by the Board for public inspection at reasonable hours for a period of 2 months and during such period the Board shall advertise once a week in 2 daily Chinese language local newspapers and 1 daily English language local newspaper and shall notify in each issue of the Gazette the amendment to the draft plan and the place and hours at which such amendment may be inspected. *(Amended 25 of 2004 s. 9)*
- (3) The Board shall supply a copy of an amendment to a draft plan made under this section to any person on payment of such fee as the Board may determine.
- (4) Where the Board makes any amendments to a draft plan under subsection (1)—
- (a) subject to paragraph (b), sections 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G and 6H shall apply, with necessary modifications, to and in relation to the amendments as they apply to and in relation to a draft plan exhibited under section 5; and
  - (b) sections 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G and 6H shall so apply as if—
    - (i) the reference to “the period of 2 months during which a draft plan is exhibited under section 5” in section 6(1) were a reference to the period of 2 months during which the amendments are exhibited under subsection (2);
    - (ii) each of the references to “the draft plan” in section 6(1) and (2)(a) were a reference to any of the amendments;

- (iii) the reference to “the representations made in respect of the draft plan in question under section 6(1)” in section 6B(6) were a reference to the representations made in respect of any of the amendments under section 6(1) (as having application in the manner described in this subsection);
  - (iv) the reference to “the draft plan in question” in section 6B(8) were a reference to the part or parts of the draft plan that concerns or concern any area covered by the amendments to which the representation in question and the comment in question (if any) relate;
  - (v) each of the references to “draft plan in question” in sections 6F(8) and (9)(b) and 6G, the first and second references to “draft plan” in section 6H(1) and the first reference to “draft plan” in section 6H(2) were a reference to the part or parts of the draft plan to which section 6B(8) (as having application in the manner described in this subsection) has application; and
  - (vi) each of the references to “draft plan in question” in sections 6(4), 6A(4), 6C(1) and 6D(4), the third reference to “draft plan” in section 6H(1) and the second reference to “draft plan” in section 6H(2) remained a reference to the draft plan. *(Replaced 25 of 2004 s. 9)*
- (5) For the avoidance of doubt, where sections 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G and 6H have application in the manner described in subsection (4), any reference to any of those provisions in this or any other Ordinance shall, with necessary modifications, be construed accordingly. *(Added 25 of 2004 s. 9)*
- (6) Subject as otherwise provided in this Ordinance, where the Board makes any amendments to a draft plan under this section, the draft plan shall thereafter be read as including those amendments, and, for the avoidance of doubt, any reference to the draft plan (however described) in this or any other Ordinance shall, unless the context otherwise requires, be construed accordingly. *(Added 25 of 2004 s. 9)*

*(Added 59 of 1969 s. 5)*

## **8. Submission of considered draft plan to Chief Executive in Council**



- (1) Before the expiration of the period specified in subsection (2) in relation to a draft plan, the Board shall submit the draft plan to the Chief Executive in Council for approval. *(Replaced 25 of 2004 s. 10)*
- (1A) The Board shall submit a draft plan to the Chief Executive in Council under subsection (1) together with—
  - (a) a schedule of the representations (if any) made under section 6(1) in respect of the draft plan (whether with or without any amendments made under this Ordinance) or any of the amendments made under section 7 to the draft plan (whether with or without any amendments made under this Ordinance), and the comments (if any) made under section 6A(1) in respect of any of such representations;
  - (b) a schedule of the further representations (if any) made under section 6D(1) in respect of any proposed amendments to the draft plan (whether with or without any amendments made under this Ordinance); and
  - (c) a schedule of the amendments (if any) made by the Board under this Ordinance to the draft plan (whether with or without any amendments made under this Ordinance). *(Added 25 of 2004 s. 10)*
- (2) A submission of a draft plan to the Chief Executive in Council under subsection (1) shall— *(Amended 25 of 2004 s. 10)*
  - (a) where there have been no amendments under section 7, be made before the expiration of a period of 9 months after the expiration of the period of 2 months mentioned in section 5; and
  - (b) where there have been amendments under section 7, be made before the expiration of a period of 9 months after the expiration both, of the period of 2 months mentioned in section 5 and of the period of 2 months mentioned in section 7,

or in either case, such further period, being not more than 6 months, after the expiration of either period of 9 months as the Chief Executive may, on application by the Board, allow in any particular case. *(Added 16 of 1998 s. 4. Amended 25 of 2004 s. 10)*

## **9. Powers of Chief Executive in Council upon submission**

- (1) Upon submission of a draft plan the Chief Executive in Council may— *(Amended 62 of 2000 s. 3)*
  - (a) approve it;

- (b) refuse to approve it;
  - (c) refer it to the Board for further consideration and amendment.
- (2) The Chief Executive in Council may approve a draft plan notwithstanding that any requirements of this Ordinance applicable thereto have not been complied with. (*Amended 62 of 2000 s. 3*)
  - (3) A draft plan approved as aforesaid is hereinafter referred to as an **approved plan**.
  - (4) The Chief Executive in Council may by notification in the Gazette correct any omission from or error in any approved plan. (*Amended 62 of 2000 s. 3*)
  - (5) On such approval being given the approved plan shall be printed and exhibited for public inspection at such place as the Board may consider suitable and the fact of such approval and exhibition shall be notified in the Gazette.
  - (6) The Board shall supply a copy of any approved plan to any person on payment of such fee as the Board may determine.

#### **10. Refusal to approve plan**

If the Chief Executive in Council refuses to approve a draft plan such refusal shall be notified in the Gazette; but any such refusal shall be without prejudice to the preparation of a new draft plan and the submission of the same.

*(Amended 62 of 2000 s. 3)*

#### **11. Deposit of copies of approved plan**

A copy of the approved plan, certified by the Chairman of the Board shall be deposited in the Land Registry and shall be available for inspection without payment of any fee. The Land Registrar shall cause to be posted and prominently displayed in the Land Registry notices in English and Chinese directing attention thereto.

*(Amended 26 of 1956 s. 3; 8 of 1993 ss. 2 & 3)*

#### **12. Revocation, replacement and amendment of approved plans**

- (1) The Chief Executive in Council may— (*Amended 62 of 2000 s. 3*)
  - (a) revoke in whole or in part any approved plan; or
  - (b) refer any approved plan to the Board for—
    - (i) replacement by a new plan; or (*Amended E.R. 1 of 2021*)
    - (ii) amendment.

- (2) Notification of any revocation or reference under subsection (1) shall be published in the Gazette and noted by the Land Registrar on the copy of the plan deposited under section 11.
- (3) Upon any reference under subsection (1)(b), a new plan in replacement of the plan referred or a plan showing any amendments to the plan referred, as the case may be, shall be prepared, exhibited, considered, submitted, approved and deposited in accordance with the foregoing provisions of this Ordinance in like manner as the plan the new plan replaces or the amendments amend, as the case may be, and to this intent where the reference is under subsection (1)(b)(ii)— (*Amended 25 of 2004 s. 11*)
- (a) subject to paragraph (b), sections 3, 4, 4A, 5, 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7, 8, 9, 10 and 11 shall apply, with necessary modifications, to and in relation to the plan showing the amendments as they apply to and in relation to a plan otherwise required to be prepared under section 3(1); and
- (b) sections 3, 4, 4A, 5, 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7, 8, 9, 10 and 11 shall so apply as if—
- (i) each of the references to “the draft plan” in section 6(1) and (2)(a) were a reference to any of the amendments;
- (ii) the reference to “the representations made in respect of the draft plan in question under section 6(1)” in section 6B(6) were a reference to the representations made in respect of any of the amendments under section 6(1) (as having application in the manner described in this subsection);
- (iii) the reference to “the draft plan in question” in section 6B(8) were a reference to the part or parts of the plan showing the amendments that concerns or concern any area covered by the amendments to which the representation in question and the comment in question (if any) relate; and
- (iv) each of the references to “draft plan in question” in sections 6F(8) and (9)(b) and 6G, the first and second references to “draft plan” in section 6H(1) and the first reference to “draft plan” in section 6H(2) were a reference to the part or parts of the plan to which section 6B(8) (as having application in the manner described in this subsection) has application. (*Amended 2 of 1988 s. 5*)

- (3A) For the avoidance of doubt, where sections 3, 4, 4A, 5, 6, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7, 8, 9, 10 and 11 have application in the manner described in subsection (3), any reference to any of those provisions in this or any other Ordinance shall, with necessary modifications, be construed accordingly. *(Added 25 of 2004 s. 11)*
- (4) A plan referred to the Board shall be replaced by the new plan or the plan showing the amendments as approved under section 9, as the case may be. The Land Registrar shall endorse accordingly the copy of the plan deposited under section 11 which has been replaced or amended.
- (5) Any draft plan showing the amendments as prepared under sections 3 and 4 shall be deemed to be a draft plan for the purposes of section 16(1)(d) of the Buildings Ordinance (Cap. 123).

*(Replaced 3 of 1958 s. 2. Amended 8 of 1993 s. 3; 25 of 2004 s. 11)*

#### **12A. Amendment of plans on application to the Board**

- (1) Subject to subsection (2), any person may apply to the Board for consideration of any proposal in relation to an original approved plan for the purposes of this section.
- (2) Where at the time when an application is made under subsection (1)—
- (a) the original approved plan to which the application relates is a referred approved plan; and
  - (b) there is a relevant draft plan in relation to the original approved plan,
- no proposal under the application shall relate to any matter relevant to any area covered by any amendment introduced to the original approved plan by the relevant draft plan.
- (3) An application made under subsection (1) shall—
- (a) set out—
    - (i) whether the applicant considers he has within a reasonable period before the application is made—
      - (A) obtained the consent in writing of each person (other than himself) who is a current land owner in respect of the application, or notified such person in writing of the application; or

- (B) taken such reasonable steps as the Board requires in order to obtain the consent of such person in respect of the application, or to give notification to such person in respect of the application; and
    - (ii) particulars of such consent or notification or such steps, as the case may be;
  - (b) subject to paragraph (a), be in such form and include such particulars as the Board requires; and
  - (c) be accompanied by the prescribed fee (if any).
- (4) Where an application is made under subsection (1), the Board may require the applicant to verify any matter or particulars set out or included in the application, whether by statutory declaration or otherwise.
- (5) Notwithstanding subsection (16), the Board may refuse to consider an application made under subsection (1) where—
  - (a) the application does not comply with any of the requirements specified in or made under subsection (3); or
  - (b) the Board is not satisfied that the applicant has within a reasonable period before the application is made—
    - (i) obtained the consent in writing of each person (other than the applicant) who is a current land owner in respect of the application, or notified such person in writing of the application; or
    - (ii) taken such reasonable steps as the Board requires in order to obtain the consent of such person in respect of the application, or to give notification to such person in respect of the application.
- (6) The Board shall, as soon as reasonably practicable after any application is made to it under subsection (1), make the application available for public inspection at reasonable hours, and shall continue to do so until the application has been considered at a meeting under subsection (16).
- (7) In respect of any application referred to in subsection (6), the Board—
  - (a) shall cause a notice that complies with subsection (8) to be posted in a prominent position on or near the land to which the application relates, or on any premises or structure on the land, at the beginning of the period during which the application is available for public inspection under subsection (6); or

- (b) shall cause a notice that complies with subsection (8) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period referred to in paragraph (a).
- (8) A notice referred to in subsection (7)(a) or (b) shall—
  - (a) specify the place and hours at which the application to which the notice relates is available for public inspection under subsection (6); and
  - (b) indicate that comments may be made to the Board in respect of the application under subsection (9) and specify the place and hours at which any comments so made will be available for public inspection under subsection (12).
- (9) Within the first 3 weeks of the period during which any application is available for public inspection under subsection (6), any person may make comment to the Board in respect of the application.
- (10) Any comment referred to in subsection (9) shall be made in such manner as the Board requires.
- (11) Where any comment referred to in subsection (9)—
  - (a) is made to the Board after the expiration of the period of 3 weeks referred to in subsection (9), it shall be treated as not having been made; or
  - (b) does not comply with any of the requirements made under subsection (10), it may be treated as not having been made.
- (12) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (9), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the application in question has been considered at a meeting under subsection (16).
- (13) Where—
  - (a) at any time after an application is made under subsection (1) but before consideration by the Board of the application at a meeting under subsection (16), any further information is given to the Board by the applicant to supplement the information included in the application; and

- (b) inclusion of the further information in the application does not, in the opinion of the Board, result in a material change of the nature of the application,  
the Board may accept the further information for the purposes of the application.
- (14) Where the Board accepts any further information for the purposes of an application under subsection (13)—
  - (a) subject to paragraphs (b) and (c), the further information shall be regarded as having been included in the application;
  - (b) subsection (6) shall further apply, with necessary modifications, to and in relation to the further information as it applies to and in relation to the application; and
  - (c) subject to any exemption under subsection (15)—
    - (i) subsections (7), (8), (9), (10), (11) and (12) shall further apply, with necessary modifications, to and in relation to the further information as they apply to and in relation to the application; and
    - (ii) for the purposes of subsection (16), the application shall be regarded as received when the further information is received.
- (15) Where the Board is satisfied that there are reasonable grounds to do so, it may exempt any further information accepted by it for the purposes of an application under subsection (13) from subsection (14)(c).
- (16) The Board shall within 3 months after the receipt of an application made under subsection (1) hold a meeting to consider the application.
- (17) The Board shall, in respect of any meeting to be held to consider an application under subsection (16), give reasonable notice of particulars of the meeting (including the date, time and place of the meeting) to the applicant.
- (18) At a meeting held to consider an application under subsection (16), the applicant is entitled to attend and to be heard, either in person or by an authorized representative.
- (19) If, at a meeting held to consider an application under subsection (16), the applicant fails to attend, either in person or by an authorized representative, the Board may—
  - (a) proceed with the meeting in his absence; or
  - (b) adjourn the meeting to such date as it considers appropriate.

- (20) Without prejudice to subsection (19), where the Board is satisfied that there are reasonable grounds to do so, it may adjourn any meeting held or to be held under subsection (16) to such date as it considers appropriate.
- (21) Where any meeting is adjourned under subsection (19) or (20), the provisions of this section also apply, with necessary modifications, to the meeting so adjourned, save to the extent that the Board otherwise directs.
- (22) In considering an application at a meeting held under subsection (16), the Board shall also take into account any comment made in respect of the application under subsection (9).
- (23) Upon consideration of an application at a meeting under subsection (16), the Board may—
  - (a) accept, in whole or in part, the application; or
  - (b) refuse the application.
- (24) Where the Board accepts, in whole or in part, an application under subsection (23)(a), the Board shall—
  - (a) subject to paragraphs (b) and (c), request the Chief Executive in Council to refer the original approved plan to the Board for amendment under section 12(1)(b)(ii);
  - (b) where, at the time when the Board so accepts the application, the original approved plan has been referred to the Board for amendment under section 12(1)(b)(ii) but there is no relevant draft plan in relation to the original approved plan—
    - (i) prepare the draft plan showing amendments to the original approved plan under sections 3 and 4 with reference to the application as so accepted;
    - (ii) make amendments to the relevant draft plan, when it is available, under section 7 with reference to the application as so accepted; or
    - (iii) request the Chief Executive in Council to refer the relevant approved plan, when it is available, to the Board for amendment under section 12(1)(b)(ii); or
  - (c) where, at the time when the Board so accepts the application, the original approved plan has been referred to the Board for amendment under section 12(1)(b)(ii) and there is a relevant draft plan in relation to the original approved plan—



- (i) make amendments to the relevant draft plan under section 7 with reference to the application as so accepted; or
- (ii) request the Chief Executive in Council to refer the relevant approved plan, when it is available, to the Board for amendment under section 12(1)(b)(ii).

(25) In this section—

***current land owner*** (現行土地擁有人), in relation to an application made under subsection (1), means any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at the commencement of such period before the application is made as is specified by the Board by notice published in the Gazette;

***original approved plan*** (原核准圖) means a plan which at the time when the application in question is made is—

- (a) an approved plan; or
- (b) a referred approved plan;

***referred approved plan*** (被發還核准圖) means any plan referred to the Board for amendment under section 12(1)(b)(ii), except where a draft plan has further to the reference been approved under section 9;

***relevant approved plan*** (有關核准圖), in relation to an original approved plan within the description of subsection (24)(b) or (c), means the approved plan which has further to the reference of the plan to the Board for amendment under section 12(1)(b)(ii) been approved as such by the Chief Executive in Council under section 9;

***relevant draft plan*** (有關草圖), in relation to an original approved plan within the description of subsection (2)(a) or (24)(b) or (c), means the draft plan which has further to the reference of the plan to the Board for amendment under section 12(1)(b)(ii) been exhibited under section 5.

*(Added 25 of 2004 s. 12)*

### 13. **Approved plans to serve as standards**

Approved plans shall be used by all public officers and bodies as standards for guidance in the exercise of any powers vested in them.

*(Amended 3 of 1958 s. 3)*

### 16. **Applications for permission in respect of plans**

- (1) Where a draft plan or approved plan, whether prepared or approved before or after the commencement\* of the Town Planning (Amendment and Validation) Ordinance 1974 (59 of 1974), provides for the grant of permission for any purpose, an application for the grant of such permission shall be made to the Board.
- (2) Any such application shall be addressed in writing to the secretary to the Board and shall— (*Amended 25 of 2004 s. 15*)
  - (a) set out—
    - (i) whether the applicant considers he has within a reasonable period before the application is made—
      - (A) obtained the consent in writing of each person (other than himself) who is a current land owner in respect of the application, or notified such person in writing of the application; or
      - (B) taken such reasonable steps as the Board requires in order to obtain the consent of such person in respect of the application, or to give notification to such person in respect of the application; and
    - (ii) particulars of such consent or notification or such steps, as the case may be;
  - (b) subject to paragraph (a), be in such form and include such particulars as the Board requires; and
  - (c) be accompanied by the prescribed fee (if any). (*Amended 25 of 2004 s. 15*)
- (2A) Where an application is made under subsection (1), the Board may require the applicant to verify any matter or particulars set out or included in the application, whether by statutory declaration or otherwise. (*Added 25 of 2004 s. 15*)
- (2B) Notwithstanding subsection (3), the Board may refuse to consider an application made under subsection (1) where—
  - (a) the application does not comply with any of the requirements specified in or made under subsection (2); or
  - (b) the Board is not satisfied that the applicant has within a reasonable period before the application is made—
    - (i) obtained the consent in writing of each person (other than the applicant) who is a current land owner in respect of the application, or notified such person in writing of the application; or

- (ii) taken such reasonable steps as the Board requires in order to obtain the consent of such person in respect of the application, or to give notification to such person in respect of the application. *(Added 25 of 2004 s. 15)*
- (2C) The Board shall, as soon as reasonably practicable after any application is made to it under subsection (1), make the application available for public inspection at reasonable hours, and shall continue to do so until the application has been considered at a meeting under subsection (3). *(Added 25 of 2004 s. 15)*
- (2D) In respect of any application referred to in subsection (2C), the Board—
  - (a) shall cause a notice that complies with subsection (2E) to be posted in a prominent position on or near the land to which the application relates, or on any premises or structure on the land, at the beginning of the period during which the application is available for public inspection under subsection (2C); or
  - (b) shall cause a notice that complies with subsection (2E) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period referred to in paragraph (a). *(Added 25 of 2004 s. 15)*
- (2E) A notice referred to in subsection (2D)(a) or (b) shall—
  - (a) specify the place and hours at which the application to which the notice relates is available for public inspection under subsection (2C); and
  - (b) indicate that comments may be made to the Board in respect of the application under subsection (2F) and specify the place and hours at which any comments so made will be available for public inspection under subsection (2I). *(Added 25 of 2004 s. 15)*
- (2F) Within the first 3 weeks of the period during which any application is available for public inspection under subsection (2C), any person may make comment to the Board in respect of the application. *(Added 25 of 2004 s. 15)*
- (2G) Any comment referred to in subsection (2F) shall be made in such manner as the Board requires. *(Added 25 of 2004 s. 15)*
- (2H) Where any comment referred to in subsection (2F)—

- (a) is made to the Board after the expiration of the period of 3 weeks referred to in subsection (2F), it shall be treated as not having been made; or
  - (b) does not comply with any of the requirements made under subsection (2G), it may be treated as not having been made. *(Added 25 of 2004 s. 15)*
- (2I) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (2F), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the application in question has been considered at a meeting under subsection (3). *(Added 25 of 2004 s. 15)*
- (2J) Where—
- (a) at any time after an application is made under subsection (1) but before consideration by the Board of the application at a meeting under subsection (3), any further information is given to the Board by the applicant to supplement the information included in the application; and
  - (b) inclusion of the further information in the application does not, in the opinion of the Board, result in a material change of the nature of the application,
- the Board may accept the further information for the purposes of the application. *(Added 25 of 2004 s. 15)*
- (2K) Where the Board accepts any further information for the purposes of an application under subsection (2J)—
- (a) subject to paragraphs (b) and (c), the further information shall be regarded as having been included in the application;
  - (b) subsection (2C) shall further apply, with necessary modifications, to and in relation to the further information as it applies to and in relation to the application; and
  - (c) subject to any exemption under subsection (2L)—
    - (i) subsections (2D), (2E), (2F), (2G), (2H) and (2I) shall further apply, with necessary modifications, to and in relation to the further information as they apply to and in relation to the application; and
    - (ii) for the purposes of subsection (3), the application shall be regarded as received when the further information is received. *(Added 25 of 2004 s. 15)*

- (2L) Where the Board is satisfied that there are reasonable grounds to do so, it may exempt any further information accepted by it for the purposes of an application under subsection (2J) from subsection (2K)(c). *(Added 25 of 2004 s. 15)*
- (3) The Board shall within 2 months of the receipt of the application, consider the same at a meeting and, subject to subsection (4), may grant or refuse to grant the permission applied for. *(Amended 25 of 2004 s. 15)*
- (3A) In considering an application at a meeting under subsection (3), the Board shall also take into account any comment made in respect of the application under subsection (2F). *(Added 25 of 2004 s. 15)*
- (4) The Board may grant permission under subsection (3) only to the extent shown or provided for or specified in the plan.
- (5) Any permission granted under subsection (3) may be subject to such conditions as the Board thinks fit.
- (6) The secretary to the Board shall notify the applicant in writing of the Board's decision on an application under this section, and where the Board refused to grant permission shall also notify the applicant of his right to a review under section 17.
- (7) For the purposes of section 16(1)(d) and (da) of the Buildings Ordinance (Cap. 123), anything permitted under a permission granted by the Board under this section shall not be a contravention of any approved plan or draft plan prepared under this Ordinance. *(Amended 2 of 1988 s. 6; 25 of 2004 s. 15)*
- (8) In this section, **current land owner** (現行土地擁有人), in relation to an application made under subsection (1), means any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at the commencement of such period before the application is made as is specified by the Board by notice published in the Gazette. *(Added 25 of 2004 s. 15)*

*(Added 59 of 1974 s. 3)*

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Editorial Note:

\* Commencement date: 15 August 1974.

## 17. Right of review

- (1) Where an applicant is aggrieved by a decision of the Board under section 16 or 16A, the applicant may, within 21 days of being notified of the decision of the Board, apply in writing to the secretary to the Board for a review of the Board's decision. *(Amended 101 of 1991 s. 3; 25 of 2004 s. 17)*

- (2) On receipt of an application under subsection (1), the secretary to the Board shall fix a time and place for the review, which shall be a day not more than 3 months of the receipt of the application, and shall give 14 days' notice thereof to the applicant.
- (2A) The Board shall, as soon as reasonably practicable after any application is made to it under subsection (1) for a review of its decision under section 16, make the application available for public inspection at reasonable hours, and shall continue to do so until the decision in question has been reviewed under this section. *(Added 25 of 2004 s. 17)*
- (2B) In respect of any application referred to in subsection (2A), the Board—
- (a) shall cause a notice that complies with subsection (2C) to be posted in a prominent position on or near the land to which the application relates, or on any premises or structure on the land, at the beginning of the period during which the application is available for public inspection under subsection (2A); or
- (b) shall cause a notice that complies with subsection (2C) to be published in 2 daily Chinese language local newspapers and 1 daily English language local newspaper once a week during the first 3 weeks of the period referred to in paragraph (a). *(Added 25 of 2004 s. 17)*
- (2C) A notice referred to in subsection (2B)(a) or (b) shall—
- (a) specify the place and hours at which the application to which the notice relates is available for public inspection under subsection (2A); and
- (b) indicate that comments may be made to the Board in respect of the application under subsection (2D) and specify the place and hours at which any comments so made will be available for public inspection under subsection (2G). *(Added 25 of 2004 s. 17)*
- (2D) Within the first 3 weeks of the period during which any application is available for public inspection under subsection (2A), any person may make comment to the Board in respect of the application. *(Added 25 of 2004 s. 17)*
- (2E) Any comment referred to in subsection (2D) shall be made in such manner as the Board requires. *(Added 25 of 2004 s. 17)*
- (2F) Where any comment referred to in subsection (2D)—

- (a) is made to the Board after the expiration of the period of 3 weeks referred to in subsection (2D), it shall be treated as not having been made; or
  - (b) does not comply with any of the requirements made under subsection (2E), it may be treated as not having been made. *(Added 25 of 2004 s. 17)*
- (2G) The Board shall, as soon as reasonably practicable after the expiration of the period of 3 weeks referred to in subsection (2D), make all comments made to it under that subsection available for public inspection at reasonable hours, and shall continue to do so until the decision in question has been reviewed under this section. *(Added 25 of 2004 s. 17)*
- (2H) Where—
- (a) at any time after an application is made under subsection (1) but before review of the decision in question under this section, any further information is given to the Board by the applicant to supplement the information included in the application; and
  - (b) inclusion of the further information in the application does not, in the opinion of the Board, result in a material change of the nature of the application,
- the Board may accept the further information for the purposes of the application. *(Added 25 of 2004 s. 17)*
- (2I) Where the Board accepts any further information for the purposes of an application under subsection (2H)—
- (a) subject to paragraphs (b) and (c), the further information shall be regarded as having been included in the application;
  - (b) where the application is an application for a review of the Board's decision under section 16, subsection (2A) shall further apply, with necessary modifications, to and in relation to the further information as it applies to and in relation to the application; and
  - (c) subject to any exemption under subsection (2J)—
    - (i) where the application is an application for a review of the Board's decision under section 16, subsections (2B), (2C), (2D), (2E), (2F) and (2G) shall further apply, with necessary modifications, to and in relation to the further information as they apply to and in relation to the application; and
    - (ii) for the purposes of subsection (2)—

- (A) the application shall be regarded as received when the further information is received; and
  - (B) anything done under subsection (2) before receipt of the further information shall have effect subject to anything done under that subsection upon application of this subsection.  
*(Added 25 of 2004 s. 17)*
- (2J) Where the Board is satisfied that there are reasonable grounds to do so, it may exempt any further information accepted by it for the purposes of an application under subsection (2H) from subsection (2I)(c). *(Added 25 of 2004 s. 17)*
- (3) On a review under this section the applicant or his authorized representative may attend before the Board and shall be given an opportunity to make representations.
- (4) If the applicant or an authorized representative does not attend at the time and place fixed for the review, the Board may proceed with the review or adjourn it.
- (4A) Without prejudice to subsection (4), where the Board is satisfied that there are reasonable grounds to do so, it may adjourn the review to such date as it considers appropriate.  
*(Added 25 of 2004 s. 17)*
- (4B) Where any review is adjourned under subsection (4) or (4A), the provisions of this section also apply, with necessary modifications, to the review so adjourned, save to the extent that the Board otherwise directs. *(Added 25 of 2004 s. 17)*
- (5) On a review under this section the Board shall take into account any written representation submitted by the applicant and, in the case of an application for a review of its decision under section 16, any comment made in respect of the application under subsection (2D). *(Amended 25 of 2004 s. 17)*
- (6) On a review under this section, the Board may confirm or reverse the decision in question, or substitute for the decision in question any decision it could have made under section 16 or 16A, as the case may be. *(Amended 25 of 2004 s. 17)*
- (7) *(Repealed 101 of 1991 s. 3)*
- (Added 59 of 1974 s. 3)*

## **23. Enforcement on land within a development permission area**



- (1) Where, in the opinion of the Authority, there is or was unauthorized development, the Authority may, in a notice served on one or more of a land owner, an occupier or a person who is responsible for the relevant matters— (*Amended 101 of 1991 s. 5; 25 of 2004 s. 19*)
  - (a) specify the relevant matters; and (*Replaced 25 of 2004 s. 19*)
  - (b) specify a date by which the Authority requires the relevant matters to be discontinued, if they have not by then been discontinued. (*Replaced 25 of 2004 s. 19*)
- (2) Where, apart from being of the opinion that there is or was unauthorized development, the Authority considers that continuance of the relevant matters could— (*Amended 25 of 2004 s. 19*)
  - (a) constitute a health or safety hazard;
  - (b) adversely affect the environment; or
  - (c) make it impracticable or uneconomic to reinstate the land within a reasonable period,then— (*Amended 25 of 2004 s. 19*)
  - (d) where a notice has not been served under subsection (1) in relation to the relevant matters, the Authority may in a notice served under that subsection—
    - (i) specify the date for discontinuance of the relevant matters under subsection (1)(b), after taking into account the effects referred to in paragraph (a), (b) or (c); and
    - (ii) further specify any steps required to be taken, by a date specified in that regard, to prevent anything related to the relevant matters from causing such effects; or
  - (e) where a notice has been served under subsection (1) in relation to the relevant matters, the Authority may in a further notice served on the same person on whom the notice has been served—
    - (i) substitute the date specified for discontinuance of the relevant matters under subsection (1)(b) in the notice that has been served by an earlier date, after taking into account such effects; and
    - (ii) further specify any steps required to be taken, by a date specified in that regard, to prevent anything related to the relevant matters from causing such effects.

- (2A) A notice served on a person under subsection (1) in relation to the relevant matters shall be read as having effect subject to any further notice served on the same person under subsection (2)(e) in relation to the relevant matters. *(Added 25 of 2004 s. 19)*
- (3) Where a notice under subsection (1) has been served in relation to any relevant matters, the Authority may, subject to subsection (4), in a notice served on any person on whom a notice may be served under subsection (1), require such person to reinstate the land, by a date not earlier than 30 days after service of the notice, to the condition it was in immediately before the development permission area became effective or to such other condition, more favourable to the person served, as the Authority considers satisfactory.
- (4) Where the relevant matters referred to in subsection (3) were on land included— *(Amended 25 of 2004 s. 19)*
- (a) in a plan of an interim development permission area; and
  - (b) within 6 months of the commencement\* of the Town Planning (Amendment) Ordinance 1991 (4 of 1991) in a plan of a development permission area,
- the Authority may, in the notice under subsection (3), require the person served to reinstate the land to the condition it was in immediately before notice of the plan of the interim development permission area was published in the Gazette or to such other condition, more favourable to the person served, as the Authority considers satisfactory.
- (4A) Where the Authority is satisfied—
- (a) in the case of a notice served under subsection (1) (read as having effect subject to any further notice under subsection (2A))—
    - (i) that the relevant matters required by the notice to be discontinued have been discontinued as so required; and
    - (ii) that the steps (if any) required by the notice to be taken have been taken as so required; or
  - (b) in the case of a notice served under subsection (3), that the land required by the notice to be reinstated has been reinstated as so required,
- he shall serve on the person on whom the notice has been served a further notice specifying the matters in respect of which he is so satisfied. *(Replaced 25 of 2004 s. 19)*

- (4B) The Authority shall, as soon as reasonably practicable after service of a notice under subsection (1), (2), (3) or (4A), register the notice in the Land Registry. (*Replaced 25 of 2004 s. 19*)
- (5) Where permission to undertake or continue development on land referred to in subsection (4)(a) was granted under section 26 before the land was included within the plan of the development permission area, the permission shall, for the purposes of sections 20(7)(c) and 21(1)(c), be deemed to be permission granted by the Board under section 16.
- (6) Where, by the date specified in that regard in a notice under this section—
- (a) the relevant matters have not been discontinued as required by the notice; (*Replaced 25 of 2004 s. 19*)
  - (b) steps have not been taken as required by the notice; or
  - (c) land has not been reinstated as required by the notice, a person who is served with the notice commits an offence and is liable—
    - (i) in the case of a first conviction, to a fine of \$500,000; and in addition, to a fine of \$50,000 for each day, after the date in the notice, during which the person continues to fail to so comply; and
    - (ii) in the case of a second or subsequent conviction, to a fine of \$1,000,000; and in addition, to a fine of \$100,000 for each day, after the date in the notice, during which the person continues to fail to so comply. (*Amended L.N. 300 of 1995; 14 of 1996 s. 4*)
- (7) Where, by the date specified in that regard in a notice under this section—
- (a) the relevant matters have not been discontinued as required by the notice; (*Replaced 25 of 2004 s. 19*)
  - (b) steps have not been taken as required by the notice; or
  - (c) land has not been reinstated as required by the notice, the Authority may enter the land and take whatever steps he considers necessary to ensure the discontinuance of the relevant matters, to prevent the effects referred to in subsection (2)(a), (b) or (c) or to reinstate the land.
- (7A) The Authority may under subsection (7) take possession of, remove, detain and dispose of property that is on the land to which a notice served under this section relates. (*Added 22 of 1994 s. 5*)

- (7B) Subject to any regulation that may be made under section 14(1), the Government is not liable for the loss of or for damage to any property in the course of taking possession of, removal, detention or disposal of property by the Authority under subsection (7A), nor is any public officer or person so authorized by the Authority to take possession of, remove, detain or dispose of the property under subsection (7A) liable for the loss or damage, unless he has caused it wilfully, fraudulently or by gross negligence. *(Added 22 of 1994 s. 5)*
- (8) Expenses incurred by the Authority under subsection (7) are recoverable as a civil debt from any person served with a notice under this section.
- (8A) Where the Authority is satisfied—
- (a) that—
- (i) the relevant matters that have not been discontinued by the date specified in that regard in a notice under this section have been discontinued at any time after that date;
  - (ii) steps that have not been taken by the date specified in that regard in a notice under this section have been taken at any time after that date; or
  - (iii) land that has not been reinstated by the date specified in that regard in a notice under this section has been reinstated at any time after that date; and
- (b) if the Authority has incurred any expenses for such purpose under subsection (7), that the expenses have been paid to or recovered by the Authority,
- he shall serve on the person on whom the notice has been served a further notice specifying the matters in respect of which he is so satisfied, and shall as soon as reasonably practicable after service of the further notice register such further notice in the Land Registry. *(Added 25 of 2004 s. 19)*
- (8B) A notice served under this section shall be deemed to be an instrument affecting land or premises and shall be registrable in the Land Registry, but a failure to register such a notice in the Land Registry shall not affect its validity against the person on whom the notice has been served. *(Added 25 of 2004 s. 19)*
- (9) It is a defence to a prosecution under subsection (6) and in a proceeding to recover expenses under subsection (8) if the defendant proves that—

- (a) he took all reasonable steps in the circumstances to comply with the notice;
  - (aa) the unauthorized development which existed according to the opinion of the Authority in fact was not a development; (*Added 25 of 2004 s. 19*)
  - (b) the unauthorized development which existed according to the opinion of the Authority in fact was an existing use or, in the case of land within an interim development permission area, that the use of a building or land was in existence immediately before publication in the Gazette of the notice of the relevant plan of the interim development permission area;
  - (c) the unauthorized development which existed according to the opinion of the Authority in fact is permitted under the plan of the development permission area or under a relevant plan of an interim development permission area; or
  - (d) the unauthorized development which existed according to the opinion of the Authority in fact was a development for which permission had been granted under section 16.
- (9A) In the prosecution of an offence alleged to have been committed under subsection (6), it shall not be necessary for the prosecution to prove that—
- (a) the unauthorized development which existed according to the opinion of the Authority in fact was a development or was an unauthorized development; or
  - (b) the relevant matters which constituted such unauthorized development according to the opinion of the Authority in fact constituted such unauthorized development. (*Added 25 of 2004 s. 19*)
- (10) A notice under this section may be served on a person in person or by sending it by post to his address or depositing it in his post box or posting it in a prominent position—
- (a) on or near the land; or
  - (b) on any premises or structure on the land, affected by the notice. (*Amended 101 of 1991 s. 5*)
- (11) In forming any opinion as to whether there is or was any unauthorized development, or whether any matters constitute or constituted an unauthorized development, for the purpose of exercising any power or performing any duty under this section, the Authority may have regard to—

- (a) any document, or any copy of a document, to which section 24A applies;
  - (b) any draft or approved plan exhibited under this Ordinance; and
  - (c) any other information or thing which appears to the Authority to be relevant to the exercise of the power or the performance of the duty, as the case may be. *(Added 25 of 2004 s. 19)*
- (12) In this section, ***relevant matters*** (有關事項), in relation to any unauthorized development which in the opinion of the Authority exists or existed, means any matters which in the opinion of the Authority constitute or constituted such unauthorized development. *(Added 25 of 2004 s. 19)*
- (13) Subsections (1) and (2) have effect subject to section 111 of the Private Columbaria Ordinance (Cap. 630). *(Added 8 of 2017 s. 122 and E.R. 4 of 2017)*
- (Added 4 of 1991 s. 8. Amended 25 of 2004 s. 19)*

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Editorial Note:

\* Commencement date: 25 January 1991.

## **27. Board to supply copies of documents or materials**

Where any document or material is available for public inspection under section 6(4), 6A(4), 6C(1), 6D(4), 6H(2), 12A(6) or (12), 16(2C) or (2I) or 17(2A) or (2G), the Board shall supply a copy of the document or material to any person on payment of such fee as the Board may determine.

*(Added 25 of 2004 s. 21)*

To promote the health, safety, convenience and general welfare of the community by making provision for the systematic preparation and approval of plans for the lay-out of areas of Hong Kong as well as for the types of building suitable for erection therein and for the preparation and approval of plans for areas within which permission is required for development.

*(Amended 4 of 1991 s. 2)*

[23 June 1939]

*(Format changes—E.R. 1 of 2021)*

## 1A. Interpretation

In this Ordinance, unless the context otherwise requires—

**Appeal Board** (上訴委員會) means an Appeal Board constituted under section 17A; *(Added 101 of 1991 s. 2)*

**Authority** (監督) means the Director of Planning;

**building** (建築物) includes a structure or part of a structure;

**container** (貨櫃) includes a container converted for use as an accommodation or as storage or for any other use; *(Added 22 of 1994 s. 2)*

**development** (發展) means carrying out building, engineering, mining or other operations in, on, over or under land, or making a material change in the use of land or buildings;

**development permission area** (發展審批地區) means an area so designated in a plan prepared under sections 3(1)(b) and 20 but does not include land included in a plan of an interim development permission area;

**existing use** (現有用途), in relation to a development permission area, means a use of a building or land that was in existence immediately before the publication in the Gazette of notice of the draft plan of the development permission area; *(Amended E.R. 1 of 2021)*

**interim development permission area** (中期發展審批地區) means an area so designated in a plan prepared under section 26;

**land owner** (土地擁有人) has the same meaning as **owner** in section 2(1) of the Buildings Ordinance (Cap. 123);

**material change in the use of land or buildings** (土地或建築物用途的實質改變) includes depositing matter on land,

notwithstanding that all or part of the land is already used for depositing matter, if the area, height or amount of the deposit is increased;

**occupier** (佔用人) includes a tenant of a land owner whether or not he pays rent, a person who resides in a building and a person who carries on a full-time occupation in a building;

**prescribed fee** (訂明費用), in relation to any matter, means the fee prescribed in relation to that matter by a regulation made under section 14(2); (*Added 25 of 2004 s. 2*)

**property** (財產) includes anything contained in a vehicle or a container, but does not include immovable property; (*Added 22 of 1994 s. 2*)

**unauthorized development** (違例發展) means—

- (a) in relation to land included in a plan of a development permission area or described in section 20(7), development in contravention of this Ordinance; and
- (b) in sections 22 and 23, in relation to land referred to in section 23(4), development other than development permitted under a plan of an interim development permission area, undertaken on or after the date on which notice of that plan is gazetted.

*(Added 4 of 1991 s. 3)*

## Development Permission Areas

### 20. Development permission area plans

- (1) In any draft plan prepared under section 3(1)(b), the Board shall designate any area of Hong Kong, as directed by the Chief Executive, as a development permission area. (*Amended 62 of 2000 s. 3*)
- (2) The Board shall not designate as a development permission area any area that is or was previously included in a plan under this Ordinance, other than a plan prepared under section 26.
- (3) A draft plan referred to in subsection (1) may as in section 4(1) show or make provision within the development permission area for any of the matters specified in section 4(1) in relation to a plan prepared under section 3(1)(a).
- (4) Sections 4(3), 4A to 13A, 16 and 17 apply to a plan referred to in subsection (1) as they apply to a plan prepared under section 3(1)(a).



- (5) A plan referred to in subsection (1), whether or not it becomes an approved plan, is effective for a period of 3 years after notice of the draft plan is first published in the Gazette pursuant to section 5, but on the application of the Board the Chief Executive in Council may, by a notice published in the Gazette before the end of the 3-year period, extend the period for up to one additional year. (*Amended 62 of 2000 s. 3*)
- (6) Except as provided in subsection (7)(a) and in the definition of *unauthorized development* in section 1A, where land that is within a plan referred to in subsection (1) is included in a plan prepared under section 3(1)(a), the plan referred to in subsection (1) ceases to be effective in relation to that land.
- (6A) Notwithstanding that the plan referred to in subsection (1) ceases to be effective under subsection (6), sections 16, 17 and 17B shall continue to apply to applications for permission submitted under section 16 during the effective period of 3 years or the period of up to one additional year as extended by the Chief Executive in Council, as referred to in subsection (5) until the right to be considered under section 16, right of review under section 17 and right of appeal under section 17B have been exhausted, abandoned or have expired; and the Board or the Appeal Board, as the case may be, shall consider under section 16, review under section 17 or hear an appeal under section 17B in respect of the applications to the extent as shown or provided for or specified in the plan referred to in subsection (1). (*Added 22 of 1994 s. 4. Amended 62 of 2000 s. 3*)
- (7) Where land that is within a plan referred to in subsection (1) is included in a plan prepared under section 3(1)(a), no person shall undertake or continue development on that land unless—
- (a) the development was an existing use in relation to the plan prepared under this section;
  - (b) the development is permitted under the plan prepared under section 3(1)(a); or
  - (c) permission to do so has been granted under section 16 either before or after the land was included in the plan prepared under section 3(1)(a).
- (8) A person who contravenes subsection (7) commits an offence and is liable, in the case of a first conviction, to a fine of \$500,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000,000. (*Replaced L.N. 300 of 1995*)

- (9) Subsection (8) has effect subject to section 111 of the Private Columbaria Ordinance (Cap. 630). *(Added 8 of 2017 s. 120 and E.R. 4 of 2017)*

*(Added 4 of 1991 s. 8)*

## **21. Offence of unauthorized development**

- (1) While a plan of a development permission area is effective, no person shall undertake or continue development in the development permission area unless—
- (a) the development is an existing use;
  - (b) the development is permitted under the plan of the development permission area; or
  - (c) permission to do so has been granted under section 16.
- (2) A person who contravenes subsection (1) commits an offence and is liable, in the case of a first conviction, to a fine of \$500,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000,000. *(Replaced L.N. 300 of 1995)*
- (3) Subsection (2) has effect subject to section 111 of the Private Columbaria Ordinance (Cap. 630). *(Added 8 of 2017 s. 121 and E.R. 4 of 2017)*

*(Added 4 of 1991 s. 8)*

## **22. Power to inspect and require provision of information**

- (1) The Authority may, without warrant or notice but at a reasonable time, enter land and any premises on it for the purposes of, and enter land and any premises on it through which access is needed for the purposes of— *(Amended 25 of 2004 s. 18)*
- (aa) ascertaining whether there is or was unauthorized development or any matters that in the opinion of the Authority constitute or constituted an unauthorized development; *(Added 25 of 2004 s. 18)*
  - (a) posting a notice under section 23;
  - (b) verifying that an unauthorized development or any matters that in the opinion of the Authority constitute or constituted an unauthorized development have been discontinued or any steps taken or land has been reinstated as required under section 23. *(Amended 25 of 2004 s. 18)*
- (2) Notwithstanding subsection (1)— *(Amended 25 of 2004 s. 18)*

- (a) the Authority shall not exercise any power under subsection (1) for the purposes of ascertaining any matter under subsection (1)(aa) unless the Authority has reasonable grounds to suspect that there is or was unauthorized development and it is necessary to enter the land or premises in question, or to have access through the land or premises in question, as the case may be, in order to enable the Authority to ascertain the matter; and
  - (b) the Authority shall not, save with the consent of the occupier or person in charge of the premises, enter domestic premises without a warrant issued by a magistrate under subsection (3). (*Amended 25 of 2004 s. 18*)
- (3) If a magistrate is satisfied from information on oath that there are reasonable grounds to believe that there is or was unauthorized development and it is necessary to enter any land or premises, or to have access through any land or premises, in order to enable the Authority to ascertain whether there is or was unauthorized development or any matters that in the opinion of the Authority constitute or constituted an unauthorized development, the magistrate may issue a warrant authorizing the Authority or any person authorized in writing by the Authority to enter the land or premises. (*Amended 25 of 2004 s. 18*)
- (4) Where the Authority or any person authorized by the Authority enters any place under a warrant issued under subsection (3) he shall produce his warrant.
- (5) Where the Authority or any person authorized by him enters any place under this section he may require any person present at that place—
  - (a) to give details of his identity, name and address and produce his identity card issued under the Registration of Persons Ordinance (Cap. 177) for inspection by him; or
  - (b) who appears at the time to be reasonably responsible for or in charge of that place to give such information or render such assistance as may be necessary to enable him to carry out his functions under this section.
- (6) A warrant issued under subsection (3) shall continue in force until the purpose for which the entry is necessary has been satisfied.

- (7) For the purposes of exercising any power or performing any duty under or for the purposes of section 20, 21 or 23, or determining whether there is or was any contravention of any of the provisions of section 20, 21 or 23, where the Authority has reasonable grounds to believe that any person has any relevant information, the Authority may by notice in writing served on the person require him to provide the relevant information to the Authority, within the period specified in the notice. (*Added 25 of 2004 s. 18*)
- (8) A person who—
- (a) fails without reasonable excuse to comply with the requirements of a notice served on him under subsection (7); or
  - (b) in compliance or purported compliance with such a notice—
    - (i) provides to the Authority any information which he knows to be false in a material particular;
    - (ii) recklessly provides to the Authority any information which is false in a material particular; or
    - (iii) knowingly omits any material particular,commits an offence and is liable to a fine at level 6. (*Added 25 of 2004 s. 18*)
- (9) In subsection (7), **relevant information** (有關資料) means information reasonably required by the Authority for the purposes of—
- (a) ascertaining whether there is or was unauthorized development or any matters that in the opinion of the Authority constitute or constituted an unauthorized development;
  - (b) identifying any person—
    - (i) who undertakes or continues, or undertook or continued, any development; or
    - (ii) on whom a notice may be served under section 23(1). (*Added 25 of 2004 s. 18*)

*(Added 4 of 1991 s. 8)*

## **23. Enforcement on land within a development permission area**

- (1) Where, in the opinion of the Authority, there is or was unauthorized development, the Authority may, in a notice served on one or more of a land owner, an occupier or a person who is responsible for the relevant matters— (*Amended 101 of 1991 s. 5; 25 of 2004 s. 19*)
  - (a) specify the relevant matters; and (*Replaced 25 of 2004 s. 19*)
  - (b) specify a date by which the Authority requires the relevant matters to be discontinued, if they have not by then been discontinued. (*Replaced 25 of 2004 s. 19*)
- (2) Where, apart from being of the opinion that there is or was unauthorized development, the Authority considers that continuance of the relevant matters could— (*Amended 25 of 2004 s. 19*)
  - (a) constitute a health or safety hazard;
  - (b) adversely affect the environment; or
  - (c) make it impracticable or uneconomic to reinstate the land within a reasonable period,then— (*Amended 25 of 2004 s. 19*)
  - (d) where a notice has not been served under subsection (1) in relation to the relevant matters, the Authority may in a notice served under that subsection—
    - (i) specify the date for discontinuance of the relevant matters under subsection (1)(b), after taking into account the effects referred to in paragraph (a), (b) or (c); and
    - (ii) further specify any steps required to be taken, by a date specified in that regard, to prevent anything related to the relevant matters from causing such effects; or
  - (e) where a notice has been served under subsection (1) in relation to the relevant matters, the Authority may in a further notice served on the same person on whom the notice has been served—
    - (i) substitute the date specified for discontinuance of the relevant matters under subsection (1)(b) in the notice that has been served by an earlier date, after taking into account such effects; and
    - (ii) further specify any steps required to be taken, by a date specified in that regard, to prevent anything related to the relevant matters from causing such effects.

- (2A) A notice served on a person under subsection (1) in relation to the relevant matters shall be read as having effect subject to any further notice served on the same person under subsection (2)(e) in relation to the relevant matters. *(Added 25 of 2004 s. 19)*
- (3) Where a notice under subsection (1) has been served in relation to any relevant matters, the Authority may, subject to subsection (4), in a notice served on any person on whom a notice may be served under subsection (1), require such person to reinstate the land, by a date not earlier than 30 days after service of the notice, to the condition it was in immediately before the development permission area became effective or to such other condition, more favourable to the person served, as the Authority considers satisfactory.
- (4) Where the relevant matters referred to in subsection (3) were on land included— *(Amended 25 of 2004 s. 19)*
- (a) in a plan of an interim development permission area; and
  - (b) within 6 months of the commencement\* of the Town Planning (Amendment) Ordinance 1991 (4 of 1991) in a plan of a development permission area,
- the Authority may, in the notice under subsection (3), require the person served to reinstate the land to the condition it was in immediately before notice of the plan of the interim development permission area was published in the Gazette or to such other condition, more favourable to the person served, as the Authority considers satisfactory.
- (4A) Where the Authority is satisfied—
- (a) in the case of a notice served under subsection (1) (read as having effect subject to any further notice under subsection (2A))—
    - (i) that the relevant matters required by the notice to be discontinued have been discontinued as so required; and
    - (ii) that the steps (if any) required by the notice to be taken have been taken as so required; or
  - (b) in the case of a notice served under subsection (3), that the land required by the notice to be reinstated has been reinstated as so required,
- he shall serve on the person on whom the notice has been served a further notice specifying the matters in respect of which he is so satisfied. *(Replaced 25 of 2004 s. 19)*

- (4B) The Authority shall, as soon as reasonably practicable after service of a notice under subsection (1), (2), (3) or (4A), register the notice in the Land Registry. (*Replaced 25 of 2004 s. 19*)
- (5) Where permission to undertake or continue development on land referred to in subsection (4)(a) was granted under section 26 before the land was included within the plan of the development permission area, the permission shall, for the purposes of sections 20(7)(c) and 21(1)(c), be deemed to be permission granted by the Board under section 16.
- (6) Where, by the date specified in that regard in a notice under this section—
- (a) the relevant matters have not been discontinued as required by the notice; (*Replaced 25 of 2004 s. 19*)
  - (b) steps have not been taken as required by the notice; or
  - (c) land has not been reinstated as required by the notice, a person who is served with the notice commits an offence and is liable—
    - (i) in the case of a first conviction, to a fine of \$500,000; and in addition, to a fine of \$50,000 for each day, after the date in the notice, during which the person continues to fail to so comply; and
    - (ii) in the case of a second or subsequent conviction, to a fine of \$1,000,000; and in addition, to a fine of \$100,000 for each day, after the date in the notice, during which the person continues to fail to so comply. (*Amended L.N. 300 of 1995; 14 of 1996 s. 4*)
- (7) Where, by the date specified in that regard in a notice under this section—
- (a) the relevant matters have not been discontinued as required by the notice; (*Replaced 25 of 2004 s. 19*)
  - (b) steps have not been taken as required by the notice; or
  - (c) land has not been reinstated as required by the notice, the Authority may enter the land and take whatever steps he considers necessary to ensure the discontinuance of the relevant matters, to prevent the effects referred to in subsection (2)(a), (b) or (c) or to reinstate the land.
- (7A) The Authority may under subsection (7) take possession of, remove, detain and dispose of property that is on the land to which a notice served under this section relates. (*Added 22 of 1994 s. 5*)

- (7B) Subject to any regulation that may be made under section 14(1), the Government is not liable for the loss of or for damage to any property in the course of taking possession of, removal, detention or disposal of property by the Authority under subsection (7A), nor is any public officer or person so authorized by the Authority to take possession of, remove, detain or dispose of the property under subsection (7A) liable for the loss or damage, unless he has caused it wilfully, fraudulently or by gross negligence. *(Added 22 of 1994 s. 5)*
- (8) Expenses incurred by the Authority under subsection (7) are recoverable as a civil debt from any person served with a notice under this section.
- (8A) Where the Authority is satisfied—
- (a) that—
- (i) the relevant matters that have not been discontinued by the date specified in that regard in a notice under this section have been discontinued at any time after that date;
- (ii) steps that have not been taken by the date specified in that regard in a notice under this section have been taken at any time after that date; or
- (iii) land that has not been reinstated by the date specified in that regard in a notice under this section has been reinstated at any time after that date; and
- (b) if the Authority has incurred any expenses for such purpose under subsection (7), that the expenses have been paid to or recovered by the Authority,
- he shall serve on the person on whom the notice has been served a further notice specifying the matters in respect of which he is so satisfied, and shall as soon as reasonably practicable after service of the further notice register such further notice in the Land Registry. *(Added 25 of 2004 s. 19)*
- (8B) A notice served under this section shall be deemed to be an instrument affecting land or premises and shall be registrable in the Land Registry, but a failure to register such a notice in the Land Registry shall not affect its validity against the person on whom the notice has been served. *(Added 25 of 2004 s. 19)*
- (9) It is a defence to a prosecution under subsection (6) and in a proceeding to recover expenses under subsection (8) if the defendant proves that—



- (a) he took all reasonable steps in the circumstances to comply with the notice;
  - (aa) the unauthorized development which existed according to the opinion of the Authority in fact was not a development; (*Added 25 of 2004 s. 19*)
  - (b) the unauthorized development which existed according to the opinion of the Authority in fact was an existing use or, in the case of land within an interim development permission area, that the use of a building or land was in existence immediately before publication in the Gazette of the notice of the relevant plan of the interim development permission area;
  - (c) the unauthorized development which existed according to the opinion of the Authority in fact is permitted under the plan of the development permission area or under a relevant plan of an interim development permission area; or
  - (d) the unauthorized development which existed according to the opinion of the Authority in fact was a development for which permission had been granted under section 16.
- (9A) In the prosecution of an offence alleged to have been committed under subsection (6), it shall not be necessary for the prosecution to prove that—
- (a) the unauthorized development which existed according to the opinion of the Authority in fact was a development or was an unauthorized development; or
  - (b) the relevant matters which constituted such unauthorized development according to the opinion of the Authority in fact constituted such unauthorized development. (*Added 25 of 2004 s. 19*)
- (10) A notice under this section may be served on a person in person or by sending it by post to his address or depositing it in his post box or posting it in a prominent position—
- (a) on or near the land; or
  - (b) on any premises or structure on the land, affected by the notice. (*Amended 101 of 1991 s. 5*)
- (11) In forming any opinion as to whether there is or was any unauthorized development, or whether any matters constitute or constituted an unauthorized development, for the purpose of exercising any power or performing any duty under this section, the Authority may have regard to—

- (a) any document, or any copy of a document, to which section 24A applies;
  - (b) any draft or approved plan exhibited under this Ordinance; and
  - (c) any other information or thing which appears to the Authority to be relevant to the exercise of the power or the performance of the duty, as the case may be. *(Added 25 of 2004 s. 19)*
- (12) In this section, ***relevant matters*** (有關事項), in relation to any unauthorized development which in the opinion of the Authority exists or existed, means any matters which in the opinion of the Authority constitute or constituted such unauthorized development. *(Added 25 of 2004 s. 19)*
- (13) Subsections (1) and (2) have effect subject to section 111 of the Private Columbaria Ordinance (Cap. 630). *(Added 8 of 2017 s. 122 and E.R. 4 of 2017)*
- (Added 4 of 1991 s. 8. Amended 25 of 2004 s. 19)*

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Editorial Note:

\* Commencement date: 25 January 1991.

**4. Minor works**

- (1) The Secretary may execute any works—
  - (a) which, in his opinion, are minor in respect of any physical or structural operations involved; and
  - (b) in respect of which the only powers required by him are—
    - (i) to close a road which, in his opinion, does not serve any useful purpose or does not serve any lawful purpose;
    - (ii) to close a road to use for a period not exceeding 14 days in any period of 3 months;
    - (iii) to close part of the width of a road to use but not to such extent as will interfere unreasonably with the normal flow of traffic on that road and for no longer than is reasonably necessary to execute the works.
- (2) The works executed under this section, including the closures mentioned in subsection (1)(b), and the use shall be authorized under this section.
- (3) No person shall have any right against the Crown or any other person to restrain or compel anything authorized under this section or to recover any money, under this Ordinance or otherwise, in respect of anything authorized under this section.

**8. Deposit and publication**

- (1) A copy of the plan and scheme prepared for the purposes of section 5 or 7, signed by the Secretary, shall be deposited in the Land Registry and shall be available for inspection by the public free of charge at such offices of the Government as the Secretary may direct, during the hours when those offices are normally open to the public. (*Amended 8 of 1993 s. 2*)
- (2) The Secretary shall within 21 days of the deposit of a copy of a plan and scheme in the Land Registry or of any amendment to such copy or the deposit of a substitute plan and scheme cause a notice of such deposit or amendment to be published containing— (*Amended 8 of 1993 s. 2*)
  - (a) a description of the general nature of the works or of the nature and extent of the amendment to the works; and
  - (b) particulars of the places and times at which a copy of the plan and scheme, or details of the amendment or a copy of the substitute plan and scheme may be inspected by the public in conformity with subsection (1).
- (3) The notice mentioned in subsection (2) shall be published—
  - (a) in 2 issues of the Gazette in both the Chinese and English languages;
  - (b) in 2 issues of a Chinese language newspaper;
  - (c) in 2 issues of an English language newspaper; and

- (d) by affixing copies in the Chinese and English languages in such prominent positions within the works area as may be appropriate for the purpose drawing the notice to the attention of the public.
- (4) The Secretary shall, by notice in writing, advise the District Board of the District in which the works are to be situated of the deposit of the plan and scheme under subsection (1) and, at the same time, supply that District Board with a copy of the plan and scheme.
- (5) A copy of the plan and scheme shall be supplied to any person on application and payment of the reasonable cost of producing that copy.

**10. Objections**

- (1) Any person may, by notice in writing delivered to the Secretary not later than 60 days after the first publication of the notice mentioned in section 8(2), object to the works or the use or both and may, where relevant, object to the exercise of the power of the Secretary under section 42(2).
- (2) A notice of objection shall describe the interest of the objector and the manner in which he alleges he will be affected by the works or the use.
- (3) An objection lodged under this section may be amended or withdrawn in writing at any time before the works and the scheme are considered under section 11; and, if withdrawn, shall be treated, for the purposes of section 11(1), as not having been lodged.

**11. Procedure after publication of plan and scheme**

- (1) When the time for the lodging of objections has expired and where no objections have been lodged under section 10, the Secretary may execute the works; and the works and the use shall be authorized under this Ordinance.
- (1A) Subject to subsection (1), the Secretary shall not later than—
  - (a) subject to paragraphs (b) and (c), 9 months after the expiration of the period for lodging objections under section 10(1);
  - (b) subject to paragraph (c), where there is any amendment to the plan or scheme under section 7, 3 months after the expiration of the period for lodging objections under section 10(1) in respect of any such amendment or, where there is more than one amendment, the last of any such amendment;
  - (c) such further period of not more than 6 months after the expiration of the period referred to in paragraph (a) or (b) (as the case may be) as the Chief Executive may, upon the application of the Secretary, allow having regard to the circumstances of the case,
 

submit to the Chief Executive in Council for consideration the plan and scheme and any objections lodged under section 10 (1). *(Added 14 of 1998 s. 2)*
- (1B) The Chief Executive in Council shall consider the plan and scheme submitted and any objections lodged under section 10 (1). *(Added 14 of 1998 s. 2)*

- (2) The Chief Executive in Council, after considering the plan and scheme submitted and any objections lodged under section 10 (1), may—
  - (a) decline to authorize the works and the use; or
  - (b) authorize the works and the use, with or without modification and subject to such conditions, as to the amelioration or avoidance of the effects of the works and the use or otherwise, as the Chief Executive in Council thinks fit. *(Replaced 14 of 1998 s. 2)*
- (3) Before exercising the power under subsection (2), the Governor in Council may refer the plan, the scheme and the objections to the Town Planning Board appointed under the Town Planning Ordinance (Cap. 131) and— *(Amended 25 of 2004 s. 25)*
  - (a) the Board shall, whether or not the works are shown on any draft plan under that Ordinance, exhibit and advertise the plan and scheme under section 5 of that Ordinance as if it were a draft plan, and the provisions of that Ordinance shall apply accordingly; and *(Amended 25 of 2004 s. 25)*
  - (b) without prejudice to the generality of paragraph (a), the objections lodged under section 10 shall be regarded as representations made to the Board in respect of the plan and scheme under section 6 of that Ordinance. *(Replaced 25 of 2004 s. 25)*
  - (c) *(Repealed 25 of 2004 s. 25)*
- (4) The Governor in Council may reconsider any plan and scheme and—
  - (a) authorize the works and the use which the Governor in Council has previously declined to authorize;
  - (b) remove or vary any modifications or conditions previously imposed.
- (5) The Governor in Council may, after the expiry of at least 28 days' notice served on any person affected, amend any plan and scheme already considered and authorize the works and use in accordance with that amended plan and scheme. *(Amended E.R. 1 of 2021)*
- (6) Where any objection has been lodged under section 10, the Secretary may execute the works only to the extent authorized, and subject to any subsisting modifications or conditions imposed, by the Governor in Council.
- (7) Where any subsisting condition imposed by the Governor in Council under subsection (2)(b) requires anything to be done by the Secretary to ameliorate or avoid the effects of the works or the use—
  - (a) anything done by the Secretary in compliance with that condition shall be part of the works;
  - (b) the Secretary may enter any land or building, after giving at least 28 days' notice to the owner and the occupier, and do what is required to be done to comply with that condition; and *(Amended E.R. 1 of 2021)*

- (c) the condition shall be deemed to have been met if the condition is met in respect of all the persons for whose benefit the condition was imposed other than those who waive compliance in writing.
- (8) The notice mentioned in subsection (7)(b) shall—
  - (a) describe the purpose of the entry; and
  - (b) be served on the owner and occupier.
- (9) Where—
  - (a) the Secretary proposes to execute the works under subsection (1); or
  - (b) the Governor in Council has declined to authorize the works and the use; or
  - (c) the Governor in Council has authorized the works and the use; or
  - (d) the Governor in Council imposes any modifications or conditions when authorizing the works and the use; or
  - (e) any modification or condition previously imposed is removed or varied,
 that fact shall be published in the manner mentioned in section 8(3).

**14. Notices of resumption of land**

- (1) Subject to subsection (3), notice of resumption by order made under section 13(1) shall be— (*Amended 81 of 1988 s. 2*)
  - (a) served on every person known to the Secretary as having any estate, right, share or interest in the land mentioned in the order;
  - (b) published—
    - (i) in one issue of the Gazette in both the Chinese and English languages;
    - (ii) in one issue of a Chinese language newspaper;
    - (iii) in one issue of an English language newspaper; and
    - (iv) by affixing a copy in the Chinese and English languages in a prominent position on or near the land mentioned in the order; and
  - (c) made available for inspection by the public free of charge at such offices of the Government as the Secretary may direct, during the hours when those offices are normally open to the public.
- (2) A notice of resumption shall—
  - (a) describe the land to be resumed and state that an order has been made under section 13(1) in respect thereof;
  - (b) state where and at what times a copy of the order and, where appropriate, a plan of the land may be inspected in pursuance of subsection (1)(c);
  - (c) state the day on which the notice was affixed on or near the land;
  - (d) state the period of notice specified by the Governor under section 13(2);

- (e) declare that upon the expiry of that period the land described in the notice shall by virtue of section 13(3) revert to the Government or vest in The Financial Secretary Incorporated, as the case may require, for the purposes of or incidental to the works or the use; and (*Amended L.N. 180 of 1985; 29 of 1998 s. 105*)
  - (f) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Secretary.
- (3) Where an order has been made under section 13(1) in respect of land which was, when the order was made, a road, subsection (1)(a) of this section shall not apply. (*Added 81 of 1988 s. 2*)

**16. Notices of creation of easements or other rights**

- (1) Subject to subsection (3), notice of creation of an easement or right by order made under section 15(1) shall be— (*Amended 81 of 1988 s. 3*)
- (a) served on every person known to the Secretary as having any estate, right, share or interest in the land mentioned in the order;
  - (b) published—
    - (i) in one issue of the Gazette in both the Chinese and English languages;
    - (ii) in one issue of a Chinese language newspaper;
    - (iii) in one issue of an English language newspaper; and
    - (iv) by affixing a copy in the Chinese and English languages in a prominent position on or near the land mentioned in the order; and
  - (c) made available for inspection by the public free of charge at such offices of the Government as the Secretary may direct, during the hours when those offices are normally open to the public.
- (2) A notice of creation of an easement or right shall—
- (a) describe the land and the easement or right and state that an order creating the easement or right has been made under section 15(1);
  - (b) state where and at what times a copy of the order and a plan of the land affected by the easement or right may be inspected in pursuance of subsection (1)(c);
  - (c) state the day on which the notice was affixed on or near the land;
  - (d) state the period of notice specified by the Governor under section 15(2);
  - (e) declare that upon the expiry of that period the easement or right described in the notice shall by virtue of section 15(4) be created in favour of the Government for the purposes of or incidental to the works or the use; and (*Amended 29 of 1998 s. 105*)
  - (f) state that any person having a compensatable interest under this Ordinance may serve a written claim upon the Secretary.

- (3) Where an order has been made under section 15(1) in respect of land which was, when the order was made, a road, subsection (1)(a) of this section shall not apply. (*Added 81 of 1988 s. 3*)

**18. Notices of orders made under section 17**

- (1) Subject to subsection (3), notice of an order made under section 17(1) in respect of any road, foreshore or sea-bed shall be— (*Amended 81 of 1988 s. 4*)
- (a) served on every person known to the Secretary as having any estate, right, share or interest in the land mentioned in the order;
  - (b) published—
    - (i) in one issue of the Gazette in both the Chinese and English languages;
    - (ii) in one issue of a Chinese language newspaper;
    - (iii) in one issue of an English language newspaper; and
    - (iv) by affixing a copy in the Chinese and English languages in a prominent position on or near the land mentioned in the order; and
  - (c) made available for inspection by the public free of charge at such offices of the Government, as the Secretary may direct during the hours when those offices are normally open to the public.
- (2) The notice referred to in subsection (1) shall—
- (a) state that an order has been made under section 17(1) and describe the area of the road, foreshore or sea-bed affected thereby and the manner in which it will be affected;
  - (b) describe briefly any works to be carried out;
  - (c) state where and at what times a copy of the order and a plan of the affected area of the road, foreshore or sea-bed may be inspected pursuant to subsection (1)(c);
  - (d) state the day on which the notice was affixed on or near the land; and
  - (e) state that any person having a compensatable interest under this Ordinance may serve a written claim upon the Secretary.
- (3) Where an order has been made under section 17(1) in respect of a road, subsection (1)(a) of this section shall not apply. (*Added 81 of 1988 s. 4*)

**33. Interest**

- (1) The Lands Tribunal may direct that interest be paid on compensation (but not on costs)— (*Amended 6 of 2001 s. 9*)
- (a) in the case of compensation payable under item 1 of Part II of the Schedule, as if the claim were made under the Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance; and (*Amended 29 of 1998 s. 78*)



- (b) in any other case, from such date and for such period as it thinks fit and, subject to subsection (2), at such rate as it may fix. (*Amended 6 of 2001 s. 9*)
- (2) The rate of interest fixed under subsection (1)(b)—
  - (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 9*)
- (3) In this section—
 

**non-working day** (非工作日) means a day that is not a working day;

**note-issuing bank** (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

**working day** (工作日) means any day other than—

  - (a) a public holiday; or
  - (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1). (*Added 6 of 2001 s. 9*)

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**Editorial Note:**

For the validation of interest payments and application provisions relating to the amendments made by 6 of 2001—see section 13 of 6 of 2001.

### 36. **Certain statements to be conclusive evidence**

Where it is stated—

- (a) in any order under section 13(1), 15(1) or 17(1) respectively that—
  - (i) the resumption of land;
  - (ii) the creation of an easement or other right; or
  - (iii) the closure, reclamation, extinction, modification or restriction,

is ordered or declared for the purposes of or incidental to the works or the use; or (*Amended 8 of 1987 s. 3*)
- (b) in a notice under section 19, 20 or 21 that the entry or the work therein described or required to be carried out is, in the opinion of the Secretary, in connexion with the works, the use, an assessment of the value of any land, building or other property or in order to ascertain the condition of the land or building or necessary or required for the works or the use; or
- (c) by the Secretary that—
  - (i) any works are minor in respect of any physical or structural operations involved; or
  - (ii) a road does not serve any useful purpose or does not serve any lawful purpose,

then such statement shall be accepted by all courts, tribunals and persons as conclusive evidence of the truth of the fact so stated.

**37. Disposal of lands and easements**

Any land resumed or any Government foreshore or sea-bed reclaimed or any easement or other right created under this Ordinance and any land which becomes vested in The Financial Secretary Incorporated may be used in such manner as the Government or The Financial Secretary Incorporated thinks fit and may be disposed of to any person by any means and on any terms whatsoever: *(Amended L.N. 180 of 1985)*

Provided that, before disposing of any land resumed under this Ordinance to any other person, the Government shall give proper consideration to offering that land back to the person from whom it was resumed.

*(Amended 29 of 1998 s. 105)*

**42. Transitional**

- (1) Notwithstanding the repeal of the Streets (Alteration) Ordinance (Cap. 130, 1974 Ed.) and subject to subsection (2) of this section, that Ordinance shall continue to apply to any works included in an undertaking in respect of which a notice has been published under section 3 of that Ordinance.
- (2) Notwithstanding anything done under section 3 of the repealed Streets (Alteration) Ordinance (Cap. 130, 1974 Ed.) and subject to subsection (3) of this section, the Secretary for Transport may cease to act under that Ordinance and act under section 4 or 5 of this Ordinance in relation to any works if, and only if, no authority has been given under section 6 of that Ordinance in respect of any undertaking which includes those works. *(Amended L.N. 106 of 2002)*
- (3) Where an undertaking which has been authorized under section 6 of the repealed Streets (Alteration) Ordinance (Cap. 130, 1974 Ed.) is abandoned and the Secretary for Transport proposes to carry out any works in place of and substantially different to the abandoned undertaking, he may act under section 4 or 5 of this Ordinance in relation to those works. *(Amended L.N. 106 of 2002)*
- (4) Where, under subsection (2) or (3) of this section, the Secretary for Transport acts under section 4 or 5 of this Ordinance in relation to any works, this Ordinance shall apply to those works; and no person shall have any right against the Crown or any other person in relation to those works except under this Ordinance. *(Amended L.N. 106 of 2002)*
- (5) *(Repealed 51 of 1982 s. 2)*
- (6) Where immediately before the commencement<sup>#</sup> of the Roads (Works, Use and Compensation) (Amendment) Ordinance 1998 (14 of 1998) (*the amending Ordinance*), a notice had been published under section 8 in respect of any plan and scheme, the periods specified in section 11(1A)(a) and (b) respectively shall be calculated as from—
  - (a) the commencement of the amending Ordinance; or
  - (b) the expiry of the time for the lodging of objections under section 10,whichever is the later. *(Added 14 of 1998 s. 3)*

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Editorial Note:

<sup>#</sup> Commencement date: 3 April 1998.

# Schedule

[ss. 27 & 28]

## Part I

### 1. General effect of this Part

The provisions in this Part shall, where applicable, have effect for the purpose of assessing compensation under Part II of this Schedule and shall—

- (a) be in addition to such of the provisions of the Lands Resumption Ordinance (Cap. 124) as apply, by virtue of Part II, to the assessment of compensation; and (*Amended 29 of 1998 s. 78*)
- (b) prevail over any provision referred to in subparagraph (a) which is inconsistent or in conflict with a provision in this Part.

### 2. Definitions applicable to Part II

In this Schedule—

**date of resumption** (收回日期) means the day on which land reverts to the Government or vests in The Financial Secretary Incorporated under section 13(3); (*Amended L.N. 180 of 1985; 29 of 1998 s. 105*)

**disturbance** (騷擾) means the dispossession of a person of land or the interruption of or interference with a trade or business, whether such dispossession, interruption or interference is temporary or permanent;

**disturbance payment** (騷擾補償金) means a sum equal to—

- (a) the expenditure and loss of money actually and reasonably incurred or to be reasonably incurred and arising from the dispossession of a person of land by reason of the matter for which the claimant is entitled to claim compensation under Part II of the Schedule; and
- (b) in the case of disturbance of a trade or business on any land, the expenditure and loss of money actually and reasonably incurred or to be reasonably incurred and arising from the disturbance of that trade or business by reason of the matter for which the claimant is entitled to claim compensation under Part II of the Schedule:

Provided that a disturbance payment shall not include any expenditure or loss which would not be recoverable, on the grounds that the expenditure or loss was too remote or was not caused by the disturbance, if that disturbance were a tort;

**open market value** (公開市場價值) means the amount which the land, if sold in the open market by a willing seller, might reasonably be expected to realize.

### 3. Fluctuations in value of land

Subject to paragraphs 8 and 10, where the open market value of any land is relevant for the purposes of assessing compensation under this Ordinance, no account shall be taken of any increase or decrease in that value which is attributable to anything done or proposed to be done under this Ordinance or to the use.

**4. Disturbance payments**

- (1) For the purposes of assessing the amount to be awarded to a claimant in respect of a disturbance payment, the Lands Tribunal shall, in respect of any expenditure or loss to be incurred and in respect of which the claimant is entitled under this Ordinance to be compensated, assess the value of that expenditure or loss at the time of the award as if that expenditure or loss formed part of a claim for damages in tort.
- (2) No disturbance payment shall be payable in respect of any interference with a trade or business in any case in which such interference does not subsist for a period exceeding 14 days.

**5. Unlawful building works**

Compensation may be reduced so far as may be just and equitable in respect of any building or part thereof which has been constructed or modified, or on which building works have been carried out, so as to amount to a contravention of the Buildings Ordinance (Cap. 123) being a contravention within the meaning of that Ordinance or to a contravention of a Government lease or other instrument under which land built upon is held.

*(Amended 29 of 1998 s. 105)*

**6. Compensation where damage results only partly from the works**

The compensation assessed under item 6 or 7 of Part II of this Schedule shall be reduced to such extent as may be just and equitable having regard to the share in the responsibility for the loss or damage not reasonably attributable to or connected with the works.

**7. No compensation under item 8 for loss of advertising**

Where a sign advertising any business, product, service or activity is removed under section 21, nothing in item 8 of Part II of this Schedule shall be construed as conferring upon any person a right to compensation for the loss of any benefit which might have accrued to him from the advertising of that business, product, service or activity if the sign had not been removed.

**8. Set off where compensation paid for loss of value and land later resumed**

Where compensation under item 2, 3, 4, 5, 8 or 9 of Part II of this Schedule has been paid in respect of the diminution in value of any land and such land or part thereof is subsequently resumed by the Government under this Ordinance or any other enabling power, then notwithstanding paragraph 3 of this Part of this Schedule or any other provision of law to the same or similar effect, that diminution in value shall be taken into account to reduce the compensation for the resumption of that land in so far as it was taken into account in the assessment of compensation for the diminishing in value thereof.

*(Amended 29 of 1998 s. 105)*

**9. Claim by a mortgagee in possession**

Where under this Ordinance a claim for compensation may be made by a mortgagee in possession— *(Amended L.N. 307 of 1998)*

- (a) such claim may include compensation in respect of the whole interest which comprises the mortgage security; and
- (b) compensation received by a mortgagee in possession shall be applied by him firstly, to the settlement or reduction of the debt due under the mortgage and then to the payment of any excess to the mortgagor.

**10. Limitation on compensation payable under item 9**

Compensation shall be payable under item 9 of Part II of this Schedule only to the extent that the carrying out of building works in accordance with an amendment required, or condition imposed, under section 22(1)(c) or (d) does not increase the open market value of the land on which the building works are carried out.

**11. Apportionment of compensation**

Where there is a dispute between persons owning compensatable interests in any land or building as to the apportionment of the compensation payable or paid, the Lands Tribunal shall, on the application of any such person, apportion that compensation amongst such persons in such manner as may be just and equitable having regard to their respective rights and interests in the land or building.

**12. Date of valuation and interest**

Where, under the second column of Part II of this Schedule, compensation is to be assessed on the basis of the value of land, or the value of a claimant's interest in land, or of a rent, that value or that rent shall be assessed as at the date of the happening of the relevant event mentioned in the first column of Part II of this Schedule; and the person entitled to claim shall be the person fitting the description mentioned in the third column of Part II of this Schedule on that date.

**13. No double compensation**

Nothing in this Ordinance shall enable any person to recover compensation—

- (a) in respect of a loss or expense which he has not suffered or incurred; or
- (b) which is greater than the loss suffered or expense incurred by him:

Provided that in assessing compensation under this Ordinance, no account shall be taken of any amount recovered by the claimant under a policy of insurance.

**14. Government may undertake work**

Where, under this Ordinance, a person is entitled to claim compensation and that compensation is to be assessed on the basis of an expense incurred, the Government may, on written notice to that person, carry out the operations in respect of which the expense would otherwise be claimable.

*(Amended 29 of 1998 s. 105)*

**Part II**

Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
1. The resumption of land under section 13.	As if the claim were made under the Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance. ( <i>Amended 29 of 1998 s. 78</i> )	Any person who would be entitled to claim compensation for land resumed under the Lands Resumption Ordinance (Cap. 124) if the land had been resumed thereunder. ( <i>Amended 29 of 1998 s. 78</i> )	Before the expiration of 1 year from the date of resumption.
2. (a) The creation of an easement or other permanent right or a right of temporary occupation under section 15.	(a) (i) In the case of an easement or other permanent right, the amount by which the open market value of the claimant's interest in the land is diminished. (ii) In the case of the creation of a right of temporary occupation, the amount of an open market rent for claimant's interest in the land occupied during the period of the easement.	(a) Any person owning a compensatable interest in the land.	(a) Before the expiration of 1 year from the date on which the easement or right is created.
(b) Disturbance resulting from the creation of an easement or other permanent right or a right of temporary occupation under section 15.	(b) A disturbance payment.	(b) Same as in item 2 (a).	(b) Same as in item 2 (a).
3. (a) The extinction, by the operation of section 13(3), of any easement in favour of land not resumed when adjacent or contiguous land is resumed.	(a) The expense fairly and reasonably incurred in remedying or mitigating the effect of the extinction of the easement, as far as may be practicable, and any diminution in the open market value of the claimant's interest in the land not resumed after such expense has been incurred.	(a) Any person owning a compensatable interest in the land not resumed.	(a) Before the expiration of 1 year from the date of resumption of the adjacent or contiguous land.
(b) Disturbance resulting from the extinction of that easement. ( <i>Amended L.N. 446 of 1994</i> )	(b) A disturbance payment.	(b) Same as in item 3 (a).	(b) Same as in item 3 (a).

Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
4. The closure of, or extinction, modification or restriction of a private right in respect of, a road or part of a road under section 17, so that access to any land is adversely affected.	(a) The expense fairly and reasonably incurred in remedying or mitigating the effect of such closure, extinction, modification or restriction, as far as may be practicable, and any diminution in the open market value of the claimant's interest in the land after such expense has been incurred.  (b) A disturbance payment.	Any person owning a compensatable interest in the land.	Before the expiration of 1 year from the closure, extinction, modification or restriction.
5. (a) The extinction, modification or restriction of any private right over Government foreshore or sea-bed under section 17. ( <i>Amended 29 of 1998 s. 105</i> )	(a) The amount which is fairly and reasonably assessed to be the open market value of the right and, where the claimant has a compensatable interest in contiguous or adjacent land, any diminution in the open market value of that interest.	(a) Any person in whom the private right is vested.	(a) Before the expiration of 1 year from the date of extinction, modification or restriction.
(b) Disturbance resulting from that extinction, modification or restriction.	(b) A disturbance payment.	(b) Same as in item 5 (a).	(b) Same as in item 5 (a).
6. (a) Physical or structural damage to any land or building resulting from the works.	(a) The expense which is fairly and reasonably incurred in repairing the damage and any expense fairly and reasonably incurred in preventing or mitigating the damage.	(a) Any person owning a compensatable interest in the land or building.	(a) Before the expiration of 1 year from the date of the completion of the works.
(b) Disturbance resulting from the structural damage mentioned in item 6 (a).	(b) A disturbance payment.	(b) Same as in item 6 (a).	(b) Same as in item 6 (a).
7. (a) Physical or structural damage to any land or building resulting from the exercise of any power contained in section 19.	(a) The expense which is fairly and reasonably incurred in repairing the damage and any expense fairly and reasonably incurred in preventing or mitigating the damage.	(a) Any person owning a compensatable interest in the land or building.	(a) Before the expiration of 1 year from the date of completion of the operations carried out under section 19 from which the damage is alleged to have resulted.
(b) Disturbance resulting from the exercise of any power contained in section 19.	(b) A disturbance payment.	(b) Same as in item 7 (a).	(b) Same as in item 7 (a).

Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
8. (a) The removal, under section 21, of any object or structure which was erected and maintained without the contravention of any Ordinance or Government lease. ( <i>Amended 29 of 1998 s. 105</i> )	(a) Any diminution in the open market value of the claimant's interest in the land or building; and the expense which is fairly and reasonably incurred in moving the object or structure and making good that part of the building from which it is removed.	(a) Any person owning a compensatable interest in the land or building.	(a) Before the expiration of 1 year from the date of removal.
(b) Reinstating an object or structure described in item (a) above or of replacing the same with a similar object or structure.	(b) The expense fairly and reasonably incurred in so doing in so far as that expense is not taken into account under item 8(a).	(b) Same as in item 8 (a).	(b) Before the expiration of 1 year from the date of reinstatement or replacement.
(c) The loss sustained in respect of an object or structure which was erected and maintained without the contravention of any Ordinance or Government lease and is not to be reinstated or replaced with a similar object or structure. ( <i>Amended 29 of 1998 s. 105</i> )	(c) The amount which is fairly and reasonably estimated as the value of the object or structure.	(c) Any person owning a share or interest in the object or structure.	(c) Before the expiration of 1 year from the date of removal.
(d) Disturbance resulting from the exercise of any power contained in section 21.	(d) A disturbance payment.	(d) Same as in item 8 (a).	(d) Same as in item 8 (a).
9. An amendment required or a condition imposed, under section 22(1)(c) or (d) (other than a condition mentioned in section 22(6)), to avoid incompatibility with the works.	The amount which is fairly and reasonably estimated as the loss to the claimant, including— (i) any additional expense fairly and reasonably incurred in carrying out building works; and (ii) in respect of professional fees and expenses, which loss, expense, fees and expenses are attributable solely to compliance with the amendment required or the condition imposed.	The owner of the land on which the building works are carried out.	Before the expiration of 1 year from the completion of the building.



## 2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

**application** (申請) means an application to the Lands Tribunal under section 23(2) or 28(2);

**building** (建築物), **Building Authority** (建築事務監督) and **building works** (建築工程) have the same meanings as in the Buildings Ordinance (Cap. 123);

**claim** (申索) means a claim for compensation under section 29;

**claimant** (申索人) means a person who has made a claim for compensation;

**compensatable interest** (可獲補償權益) means the estate or interest of—

- (a) a person having an unexpired term in land (including any further term which could be obtained as of right) of not less than one month or a tenancy or sub-tenancy terminable (whether by virtue of an Ordinance or otherwise) by either party by not less than one month's notice;
- (b) a mortgagee in possession;
- (c) the holder of a valid and subsisting option to purchase an estate or interest referred to in paragraph (a) or (b);
- (d) a purchaser under an agreement for sale and purchase to whom the benefit of an estate or interest referred to in paragraph (a) or (b) has already passed;

**land** (土地) means immovable property;

**mortgage** (按揭) means a mortgage or charge registrable in the Land Registry; (*Amended 8 of 1993 s. 2*)

**owner** (擁有人), in relation to land, means the person holding that land—

- (a) directly under a Government lease; or (*Amended 29 of 1998 s. 105*)
- (b) under another title directly from the Government registered in the Land Registry; (*Amended 8 of 1993 s. 2*)

**sea-bed** (海床) includes any Government land covered with water in any tidal river or channel connected with the water of Hong Kong; (*Amended 29 of 1998 s. 105*)

**Secretary** (局長) means the Secretary for Transport and Logistics;  
(Replaced L.N. 106 of 2002. Amended L.N. 130 of 2007; L.N. 144 of 2022)

**use** (使用) means the use of any road, whether before or after the completion of any works and includes the existence of any road whether or not in relation to any use to which it is put;

**works** (工程) means the construction, renovation, alteration, closure, maintenance or repair of any road and any operations ancillary thereto;

**works area** (施工區) means the land delineated in the plan prepared under section 5.

- (2) Where, under this Ordinance, notice is required to be served on any person—
  - (a) that notice shall be in writing and in both the Chinese and English languages;
  - (b) it shall be served on that person by delivering it to him by hand or by registered post.
- (3) The Secretary shall not be obliged to serve any notice on any person whose address is unknown and cannot be reasonably ascertained.
- (4) A certificate purporting to be signed by a public officer shall be prima facie evidence of the facts stated therein relating to the service, giving, publication or affixing of any notice.
- (5) The title to any land shall not be affected by—
  - (a) any defect in a notice required under this Ordinance; or
  - (b) any failure to serve, publish or affix any notice under this Ordinance.

### **3. Assumption and delegation by Secretary**

- (1) The Secretary may act under this Ordinance in relation to any works which he proposes be executed by some other person, other than a public officer, as well as in relation to works which he proposes be executed, on his behalf, by a public officer and this Ordinance shall apply to these works and the use.
- (2) Where the Secretary proposes that any works be executed by some other person, any compensation payable in respect of those works shall, subject to any agreement, be payable by the Crown.

- (3) The Secretary may in writing authorize any named person either generally or in any particular case to exercise any of the powers, functions and duties conferred or imposed upon him under this Ordinance.

**19. Inspection and preventive and remedial works on land and buildings**

- (1) Failing agreement with any person affected as to the grant of the powers required by the Secretary, the Secretary may enter any land or building described in the scheme mentioned in section 5 and situate wholly or partly within the works area or wholly or partly within 70 metres thereof for the purpose of—
  - (a) making any inspection, valuation, site investigation or test, including drilling, excavation or the installation or removal of instruments;
  - (b) surveying or taking levels;
  - (c) setting out any line of works,in connexion with the works, the use, an assessment of the value of any land, building or other property or in order to ascertain the condition of the land or building; and the Secretary may also enter any such land or building and carry out, at the cost of the Crown, all reasonably necessary operations of a preventive or remedial nature.
- (2) No person shall, for the purposes of subsection (1), enter any land or building which is occupied without giving at least 28 days' notice of his intention so to do, unless the Secretary is of the opinion that an emergency exists which necessitates immediate entry.
- (3) A notice of entry referred to in subsection (2)—
  - (a) shall describe the purpose of the entry and the nature of any operations to be carried out; and
  - (b) shall be served on the owner and the occupier of the land or building.
- (4) In subsection (1) *operations of a preventive or remedial nature* (屬預防或補救性質的作業) means the underpinning or strengthening of any land or building and other work thereon intended to render it reasonably safe or to repair or detect damage caused by the works or the use.
- (5) The decision of the Secretary that any operations are of a preventive or remedial nature or that such operations are reasonably necessary shall be final.

- (6) The Secretary may, as occasion may require, enter any land or building in respect of which any of the powers contained in subsection (1) have been exercised and may in relation to that land or building exercise such powers, subject to subsection (2), as often as occasion may require.

**21. Removal of projections or obstructions**

- (1) The Secretary may give notice to the owner of any land or building described in the scheme mentioned in section 5 requiring him to remove any object or structure described in the notice which is attached to or projects from the land or building if in the opinion of the Secretary the removal of the object or structure is necessary for the purposes of or incidental to the works or the use.
- (2) A copy of the notice under subsection (1) shall be given to any occupier of the land or building known to the Secretary.
- (3) A notice under subsection (1) shall—
  - (a) describe the object or structure to be removed;
  - (b) stipulate the period within which the work of removal shall be carried out;
  - (c) be given to the owner and occupier of the land or building not later than 28 days before the commencement of that period; and
  - (d) state that any person having a compensatable interest under this Ordinance may serve a written claim upon the Secretary.
- (4) If the owner of the land or building does not comply with a notice given to him under subsection (1), the Secretary may enter the land or building, together with such other persons as he thinks necessary, and remove the object or structure described in the notice or cause it to be removed by those other persons at the expense of the Crown.
- (5) An object or structure removed under subsection (4), whether or not it was erected or maintained in contravention of any Ordinance or Government lease or other instrument under which the land is held, may be disposed of as the Secretary thinks fit. (*Amended 29 of 1998 s. 105*)

**25. No right to compel or restrain**

No person shall have any right against the Crown or any other person to restrain or compel anything authorized under this Ordinance.

**26. No recovery of money except under this Ordinance**

No person shall have any right against the Crown or any other person to recover any money—

- (a) in respect of any use authorized under this Ordinance; or
- (b) in respect of any works or anything else authorized under this Ordinance except to the extent of the rights to compensation provided for in section 27.

**27. Compensation**

- (1) The compensation referred to in section 26 is the right to recover from the Crown for the matters set out in the first column of Part II of the Schedule a sum assessed on the basis specified opposite thereto in the second column thereof and with regard to the provisions of Part I of the Schedule, subject to—
  - (a) the claim being served on the Secretary within the appropriate period specified in the fourth column of Part II of the Schedule; and
  - (b) the other provisions of this Ordinance.
- (2) Every person who is described in the third column of Part II of the Schedule shall have the right to recover compensation for the matters set out opposite thereto in the first column to the extent suffered or incurred by him as assessed under this Ordinance.
- (3) The rights to compensation mentioned in the Schedule shall exist in addition to any benefit accruing to a claimant as a result of the implementation of any subsisting conditions imposed by the Governor in Council under section 11(2).

**28. Claims out of time**

- (1) Subject to subsections (2) and (6), if a claim or an amendment thereto is not served on the Secretary before the expiration of the period specified in the fourth column of Part II of the Schedule in respect of that matter, the right to claim compensation therefor shall be barred. (*Amended 81 of 1988 s. 5*)
- (2) The period referred to in subsection (1) may, upon application made to the Lands Tribunal either before or after the expiry of that period, be extended in accordance with this section.
- (3) Notice of an application under subsection (2) shall be given to the Secretary by the applicant.

- (4) The Lands Tribunal may extend the period within which a claim must be served upon the Secretary if it considers that the delay in serving the claim was occasioned by mistake of fact or mistake of any matter of law (other than the relevant provision in the fourth column of Part II of the Schedule) or by any other reasonable cause or that the Crown is not materially prejudiced in the conduct of its case or otherwise by the delay.
- (5) An extension may be granted by the Lands Tribunal under subsection (4), with or without conditions for such period as it thinks fit but not in any case exceeding 6 years from the time when the right to compensation first arose.
- (6) Without prejudice to subsections (2) to (5), where an order has been made under section 13(1), 15(1) or 17(1) and notice of the order has not been served in accordance with section 14(1) (a), 16(1)(a) or 18(1)(a) respectively, the Secretary may, if satisfied that the claimant has not had actual notice of the order, accept service of a claim after the period specified in the fourth column of Part II of the Schedule for such service, and if he does so, the claim shall be deemed to have been served within that period. (*Added 81 of 1988 s. 5*)

## **29. Claims procedure**

- (1) Any person who claims to be entitled to compensation under this Ordinance shall serve upon the Secretary a written claim setting out such of the following particulars as are applicable to his claim—
  - (a) the name of the claimant, and his address for service of notices;
  - (b) a full description of the land to which the claim relates including any covenants, easements, rights or restrictions affecting the same;
  - (c) the nature of the claimant's interest in the land including in the case of a sub-lessee or sub-tenant his landlord's name and address and details of the sub-lease or tenancy;
  - (d) details of any mortgage, including the principal still owing and name and address of the mortgagee;
  - (e) if the claimant has let the land or any part thereof, the name and address of each tenant and details of his lease or tenancy;
  - (f) particulars of the claim showing—
    - (i) the amount of the claim;
    - (ii) under which item of Part II of the Schedule the claim is made; and

- (iii) how the amount claimed under each item is calculated.
- (2) The Secretary shall in writing acknowledge receipt and the date of receipt of every claim served on him under subsection (1).
- (3) If a claimant amends his claim before proceedings are commenced in the Lands Tribunal and the Secretary considers the amendment to be substantial, the Secretary may, within 28 days of the receipt of the amended claim, notify the claimant that he elects to treat the claim, for the purposes of this section, as if it were a new claim served under subsection (1) on the date on which the amendment was received by the Secretary, and this section shall apply accordingly.
- (4) The Secretary may by notice in writing to the claimant request him to furnish further particulars of and in support of his claim or any item thereof and if any such particulars are not furnished to the Secretary within a period of 28 days from the date of the notice, or within such further period as the Secretary may in writing allow, the claim or the item thereof concerning which the particulars are requested shall be deemed to be rejected and subsection (5) shall not apply thereto.
- (5) The Secretary shall within 6 months of the service of a claim on him or, if he has requested further particulars under subsection (4) within 6 months of the day on which they are furnished in accordance with that subsection, notify the claimant in writing that he—
- (a) admits the entire claim; or
  - (b) rejects the entire claim; or
  - (c) admits a specified part or parts and rejects the remainder, and in every case shall briefly state his reasons for rejection so that the claimant is adequately informed of those reasons:
- Provided that the Secretary may at any time state further reasons for rejection of claim.
- (6) Where the Secretary has rejected a claim or any part thereof under subsection (5) or where a claim or any part thereof is deemed to have been rejected under subsection (4) the Secretary may—
- (a) by notice in writing offer to the claimant such sum, including costs as agreed or taxed, as the Crown is willing to pay in full and final settlement of the claim or any part thereof;

- (b) commence proceedings in the Lands Tribunal, to have the claim or any part thereof in respect of which no offer is made heard and determined by it in accordance with this Ordinance;
  - (c) commence such proceedings in the Lands Tribunal where any offer under paragraph (a) is not accepted by the claimant within 28 days of the date of the offer.
- (7) If, after the expiry of 7 months from the receipt of a claim by the Secretary, it has not been settled by agreement, either the claimant or the Secretary may commence proceedings in the Lands Tribunal to have the claim, or so much thereof as is still then in dispute heard and determined by it under this Ordinance.
- (8) In any case where the claimant has failed to supply further particulars required by the Secretary in accordance with subsection (4), the Lands Tribunal may on the hearing of the claim consider the merits of the Secretary's request for further particulars and the claimant's failure to supply them and may, if it thinks fit—
- (a) order the claimant to supply some or all of the particulars; and
  - (b) adjourn the hearing until the order is complied with and the particulars are considered by the Secretary; and
  - (c) make such further order as it thinks fit as to the costs of either party occasioned by the Secretary's request for and the claimant's failure to supply the further particulars.

**34. Compensation payable out of general revenue**

All compensation (including any interest thereon) and all costs—

- (a) agreed to be paid to the claimant by the Secretary; or
- (b) awarded by the Lands Tribunal against the Crown,

shall be paid out of the general revenue within 3 months of the agreement or final award, unless there is a dispute as to the person entitled to such compensation.



**5. Major works: The plan and the scheme**

Where the Secretary proposes to execute works, other than under section 4, he shall cause to be prepared—

- (a) a plan delineating the works area, being that area within which land may be resumed, easements or other rights in, under or over land may be created or rights affected for the purposes of or incidental to the works or the use; and
- (b) a scheme, annexed to the plan, in which he shall—
  - (i) describe the general nature of the works which he proposes to carry out and the use to which he intends the road will be put;
  - (ii) describe the land which he proposes may be resumed under section 13;
  - (iii) describe the land in, under or over which he proposes there may be created an easement or other permanent or temporary right under section 15 and indicate the nature of that easement or right;
  - (iv) describe any road, Government foreshore or sea-bed in respect of which he proposes the Governor may exercise his powers under section 17 and describe the manner in which the road, foreshore or sea-bed will be affected; (*Amended 29 of 1998 s. 105*)
  - (v) describe any land or building in respect of which he proposes he may exercise the powers under section 19 and describe the general nature of any operations which may be carried out;
  - (vi) describe the nature of any apparatus in respect of which he proposes he may exercise the powers under section 20;
  - (vii) describe the land or building in respect of which he proposes he may exercise the powers under section 21; and
  - (viii) describe any land or building works in respect of which he proposes the Building Authority may exercise its powers under section 22.

### 13. Governor may order resumption of land

- (1) The Governor may by order direct that any land proposed for resumption in the scheme mentioned in section 5 shall be resumed for the purposes of or incidental to the works or the use.
- (2) An order made under subsection (1) shall specify the period of notice to be given under section 14(2) which period shall—
  - (a) run from the day on which notice of resumption is affixed on or near the land under that section and in no case expire earlier than 28 days from that day; and
  - (b) prevail over any other period of notice of resumption (whether shorter or longer) provided for by the Government lease or other instrument under which the land is held. (*Amended 29 of 1998 s. 77*)
- (3) Unless the Governor has previously revoked the order made under subsection (1), the resumption of the land described in the order shall be effective upon expiration of the period of notice specified in the order and, thereupon, that land shall—
  - (a) where it is an undivided share in land, vest in The Financial Secretary Incorporated together with such rights to the use and occupation of any building or part thereof as may be appurtenant to the ownership of that share; and (*Amended L.N. 180 of 1985*)
  - (b) in all other cases, revert to the Government, (*Amended 29 of 1998 s. 77*)but in either case the land shall vest or revert without any conveyance and free of all mortgages, charges, claims, estates, easements, rights or interests of any kind in favour of any person.
- (4) The ownership of any apparatus belonging to an owner or supplier of gas, electricity, water or telecommunications services and situated in, under or over any land shall not be altered by reason only of the vesting or reversion of that land under subsection (3). (*Amended 36 of 2000 s. 28*)
- (5) The Secretary shall, as soon as practicable after land has vested in The Financial Secretary Incorporated or reverted to the Government under subsection (3), cause such vesting or reversion to be noted in the register of the land kept in the Land Registry. (*Amended L.N. 180 of 1985; 8 of 1993 s. 2; 29 of 1998 s. 77*)

- (6) Upon the vesting under subsection (3)(a) of an undivided share in land in The Financial Secretary Incorporated such share, together with any part of a building the exclusive use and occupation of which is appurtenant to ownership of such share, shall be deemed to be unleased land for the purposes of section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28). (*Amended L.N. 180 of 1985; 29 of 1998 s. 77*)

**15. Governor may order creation of easements and other rights**

- (1) The Governor may by order direct that easements or other permanent rights in, under or over land and rights of temporary occupation of land in the works area which easements and rights were proposed in the scheme mentioned in section 5 shall be created in favour of the Government for the purposes of or incidental to the works or the use. (*Amended 29 of 1998 s. 105*)
- (2) An order under subsection (1) shall specify the period of notice to be given under section 16(2) which period shall run from the day on which notice of creation of an easement or right is affixed to the land under that subsection and shall in no case expire earlier than 28 days from that day.
- (3) An order made under subsection (1) may contain such consequential and incidental provisions as appear to the Governor to be necessary or expedient for the purposes of the order including in particular provisions for authorizing persons to enter upon land or buildings in accordance with subsection (5) for the purpose of carrying out any operations or installing, maintaining or removing any structures or apparatus.
- (4) Unless the Governor has previously revoked the order made under subsection (1), upon the expiry of the period specified under subsection (2) the easement or right shall be created in favour of the Government and the benefits and obligations thereof and of all consequential and incidental provisions made under subsection (3) shall be of full force and effect against all persons having any estate, right, share or interest in the land without any consent, grant or conveyance. (*Amended 29 of 1998 s. 105*)
- (5) No person shall, in the exercise of any power of entry referred to in subsection (3), enter upon any land which is occupied without giving at least 28 days' notice of his intention so to do unless the Secretary is of the opinion that an emergency exists which necessitates immediate entry.
- (6) Notice under subsection (5) shall be served on the owner and the occupier of the land.

- (7) The ownership of any thing shall not be altered by reason only that it is placed in or under or affixed to any land in exercise of the rights and powers arising from or incidental to an easement or right created under this section.
- (8) The Secretary shall, as soon as practicable after an easement or other permanent right has been created in favour of the Government under subsection (4), cause the creation of such easement to be noted in the register of the land kept in the Land Registry. *(Amended 8 of 1993 s. 2; 29 of 1998 s. 105)*

**17. Closure of roads etc.**

- (1) The Governor may, for the purposes of or incidental to the works or the use, in relation to any road, Government foreshore or sea-bed described in the scheme mentioned in section 5, by order—
  - (a) direct that the road or part thereof shall be closed; *(Replaced 8 of 1987 s. 2)*
  - (b) direct that the Government foreshore or sea-bed shall be reclaimed; *(Replaced 8 of 1987 s. 2)*
  - (c) declare that, or the extent to which, and the time at, or duration for which, any public or private right in, upon, under or over the road, Government foreshore or sea-bed shall be extinguished, modified or restricted.
- (2) Where an order is made under subsection (1) every public and private right in, upon, under or over the road, Government foreshore or sea-bed affected by the order shall be extinguished, modified or restricted according to the provisions in that behalf made in the order.
- (3) This section shall not affect the provisions of the Road Traffic Ordinance (Cap. 374) relating to the closure of roads.

*(Amended 29 of 1998 s. 105)*

**22. Control of building plans and commencement of work**

- (1) Notwithstanding the Buildings Ordinance (Cap. 123), where the Building Authority is of the opinion that any building works on land described in the scheme mentioned in section 5 would be incompatible with the works or the use, he may to such extent as is necessary to avoid such incompatibility—
  - (a) refuse to give his approval to any plan or to consent to the commencement of the building works;
  - (b) if there is no subsisting consent to the commencement of the building works, withdraw any approval which he has or is deemed to have given to any plan;

- (c) require the amendment of any plan relating to the building works;
  - (d) impose conditions, whether as to time or otherwise, on the giving of approval to plans relating to the building works or consent to commence such works.
- (2) The carrying out of any building works—
- (a) contrary to any refusal under subsection (1)(a) or following any withdrawal of approval under subsection (1)(b); or
  - (b) otherwise than in accordance with any plan amended under subsection (1)(c) or condition imposed under subsection (1)(d),
- shall, for the purposes of sections 23 and 24 of the Buildings Ordinance (Cap. 123), be deemed to constitute a contravention of that Ordinance.
- (3) The powers of the Building Authority under this section shall arise as soon as a plan, a substitute plan or an amendment to a plan has been deposited under section 8(1):  
 Provided that, as soon as reasonably practicable after the Governor in Council has made a decision under section 11(2) or 11(4), the Building Authority shall—
- (a) review his action under subsection (1);
  - (b) vary such action so that it is consistent with that decision.
- (4) Where the Building Authority acts under subsection (1), he shall advise the person who intends to carry out the building works of the particulars in respect of which he is of the opinion that the building works would be incompatible with the works or the use.
- (5) Where—
- (a) the Building Authority refuses, under subsection (1)(a), to give his approval to any plan or to consent to the commencement of the building works or withdraws, under subsection (1)(b), any approval; and
  - (b) he maintains a refusal or withdrawal after reviewing his action under the proviso to subsection (3); and
  - (c) he advises, under subsection (4), that any building works on the land specified by him would be incompatible with the works or the use; and

- (d) the building works and any plan relating thereto are consistent with the Government lease or other instrument under which the land is held and with any law or requirement made under any law, (*Amended 29 of 1998 s. 105*)

the owner of that land may, by notice in writing to the Secretary, require that the land mentioned in paragraph (c) be resumed under this Ordinance.

- (6) Where—
  - (a) the Building Authority imposes, under subsection (1)(d), a condition delaying building works; and
  - (b) he maintains that condition after reviewing his action under the proviso to subsection (3); and
  - (c) he advises, under subsection (4), that, for the time being, building works on the land specified by him would be incompatible with the works or the use; and
  - (d) he does not, on application in writing made not less than 2 years after imposition of that condition, grant approval and consent to commence the building works to allow them to commence within 12 months; and
  - (e) the building works and any plan relating thereto are consistent with the Government lease or other instrument under which the land is held and with any law or requirement made under any law, (*Amended 29 of 1998 s. 105*)

the owner of that land may, by notice in writing to the Secretary, require that the land mentioned in paragraph (c) be resumed under this Ordinance.

- (7) Where the owner gives notice under subsection (5) or (6), the Governor shall, unless the notice is withdrawn, make an order under section 13(1) in respect of the land mentioned in paragraph (c) of subsection (5) or (6) not more than 28 days after receipt of the notice by the Secretary, and the period of notice specified in the order under section 13(2) shall be not longer than 28 days.
- (8) Where—
  - (a) the Building Authority imposes, under subsection (1)(d), a condition delaying building works; and
  - (b) he maintains that condition after reviewing his action under the proviso to subsection (3); and

(c) he advises, under subsection (4), that, for any period specified by him, building works on the land specified by him would be incompatible with the works or the use; and

(d) the building works and any plan relating thereto are consistent with the Government lease or other instrument under which the land is held and with any law or requirement under any law, (*Amended 29 of 1998 s. 105*)

any person having a compensatable interest in that land may apply to the Governor in Council for an order that the land mentioned in paragraph (c) be resumed under this Ordinance and the Governor in Council may, if he thinks it just and equitable to do so, make such an order.

(9) Where the Governor in Council makes an order under subsection (8), the Governor shall make an order under section 13(1) in respect of the land mentioned in paragraph (c) of subsection (8) not more than 28 days after the order under subsection (8) and the period of notice specified in the order under section 13(2) shall be not longer than 28 days.

### **23. Resumption of land on application**

(1) Where any land is resumed under section 13, any road is closed or any private right extinguished, modified or restricted under section 17 and the Governor is of the opinion that—

(a) that land, road or right is reasonably necessary to the use and enjoyment of any contiguous or adjacent land; and

(b) it would be just and equitable to make an order under this subsection,

the Governor may, on the application of any person having a compensatable interest in that contiguous or adjacent land, make an order under section 13(1) in respect of that contiguous or adjacent land, whether or not it is within the works area. (*Amended L.N. 446 of 1994*)

(2) Any person aggrieved by a decision of the Governor under subsection (1) not to make an order under section 13(1) may apply to the Lands Tribunal to review such decision.

(3) Upon an application under subsection (2), the Lands Tribunal may, if it is satisfied as to the facts mentioned in subsection (1), make an order under section 13(1) in respect of the contiguous or adjacent land, whether or not it is within the works area.

**12. Exercise of powers**

Where the Secretary proceeds with the works under section 11(1) or the Governor in Council authorizes the works under section 11(2), 11(4) or 11(5), then, subject to the terms of the scheme considered or amended by the Governor in Council and to any subsisting modification or condition imposed by the Governor in Council, the powers mentioned in section 11(7), 13(1), 15(1), 17(1), 19(1), 20(1), 21(1), 22 or 23(1) may be exercised for the purposes of or incidental to the works or the use.



**6. Deposit and publication of schemes**

- (1) The Secretary must deposit a copy of the scheme in the Land Registry.
- (2) The Secretary must deposit a copy of any amendment to the scheme and any correction made under section 8 in the Land Registry.
- (3) A person may inspect a scheme free of charge at the times and the places as the Secretary reasonably directs during the period that the scheme is open for objections.
- (4) The Secretary must within 21 days of depositing a scheme, amendment to a scheme or any correction made under section 8, publish notice of the deposit.
- (5) A notice is to contain—
  - (a) a description of the general nature and effects of the scheme or of the nature and extent of the amendment or the correction;
  - (b) details of where and when the public may inspect a copy of the scheme, the amendment or the correction; and
  - (c) details of how a member of the public may obtain a copy of the scheme, the amendment or the correction.
- (6) The Secretary must publish the notice—
  - (a) in Chinese and English in 2 issues of the Gazette;
  - (b) in 2 issues of a Chinese language daily newspaper published in Hong Kong;
  - (c) in 2 issues of an English language daily newspaper published in Hong Kong; and
  - (d) by fixing copies in Chinese and English in prominent positions within the boundaries of the scheme where the notice will be seen by the public.
- (7) The Secretary must advise a District Board whose district the scheme will affect of the deposit of the scheme, amendment or correction and supply a copy of the scheme, amendment or correction to the District Board.
- (8) The Secretary is to ensure that a person who applies for a copy of the scheme, amendment or correction is to obtain the copy at a reasonable cost.

**10. Objections**

- (1) Subject to other provisions of this section, a person may, not later than 60 days after the first publication of the relevant notice under section 6, object to the scheme, a part of the scheme or an amendment to the scheme by delivering an objection in writing to the Secretary.

- (2) A person may object to an amendment to a scheme only on matters arising from the amendment to the scheme.
- (3) An objection alleging that a person is affected by the scheme must describe the interest of the person and the manner in which he alleges he is affected by the scheme.
- (4) A person making an objection may, by writing to the Secretary —
  - (a) amend the objection within 60 days of publication of the relevant notice under section 6; or
  - (b) withdraw the objection in whole or in part at any time before the scheme is considered by the Chief Executive in Council. (*Amended 62 of 1999 s. 3*)
- (5) An objection or a part of an objection that has been withdrawn is to be treated to the extent that it is withdrawn as not having been lodged and need not be referred to the Chief Executive in Council. (*Amended 62 of 1999 s. 3*)
- (6) A person may not object to a correction made under section 8.

## **11. Procedure after publication of scheme**

- (1) The Secretary may authorize the scheme if after the period for lodging objections under section 10(1) has expired no objections have been lodged.
- (2) Subject to subsection (1), the Secretary shall not later than—
  - (a) subject to paragraphs (b) and (c), 9 months after the expiration of the period for lodging objections under section 10(1) in respect of the scheme;
  - (b) subject to paragraph (c), where there is any amendment to the scheme under section 7, 3 months after the expiration of the period for lodging objections under section 10(1) in respect of any such amendment or, where there is more than one amendment, the last of any such amendment;
  - (c) such further period or periods as the Chief Executive may, having had regard to the circumstances of the case, allow,

submit to the Chief Executive in Council for consideration the scheme and any objections lodged under section 10(1), and not withdrawn, within time.
- (3) The Chief Executive in Council must consider the scheme and any objections lodged under section 10(1), and not withdrawn, within time.
- (4) The Chief Executive in Council, after considering the scheme and any objections, may—
  - (a) authorize the scheme, with or without any changes, and subject to such conditions to avoid or lessen any adverse effects of the scheme as the Chief Executive in Council thinks fit; or
  - (b) decline to authorize the scheme.

**15. Minor works**

- (1) The Secretary may authorize the carrying out of any works, including works carried on outside the boundaries of the scheme—
  - (a) which, in his opinion are minor in respect of any physical or structural operations involved;
  - (b) which are required for the purposes of the scheme; and
  - (c) for which the only powers required to be exercised by him are—
    - (i) to authorize the closure of a road which, in his opinion, serves no useful purpose;
    - (ii) to authorize the closure of a road to use for a period not exceeding 14 days in any period of 3 months;
    - (iii) to authorize the closure of part of the width of a road to use but not to such extent as will interfere unreasonably with the normal flow of traffic on that road and for no longer than is reasonably necessary to carry out the works.
- (2) The Secretary may, where the exercise of any of the powers specified in subsection (1)(c)(i), (ii) or (iii) is required for the carrying out of any works described in subsection (1), exercise any such powers for the carrying out of the works.
- (3) A person does not have a right against Government or any other person—
  - (a) to restrain or compel anything authorized under this section; or
  - (b) to recover any money for anything authorized under this section.
- (4) In this section, **road** (道路) means a public road.

**19. Notices of resumption of land**

- (1) Notice of resumption by order made under this Ordinance is to be—
  - (a) served on every person known to the Secretary as having any estate, right, share or interest in the land mentioned in the order;
  - (b) published—
    - (i) in Chinese and English in one issue of the Gazette;
    - (ii) in one issue of a Chinese language daily newspaper published in Hong Kong;
    - (iii) in one issue of an English language daily newspaper published in Hong Kong; and
    - (iv) by affixing a copy in Chinese and English on or near the land mentioned in the order; and

- (c) made available for inspection by the public free of charge at such offices of the Government as the Secretary may direct, during normal opening hours.
- (2) A notice of resumption must—
- (a) describe the land to be resumed and state that an order for resumption has been made under this Ordinance for the land;
  - (b) state where and at what times a copy of the order and, where appropriate, a plan of the land may be inspected;
  - (c) state the day on which the notice was affixing on or near the land;
  - (d) state the period of notice specified by the Chief Executive; (*Amended 62 of 1999 s. 3*)
  - (e) declare that, on expiry of that period, the land described in the notice reverts to the Government or vests in The Financial Secretary Incorporated, as the case may require, for the purposes of or incidental to the scheme; and
  - (f) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Secretary.

## **21. Notices of creation of easements or other rights**

- (1) Notice of creation of an easement or right is to be—
- (a) served on every person known to the Secretary as having any estate, right, share or interest in the land mentioned in the order;
  - (b) published—
    - (i) in Chinese and English in one issue of the Gazette;
    - (ii) in one issue of a Chinese language daily newspaper published in Hong Kong;
    - (iii) in one issue of an English language daily newspaper published in Hong Kong; and
    - (iv) by affixing a copy in Chinese and English on or near the land mentioned in the order; and
  - (c) made available for inspection by the public free of charge at such offices of the Government as the Secretary may direct, during normal opening hours.
- (2) A notice of creation of an easement or right is to—
- (a) describe the land and the easement or right and state that an order creating the easement or right has been made under this Ordinance;
  - (b) state where and at what times a copy of the order and, where appropriate, a plan of the land may be inspected;
  - (c) state the day on which the notice was affixed on or near the land;
  - (d) state the period of notice specified by the Chief Executive; (*Amended 62 of 1999 s. 3*)

- (e) declare that, on expiry of that period, the easement or right described in the notice is created in favour of the Government for the purposes of or incidental to the scheme; and
- (f) state that any person entitled to compensation under this Ordinance may serve a written claim upon the Secretary.

**23. Notices of orders for closure of roads, etc.**

- (1) Notice of an order under section 22(1) in respect of any road, foreshore or sea-bed must be—
  - (a) served on every person known to the Secretary as having any estate, right, share or interest in the land mentioned in the order;
  - (b) published—
    - (i) in Chinese and English in one issue of the Gazette;
    - (ii) in one issue of a Chinese language daily newspaper published in Hong Kong;
    - (iii) in one issue of an English language daily newspaper published in Hong Kong; and
    - (iv) by affixing a copy in Chinese and English on or near the land mentioned in the order; and
  - (c) made available for inspection by the public free of charge at such offices of the Government as the Secretary may direct, during normal opening hours.
- (2) The notice must—
  - (a) state that an order under section 22(1) has been made under this Ordinance and describe the area of the road, foreshore or sea-bed affected thereby and the manner in which it will be affected;
  - (b) describe briefly any works to be carried out;
  - (c) state where and at what times a copy of the order and a plan of the affected area of the road, foreshore and sea-bed may be inspected;
  - (d) state the day on which the notice was affixed on or near the land; and
  - (e) state that any person having a compensatable interest under this Ordinance may serve a written claim upon the Secretary.

**38. Interest**

- (1) The Lands Tribunal may direct that interest be paid on compensation (but not on costs)— (*Amended 6 of 2001 s. 12*)
  - (a) for compensation payable under item 1 in Part II of the Schedule, as if the claim were made under the Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance; and (*Amended 29 of 1998 s. 101*)

- (b) in any other case, from the date and for the period it thinks fit and, subject to subsection (2), at such rate as it may fix. (*Amended 6 of 2001 s. 12*)
- (2) The rate of interest fixed under subsection (1)(b)—
- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 12*)
- (3) In this section—
- non-working day** (非工作日) means a day that is not a working day;
- note-issuing bank** (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);
- working day** (工作日) means any day other than—
- (a) a public holiday; or
  - (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1). (*Added 6 of 2001 s. 12*)

#### 41. Certain statements to be evidence

A statement which is—

- (a) a statement in an order or a notice, or in a declaration in an order or a notice, made or given under this Ordinance to the effect that—
  - (i) the resumption of any land;
  - (ii) the reversion to the Government or the vesting in The Financial Secretary Incorporated of any land; (*Amended E.R. 3 of 2021*)
  - (iii) the creation of an easement or right; or
  - (iv) an authorization or a declaration under section 22(1)(a), (b) or (c),
 is for the purposes of or incidental to the scheme;
- (b) a statement in a notice given under this Ordinance to the effect that—
  - (i) any power is exercised under section 5 in order to prepare, correct or amend a plan or scheme;
  - (ii) any power is exercised under section 24 for the scheme, an assessment of the value of any land, building or other property or to ascertain the condition of the land or building; or

- (iii) the exercise of any power under any of the provisions of this Ordinance is necessary or required for the scheme;
  - (c) a statement made in writing by the Secretary for the purposes of section 15 to the effect that—
    - (i) any works are minor in respect of any physical or structural operations involved; or
    - (ii) a road serves no useful purpose,
- shall be admissible as sufficient evidence of the facts stated therein, until the contrary is proved.

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## Schedule

[ss. 32, 33, 34 & 38]

### Part I

#### 1. General effect of this Part

This Part, where applicable, has effect for assessing compensation under Part II and is—

- (a) in addition to the provisions of the Lands Resumption Ordinance (Cap. 124) that apply, by Part II, to the assessment of compensation; and (*Amended 29 of 1998 s. 101*)
- (b) prevail over any provision referred to in paragraph (a) which is inconsistent or in conflict with a provision in this Part.

#### 2. Definitions applicable to Part II

In this Schedule—

***date of resumption*** (收回日期) means the day on which land reverts to the Government or vests in The Financial Secretary Incorporated under section 18(2) of this Ordinance;

***disturbance*** (騷擾) means the dispossession of a person of land or the interruption of or interference with a trade or business, whether such dispossession, interruption or interference is temporary or permanent;

***disturbance payment*** (騷擾補償金) means a sum equal to—

- (a) the expenditure and loss of money actually and reasonably incurred or to be reasonably incurred and arising from the dispossession of a person of land by reason of the matter for which the claimant is entitled to claim compensation under Part II; and

- (b) for disturbance of a trade or business on any land, the expenditure and loss of money actually and reasonably incurred or to be reasonably incurred and arising from the disturbance of that trade or business by reason of the matter for which the claimant is entitled to claim compensation under Part II,

but a disturbance payment is not to include any expenditure or loss which would not be recoverable, on the grounds that the expenditure or loss was too remote or was not caused by the disturbance, if that disturbance were a tort;

*open market value* (公開市場價值) means the amount which the land, if sold in the open market by a willing seller, might reasonably be expected to realize.

### **3. Fluctuations in value of land**

Subject to sections 8 and 10, where the open market value of any land is relevant for the purposes of assessing compensation under this Ordinance, no account is taken of any increase or decrease in that value which is attributable to anything done or proposed to be done under this Ordinance.

### **4. Disturbance payments**

- (1) For assessing a disturbance payment, the Lands Tribunal is required, for any expenditure or loss to be incurred and for which the claimant is entitled under this Ordinance to be compensated, to assess the value of the expenditure or loss at the time of the award as if the expenditure or loss formed part of a claim for damages in tort.
- (2) No disturbance payment is payable for any interference with a trade or business if the interference does not last for more than 14 days.

### **5. Unlawful building works**

Compensation may be reduced so far as may be just and equitable for any building or part of a building which has been constructed or modified, or on which building works have been carried out, that is a contravention of the Buildings Ordinance (Cap. 123) or a contravention of a Government lease or other instrument under which land built upon is held.

### **6. Compensation where damage results only partly from the scheme**

The compensation assessed under item 6 or 7 of Part II is to be reduced to such extent as may be just and equitable having regard to the share in the responsibility for the loss or damage not reasonably attributable to or connected with the scheme.



**7. No compensation under item 8 for loss of advertising**

Where a sign advertising any business, product, service or activity is removed under section 26 of this Ordinance, nothing in item 8 of Part II is to be construed as conferring upon any person a right to compensation for the loss of any benefit which might have accrued to him from the advertising of that business, product, service or activity if the sign had not been removed.

**8. Set off where compensation paid for loss of value and land later resumed**

Where compensation under item 2, 3, 4, 5, 8 or 9 of Part II has been paid for the diminution in value of any land and the land or a part of the land is subsequently resumed by the Government under this Ordinance or any other enabling power, the diminution in value is to be taken into account to reduce the compensation for the resumption of that land in so far as it was taken into account in the assessment of compensation for diminishing its value.

**9. Claim by a mortgagee in possession**

Where under this Ordinance a claim for compensation may be made by a mortgagee in possession—

- (a) the claim may include compensation for the whole interest which comprises the mortgage security; and
- (b) compensation received by a mortgagee in possession is to be applied by him firstly, to the settlement or reduction of the debt due under the mortgage and then to the payment of any excess to the mortgagor.

**10. Limitation on compensation payable under item 9**

Compensation is payable under item 9 of Part II only to the extent that the carrying out of building works in accordance with an amendment required, or condition imposed, under section 27(1)(c) or (d) of this Ordinance does not increase the open market value of the land on which the building works are carried out.

**11. Apportionment of compensation**

Where there is a dispute between persons owning compensatable interests in any land or building as to the apportionment of the compensation payable or paid, the Lands Tribunal is, on the application of any of the persons, to apportion that compensation amongst the persons in such manner as may be just and equitable having regard to their respective rights and interests in the land or building.

**12. Date of valuation and interest**

Where, under column 2 of Part II, compensation is to be assessed on the basis of the value of land, or the value of a claimant's interest in land, or of a rent, that value or that rent is to be assessed as at the date of the happening of the relevant event mentioned in column 1 of Part II; and the person entitled to claim is the person fitting the description mentioned in column 3 of Part II on that date.

### 13. No double compensation

Nothing in this Ordinance enables any person to recover compensation—

- (a) for a loss or expense which he has not suffered or incurred; or
- (b) which is greater than the loss suffered or expense incurred by him,

but in assessing compensation under this Ordinance, no account is to be taken of any amount recovered by the claimant under a policy of insurance.

### 14. Government may undertake work

Where, under this Ordinance, a person is entitled to claim compensation and that compensation is to be assessed on the basis of an expense incurred, the Government may, on written notice to that person, carry out the operations for which the expense would otherwise be claimable.

## Part II

	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
1.	The resumption of land under this Ordinance.	As if the claim were made under the Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance.	Any person who would be entitled to claim compensation for land resumed under the Lands Resumption Ordinance (Cap. 124) if the land had been resumed thereunder.	Before the expiration of 1 year from the date of resumption.  <i>(Amended 29 of 1998 s. 101)</i>
2.	(a) The creation of an easement or other permanent right or a right of temporary occupation under section 20 of this Ordinance.	(a) (i) In the case of an easement or other permanent right, the amount by which the open market value of the claimant's interest in the land is diminished.	(a) Any person owning a compensatable interest in the land.	(a) Before the expiration of 1 year from the date on which the easement or right is created.

Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
	(ii) In the case of the creation of a right of temporary occupation, the amount of an open market rent for the claimant's interest in the land occupied during the period of the easement.		
(b) Disturbance resulting from the creation of an easement or other permanent right or a right of temporary occupation under section 20 of this Ordinance.	(b) A disturbance payment.	(b) Same as in paragraph (a).	(b) Same as in paragraph (a).
3. (a) The extinction, by the operation of section 18(2) of this Ordinance, of any easement in favour of land not resumed when contiguous or adjacent land is resumed.	(a) The expense fairly and reasonably incurred in remedying or mitigating the effect of the extinction of the easement, as far as may be practicable, and any diminution in the open market value of the claimant's interest in the land not resumed after such expense has been incurred.	(a) Any person owning a compensatable interest in the land not resumed.	(a) Before the expiration of 1 year from the date of resumption of the contiguous or adjacent land.
(b) Disturbance resulting from the extinction of that easement.	(b) A disturbance payment.	(b) Same as in paragraph (a).	(b) Same as in paragraph (a).
4. (a) The closure of, or extinction, modification or restriction of a private right in respect of, a road or part of a road under section 22 of this Ordinance, so that access to any land is adversely affected.	(a) The expense fairly and reasonably incurred in remedying or mitigating the effect of such closure, extinction, modification or restriction, as far as may be practicable, and any diminution in the open market value of the claimant's interest in the land after such expense has been incurred.	(a) Any person owning a compensatable interest in the land.	(a) Before the expiration of 1 year from the closure, extinction, modification or restriction.
(b) Disturbance resulting from that closure, extinction, modification or restriction.	(b) A disturbance payment.	(b) Same as in paragraph (a).	(b) Same as in paragraph (a).

	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
5.	(a) The extinction, modification or restriction of any private right over Government foreshore or sea-bed under section 22 of this Ordinance.	(a) The amount which is fairly and reasonably assessed to be the open market value of the right and, where the claimant has a compensatable interest in contiguous or adjacent land, any diminution in the open market value of that interest.	(a) Any person in whom the private right is vested.	(a) Before the expiration of 1 year from the date of extinction, modification or restriction.
	(b) Disturbance resulting from that extinction, modification or restriction.	(b) A disturbance payment.	(b) Same as in paragraph (a).	(b) Same as in paragraph (a).
6.	(a) Physical or structural damage to any land or building resulting from the works.	(a) The expense which is fairly and reasonably incurred in repairing the damage and any expense fairly and reasonably incurred in preventing or mitigating the damage.	(a) Any person owning a compensatable interest in the land or building.	(a) Before the expiration of 1 year from the date of the completion of the works.
	(b) Disturbance resulting from the structural damage mentioned in paragraph (a).	(b) A disturbance payment.	(b) Same as in paragraph (a).	(b) Same as in paragraph (a).
7.	(a) Physical or structural damage to any land or building resulting from the exercise of any power contained in section 5 or 24 of this Ordinance.	(a) The expense which is fairly and reasonably incurred in repairing the damage and any expense fairly and reasonably incurred in preventing or mitigating the damage.	(a) Any person owning a compensatable interest in the land or building.	(a) Before the expiration of 1 year from the date of completion of the operations carried out under section 5 or 24 of this Ordinance from which the damage is alleged to have resulted.
	(b) Disturbance resulting from the exercise of any power contained in section 24 of this Ordinance.	(b) A disturbance payment.	(b) Same as in paragraph (a).	(b) Same as in paragraph (a).
8.	(a) The removal, under section 26 of this Ordinance, of any object or structure which was erected and maintained without the contravention of any Ordinance or Government lease.	(a) Any diminution in the open market value of the claimant's interest in the land or building; and the expense which is fairly and reasonably incurred in moving the object or structure and making good that part of the building from which it is removed.	(a) Any person owning a compensatable interest in the land or building.	(a) Before the expiration of 1 year from the date of removal.

Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim must be served on the Secretary
(b) Reinstating an object or structure described in paragraph (a) or replacing the same with a similar object or structure.	(b) The expense fairly and reasonably incurred in so doing in so far as that expense is not taken into account under paragraph (a).	(b) Same as in paragraph (a).	(b) Before the expiration of 1 year from the date of reinstatement or replacement.
(c) The loss sustained in respect of an object or structure which was erected and maintained without the contravention of any Ordinance or Government lease and is not to be reinstated or replaced with a similar object or structure.	(c) The amount which is fairly and reasonably estimated as the value of the object or structure.	(c) Any person owning a share or interest in the object or structure.	(c) Same as in paragraph (a).
(d) Disturbance resulting from the exercise of any power contained in section 26 of this Ordinance.	(d) A disturbance payment.	(d) Same as in paragraph (a).	(d) Same as in paragraph (a).
9. An amendment required or a condition imposed, under section 27(1)(c) or (d) of this Ordinance (other than a condition mentioned in section 27(7) of this Ordinance), to avoid incompatibility with the works for the construction of a railway. ( <i>Amended E.R. 3 of 2021</i> )	The amount which is fairly and reasonably estimated as the loss to the claimant, including— (i) any additional expense fairly and reasonably incurred in carrying out building works; and (ii) professional fees and expenses, which loss, expense, fees and expenses are attributable solely to compliance with the amendment required or the condition imposed.	The owner of the land on which the building works are carried out.	Before the expiration of 1 year from the completion of the building works.

**4B. Duties of prescribed building professional appointed or nominated in respect of minor works commenced under simplified requirements**

- (1) A prescribed building professional appointed or nominated in respect of minor works commenced under the simplified requirements shall, in relation to the works, comply with the simplified requirements.
- (2) Without affecting the generality of subsection (1), the prescribed building professional shall also—
  - (a) supervise in accordance with the supervision plan the carrying out of minor works commenced under the simplified requirements;
  - (b) supervise in the manner prescribed in the simplified requirements the carrying out of minor works commenced under the simplified requirements;
  - (c) notify the Building Authority of any contravention of the regulations which would result from the carrying out of any works shown in the plan required to be submitted to the Building Authority in respect of minor works commenced under the simplified requirements;
  - (d) ensure that—
    - (i) fire service installations or equipment in relation to minor works commenced under the simplified requirements are provided in accordance with the Code of Practice referred to in section 16(1)(b)(ii); and
    - (ii) the carrying out of minor works commenced under the simplified requirements does not result in the relevant minimum requirements under the Code not being complied with in respect of the fire service installations or equipment;
  - (e) ensure that the carrying out of minor works commenced under the simplified requirements would not contravene—
    - (i) any enactment; and
    - (ii) any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131);

- (f) if minor works commenced under the simplified requirements are carried out within a comprehensive development area of an approved or draft plan prepared under the Town Planning Ordinance (Cap. 131), ensure that the carrying out of the works would not contravene the master lay-out plan approved by the Town Planning Board under section 4A(2) of that Ordinance; and
- (g) comply generally with this Ordinance.

*(Added 20 of 2008 s. 7)*

**16. Grounds on which approval or consent may be refused**

- (1) The Building Authority may refuse to give his approval of any plans of building works where—
  - (a) the plans are not such as are prescribed by regulations or are not such as he may have required under this section;
  - (b) the plans are not endorsed with or accompanied by a certificate from the Director of Fire Services certifying either—
    - (i) that, having regard to the purpose to which the building is intended to be put (which purpose shall be stated in the certificate), no fire service installation or equipment is necessary in connexion with the building that will result from the carrying out of the building works shown on the plans; or
    - (ii) that the plans have been examined and are approved by him as showing all such fire service installations and equipment as in his opinion, having regard to the purpose to which the building is intended to be put (which purpose shall be stated in the certificate), comprise the minimum fire service installations and equipment necessary for such building in accordance with a Code of Practice published from time to time by the Director of Fire Services; *(Added 3 of 1964 s. 2)*
  - (c) he has not received application for their approval in the specified form or any such application does not contain the particulars required therein; *(Amended 68 of 1993 s. 8)*
  - (d) the carrying out of the building works shown thereon would contravene the provisions of this Ordinance or of any other enactment, or would contravene any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131);

- (da) the building works are within a comprehensive development area of an approved or draft plan prepared under the Town Planning Ordinance (Cap. 131) and the works contravene a master lay-out plan approved by the Town Planning Board under section 4A(2) of the Town Planning Ordinance (Cap. 131); (*Added 2 of 1988 s. 8(1)*)
- (e) he has not received such other documents as are prescribed by regulations;
- (f) such fees as are prescribed by regulations have not been paid;
- (g) the carrying out of the building works shown thereon would result in a building differing in height, design, type or intended use from buildings in the immediate neighbourhood or previously existing on the same site;
- (h) the building works consist of, or any part thereof involves, the construction, formation or laying out of any means of access or other opening, not being a street or access road, to or from any street, and the place at or manner in which such means of access or other opening opens on to the street is, in his opinion, such as to be dangerous or likely to be dangerous or prejudicial to the safety or convenience of traffic using the street, or which may be expected to use the same;
- (i) in his opinion, it is necessary for him to have further particulars of such plans or of the building works shown thereon or, where all the plans prescribed by regulations have not been submitted, to have one or more of the other plans prescribed by regulations, to enable him fully to consider such plans;
- (j) any further particulars or other plans delivered to him, upon his refusal, under paragraph (i), to give his approval to any plans, are not to his satisfaction;
- (k) such plans differ materially from those approved upon the exemption from the provisions of Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) of the premises to which they relate; (*Amended 73 of 1970 s. 2; 29 of 1983 s. 47*)
- (l) it appears to him that the demolition of a building that requires to be demolished before the building works shown on such plans can be carried out—



- (i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, or
- (ii) will render, or will be likely to render, any adjoining or other building so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, can be avoided; (*Added 27 of 1964 s. 2*)

- (m) in the case of plans showing site formation works, piling works, excavation works or foundation works, it appears to him that the carrying out of such works—
  - (i) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, street or natural, formed or man-made land, or
  - (ii) will render, or will be likely to render, an adjoining or other building, street or natural, formed or man-made land so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, street or land, can be avoided; (*Added 27 of 1964 s. 2. Amended 72 of 1980 s. 4*)

- (n) it appears to him that the proposed use of the building to which the plans relate would contravene the provisions of regulation 49 of the Building (Planning) Regulations (Cap. 123 sub. leg. F); (*Added 23 of 1969 s. 3. Amended 17 of 2018 s. 51*)
- (o) the plans relate to building works to be carried out upon land in respect of which a notice has been served under section 4 of the Lands Resumption Ordinance (Cap. 124) or under the proviso for resumption contained in the Government lease of the land; (*Added 73 of 1970 s. 2. Amended 29 of 1998 s. 25*)
- (p) in the case of building works to be carried out on a site which in his opinion ought to be provided with streets having adequate connexion to a public street, he is not satisfied that such streets are or will be provided; (*Added 59 of 1973 s. 2. Amended L.N. 159 of 1990*)

- (q) in the case of building works to be carried out in area number 1 of the scheduled areas the building is one which in his opinion must be capable of resisting landslip debris and he is not satisfied that the plans provide adequately for that capability. (*Added 41 of 1982 s. 4. Amended 52 of 1990 s. 3*)
- (1A) Without prejudice to any other power of the Building Authority under this section, the Building Authority shall refuse to give his approval to any plans of building works where the building works proposed include the construction of a hand-dug caisson unless he is satisfied that any of the following circumstances exists—
- (a) the depth of the hand-dug caisson does not exceed 3 metres and the diameter of the inscribed circle of the hand-dug caisson is not less than 1.5 metres;
  - (b) for the site concerned—
    - (i) the use of a hand-dug caisson is the only practical construction method; or
    - (ii) there is no other safe engineering alternative. (*Added 6 of 1995 s. 3*)
- (2) The Building Authority may refuse to give his approval of any plans of street works where—
- (a) the plans are not such as are prescribed by regulations;
  - (b) he has not received application for their approval in the specified form or any such application does not contain the particulars required therein; (*Amended 68 of 1993 s. 8*)
  - (c) the carrying out of the street works shown thereon would contravene the provisions of this Ordinance or of any other enactment;
  - (d) in the case of an access road, the place at or manner in which the access road opens on to a street is, in his opinion, such as to be dangerous or likely to be dangerous or prejudicial to the safety or convenience of traffic using the street or access road, or which may be expected to use the same;
  - (e) such fees as are prescribed by regulations have not been paid;
  - (f) in the opinion of the Building Authority, it is necessary for him to have further particulars of such plans to enable him fully to consider such plans;

- (g) any further particulars delivered to him, upon his refusal under paragraph (f) to give his approval to any plans, are not to his satisfaction.
- (3) The Building Authority may refuse to give his consent to the commencement of any building works or street works where —
- (a) he has not received and given his approval to all the plans thereof prescribed by regulations;
  - (b) he has not received such other documents as may be prescribed by regulations;
  - (ba) any condition or requirement imposed by him under section 17(1) in respect of the building works or street works has not been complied with to his satisfaction; *(Added 52 of 1990 s. 3)*
  - (bb) he is not satisfied that the authorized person, registered structural engineer, registered geotechnical engineer, registered general building contractor or registered specialist contractor has adequately provided precautionary and other protective measures for demolition works; *(Added 54 of 1996 s. 16. Amended 15 of 2004 s. 18)*
  - (bc) the authorized person has not lodged a supervision plan for the works; *(Added 54 of 1996 s. 16)*
  - (c) such fees as are prescribed by regulations have not been paid; or
  - (d) a period exceeding 2 years has elapsed since the approval of any of the prescribed plans in respect of the building works or street works. *(Amended 23 of 1969 s. 3)*
- (3A) In subsection (3)(d), the reference to plans does not include such plans as are for the time being approved in connexion with an order under Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) excluding the premises from the further application of that Part. *(Replaced 73 of 1970 s. 2. Amended 29 of 1983 s. 47)*
- (4) The Building Authority may refuse to give his consent to the commencement of any building works where it appears to him that the carrying out of the building works—
- (a) will cause, or will be likely to cause, a total or partial collapse of any adjoining or other building, street or natural, formed or man-made land, or

- (b) will render, or will be likely to render, any adjoining or other building, street or natural, formed or man-made land so dangerous that it will collapse, or be likely to collapse, either totally or partially,

and he is not satisfied that the collapse or the likelihood of the collapse, or such danger or the likelihood of such danger to the building, street or land, can be avoided. *(Added 27 of 1964 s. 2. Amended 31 of 1964 s. 2; 72 of 1980 s. 4)*

- (5) Without prejudice to subsection (4), the Building Authority may refuse to give his consent to the commencement of demolition works until he is satisfied that adequate precautions have been taken—
  - (a) to prevent a collapse, whether total or partial, or the likelihood of such a collapse, of any adjoining or other building, street or natural, formed or man-made land; or
  - (b) to prevent any adjoining or other building, street or natural, formed or man-made land becoming so dangerous, or the likelihood of any such building, street or land becoming so dangerous, that it will collapse or be likely to collapse, either totally or partially. *(Added 27 of 1964 s. 2. Amended 72 of 1980 s. 4)*

*(Added 44 of 1959 s. 4)*

#### **24AA. Order for demolition, removal, or alteration of minor works commenced under simplified requirements**

- (1) The Building Authority may, by order in writing served according to subsection (4), require a person to take the action described in subsection (2) in respect of any minor works commenced under the simplified requirements, if the minor works have been or are being carried out in contravention of—
  - (a) any provisions of this Ordinance;
  - (b) any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131); or
  - (c) any relevant master lay-out plan approved by the Town Planning Board under section 4A(2) of the Town Planning Ordinance (Cap. 131).
- (2) The action that the Building Authority may require a person to take under subsection (1) is—
  - (a) the demolition of the minor works; or

- (b) such alteration of the minor works as may be necessary to cause the same to comply with the provisions of this Ordinance, the approved or draft plan or the master layout plan (as the case may be), or otherwise to put an end to the contravention referred to in subsection (1)(a), (b) or (c).
- (3) The Building Authority shall specify in the order the time within which the action required by the order must be commenced and completed.
- (4) An order made under subsection (1) shall be served on—
- (a) where the subject matter of the minor works is not a signboard—
    - (i) the person for whom the minor works have been or are being carried out; or
    - (ii) if that person is not the owner of the land or premises on which the minor works have been or are being carried out and cannot be found, subject to subsection (5), the owner of such land or premises; or
  - (b) where the subject matter of the minor works is a signboard—
    - (i) the person for whom the signboard has been or is being erected;
    - (ii) if that person cannot be found, the person who would receive any rent or other money consideration if the signboard were hired out or the person who is receiving such rent or money consideration; or
    - (iii) if the persons referred to in subparagraphs (i) and (ii) are not the owner of the land or premises on which the signboard has been or is being erected and cannot be found, the owner of such land or premises.
- (5) Where the place on which the minor works referred to in subsection (4)(a)(ii) are carried out is—
- (a) connected to land or premises (in this section referred to as *other land or premises*) other than the land or premises on which the minor works have been or are being carried out; and
  - (b) occupied or used by the owner or occupier of that other land or premises,

subsection (4)(a)(ii) does not apply, and in such a case, the Building Authority shall serve the order made under subsection (1) on the owner of that other land or premises.

- (6) The Building Authority may cause an order served under subsection (4)(a)(ii) or (b)(iii) or (5) to be registered in the Land Registry against—
  - (a) if the order has been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), the land or premises; or
  - (b) if the order has been served on the owner of other land or premises in accordance with subsection (5), that other land or premises.
- (7) If an order made under subsection (1) is not complied with, the Building Authority may demolish or alter or cause to be demolished or altered the minor works.
- (8) Subject to subsection (9), the cost of any demolition or alteration under subsection (7) in relation to the minor works to which the order relates shall be recoverable as a debt due to the government from—
  - (a) if the order had been served on a person in accordance with subsection (4)(a)(i) or (b)(i) or (ii), that person;
  - (b) if the order had been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), that owner; or
  - (c) if the order had been served on the owner of other land or premises in accordance with subsection (5), that owner.
- (9) Where the order has been registered with the Land Registry in accordance with subsection (6), the cost of any demolition or alteration under subsection (7) in relation to the minor works to which the order relates is recoverable from—
  - (a) if the order had been served on the owner of any land or premises in accordance with subsection (4)(a) or (b), the person who, as at the date of completion of the demolition or alteration, is the owner of that land or premises;
  - (b) if the order had been served on the owner of other land or premises in accordance with subsection (5), the person who, as at the date of completion of the demolition or alteration, is the owner of that other land or premises.

- (10) A certificate purporting to be under the hand of the Building Authority and stating the date of completion of the demolition or alteration under subsection (7) is prima facie evidence of that fact.

*(Added 20 of 2008 s. 21)*

**16. Control of use of land in country park**

- (1) Notwithstanding any Ordinance or the terms of any lease or agreement for a lease, in any case where the Authority is of the opinion that any use or proposed use of any leased land by the occupier within a country park would substantially reduce the enjoyment and amenities of the country park as such, he may request the appropriate Land Authority to exercise the powers conferred by this section.
- (2) Where the Land Authority receives a request under subsection (1), he may, by notice in writing—
  - (a) require the occupier, within such period, not being less than 3 months, as the Land Authority may determine, to discontinue or modify the use; or
  - (b) prohibit the occupier from proceeding with the proposed use or, within such period, not being less than 3 months, as the Land Authority may determine, require the occupier to modify the proposed use,  
so as to avoid the enjoyment and amenities of the country park being substantially reduced; and where the occupier is not the Government lessee, the Land Authority shall, where practicable, serve on the Government lessee a copy of the notice given to the occupier. (*Amended 29 of 1998 s. 105*)
- (3) A notice under subsection (2) shall notify the occupier, and where the occupier is not the Government lessee, the Government lessee, of his right to object under section 17. (*Amended 29 of 1998 s. 105*)
- (4) An occupier who fails to comply with the requirements of a notice given to him under subsection (2) shall be guilty of an offence and shall be liable to a fine at level 2 and, in addition, to a fine of \$100 for each day during which the offence has continued. (*Amended L.N. 378 of 1989; E.R. 1 of 2022*)
- (5) Where an occupier or Government lessee objects under section 17 the operation of the notice against which he is objecting shall be suspended until the final determination of the objection. (*Amended 29 of 1998 s. 105*)



- (6) Notwithstanding any proceedings which may be taken under subsection (3), where the requirements of a notice under subsection (2) are not complied with, the leased land which is the subject of the requirements may be resumed in accordance with the Lands Resumption Ordinance (Cap. 124), and for the purposes of section 3 of that Ordinance it shall be deemed that the resumption of such land is required for a public purpose.  
*(Amended 29 of 1998 s. 51)*
- (7) In this Part **Land Authority** (最高地政監督) means—
- (a) in relation to leased land within a country park situated in the New Territories, the Director of Lands; and  
*(Amended L.N. 370 of 1981)*
  - (b) in relation to leased land within a country park in Hong Kong other than the New Territories, the Director of Lands. *(Amended L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)*

**65. Resumption of land required for public purposes**

- (1) Whenever the Chief Executive in Council decides that the resumption of any Government land within the area of a mining lease is required for a public purpose, the Chief Executive may call upon the lessee thereof to surrender his rights and interests in such land under his lease, and the lessee shall, within 2 months after the date upon which such decision is communicated to him, execute an instrument of surrender thereof in such form as may be approved by the Director of Lands. (*Amended 8 of 1993 s. 3; L.N. 291 of 1993; 29 of 1998 s. 105; 57 of 1999 s. 3; E.R. 6 of 2019*)
- (2) In this section, the expression **resumption for a public purpose** (收回作公共用途) has the meaning ascribed to that expression by section 2 of the Lands Resumption Ordinance (Cap. 124), but otherwise the provisions of that Ordinance shall have no application to a resumption under the provisions of subsection (1). (*Amended 29 of 1998 s. 62*)
- (3) If the lessee fails to execute an instrument of surrender within due time as provided in subsection (1), the Chief Executive may revoke the mining lease, and thereupon the lease and the rights of the parties thereunder shall absolutely determine but without prejudice to the rights and remedies of the parties in respect of any antecedent breach, non-observance or non-performance of the provisions thereof. (*Amended 57 of 1999 s. 3*)
- (4) Compensation shall be paid by the Government to the lessee for disturbance, and also for the loss of reasonable expectation of profits from proved minerals in, under or upon any land resumed under this section.
- (5) Any dispute as to what are proved minerals in, under or upon any land resumed as aforesaid, and any dispute as to whether any compensation is payable or as to the amount of such compensation, shall, in default of agreement, be determined by arbitration in accordance with the provisions of the Arbitration Ordinance (Cap. 609). (*Amended 17 of 2010 s. 112*)

**12N. Consideration of views of affected persons**

- (1) The Authority may appoint a panel of persons (*advisory panel*) for advising the Authority on matters specified in subsection (2) that relate to a licence application.
- (2) The matters are—
  - (a) the views of affected persons in respect of a licence application; and
  - (b) having regard to those views and any response from the applicant, recommendations on the application, including—
    - (i) whether to approve or refuse the application; and
    - (ii) whether to impose any conditions on the licence.
- (3) The advice given by an advisory panel (including the recommendations made under subsection (2)(b)) is not binding on the Authority.
- (4) For the purpose of advising the Authority, an advisory panel may—
  - (a) conduct consultation to collect the views of affected persons in respect of a licence application; and
  - (b) invite the applicant to provide a response to those views.
- (5) Before approving a licence application in respect of any premises, the Authority must be satisfied that either—
  - (a) a consultation under subsection (4)(a) has been conducted in respect of the application; or
  - (b) the use of the premises as a hotel or guesthouse is permitted (whether because of a permission for the premises or for the building or area in which the premises are situated) according to—
    - (i) a draft plan or an approved plan within the meaning of the Town Planning Ordinance (Cap. 131); or
    - (ii) a permission granted in respect of such a plan under that Ordinance.
- (6) In this section—

***affected person*** (受影響人士), in relation to a licence application for any premises, means—

- (a) if the premises form part but not the whole of a building—
  - (i) an owner or occupier of any other part of the building; and
  - (ii) if the Authority considers appropriate—an owner or occupier of any other premises situated in the surrounding area specified by the Authority for the application; or
- (b) if the premises form the whole of a building—an owner or occupier of any other premises situated in the surrounding area specified by the Authority for the application;

***licence application*** (牌照申請) means—

- (a) an application for the issue of a licence under section 12B; or
- (b) an application for the renewal of a licence under section 12C.

## 8. Prohibited discharges into waters of Hong Kong and inland waters

- (1) Subject to section 12, a person commits an offence who discharges—
  - (a) any waste or polluting matter into the waters of Hong Kong in a water control zone; (*Amended 67 of 1990 s. 4*)
  - (b) any matter into any inland waters in a water control zone which tends (either directly or in combination with other matter which has entered those waters) to impede the proper flow of the water in a manner leading or likely to lead to a substantial aggravation of pollution.
- (1A) Subject to section 12(1A), a person commits an offence who discharges any poisonous or noxious matter into the waters of Hong Kong. (*Added 67 of 1990 s. 4*)
- (2) Where any matter referred to in subsection (1)(a) or (b) or (1A) is discharged from any premises or vessel, then, subject to section 12, the occupier of the premises or the person having command or charge of the vessel commits an offence, in addition to any other person who may be guilty of an offence under subsection (1) or (1A). (*Amended 67 of 1990 s. 22*)
- (3) This section does not apply to any of the following discharges or deposits—
  - (a) a discharge which is made by way of a communal sewer or communal drain; (*Amended 67 of 1990 s. 22*)
  - (b) (*Repealed 42 of 1985 s. 2*)
  - (c) a discharge incidental to, or derived from, the normal operation of a vessel (including a dynamically supported craft) or of its equipment;
  - (d) a discharge which requires a permit under the Dumping at Sea Ordinance (Cap. 466); (*Amended 18 of 1995 s. 34*)
  - (e) a discharge or deposit made—
    - (i) by, or with the consent of, the Director of Marine for the purpose of carrying out harbour works or providing moorings or aids to navigation;

- (ii) in accordance with the grant of a Government lease or as part of the execution of a reclamation or other work of a public nature which has been authorized under section 7 or 8 of the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127); *(Replaced 63 of 1985 s. 21. Amended 29 of 1998 s. 72)*
- (iii) *(Repealed 63 of 1985 s. 21)*
- (f) a discharge of unpolluted water, as defined in section 9(3). *(Replaced 67 of 1990 s. 4)*

**22. Interest**

- (1) The Lands Tribunal may direct that interest be paid on compensation (but not on costs)— *(6 of 2001 s. 8)*
  - (a) in the case of compensation payable under item 1 of Part I of Schedule 1, as if the claim were made under the Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance; and *(29 of 1998 s. 76)*
  - (b) in any other case, from a date and for a period that it considers appropriate and, subject to subsection (2), at such rate as it may fix. *(6 of 2001 s. 8)*
- (2) The rate of interest fixed under subsection (1)(b)—
  - (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. *(6 of 2001 s. 8)*
- (3) In the section, “non-working day” (非工作日), “note-issuing bank” (發鈔銀行) and “working day” (工作日) have the meanings assigned to them respectively by paragraph 8(3) of the Second Schedule to the Ordinance. *(6 of 2001 s. 8)*

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**Editorial Note:**

For the validation of interest payments and application provisions relating to the amendments made by 6 of 2001, see section 13 of 6 of 2001.

**SCHEDULE 1**

[ss. 11, 12, 13, 14 & 22]

**COMPENSATION RIGHTS AND ASSESSMENT****PART I**

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
1.	<p>(a) Physical or structural damage to any land or building resulting from any works undertaken by the Authority—</p> <p>(i) under Part II of this Regulation; or</p> <p>(ii) under Part IV of this Regulation, but only if attributable to the negligence of the Authority.</p>	<p>The expense which is fairly and reasonably incurred in repairing the damage and any expense fairly and reasonably incurred in preventing or mitigating the damage.</p>	<p>Any person owning a compensatable interest in the land or building.</p>	<p>Before the expiration of 1 year from the date of the completion of the works.</p>
	<p>(b) Disturbance resulting from the structural damage mentioned in paragraph (a).</p>	<p>A disturbance payment.</p>	<p>Same as in paragraph (a).</p>	<p>Same as in paragraph (a).</p>
2.	<p>The resumption of land under section 13 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).</p>	<p>As if the claim were made under the Crown Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance.</p>	<p>Any person who would be entitled to claim compensation for land resumed under the Crown Lands Resumption Ordinance (Cap. 124) if the land had been resumed under that Ordinance.</p>	<p>Before the expiration of 1 year from the date of resumption.</p>



Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
3.	(a) The creation of an easement or other permanent right or a right of temporary occupation under section 15 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).	<p>(i) In the case of an easement or other permanent right, the amount by which the open market value of the claimant's interest in the land is diminished.</p> <p>(ii) In the case of the creation of a right of temporary occupation, the amount of an open market rent for the claimant's interest in the land occupied during the period of the easement.</p>	Any person owning a compensatable interest in the land.	Before the expiration of 1 year from the date on which the easement or right is created.
	(b) Disturbance resulting from the creation of an easement or other permanent right or a right of temporary occupation under section 15 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).	A disturbance payment.	Same as in paragraph (a).	Same as in paragraph (a).

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
4.	(a) The extinction, by the operation of section 13(3) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), of any easement in favour of land not resumed when adjacent or contiguous land is resumed.	The expense fairly and reasonably incurred in remedying or mitigating the effect of the extinction of the easement, as far as may be practicable, and any diminution in the open market value of the claimant's interest in the land not resumed after such expense has been incurred.	Any person owning a compensatable interest in the land not resumed.	Before the expiration of 1 year from the date of resumption of the adjacent or contiguous land.
	(b) Disturbance resulting from the extinction of that easement.	A disturbance payment.	Same as in paragraph (a).	Same as in paragraph (a).

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
5.	The closure of, or extinction, modification or restriction of a private right in respect of, a road or part of a road under section 17 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), so that access to any land is adversely affected.	<p>(a) The expense fairly and reasonably incurred in remedying or mitigating the effect of such closure, extinction, modification or restriction, as far as may be practicable, and any diminution in the open market value of the claimant's interest in the land after such expense has been incurred.</p> <p>(b) A disturbance payment.</p>	Any person owning a compensatable interest in the land.	Before the expiration of 1 year from the closure, extinction, modification or restriction.
6.	(a) The extinction, modification or restriction of any private right over Crown foreshore or sea-bed under section 17 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).	The amount which is fairly and reasonably assessed to be the open market value of the right and, where the claimant has a compensatable interest in adjacent or contiguous land, any diminution in the open market value of that interest.	Any person in whom the private right is vested.	Before the expiration of 1 year from the date of extinction, modification or restriction.

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
(b)	Disturbance resulting from that extinction, modification or restriction.	A disturbance payment.	Same as in paragraph (a).	Same as in paragraph (a).
7.	(a) Physical or structural damage to any land or building resulting from the exercise of any power contained in section 19 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).	The expense which is fairly and reasonably incurred in repairing the damage and any expense fairly and reasonably incurred in preventing or mitigating the damage.	Any person owning a compensatable interest in the land or building.	Before the expiration of 1 year from the date of completion of the operations carried out under section 19 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) from which the damage is alleged to have resulted.
(b)	Disturbance resulting from the exercise of any power contained in section 19 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).	A disturbance payment.	Same as in paragraph (a).	Same as in paragraph (a).

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
8.	(a) The removal, under section 21 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), of any object or structure which was erected and maintained without the contravention of any Ordinance or Crown lease.	Any diminution in the open market value of the claimant's interest in the land or building; and the expense which is fairly and reasonably incurred in moving the object or structure and making good that part of the building from which it is removed.	Any person owning a compensatable interest in the land or building.	Before the expiration of 1 year from the date of removal.
	(b) Reinstating an object or structure described in paragraph (a) or of replacing the same with a similar object or structure.	The expense fairly and reasonably incurred in so doing in so far as that expense is not taken into account under paragraph (a).	Same as in paragraph (a).	Before the expiration of 1 year from the date of reinstatement or replacement.
	(c) The loss sustained in respect of an object or structure which was erected and maintained without the contravention of any Ordinance or Crown lease and is not to be reinstated or replaced with a similar object or structure.	The amount which is fairly and reasonably estimated as the value of the object or structure.	Any person owning a share or interest in the object or structure.	Before the expiration of 1 year from the date of removal.

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
	(d) Disturbance resulting from the exercise of any power contained in section 21 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370).	A disturbance payment.	Same as in paragraph (a).	Same as in paragraph (a).
9.	An amendment required or a condition imposed, under section 22(1)(c) or (d) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), (other than a condition mentioned in section 22(6) of that Ordinance), to avoid incompatibility with the works.	The amount which is fairly and reasonably estimated as the loss to the claimant, including— (i) any additional expense fairly and reasonably incurred in carrying out building works; and (ii) professional fees and expenses, which loss, expense, fees and expenses are attributable solely to compliance with the amendment required or the condition imposed. ( <i>L.N. 281 of 1998</i> )	The owner of the land on which the building works are carried out.	Before the expiration of 1 year from the completion of the building works.

Item	Matters for which compensation may be claimed	Basis on which compensation is to be assessed	Persons who may claim compensation for their respective losses	Period within which the claim shall be served on the Secretary
10.	Physical or structural damage or disturbance resulting from the restoration of waters undertaken by the Authority under section 13A of the Ordinance, but in the case of a person convicted of an offence referred to in subsection (1) of that section, limited to damage attributable to the negligence of the Authority.	Same as in item 1(a) and (b).	Same as in item 1(a) and (b).	Same as in item 1(a) and (b).

## PART II

### 1. General effect of this Part

The provisions in this Part shall, where applicable, have effect for the purpose of assessing compensation under Part I and shall—

- (a) be in addition to such of the provisions of the Lands Resumption Ordinance (Cap. 124) as apply, by virtue of Part I, to the assessment of compensation; and (*29 of 1998 s. 76*)
- (b) prevail over any provision referred to in paragraph (a) which is inconsistent or in conflict with a provision in this Part.

### 2. Definitions applicable to Part I

In this Schedule—

“date of resumption” (收回日期) means the day on which land reverts to the Government or vests in The Financial Secretary Incorporated under section 13(3) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370); (*29 of 1998 s. 105*)

“disturbance” (騷擾) means the dispossession of a person of land or the interruption of or interference with a trade or business, whether such dispossession, interruption or interference is temporary or permanent;

“disturbance payment” (騷擾補償金) means a sum equal to—

- (a) the expenditure and loss of money actually and reasonably incurred or to be reasonably incurred and arising from the dispossession of a person of land by reason of the matter for which the claimant is entitled to claim compensation under Part I; and

- (b) in the case of disturbance of a trade or business on any land, the expenditure and loss of money actually and reasonably incurred or to be reasonably incurred and arising from the disturbance of that trade or business by reason of the matter for which the claimant is entitled to claim compensation under Part I,

except that a disturbance payment shall not include any expenditure or loss which would not be recoverable, on the grounds that the expenditure or loss was too remote or was not caused by the disturbance, if that disturbance were a tort;

“open market value” (公開市場價值) means the amount which the land, if sold in the open market by a willing seller, might reasonably be expected to realize;

“owner” (擁有人), in relation to land, means the person holding that land—

- (a) directly under a Government lease; or  
(b) under another title directly from the Government registered in the Land Registry; (*29 of 1998 s. 105*)

“sea-bed” (海床) includes any Government land covered with water in any tidal river or channel connected with the waters of Hong Kong; (*29 of 1998 s. 105*)

“works” (工程) means anything which may be done by the Authority or may be required by the Authority to be done under or pursuant to Part II, III or IV of this Regulation.

### 3. **Fluctuations in value of land**

Subject to sections 8 and 10, where the open market value of any land is relevant for the purposes of assessing compensation under this Regulation, no account shall be taken of any increase or decrease in that value which is attributable to anything done or proposed to be done under this Regulation or to the use of any sewerage, whether before or after the completion of any works (including the existence of any sewerage whether or not in relation to any use to which it is put).

### 4. **Disturbance payments**

- (1) For the purposes of assessing the amount to be awarded to a claimant in respect of a disturbance payment, the Lands Tribunal shall, in respect of any expenditure or loss to be incurred and in respect of which the claimant is entitled under this Regulation to be compensated, assess the value of that expenditure or loss at the time of the award as if that expenditure or loss formed part of a claim for damages in tort.
- (2) No disturbance payment shall be payable in respect of any interference with a trade or business in any case in which such interference does not subsist for a period exceeding 14 days.

### 5. **Unlawful building or development works**

Compensation may be reduced so far as may be just and equitable in respect of any building or development, or part thereof which has been constructed or modified, or on which building works have been carried out, so as to amount to a contravention of the Buildings Ordinance (Cap. 123) or the Town Planning Ordinance (Cap. 131) being a contravention within the meaning of that Ordinance or to a contravention of a Government lease or other instrument under which land built upon is held.



6. **Compensation where damage results only partly from the works**

The compensation assessed under item 1, 7 or 10 of Part I shall be reduced to such extent as may be just and equitable having regard to the share in the responsibility for the loss or damage not reasonably attributable to or connected with the works.

7. **No compensation under item 8 for loss of advertising**

Where a sign advertising any business, product, service or activity is removed under section 21 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370), nothing in item 8 of Part I shall be construed as conferring upon any person a right to compensation for the loss of any benefit which might have accrued to him from the advertising of that business, product, service or activity if the sign had not been removed.

8. **Set off where compensation paid for loss of value and land later resumed**

Where compensation under item 3, 4, 5, 6, 8 or 9 of Part I has been paid in respect of the diminution in value of any land and such land or part of such land is subsequently resumed by the Government under this Regulation or any other enabling power, then notwithstanding section 3 or any other provision of law to the same or similar effect, that diminution in value shall be taken into account to reduce the compensation for the resumption of that land in so far as it was taken into account in the assessment of compensation for the diminution in value thereof.

(29 of 1998 s. 105)

9. **Claim by a mortgagee in possession**

Where under this Regulation a claim for compensation may be made by a mortgagee in possession—

- (a) such claim may include compensation in respect of the whole interest which comprises the mortgage security; and
- (b) compensation received by a mortgagee in possession shall be applied by him firstly, to the settlement or reduction of the debt due under the mortgage and then to the payment of any excess to the mortgagor.

10. **Limitation on compensation payable under item 9**

Compensation shall be payable under item 9 of Part I only to the extent that the carrying out of building works in accordance with an amendment required, or condition imposed, under section 22(1)(c) or (d) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) does not increase the open market value of the land on which the building works are carried out.

11. **Apportionment of compensation**

Where there is a dispute between persons owning compensatable interests in any land or building as to the apportionment of the compensation payable or paid, the Lands Tribunal shall, on the application of any such person, apportion that compensation

amongst such persons in such manner as may be just and equitable having regard to their respective rights and interests in the land or building.

**12. Date of valuation and interest**

Where, under column 3 of Part I, compensation is to be assessed on the basis of the value of land, or the value of a claimant's interest in land, or of a rent, that value or that rent shall be assessed as at the date of the happening of the relevant event mentioned in column 2 of Part I; and the person entitled to claim shall be the person fitting the description mentioned in column 4 of Part I on that date.

**13. No double compensation**

- (1) Subject to subsection (2), nothing in this Regulation shall enable any person to recover compensation—
  - (a) in respect of a loss or expense which he has not suffered or incurred; or
  - (b) which is greater than the loss suffered or expense incurred by him.
- (2) In assessing compensation under this Regulation, no account shall be taken of any amount recovered by the claimant under a policy of insurance.

**14. Crown may undertake certain operations**

Where, under this Regulation, a person is entitled to claim compensation and that compensation is to be assessed on the basis of an expense incurred, the Crown may, on written notice to that person, carry out the operations in respect of which the expense would otherwise be claimable.

## **SCHEDULE 2**

[ss. 1 & 26]

### **APPLICATION OF THE ROADS (WORKS, USE AND COMPENSATION) ORDINANCE**

#### **PART I**

#### **PROVISIONS OF THE ROADS (WORKS, USE AND COMPENSATION) ORDINANCE APPLIED**

Sections 2 to 24 and 36 to 38.

#### **PART II**

##### **General Modifications and Additions**

1.
  - (1) In sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 (except 14(2)(e) and (f)), 15, 16 (except 16(2)(f)), 18 (except 18(2)(e)), 19, 20, 21 (except 21(3)(d)), 22 and 36, repeal "Secretary" wherever it occurs and substitute "Authority".
  - (2) In section 13(5), repeal "The Secretary" and substitute "The Authority".

- (3) In section 20(3), repeal “Secretary’s” and substitute “Authority’s”.
2. In sections 14(2)(f), 16(2)(f), 18(2)(e) and 21(3)(d), repeal everything after “under” and substitute—  
“the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL) may serve a written claim upon the Secretary.”.
3. A reference in any section (except section 4) specified in Part I—
  - (a) to another provision of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) shall be read as a reference to the other provision in that Ordinance;
  - (b) to “this Ordinance” shall be read as a reference to the Roads (Works, Use and Compensation) Ordinance (Cap. 370).

### Particular Modifications and Additions

Section applied	Modification or addition
2	<ol style="list-style-type: none"> <li>(a) In subsection (1)—           <ol style="list-style-type: none"> <li>(i) add—               <p style="margin-left: 40px;">“ “Authority” (監督) has the same meaning as in the Water Pollution Control Ordinance (Cap. 358);”;</p> </li> <li>(ii) in the definition of “claim”, repeal “section 29” and substitute “the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL)”;</li> <li>(iii) <i>(Repealed L.N. 106 of 2002)</i></li> <li>(iv) in the definition of “use”, repeal “road” where it twice occurs and substitute “sewerage”;</li> <li>(v) repeal the definition of “works” and substitute—               <p style="margin-left: 40px;">“ “works” (工程) means any thing which may be done by the Authority or may be required by the Authority to be done under or pursuant to Part II, III or IV of the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL);”.</p> </li> </ol> </li> <li>(b) Repeal subsections (2) to (4).</li> </ol>

- 4 (a) Repeal subsection (1)(a).
- (b) In subsection (3), repeal “this Ordinance” and substitute “the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg. AL)”. (*L.N. 281 of 1998*)
- 5 (a) (*Repealed L.N. 281 of 1998*)
- (b) In paragraph (b)(i), repeal “and the use to which he intends the road will be put”.
- 10 In subsection (1), repeal everything after “both” and substitute a full stop.
- 15 Repeal subsection (5) and substitute—
- “**(5)** No person shall, in the exercise of any power of entry referred to in subsection (3), enter upon any land which is occupied without giving to the occupier at least 28 days’ notice of his intention to do so unless—
- (a) the Authority is of the opinion that an emergency exists which necessitates immediate entry; or
- (b) the entry is required for the purpose of inspecting any works, structure or apparatus or carrying out any routine maintenance on them.”.
- 24 Repeal “\$5,000” and substitute “\$10,000”.
- 36 (a) (*Repealed L.N. 281 of 1998*)
- (b) Repeal paragraph (c)(i).
- 38 (a) In paragraph (a), repeal “nor to any claim for or determination, award or payment of compensation for such resumption;” and substitute “; and”.
- (b) In paragraph (b), repeal “; and” at the end and substitute a full stop.
- (c) Repeal paragraph (c).  
(*L.N. 281 of 1998*)

**42. Interest**

- (1) The Lands Tribunal may direct that interest be paid on compensation (but not on costs)— (*Amended 6 of 2001 s. 10*)
- (a) in the case of compensation payable under item 1 of Part II of the Schedule, as if the claim were made under the Lands Resumption Ordinance (Cap. 124) for land resumed under that Ordinance; and (*Amended 29 of 1998 s. 87*)
  - (b) in any other case, from such date and for such period as it thinks fit and, subject to subsection (2), at such rate as it may fix. (*Amended 6 of 2001 s. 10*)
- (2) The rate of interest fixed under subsection (1)(b)—
- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
  - (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day. (*Added 6 of 2001 s. 10*)
- (3) In this section—
- non-working day*** (非工作日) means a day that is not a working day;
- note-issuing bank*** (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);
- working day*** (工作日) means any day other than—
- (a) a public holiday; or
  - (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1). (*Added 6 of 2001 s. 10*)

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**Editorial Note:**

For the validation of interest payments and application provisions relating to the amendments made by 6 of 2001, see section 13 of 6 of 2001.

**5. Premises in which registered course or exempted course is conducted**

- (1) An operator of a registered course or an exempted course shall furnish to the Registrar, in such form as the Registrar may specify, such particulars as the Registrar may specify in respect of any premises in Hong Kong in which the course or any part thereof is to be conducted, not later than 3 months before the course or the part thereof, as the case may be, is to be so conducted, or such later date (if any) as the Registrar may allow.
- (2)
  - (a) An operator of a registered course or an exempted course shall furnish to the Registrar a certificate complying with the requirements of paragraph (b) in respect of any premises (other than exempted premises) in Hong Kong in which the course or any part thereof is to be conducted, not later than 1 month before the course or the part thereof, as the case may be, is to be so conducted, or such later date (if any) as the Registrar may allow.
  - (b) The certificate required to be furnished under paragraph (a) in respect of any premises in which a registered course or an exempted course, or any part thereof, is to be conducted—
    - (i) is a certificate issued by the Director of Fire Services pursuant to regulation 2(c) of the Fire Services Department (Reports and Certificates) Regulations (Cap. 95 sub. leg. C); and (*E.R. 1 of 2021*)
    - (ii) shall certify that the use of the premises for the conduct of the course or the part thereof, as the case may be, will not expose any person in the premises to any undue risk of fire.
- (3)
  - (a) A registered course or an exempted course, or any part thereof, shall not be conducted in any premises (other than exempted premises) in Hong Kong, without the approval of the Registrar granted under paragraph (c).

- (b) An operator of a registered course or an exempted course may at any time not later than 3 months before the course or any part thereof is conducted in any premises in Hong Kong, or such later date (if any) as the Registrar may allow, apply to the Registrar, in such form as the Registrar may specify, for the grant of an approval for the purposes of paragraph (a).
- (c) Upon an application to him under paragraph (b) for an approval in respect of any premises in which a registered course or an exempted course, or any part thereof, is to be conducted, the Registrar may grant the approval if he is satisfied, on the information provided for the purposes of the application or on any other information available to him, that—
  - (i) the operator has furnished to the Registrar particulars in respect of the premises in accordance with subsection (1);
  - (ii) the operator has furnished to the Registrar a certificate in respect of the premises in accordance with subsection (2)(a);
  - (iii) the conduct of the course or the part thereof, as the case may be, in the premises will not expose any person in the premises to any undue risk of fire;
  - (iv) the means of escape in case of fire available to persons in the premises at any time when the course or the part thereof, as the case may be, is to be conducted will be adequate;
  - (v) the premises will be structurally suitable for the conduct of the course or the part thereof, as the case may be;
  - (vi) the conduct of the course or the part thereof, as the case may be, will not result in a contravention of any approved plan or draft plan prepared under the Town Planning Ordinance (Cap. 131) or of any terms or conditions of the Government lease of the land in which the premises are comprised; and (29 of 1998 s. 105)
  - (vii) the premises will not be unsuitable for any other reason for the conduct of the course or the part thereof, as the case may be.
- (4) (a) An operator of a registered course or an exempted course who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 4.

- (b) Where a registered course or an exempted course, or any part thereof, is conducted in any premises in contravention of subsection (3)(a), the person by whom the course or the part thereof, as the case may be, is conducted commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (5) For the purposes of this section, a reference to exempted premises is a reference to—
- (a) any premises specified in a certificate of registration within the meaning of the Education Ordinance (Cap. 279);
  - (b) any premises specified in a certificate of provisional registration within the meaning of that Ordinance;
  - (c) any premises owned or leased by a local institution of higher education for educational purposes;
  - (d) any premises which are specified to the effect that they are designed and constructed for educational purposes on a plan approved for the purposes of section 14(1) of the Buildings Ordinance (Cap. 123);
  - (e) any premises which are—
    - (i) comprised in premises for which a hotel licence as defined by section 2(1) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) is for the time being in force; and *(6 of 2020 s. 51)*
    - (ii) specified as “function room” on a plan approved for the purposes of section 14(1) of the Buildings Ordinance (Cap. 123).



## Schedule 1

[s. 2]

### Interpretation

In this Ordinance, unless the context otherwise requires—

**abattoir** (屠場) means premises or a place habitually used for the slaughter of animals for human consumption;

**aircraft maintenance and repair plant** (飛機維修與修理廠) means a place, building or structure where aircraft or its parts are stored, repaired, washed or greased;

**Appeal Board** (上訴委員會) means the appeal board constituted under section 19;

**associated person** (相聯繫的人) means—

- (a) the spouse or minor child or minor step-child of the person;
- (b) a corporation of which the person is a director;
- (c) an employee or partner of the person;
- (d) the trustee of a trust of which the person, his spouse, minor child or minor step-child, is a beneficiary or a discretionary object;
- (e) another person who has agreed or arranged to act together with the person to acquire, hold or dispose of shares or other interests in a corporation or to act together in voting in the corporation;
- (f) another person in accordance with whose directions the person is accustomed or obliged to act;
- (g) another person accustomed or obliged to act in accordance with the directions of the person;
- (h) a corporation in accordance with whose directions or the directions of its directors the person is accustomed or obliged to act;
- (i) a corporation accustomed or obliged to act, or whose directors are accustomed or obliged to act, in accordance with the directions of the person;
- (j) a corporation of which the person, either alone or together with his spouse, minor child or minor step-child, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;

- (k) a corporation of which the person, either alone or together with another, including a corporation in which the person is entitled to exercise or control the exercise of 35% or more of its voting power, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;
- (l) a corporation of which the person controls the composition of the board of directors of the corporation;
- (m) if the person is a corporation—
  - (i) a director of the corporation;
  - (ii) a corporation which is a holding company of the corporation or a subsidiary of the holding company;
  - (iii) a subsidiary of the corporation;
  - (iv) a director or employee of the subsidiary;
  - (v) a pension fund, provident fund or employee share scheme of the corporation or of a subsidiary of the corporation;

***bathing beach*** (泳灘) means any bathing beach which is specified in the Fourth Schedule to the Public Health and Municipal Services (Cap. 132);

***bulk chemical storage facility*** (散裝化學物品貯存設施) means a facility that is or may be used for storing materials of a hazardous nature for delivery to or by seagoing bulk chemical carriers and includes related product blending, drum and bottle storage and dispatch facilities;

***Chairman*** (主席) means the Chairman of the Appeal Board panel appointed under section 18(2);

***chemical waste*** (化學廢物) means waste which is chemical waste within the meaning of Waste Disposal (Chemical Waste) (General) Regulation (Cap. 354 sub. leg. C);

***coastal protection area*** (海濱保護區) means a coastal protection area shown in a draft or approved plan prepared under section 3 of the Town Planning Ordinance (Cap. 131);

***conservation area*** (自然保育區) means a conservation area shown in a draft or approved plan prepared under section 3 of the Town Planning Ordinance (Cap. 131);

***container backup facilities*** (貨櫃支援設施) means facilities essential to the handling of containers which do not require (but may have) a waterfront location and includes container yards, empty container storage and repair depots, container freight stations and container vehicle parks;

***controls the composition of the board of directors of the corporation*** (控制法團董事局的組成) means to be able, either alone or with the consent or concurrence of another person, to appoint or remove a majority of

the directors and a person is taken as having the power to appoint or remove a director if—

- (a) a director cannot be appointed without the person exercising a power in favour of the prospective director; or
- (b) a person's appointment as a director follows necessarily from his being a director or other officer of the person;

**corporation** (法團) means any company or other body corporate incorporated in Hong Kong or elsewhere, but does not include—

- (a) any body corporate that is incorporated in Hong Kong and is a public authority or an organ or agency of the Government;
- (b) any corporation sole;
- (c) any credit union registered under the Credit Unions Ordinance (Cap. 119); or
- (d) any corporation registered under the Building Management Ordinance (Cap. 344);

**country park** (郊野公園) means a country park within the meaning of section 2 of the Country Parks Ordinance (Cap. 208);

**crematorium** (火葬場) means a crematorium within the meaning of the Public Health and Municipal Services Ordinance (Cap. 132);

**decommissioning** (解除運作) means ceasing production and demolishing an existing plant for the development or redevelopment of the site;

**Deputy Chairman** (副主席) means a Deputy Chairman of the Appeal Board panel appointed under section 18(3);

**designated project** (指定工程項目) means a project listed in Schedule 2 or 3 or specified by the Secretary under section 4(4) as a designated project;

**Director** (署長) means the Director of Environmental Protection;

**education institution** (教育機構) means an institution, organization or place which provides, or where there is provided, for 10 or more persons during any one day, whether or not at the same time, kindergarten, primary, secondary or post secondary education or any other educational course;

**environment** (環境)—

- (a) means the components of the earth; and
- (b) includes—
  - (i) land, water, air and all layers of the atmosphere;
  - (ii) all organic and inorganic matter and living organisms; and
  - (iii) the interacting natural systems that include any of the things referred to in subparagraph (i) or (ii);

**environmental impact** (環境影響), for a designated project, means—

- (a) an on-site or off-site change that the project may cause in the environment;
- (b) an effect of the change on—
  - (i) the well-being of people, flora, fauna and ecosystems; (*Amended E.R. 1 of 2021*)
  - (ii) physical and cultural heritage;
  - (iii) a structure, site or other thing that is of historical or archaeological significance;
- (c) an on-site or off-site effect on any of the things referred to in paragraph (b) from activities carried on for the project;
- (d) a change to the project that the environment may cause, whether the change or effect occurs within or outside the site of the project;

***environmental impact assessment report*** (環境影響評估報告) means a report prepared under section 6;

***environmental impact assessment study brief*** (環境影響評估研究概要) means a study brief issued under section 5(7)(a);

***environmental permit*** (環境許可證) means an environmental permit issued under section 10(5);

***existing uses*** (現有用途) means those uses existed at the time when the application under sections 9 and 13 are made;

***expressway*** (快速公路) means an expressway within the meaning of section 122 of the Road Traffic Ordinance (Cap. 374);

***fish culture zone*** (魚類養殖區) means a fish culture zone within the meaning of section 2 of the Marine Fish Culture Ordinance (Cap. 353);

***health care institution*** (健康護理機構) means hospitals, polyclinics and clinics;

***heavy railway*** (重型鐵路) means railway for freight transport or for a passenger transit system with a capacity exceeding 40 000 passengers per hour per direction;

***industrial estate*** (工業邨) means any industrial estate referred to in Schedule 1 to the Hong Kong Science and Technology Parks Corporation Ordinance (Cap. 565); (*Replaced 5 of 2001 s. 40*)

***light railway*** (輕型鐵路) means railway for a passenger transit system with a capacity not exceeding 40 000 passengers per hour per direction;

***major extensions or improvements to existing roads*** (對現有道路作重大擴建或改善) means a physical addition, alteration or re-alignment to existing roads which results in an adverse environmental impact as defined in the technical memorandum;

**marine park** (海岸公園) means a park within the meaning of the Marine Parks Ordinance (Cap. 476); (*Amended E.R. 1 of 2021*)

**marine reserve** (海岸保護區) means a reserve area that falls within the meaning of the Marine Parks Ordinance (Cap. 476);

**material change** (實質改變) means a physical addition or alteration to a designated project which results in an adverse environmental impact as defined in the technical memorandum;

**mid-stream operations** (中流作業) means the working of cargo by a ship while moored at a buoy or while at anchor;

**mitigation** (緩解), for a designated project—

(a) means the elimination, reduction or control of the adverse environmental impact of the project;

(b) includes restitution by replacement, restoration, compensation or other means for damage to the environment caused by the impact;

**pier** (碼頭) means a structure built out over the water and supported by pillars or piles, used as a landing place for ferries, boats, ships and other vessels including structures accommodating hydrofoil and jetfoil vessels;

**planned use** (計劃用途) means the land use proposed in the draft or approved plans prepared under the Town Planning Ordinance (Cap. 131) or any other land use plans published by the Government;

**primary distributor** (主要幹路) means roads forming the major network of the urban area including roads having high capacity junctions, although they may be at grade or grade separated, with segregated pedestrian facilities wherever possible and frontage access limited if not entirely restricted, and with a 24-hour stopping restriction; (*Amended E.R. 1 of 2021*)

**project profile** (工程項目簡介) means the description of the project that complies with the requirements of the technical memorandum;

**public cargo working area** (公眾貨物裝卸區) means an area set out in the Port Control (Cargo Working Areas) Ordinance (Cap. 81) as a public cargo working area;

**quarantine station or segregation place for animals** (動物檢疫站或隔離處) means a place used for the quarantine of animals when they are imported into Hong Kong and detained there for such period as the veterinary officer may require;

**railway depot** (鐵路車廠) means a facility for the storage, maintenance or repair of light or heavy railway rolling stock or equipment used for track maintenance, including areas where shunting facilities are used for operational purposes;

- railway marshalling yard** (鐵路調車場) means a facility in a railway system mainly for sorting train wagons into different formations according to an order for operation purposes;
- religious institution** (宗教機構) means a place or building, or a place of worship where in accordance with the practice of religious principles services are held or prayers said by congregations loyal to a belief and includes Chinese temples as set out in paragraph (b) of the definition of **Chinese temple** in section 2 of the Chinese Temples Ordinance (Cap. 153) and ancillary offices car parks and quarters that are essential to the operation of the particular organization;
- river trade limits** (內河航限) means the river trade limits defined in the Shipping and Port Control Ordinance (Cap. 313);
- river trade terminal** (內河碼頭) means a terminal for handling or storing cargo by vessels routinely operating within waters within river trade limits;
- road tunnel** (行車隧道) means a private or public tunnel and its portal area within the meaning of the Road Tunnels (Government) Ordinance (Cap. 368);
- Secretary** (局長) means the Secretary for Environment and Ecology; (Replaced 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022)
- service reservoir** (配水庫) means a place or structure where water from a water treatment works is stored for delivery to other service reservoirs for distribution to the consumers of a water supply district;
- ship building or ship repairing yard** (船舶建造或修理場) means any place, structure or building in which ships, boats and other sailing vessels are constructed, repaired, renewed or broken down into parts;
- site of cultural heritage** (文化遺產地點) means an antiquity or monument, whether being a place, building, site or structure or a relic, as defined in the Antiquities and Monuments Ordinance (Cap. 53) and any place, building, site, or structure or a relic identified by the Antiquities and Monuments Office to be of archaeological, historical or palaeontological significance; (Amended E.R. 1 of 2021)
- site of special scientific interest** (具有特別科學價值的地點) means an area of land or water of special scientific interest by reason of its flora, fauna or geographical features identified by the Agriculture, Fisheries and Conservation Department and listed in the register of sites of special scientific interest maintained by the Planning Department; (Amended L.N. 331 of 1999)
- special area** (特別地區) means a special area as defined in the Country Parks Ordinance (Cap. 208);
- special wastes** (特殊廢物) includes clinical waste, animal carcasses and security waste, including Government documents including those to be

treated by centralised incineration facility;

**technical memorandum** (技術備忘錄) means a technical memorandum issued under section 16;

**tramway** (電車軌道) means the roadway over which a tram passes and the roadway of any bridge forming part of or leading to the roadway as defined in the Tramway Ordinance (Cap. 107);

**transport depot** (運輸車廠) means a facility for the construction, repair or maintenance of transport vehicles and their parking when not in operation;

**trunk road** (幹道) means a road connecting the main centres of population being a high capacity road with no frontage access or development, pedestrians segregation, widely spaced grade-separated junctions, and a 24-hour stopping restriction; (*Amended E.R. 1 of 2021*)

**typhoon shelter** (避風塘) means a typhoon shelter within the meaning of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E); (*Amended 24 of 2005 s. 55*)

**wild animal protection area** (野生動物保護區) means an area designated as a restricted area under Schedule 6 to the Wild Animals Protection Ordinance (Cap. 170). (*Amended E.R. 1 of 2021*)

## 2. Interpretation

In this Notice—

***industrial building*** (工業建築物) means a building the whole or any part of which is approved by the Building Authority for any of the following uses under a plan approved under the Buildings Ordinance (Cap. 123)—

- (a) godown;
- (b) any industry in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed;

***industrial zone*** (工業地帶) means a zone that is set apart for industrial use in a draft plan prepared by the Town Planning Board or approved by the Chief Executive in Council under the Town Planning Ordinance (Cap. 131);

***occupation permit*** (佔用許可證) means an occupation permit issued by the Building Authority under section 21(2) of the Buildings Ordinance (Cap. 123);

***relevant date*** (有關日期), in relation to a lot in respect of which an application is made under section 3(1) of the Ordinance, means the date of the application;

***unit*** (單位) means any premises that are described by reference to a specified number of undivided shares in a lot in any instrument registered in the Land Registry.



## Schedule 3

[ss. 5A &amp; 50]

### Service of Documents

*(Format changes—E.R. 1 of 2013)*

Item	Enactment	Provision
1.	Landlord and Tenant (Consolidation) Ordinance (Cap. 7) <i>(Amended 36 of 2021 s. 17)</i>	Sections 119Y(1)(a) and (b) and 120AAZZH(1)(a) and (b)
2.	Rating Ordinance (Cap. 116)	Section 50(1)
3.	Government Rent (Assessment and Collection) Ordinance (Cap. 515)	Section 45(1)
4.	Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) <i>(Added L.N. 151 of 2006)</i>	Section 21(1)
5.	Roads (Works, Use and Compensation) Ordinance (Cap. 370) <i>(Added L.N. 151 of 2006)</i>	Sections 10(1) and (3) and 29(1)
6.	Railways Ordinance (Cap. 519) <i>(Added L.N. 151 of 2006)</i>	Sections 10(1) and (4), 27(6) and (7) and 34(1)
7.	Electricity Ordinance (Cap. 406) <i>(Added L.N. 214 of 2007)</i>	Section 52
8.	Inland Revenue Ordinance (Cap. 112) <i>(Added L.N. 214 of 2007)</i>	Section 58(2)
9.	Waterworks Regulations (Cap. 102 sub. leg. A) <i>(Added L.N. 249 of 2008)</i>	Regulation 49(1)(a) and (b)
10.	Census and Statistics Ordinance (Cap. 316) <i>(Added L.N. 83 of 2009)</i>	Section 12(3)(a) and (b)

Item	Enactment	Provision
11.	Business Registration Ordinance (Cap. 310) <i>(Added 13 of 2010 s. 30)</i>	Section 20
12.	Ferry Services Ordinance (Cap. 104) <i>(Added L.N. 213 of 2021)</i>	Section 28(3)
13.	Buildings Ordinance (Cap. 123) <i>(Added L.N. 225 of 2021)</i>	Sections 3(11), (11A) (b) and (11C), 8C(6) (b) and 35(1)(a) and (b)
14.	Building (Administration) Regulations (Cap. 123 sub. leg. A) <i>(Added L.N. 225 of 2021)</i>	Regulation 6(1) (to the extent to which it relates to a document that is not one specified under regulation 6A(1)(a))
15.	Building (Minor Works) Regulation (Cap. 123 sub. leg. N) <i>(Added L.N. 225 of 2021)</i> <i>(Schedule 3 added 14 of 2004 s. 28)</i>	Section 46(2)(a)

**25. Development schemes**

- (1) The Authority may, in accordance with this section, implement a project by way of a development scheme.
- (2) No objection shall be entertained or considered in respect of a project which is to be implemented by way of a development scheme under this section and the objection procedures set out in section 24 shall not be applicable in respect of any such project or in respect of the implementation of that project by way of a development scheme.
- (3) A development scheme shall contain such matters as the Authority considers relevant and shall—
  - (a) comprise a plan which may contain any thing that a draft plan may contain under section 3 or 4 of the Town Planning Ordinance (Cap. 131);
  - (b) set out how the Authority intends that the development scheme will be implemented, including whether implementation will be by the Authority alone or the Authority in association with another person and in relation to land within the boundaries of the development scheme, what portion of the land is owned or leased by the Authority and what arrangements have been made or are contemplated by the Authority for the acquisition of any land not so owned or leased;
  - (c) contain an assessment by the Authority as to the likely effect of the implementation of the development scheme including, in relation to the residential accommodation of persons who will be displaced by the implementation of the development scheme, an assessment as to whether or not, insofar as suitable residential accommodation for such persons does not already exist, arrangements can be made for the provision of such residential accommodation in advance of any such displacement which will result as the development scheme is implemented.

- (4) Without affecting the generality of subsection (3)(a), a plan prepared under that subsection may provide for the grant of permission under section 16 of the Town Planning Ordinance (Cap. 131), for all purposes or for any purpose, and may prohibit any development not compatible with any development scheme prepared under that subsection.
- (5) The Authority may submit any plan prepared under subsection (3)(a) to the Town Planning Board for consideration under subsection (6).
- (6) Upon the submission to it of a plan prepared under subsection (3)(a), the Town Planning Board may—
  - (a) deem the plan as being suitable for publication;
  - (b) deem the plan as being suitable for publication subject to such amendments as the Town Planning Board shall specify; or
  - (c) refuse to deem the plan as being suitable for publication.
- (7) A plan which the Town Planning Board deems suitable for publication under subsection (6)(a) or (b) shall be deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131) and the provisions of that Ordinance shall apply accordingly.
- (8) Where a draft plan of a development scheme deemed to be a draft plan prepared by the Town Planning Board under subsection (7) is amended by the Town Planning Board under the Town Planning Ordinance (Cap. 131), whether under section 6F(8) (whether with or without application of section 6F(9) of that Ordinance) or 6G of that Ordinance or section 7 of that Ordinance, and the amendments include an expansion in the boundaries of the plan, the commencement date of the implementation of the part of the development scheme concerning the additional land within the expanded boundaries shall be the date when the proposed amendments in question are first made available for public inspection under section 6C(1) of that Ordinance or the date when the amendments are first exhibited for public inspection under section 7 of that Ordinance, as the case may be. The commencement date of the implementation of the part of the development scheme concerning the land included in the original development scheme published by the Town Planning Board under subsection (6) shall remain as provided under section 23(2).  
*(Amended 25 of 2004 s. 26)*

- (9) Where under section 5 of the Town Planning Ordinance (Cap. 131) a plan which is deemed to be a draft plan by virtue of subsection (7) is exhibited, such plan shall, from the date that the exhibition of the plan is first notified in the Gazette, replace or amend according to its tenor, any draft or approved plan under that Ordinance relating to the area delineated and described therein.
- (10) Where under section 9 of the Town Planning Ordinance (Cap. 131) the Chief Executive in Council refuses to approve a plan which is deemed to be a draft plan by virtue of subsection (7), such refusal shall be notified in the Gazette and shall revive any draft or approved plan under that Ordinance which, under subsection (9), was replaced or amended thereby.

**26. Development projects to accord with Town Planning Ordinance**

- (1) Subject to subsection (2), the Authority may implement a project by way of a development project.
- (2) In implementing a project as a development project, the Authority shall ensure that the project is a project that may be lawfully implemented by virtue of any draft or approved plan for the purposes of the Town Planning Ordinance (Cap. 131) and, in the case where by virtue of such plan, permission under section 16 of that Ordinance is required for that implementation, the permission required has been obtained.

**19. Contents of sales brochure: information required to be set out**

- (1) The sales brochure for the development must first set out the steps that a person is advised to take for the person's own protection before deciding to purchase a residential property in the development.

**Note—**

The Authority is empowered under section 88 to issue guidelines providing guidance on the operation of this section.

- (2) The sales brochure for the development must then set out the following information in compliance with Part 1 of Schedule 1 —

- (a) information on the development;
- (b) information on the vendor and the others involved in the development;
- (c) the relationship between the parties involved in the development;
- (d) information on the design of the development;
- (e) information on the property management;
- (f) a location plan of the development;
- (g) an aerial photograph of the development;
- (h) either of the following plans relating to the development —
  - (i) the outline zoning plan or development permission area plan, whether in draft or approved form, that is prepared under the Town Planning Ordinance (Cap. 131);
  - (ii) a plan that, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), is deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131);
- (i) a layout plan of the development;
- (j) floor plans of the residential properties in the development;
- (k) the area of the residential properties in the development;
- (l) floor plans of the parking spaces in the development;

- (m) a summary of the preliminary agreement for sale and purchase;
  - (n) a summary of—
    - (i) for an uncompleted development, the latest draft of every deed of mutual covenant in respect of the specified residential property as at the date on which the sales brochure is printed; or
    - (ii) for a completed development, either or both of the following as applicable—
      - (A) every deed of mutual covenant in respect of the specified residential property that has been executed;
      - (B) the latest draft of every deed of mutual covenant in respect of the specified residential property as at the date on which the sales brochure is printed;
  - (o) a summary of the land grant;
  - (p) information on—
    - (i) any facilities that are required under the land grant to be constructed and provided for the Government, or for public use;
    - (ii) any facilities or open space that is required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development; or
    - (iii) any part of the land (on which the development is situated) that is dedicated to the public for the purposes of regulation 22(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F).
- (3) The sales brochure for the development must then set out the information required by Part 2 of Schedule 1.
- (4) The information specified in subsection (2) must be set out in the sales brochure in the order in which the information is so specified.
- (5) If the sales brochure for the development is required by subsection (2), or by Part 2 of Schedule 1 as applied by subsection (3), to set out any information that is not applicable to the development, the sales brochure—
- (a) must include a paragraph for the information with the appropriate heading;

- (b) must state in that paragraph that the information is not applicable to the development; and
  - (c) must comply with this section with respect to the location of that paragraph as if the information had been set out in the paragraph.
- (6) If subsection (1), (2), (3) or (4) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.
- (7) The sales brochure for the development is not to be regarded as contravening subsection (2) or (3) for not setting out any information that is not applicable to the development if it complies with subsection (5) in relation to the information.

**48. Plans and documents to be made available to general public**

- (1) On a date of the sale mentioned in section 14(1), the vendor must make the following available for inspection by the general public free of charge at the place where the sale is to take place—
- (a) a copy of either of the following plans relating to the development—
    - (i) the outline zoning plan or development permission area plan, whether in draft or approved form, that is prepared under the Town Planning Ordinance (Cap. 131);
    - (ii) a plan that, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), is deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131);
  - (b) a copy of the approved building plans for the development;
  - (c) a copy of—
    - (i) for an uncompleted development, the latest draft of every deed of mutual covenant in respect of the specified residential property as at that date; or
    - (ii) for a completed development, either or both of the following as applicable—
      - (A) every deed of mutual covenant in respect of the specified residential property that has been executed;
      - (B) the latest draft of every deed of mutual covenant in respect of the specified residential property as at that date;



- (d) a copy of the land grant;
  - (e) the aerial photograph of the development as set out in the sales brochure for the development.
- (2) For the purposes of subsection (1)(e), the aerial photograph—
    - (a) must be at a scale within the range of 1:700 to 1:800; and
    - (b) is not required to comply with section 7(3)(a) of Schedule 1.
  - (3) Subsection (1)(b) does not apply in the case of a specified NT development.
  - (4) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine at level 6.

**73. Additional requirements for printed advertisement**

- (1) This section applies to—
  - (a) an advertisement in a newspaper;
  - (b) an advertisement by the display of posters, notices, signs, labels, showcards or goods; or
  - (c) an advertisement by the distribution of circulars, brochures, catalogues or any other materials.
- (2) An advertisement must state—
  - (a) the district in which the development is situated, as stated in a plan relating to the development and specified in subsection (9);
  - (b) the name of the street at which the development is situated; and
  - (c) the street number allocated by the Commissioner of Rating and Valuation for the purpose of distinguishing the development.
- (3) An advertisement must state the names of the following—
  - (a) the vendor, and if a vendor is a corporation, every holding company of that vendor;
  - (b) the authorized person for the development, and the firm or corporation of which an authorized person for the development is a proprietor, director or employee in his or her professional capacity;
  - (c) the building contractor for the development;
  - (d) the firm of solicitors acting for the owner in relation to the sale of residential properties in the development;

- (e) any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the development;
  - (f) any other person who has made a loan for the construction of the development.
- (4) An advertisement must, in the case of a specified NT development, state—
  - (a) the period for which the authorized person for the development is appointed to supervise the construction of the development; and
  - (b) the period for which the building contractor for the development is appointed to construct the development.
- (5) An advertisement must state the address of the website designated or to be designated by the vendor for the development for the purposes of Part 2.
- (6) An advertisement must state the date on which it is printed.
- (7) If an advertisement contains a picture, image, drawing or sketch showing an artist's impression of the development or its surrounding area, the advertisement must contain a statement specified in section 74.
- (8) For a statement contained in an advertisement for the purposes of subsection (2), (5) or (7)—
  - (a) if the size of the advertisement is not larger than 1 039 square centimetres—
    - (i) in the case of an English statement, the size of the letters or numbers must not be smaller than the size of the same letters or numbers in 10 point Times New Roman typeface; or
    - (ii) in the case of a Chinese statement, the size of the characters or numbers must not be smaller than the size of the same characters or numbers in 10 point “新細明體” typeface;
  - (b) if the size of the advertisement is larger than 1 039 square centimetres but is not larger than 2 077 square centimetres—
    - (i) in the case of an English statement, the size of the letters or numbers must not be smaller than the size of the same letters or numbers in 12 point Times New Roman typeface; or

- (ii) in the case of a Chinese statement, the size of the characters or numbers must not be smaller than the size of the same characters or numbers in 12 point “新細明體” typeface;
  - (c) if the size of the advertisement is larger than 2 077 square centimetres but is not larger than 4 155 square centimetres—
    - (i) in the case of an English statement, the size of the letters or numbers must not be smaller than the size of the same letters or numbers in 16 point Times New Roman typeface; or
    - (ii) in the case of a Chinese statement, the size of the characters or numbers must not be smaller than the size of the same characters or numbers in 16 point “新細明體” typeface; or
  - (d) if the size of the advertisement is larger than 4 155 square centimetres, the letters, characters and numbers must occupy at least 3% of the area of the advertisement.
- (9) The plan specified for the purposes of subsection (2)(a) is—
- (a) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131); or
  - (b) a plan that, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), is deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131).
- (10) In the case of an advertisement purporting to promote the sale of any specified residential property in a phase of a development, subsections (2)(b) and (c), (3), (5) and (7) apply to the advertisement as if a reference in those sections to the development were a reference to that phase.
- (11) If subsection (2) is contravened, a person who publishes the advertisement, or causes the advertisement to be published, commits an offence and is liable to a fine of \$500,000.
- (12) If subsection (3), (4), (5), (6), (7) or (8) is contravened, a person who publishes the advertisement, or causes the advertisement to be published, commits an offence and is liable to a fine at level 6.

**17. No specified instrument issued if columbarium subject to specified law enforcement action**

- (1) Subsections (2) and (3) have effect despite section 13.
- (2) The Licensing Board may not grant an application for the issue of a specified instrument in respect of a columbarium if —
  - (a) the operation of the columbarium, or any part of it, constitutes an unauthorized development in contravention of section 20(7) or 21(1) of the Town Planning Ordinance (Cap. 131); and
  - (b) in respect of the unauthorized development—
    - (i) proceedings for prosecution of an offence under section 20(8) or 21(2) of that Ordinance have been instituted, whether against the applicant or any other person, before the making of the application; or
    - (ii) a notice—
      - (A) has been served, whether on the applicant or any other person, under section 23(1) or (2) of that Ordinance before the making of the application; and
      - (B) has not been complied with or withdrawn.
- (3) The Licensing Board may not grant an application for the issue of a specified instrument in respect of a columbarium if —
  - (a) any building or building works in, on or at the columbarium, or any part of it, have been completed or carried out in contravention of section 14(1) of the Buildings Ordinance (Cap. 123); and
  - (b) in respect of the building or building works, an order under section 24(1) of that Ordinance—
    - (i) has been served, whether on the applicant or any other person, before the making of the application; and
    - (ii) has not been complied with or withdrawn.

**111. Effect of Town Planning Ordinance modified**

- (1) Sections 20(8), 21(2) and 23(1) and (2) of the Town Planning Ordinance (Cap. 131) do not apply in respect of an unauthorized development undertaken or continued on any land during a period if—
  - (a) the development is necessary for, or ancillary to, the operation of a pre-cut-off columbarium; and
  - (b) the condition specified in subsection (2), (3) or (5) is met during the period.
- (2) The condition is that either of the following instruments is in force in respect of the pre-cut-off columbarium—
  - (a) an exemption;
  - (b) a temporary suspension of liability.
- (3) The condition is that an application for the issue of an exemption, or the issue of a temporary suspension of liability, in respect of the pre-cut-off columbarium—
  - (a) has been made but has not been determined;
  - (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or
  - (c) has been refused, which refusal has been appealed against but the appeal has not yet been determined.
- (4) Subsection (3) does not apply if, before the making of the application and in respect of an unauthorized development undertaken or continued on the land referred to in subsection (1), or any part of it—
  - (a) proceedings for the prosecution of an offence under section 20(8) or 21(2) of the Town Planning Ordinance (Cap. 131) have been instituted, whether against the applicant or any other person; or
  - (b) a notice—
    - (i) has been served under section 23(1) or (2) of that Ordinance, whether on the applicant or any other person; and
    - (ii) has not been complied with or withdrawn.
- (5) The condition is that an application for the renewal of an exemption, or the extension of a temporary suspension of liability, in respect of the pre-cut-off columbarium—
  - (a) has been made but has not been determined;
  - (b) has been refused, and the period within which a notice of appeal may be lodged against the refusal has not yet expired; or

- (c) has been refused, which refusal has been appealed against and is suspended from operation under section 43 pending the determination of the appeal.