

# 《土地徵用 ( 管有業權 ) 條例》

## ( 第 130 章 )

# Land Acquisition (Possessory Title) Ordinance

## (Cap. 130)

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## 經核證文本

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E-1

第 130 章

E-2

Cap. 130

### 制定史

本為 1983 年第 41 號 —— 1983 年編正版，1985 年第 64 號，1986 年第 94 號法律公告，1988 年第 2 號，1989 年編正版，1991 年第 4 號，1993 年第 291 號法律公告，1996 年第 (C)117 號法律公告 ( 中文真確本 )，1998 年第 25 號，1998 年第 29 號，1998 年第 315 號法律公告，2000 年第 62 號，2001 年第 6 號，2012 年第 2 號，2019 年第 6 號編輯修訂紀錄

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## 《土地徵用（管有業權）條例》

## （第 130 章）

## 目錄

條次		頁次
1.	簡稱	1
2.	釋義	1
3.	徵用土地作公共用途	3
4.	公告及圖則	5
5.	土地轉歸政府以及進入與接管的權利	9
6.	對被徵用土地的擁有權申索	9
7.	領取補償的權利及補償申索	11
8.	評估補償的規則	13
9.	補償待決期間的暫支款項	19
10.	補償及利息的支付	21
11.	有權領取補償的人不能尋獲等情況下作出的付款	25
12.	禁止針對政府採取法律行動	25
13.	證據、公告等	27

## Land Acquisition (Possessory Title) Ordinance

## (Cap. 130)

## Contents

Section	Page
1. Short title	2
2. Interpretation	2
3. Acquisition of land for a public purpose	4
4. Notices and plans	6
5. Vesting of land in the Government, and right to enter and take possession	10
6. Claim of ownership of land acquired	10
7. Entitlement to compensation and claims therefor	12
8. Rules for assessing compensation	14
9. Provisional payment pending determination of compensation	20
10. Payment of compensation and interest	22
11. Payment when person entitled cannot be found, etc.	26
12. Barring actions against the Government	26
13. Evidence, notices, etc.	28

本條例旨在就為公共用途而需對憑藉《時效條例》(第 347 章) 根據管有業權持有的土地作出的徵用、該等徵用的補償，以及附帶與相關事宜，訂定條文。

[1983 年 7 月 15 日]

(格式變更——2019 年第 6 號編輯修訂紀錄)

## 1. 簡稱

本條例可引稱為《土地徵用 (管有業權) 條例》。

## 2. 釋義

在本條例中，除文意另有所指外——

**土地** (land) 指不動產；

**工作日** (working day) 就第 9 及 10 條而言，指——

- (a) 既非公眾假日；
  - (b) 亦非《釋義及通則條例》(第 1 章) 第 71(2) 條所界定的烈風警告日或黑色暴雨警告日，
- 的任何日子；(由 2001 年第 6 號第 4 條增補)

**非工作日** (non-working day) 指並非工作日的日子；(由 2001 年第 6 號第 4 條增補)

**發鈔銀行** (note-issuing bank) 就第 9 及 10 條而言，具有《法定貨幣紙幣發行條例》(第 65 章) 第 2 條給予該詞的涵義；(由 2001 年第 6 號第 4 條增補)

**補償** (compensation) 指本條例下的補償；

**署長** (Director) 指地政總署署長；(由 1986 年第 94 號法律公告修訂；由 1993 年第 291 號法律公告修訂)

To provide for the acquisition of land, held under a possessory title by virtue of the Limitation Ordinance (Cap. 347), required for public purposes, the compensation for such acquisition, and for matters incidental thereto and connected therewith.

[15 July 1983]

(Format changes—E.R. 6 of 2019)

## 1. Short title

This Ordinance may be cited as the Land Acquisition (Possessory Title) Ordinance.

## 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)

**管有業權** (possessory title) 指憑藉《時效條例》(第 347 章) 第 7(1) 及 17 條相對於政府而有的對土地的管有業權；(由 1998 年第 29 號第 105 條修訂)

**徵用令** (acquisition order) 指根據第 3(1) 或 (2) 條作出的徵用令；

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

- (a) 徵用衛生情況欠佳的物業，以確使經改善的住宅或建築物豎設於物業之上，或確使物業的衛生情況獲得改善；(由 1998 年第 315 號法律公告修訂)
- (b) 徵用豎設有任何建築物的任何土地，而該建築物是由於接近或連接任何其他建築物，以致嚴重干擾空氣流通，或在其他方面造成或導致該等其他建築物的狀況不適合人居住或危害或損害健康的；
- (c) 為與香港駐軍有關的任何用途而作出的徵用；及 (由 2012 年第 2 號第 3 條代替)
- (d) 為行政長官會同行政會議決定為公共用途之任何類別用途而作出的徵用，不論該用途是否與以上的任何用途同類；(由 2000 年第 62 號第 3 條修訂)

**擁有人** (owner) 指對土地有佔有業權的人；

**擁有權申索** (claim of ownership) 指對佔有業權的申索；

**轉歸日期** (date of vesting) 指根據本條例徵用的土地根據第 5 條轉歸政府的日期。(由 1998 年第 29 號第 105 條修訂)  
(編輯修訂——2019 年第 6 號編輯修訂紀錄)

### 3. 徵用土地作公共用途

**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) 每當行政長官會同行政會議決定須徵用任何土地作公共用途，而署長覺得有任何人聲稱或可能聲稱該土地是根據管有業權持有的，則署長可作出徵用令，根據本條例徵用該土地。
- (2) 每當行政長官會同行政會議根據《收回土地條例》(第 124 章) 第 3 條決定，須收回任何土地作公共用途，而署長覺得有任何人聲稱或可能聲稱該土地或其任何部分是根據管有業權持有的，則署長可作出徵用令，根據本條例徵用該土地或該部分。*(由 1998 年第 29 號第 43 條修訂)*  
*(由 2000 年第 62 號第 3 條修訂)*

#### 4. 公告及圖則

- (1) 凡已就任何土地作出徵用令，則徵用令的公告——
  - (a) 須由署長送達予——
    - (i) 署長覺得可能就該土地或其任何部分作出擁有權申索的每個人（如屬能尋獲者）；及
    - (ii) 署長覺得是該土地或其任何部分的佔用人的每個人（如屬能尋獲者）；
  - (b) 須由署長——
    - (i) 以中英文在一期憲報刊登；
    - (ii) 在一份英文報章刊登一期；
    - (iii) 在一份中文報章刊登一期；及
    - (iv) 藉著在該土地的顯眼部分張貼一份中英文公告的方法公布；及

- (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



- (c) 須由署長提供予公眾人士於署長所指示的政府辦事處通常向公眾人士開放的時間內，在該等辦事處免費查閱。
- (2) 根據第(1)款發出的公告，須——
- (a) 採用由署長不時決定的格式；
  - (b) 描述所徵用的土地，並述明已就該土地作出徵用令；
  - (c) 述明在何處及何時可依據第(1)(c)款查閱該徵用令的文本及(如屬適當)該土地的圖則；
  - (d) 述明該公告被張貼在該土地的日期；
  - (e) 聲明該公告所描述的土地，將於(d)段述明的日期起計一個月屆滿時，或由署長決定並在該公告內述明的較長期間屆滿時，憑藉第5條轉歸政府，而任何人在該土地或其上的每項權益、權利或地役權，即告終絕；(由1998年第29號第105條修訂)
  - (f) 述明就該公告所描述的土地或其任何部分作出擁有權申索的每個人，或申索該土地或其上的任何權益、權利或地役權的每個人，均須按照第6(1)條，在轉歸日期前或在署長准許的延長期間(如有的話)內，向署長呈交其申索的書面通知，連同其所管有的證據以證實其申索。
- (3) 根據本條送達、刊登與公布的公告，須當作是給予就該土地而有權作出擁有權申索的每個人的通知，以及給予在該土地或其上有任何權益、權利或地役權的每個其他人的通知。

- (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.

**5. 土地轉歸政府以及進入與接管的權利**

在根據第 4 條發出的公告內根據第 4(2)(e) 條述明的期間屆滿時，該公告所描述的土地，連同進入與接管該土地的權利，即轉歸政府，而不受制於任何權益、權利或各種地役權。

(由 1998 年第 29 號第 105 條修訂)

**6. 對被徵用土地的擁有權申索**

(1) 凡任何人就根據第 4 條發出的公告所描述的土地或其任何部分而——

(a) 有權作出擁有權申索；或

(b) 聲稱有任何權益、權利或地役權，

他須在轉歸日期前或在署長就任何個案而容許的延長期間內，向署長呈交他的申索的書面通知，連同他所管有的證據以證實他的申索。

(2) 署長可運用其絕對酌情決定權接受或駁回根據第 (1) 款呈交的申索。

(3) 署長如——

(a) 駁回根據第 (1) 款呈交的申索；或

(b) 拒絕容許在轉歸日期後有一段延長期間以供根據第 (1) 款呈交申索，

則申索人可向原訟法庭申請對其申索作出裁定，而在任何該等法律程序中，署長即為被告人。(由 1998 年第 25 號第 2 條修訂)

(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.

**5. Vesting of land in the Government, and right to enter and take possession**

Upon the expiry of the period stated under section 4(2)(e) in a notice under that section, the land described in the notice, together with the right to enter upon and take possession of it, shall vest in the Government free of all interests, rights or easements of any kind.

(Amended 29 of 1998 s. 105)

**6. Claim of ownership of land acquired**

(1) Where a person—

(a) has a claim of ownership; or

(b) claims to have any interest, right or easement,

in respect of land described in the notice under section 4 or any part thereof, he shall, before the date of vesting or within such further period as the Director may allow in any case, submit to the Director written notice of his claim, together with such evidence as he may possess to substantiate it.

(2) The Director may in his absolute discretion accept or reject a claim submitted under subsection (1).

(3) If the Director—

(a) rejects a claim submitted under subsection (1); or

(b) refuses to allow a further period beyond the date of vesting for the submission of a claim under subsection (1),



- (4) 根據第(3)款提出的申請，須在轉歸日期起計1年內或在原訟法庭就任何個案而容許的延長期間內提出。(由1998年第25號第2條修訂)

## 7. 領取補償的權利及補償申索

- (1) 凡——
- (a) 任何人申索任何已根據本條例被徵用的土地的擁有權或申索在該土地或其上的任何權利、權益或地役權，而該項申索獲署長根據第6(2)條接受；或
  - (b) 原訟法庭應根據第6(3)條提出的申請，宣布任何人——(由1998年第25號第2條修訂)
    - (i) 在緊接轉歸日期前，是根據本條例被徵用的任何土地的擁有人(即本條例所指的擁有人)；
    - (ii) 在緊接轉歸日期前，在根據本條例被徵用的任何土地或其上有任何權益、權利或地役權，
 該人即有權領取補償。
- (2) 任何根據第(1)款有權領取補償的人，可按署長所指明的格式呈交其補償申索，並須將署長合理規定的帳目、文件及詳情提交署長，以支持該項申索。
- (3) 根據第(2)款呈交的補償申索，可包括擁有人或有權領取補償的人聘用任何人以專業身份辦理與該項補償申索有關的事宜，因而合理招致或支付的任何費用或酬金的申索。
- (4) 凡署長與已根據第(2)款呈交補償申索的人未能就補償的款額(如有的話)達成協議，任何一方均可將該項申索轉交土地審裁處，以按照本條例及《土地審裁處條例》(第17章)裁定須支付的補償款額(如有的話)。

the claimant may apply to the Court of First Instance for the determination of his claim and in any such proceedings the Director shall be the defendant. (*Amended 25 of 1998 s. 2*)

- (4) An application under subsection (3) shall be made within 1 year from the date of vesting or within such further period as the Court of First Instance may allow in any case. (*Amended 25 of 1998 s. 2*)

## 7. Entitlement to compensation and claims therefor

- (1) Where—
- (a) a claim by a person of ownership of any land, or to any right, interest or easement in or over any land, that has been acquired under this Ordinance, is accepted by the Director under section 6(2); or
  - (b) the Court of First Instance, on application made under section 6(3), declares that a person— (*Amended 25 of 1998 s. 2*)
    - (i) was, immediately prior to the date of vesting, the owner, within the meaning of this Ordinance, of any land that has been acquired under this Ordinance;
    - (ii) had, immediately prior to the date of vesting, any interest, right or easement in or over, any land that has been acquired under this Ordinance,
 that person shall be entitled to compensation.
- (2) Any person who is entitled to compensation under subsection (1) may submit his claim for compensation in a form specified by the Director and shall furnish to the Director such accounts, documents and particulars as the Director may reasonably require in support of the claim.

- (5) 根據第 (4) 款作出的轉交，須在自轉歸日期起計的 1 年內或在土地審裁處就任何個案而容許的延長期間內作出，但就本款而言，整段期間不得超逾自轉歸日期起計的 6 年。

## 8. 評估補償的規則

- (1) 對於根據第 7 條轉交土地審裁處的申索，土地審裁處須以申索人因申索內所指明的土地被徵用而蒙受的損失或損害為基準，裁定須支付的補償款額（如有的話）。
- (2) 土地審裁處裁定根據第 (1) 款須支付的補償（如有的話）時，須以下列各項為基準——
- (a) 被徵用的土地及豎設於其上的任何建築物在轉歸日期的價值；
  - (b) 申索人在被徵用的土地或其上所擁有、持有或享有的任何權益、權利或地役權在轉歸日期的價值；
  - (c) 申索人因被徵用的土地或豎設於其上的建築物與申索人的任何與該土地或豎設於其上的建築物相連或毗鄰的其他土地或豎設於其上的建築物分割，而蒙受的損失或損害的款額；

- (3) A claim for compensation submitted under subsection (2) may include a claim for any costs or remuneration reasonably incurred or paid by the owner or person entitled to compensation in employing persons to act in a professional capacity in connection with his claim to compensation.
- (4) Where the Director and the person who has submitted a claim for compensation under subsection (2) do not agree as to the amount of the compensation (if any), either party may refer the claim to the Lands Tribunal for determination, in accordance with this Ordinance and the Lands Tribunal Ordinance (Cap. 17), of the amount of compensation (if any) to be paid.
- (5) A reference under subsection (4) shall be made within 1 year from the date of vesting or within such further period as the Lands Tribunal may allow in any case, but the total period for the purposes of this subsection shall not exceed 6 years from the date of vesting.

## 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;

- (d) 申索人於轉歸日期在被徵用的土地上或豎設於其上的建築物內經營的業務，因該項徵用而遷離該土地或該建築物，因而蒙受的損失或損害的款額；
  - (e) 申索人從他在被徵用土地上擁有或佔用的任何處所遷往其他土地或土地連建築物時所合理招致的開支的款額，或申索人為取得其他土地或土地連建築物所合理招致的有關開支的款額，但 (d) 段所適用的款額不包括在內。
- (3) 在裁定根據第 (1) 款須支付的補償 (如有的話) 時 ——
- (a) 不得因徵用屬強制性而予以任何寬容；
  - (b) 即使土地所在的任何地區、地帶或區域已預留或劃出作《城市規劃條例》(第 131 章) 第 4(1)(a)、(c)、(d)、(e)、(f)、(g)、(h) 或 (i) 條所指明的用途，或土地受該等地區、地帶或區域影響，亦不得將此事實納入考慮之列；(由 1988 年第 2 號第 8 條修訂；由 1991 年第 4 號第 10 條修訂)
  - (c) 在不抵觸第 (4) 款下，被徵用土地的價值，須被視為由自願的賣家在公開市場出售該土地而可預期變現的款額。
- (4) 當任何土地被徵用，土地審裁處在裁定根據第 (1) 款須支付的補償 (如有的話) 及估計所徵用土地及豎設於其上的任何建築物的價值時 ——
- (a) 可考慮該土地的性質及現況，該等建築物在現有狀況下頗有可能存在的時間，以及其維修狀況；及
  - (b) 可拒絕就根據第 4 條在憲報刊登公告或根據《收回土地條例》(第 124 章) 在憲報刊登擬收地公告的日期後對該土地作出的任何增建或改善作出補償 (除非該項增建或改善是為維持該物業的妥善維修狀況而有需要作出的)：(由 1998 年第 29 號第 43 條修訂)

- (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

但如有任何權益、權利或地役權是在上述刊登日期後取得的，則不得為增加補償的款額而對該權益、權利或地役權作出獨立估值。

- (5) 土地審裁處亦可收取用以證明以下各項的證據——
- (a) 由於建築物或處所用作妓院或博彩場館或任何非法用途，以致其租金提高；
  - (b) 建築物或處所的狀況構成關乎建築物或公眾衛生的任何條例所指的滋擾，或該等建築物或處所缺乏合理的良好維修；或
  - (c) 建築物或處所不適合人居住，以及無法在合理情況下使其適合人居住。
- (6) 土地審裁處如信納該等證據，則——
- (a) 在第一種情況下，補償若以租金為計算基準，則須以建築物或處所如非被佔用作妓院、博彩場館或任何非法用途而可得的租金，作為補償的基準；
  - (b) 在第二種情況下，須以滋擾減除後或建築物或處所獲合理的良好維修後，建築物或處所的估值額作為補償，但須扣除用於減除滋擾或進行該等維修(視屬何情況而定)的估計開支；及
  - (c) 在第三種情況下，須以土地的價值及豎設於其上的建築物的材料價值作為補償。

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—

**9. 補償待決期間的暫支款項**

- (1) 在等待土地審裁處對根據本條例就土地徵用而須支付的補償(如有的話)作出裁定期間,署長可——
- (a) 支付一筆款額,作為憑藉上述裁定而須支付的款額(如有的話)的暫支款項;及
  - (b) 支付根據(a)段所作付款的利息,由轉歸日期起計,至付款日期為止,而利息則按照第(1A)款按日計算。(由 1985 年第 64 號第 2 條修訂;由 2001 年第 6 號第 4 條修訂)
- (1A) 為施行第(1)(b)款,就——
- (a) 某工作日而支付的利息的利率,不得低於發鈔銀行在該日營業時間結束時就 24 小時通知存款所訂的最低利率;及
  - (b) 某非工作日而支付的利息的利率,不得低於發鈔銀行在該日之前的最後一個工作日營業時間結束時就 24 小時通知存款所訂的最低利率。(由 2001 年第 6 號第 4 條增補)

- (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



- (2) 署長根據第(1)款就任何土地徵用所作付款，並不影響根據本條例提出的補償申索，亦不影響為裁定須支付的補償額(如有的話)而根據本條例向土地審裁處呈交的事宜或土地審裁處根據本條例對須支付的補償款額(如有的話)作出的裁定；但憑藉該項裁定而須就該項徵用支付的補償款額，須扣除該已付款額。(由 1985 年第 64 號第 2 條修訂)
- (3) 憑藉土地審裁處根據本條例就任何土地徵用作出的裁定而須支付的補償款額，在根據第(2)款扣除根據第(1)款支付的款額後，餘額可由支付該款額的日期起孳生利息，除此之外補償不得由該日期起孳生利息。(由 1985 年第 64 號第 2 條代替)
- (4) 署長根據第(1)款就任何土地徵用而支付的款額，如超逾憑藉土地審裁處根據本條例就該項徵用作出的裁定而須支付的補償款額，則多付的款額，可由署長作為民事債項予以追討。(由 1985 年第 64 號第 2 條修訂)

編輯附註：

與《2001 年利率(雜項修訂)條例》(2001 年第 6 號)的修訂相關的利息支付的認可以及適用範圍的條文，請參閱該條例第 13 條。

## 10. 補償及利息的支付

- 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*)

### 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) 所有經協議或經裁定作為補償的款項(連同以下所述的利息),以及所有經判定由政府負擔的費用及酬金,均須由政府一般收入支付。(由 2000 年第 62 號第 3 條修訂)
- (2) 署長可在根據本條例須支付的補償款額經協議或經土地審裁處裁定後,隨時在憲報刊登公告,規定有權領取補償的人,在該公告指明的地點及時間內,領取該筆補償。
- (3) 除第 9(3) 條另有規定外,憑藉根據本條例達成的協議或憑藉土地審裁處根據本條例作出的裁定而須支付的補償金,均孳生利息,由轉歸日期起計,至根據第 (2) 款刊登的公告所指明的時間屆滿為止。任何費用或酬金均不獲支付利息。
- (4) 在符合第 (4A) 款的規定下,第 (3) 款所指的利息的利率為土地審裁處所釐定者。(由 2001 年第 6 號第 4 條代替)
- (4A) 根據第 (4) 款就——
  - (a) 某工作日而釐定的利息的利率,不得低於發鈔銀行在該日營業時間結束時就 24 小時通知存款所訂的最低利率;及
  - (b) 某非工作日而釐定的利息的利率,不得低於發鈔銀行在該日之前的最後一個工作日營業時間結束時就 24 小時通知存款所訂的最低利率。(由 2001 年第 6 號第 4 條增補)
- (5) 如在根據第 (2) 款刊登的公告所指明的地點及時間內,無人認領該筆補償金,則署長須將該筆款項付入庫務署。
- (6) 如此付入庫務署的款項或其任何部分,在根據第 (2) 款刊登的公告所指明的時間屆滿起計 5 年內,可由有權領取該款項的人認領,在他證實他有權認領後,則須付予該人。
- (7) 在上述 5 年期限屆滿後,如該款項或其任何部分仍未支付予任何人,則須轉撥入香港政府一般收入。

- (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

與《2001 年利率(雜項修訂)條例》(2001 年第 6 號)的修訂相關的利息支付的認可以及適用範圍的條文，請參閱該條例第 13 條。

#### 11. 有權領取補償的人不能尋獲等情況下作出的付款

有權就任何已徵用的土地領取補償的人如不在香港或不能尋獲，或在根據本條例就補償的款額達成協議的日期後或土地審裁處根據本條例裁定補償的款額的日期後 6 個月內並無申索該筆補償，或署長認為該人不能有作用地解除付款的責任，則署長可指示按他認為合適的條件將該筆補償付予他認為適當而又代表該名有權領取補償的人的其他人，而該名其他人的收據，即為付款責任的有效和有作用的解除，猶如已付款予該名有權領取補償的人一樣。

(由 1985 年第 64 號第 3 條修訂)

#### 12. 禁止針對政府採取法律行動

除本條例另有規定外，不得因根據本條例進行的土地徵用導

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.

#### 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.

#### 11. Payment when person entitled cannot be found, etc.

When the person entitled to compensation in respect of any land which has been acquired is absent from Hong Kong or cannot be found, or within 6 months after the date when the amount of compensation shall have been agreed or determined by the Lands Tribunal under this Ordinance makes no claim to the same, or is in the opinion of the Director unable to give an effectual discharge for the same, the Director may direct payment of the compensation to be made to such other person on behalf of the person entitled as he shall think proper, subject to such conditions as he thinks fit, and the receipt of such other person shall be a valid and effectual discharge for the same in the same manner as if payment had been made to the person entitled.

(Amended 64 of 1985 s. 3)

#### 12. Barring actions against the Government

Except as provided by this Ordinance, no action or suit shall lie

致任何人蒙受損失或損害而針對政府或任何其他人士採取任何法律行動或進行任何訴訟。

(由 2000 年第 62 號第 3 條修訂)

### 13. 證據、公告等

- (1) 在任何徵用令或根據第 4 條發出的公告內，如述明須徵用有關土地作公共用途，即已足夠，而無須述明該土地須用作某特定用途；而載有該項陳述的公告，即為該項徵用是作公共用途的不可推翻的證據。
- (2) 凡本條例規定須將公告送達任何人——
  - (a) 該公告須採用書面形式並以中英文發出；
  - (b) 該公告須以專人交付方式或掛號郵遞方式送達該人。
- (3) 署長無須將任何公告送達予地址不詳及地址在合理情況下不能確定的人。
- (4) 任何證明書如看來是由公職人員簽署，即為其內所述關於任何公告的送達、發出、刊登、公布或張貼等事實的表面證據。
- (5) 根據本條例進行的土地徵用或轉歸不受以下事項影響——
  - (a) 本條例所規定的公告中有任何欠妥之處；或
  - (b) 沒有送達、刊登、公布或張貼本條例所指的任何公告。

against the Government or against any other person for any loss or damage suffered by any person as the result of the acquisition of any land under this Ordinance.

(Amended 62 of 2000 s. 3)

### 13. Evidence, notices, etc.

- (1) In any acquisition order or notice under section 4, it shall be sufficient to state that the acquisition of the 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 acquisition is for a public purpose.
- (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 English and Chinese languages;
  - (b) it shall be served on that person by delivering it to him by hand or by registered post.
- (3) The Director shall not be obliged to serve any notice on any person whose address is unknown and cannot reasonably be 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 acquisition or vesting of any land under this Ordinance 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.