

Lands Resumption Ordinance**(Cap. 124)****Contents**

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To facilitate the resumption of Government lands required for public purposes.

(Amended 50 of 1911; 1 of 1912 Schedule; 29 of 1998 s. 31)

[14 November 1900]

(Format changes—E.R. 3 of 2018)

1. Short title

This Ordinance may be cited as the Lands Resumption Ordinance.

(Amended 5 of 1924 s. 6; 29 of 1998 s. 32)

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)

4A. Purchase by agreement

Where an order has been made for the resumption of any land under section 3, the Authority may, before the land reverts to the Government under section 5, agree with the owner and any person having an estate or an interest in such land under an instrument registered in the Land Registry on the purchase of the land and of any such estate or interest therein, and any such agreement relating to land in respect of which an order under section 3 is made on or after the commencement* of the Crown Lands Resumption (Amendment) Ordinance 1984 (5 of 1984) may provide for the payment by the Authority to the owner or such person of any costs or remuneration reasonably incurred or paid by him in employing persons to act in a professional capacity in connection with the purchase.

(Added 63 of 1974 s. 5. Amended 5 of 1984 s. 2; 8 of 1993 s. 2; 29 of 1998 s. 33)

Editorial Note:

* Commencement date: 13 January 1984.

5. Reversion of ownership to the Government

On the expiration of 1 month, or any longer period authorized under section 4(3), the land other than any land purchased by agreement under section 4A 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
- (b) in all other cases, revert to the Government, (*Amended 29 of 1998 s. 105*)

and all the rights of the owner, his assigns or representatives and of any other person in or over the land or any part thereof shall absolutely cease.

(Replaced 71 of 1987 s. 20)

6. Compensation

- (1) Within a period of 28 days from the date on which land reverts to the Government under section 5, the Authority shall— (*Amended 29 of 1998 s. 105*)
 - (a) write to the former owner and to any person having an estate or interest in the land immediately before reversion under an instrument registered in the Land Registry, making an offer of compensation in respect of the resumption of the land; or (*Amended 5 of 1984 s. 3; 8 of 1993 s. 2*)
 - (b) serve on any of the persons referred to in paragraph (a) a notice in such form as the Authority may specify, requiring him to submit his claim for compensation within the time stipulated in such notice.
- (2) Where a notice is served on a person under subsection (1)(b) he shall submit his claim in a form specified by the Authority and shall furnish to the Authority such accounts, documents

and particulars as the Authority may reasonably require in support of such claim.

- (2A) 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), an offer of compensation is made or a claim for compensation is submitted to or by any person under this section, such offer may provide for the payment by the Authority to that person of, or such claim may include a claim for, any costs or remuneration reasonably incurred or paid by him in employing persons to act in a professional capacity in connection with such offer or claim. *(Added 5 of 1984 s. 3)*

- (3) If—

- (a) a person to whom an offer has been made under subsection (1)(a) does not accept the offer within 28 days from the date thereof; or
- (b) a person on whom a notice has been served under subsection (1)(b)—
 - (i) does not submit his claim within the time stipulated therein; or
 - (ii) submits his claim but he and the Authority do not agree as to the amount of compensation,

such person or the Authority may then refer the matter to the Lands Tribunal for determination of the amount of compensation to be paid. *(Amended 5 of 1984 s. 3)*

(Replaced 63 of 1974 s. 7)

Editorial Note:

* Commencement date: 13 January 1984.

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)*

8. Claims for compensation

- (1) Any person claiming compensation by reason of the resumption of any land under this Ordinance, and being a person who has not been offered in writing compensation under section 6(1)(a), or has not been served with a notice under section 6(1)(b), may submit a claim in writing to the Authority stating the nature of his estate or interest in the land and the amount which he seeks to recover.
- (2) If any such person and the Authority do not agree as to the amount of compensation (if any) to be paid either party may submit the claim to the Lands Tribunal for determination of the amount of compensation (if any) to be paid.
- (3) A person claiming compensation under subsection (1) shall submit his claim to the Authority within a period of 1 year

from the date on which the land reverted to the Government under section 5 or within such further period as the Chief Executive may allow in any case. *(Amended 5 of 1984 s. 4; 29 of 1998 s. 105; 3 of 2000 s. 3)*

- (4) A claim submitted by a person under subsection (1), in respect 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), may include a claim for any costs or remuneration reasonably incurred or paid by that person in employing persons to act in a professional capacity in connection with such claim. *(Added 5 of 1984 s. 4)*

(Replaced 63 of 1974 s. 9)

Editorial Note:

* Commencement date: 13 January 1984.

9. Barring of actions against the Government

Subject to the provisions of this Ordinance, no action or suit shall lie against the Government or against any other person for any loss or damage suffered by any person as the result of the resumption of any land under this Ordinance.

(Replaced 63 of 1974 s. 10. Amended 3 of 2000 s. 3)

10. Determination by Tribunal of compensation payable by Government

- (1) The Tribunal shall determine the amount of compensation (if any) payable in respect of a claim submitted to it under section 6(3) or 8(2) on the basis of the loss or damage suffered by the claimant due to the resumption of the land specified in the claim.

- (2) The Tribunal shall determine the compensation (if any) payable under subsection (1) on the basis of—
- (a) the value of the land resumed and any buildings erected thereon at the date of resumption;
 - (b) the value of any easement or other right in the land resumed, owned, held or enjoyed by a claimant at the date of resumption;
 - (c) the amount of loss or damage suffered by any claimant due to the severance of the land resumed 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 a claimant at the date of resumption on the land resumed or in any building erected thereon, due to the removal of the business from that land or building as a result of the resumption;
 - (e) 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)—
 - (i) the amount of any expenses reasonably incurred by him in moving from any premises owned or occupied by him on the land resumed to, or in connection with the acquisition of, alternative land or land and buildings, but excluding any amount to which paragraph (d) applies;
 - (ii) the amount of any costs or remuneration mentioned in sections 6(2A) and 8(4). (*Added 5 of 1984 s. 5*)
(*Replaced 63 of 1974 s. 10*)

Editorial Note:

* Commencement date: 13 January 1984.

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)

12. Additional rules for determining compensation

In the determination of the compensation to be paid under this Ordinance— *(Amended 5 of 1924 s. 30)*

- (a) no allowance shall be made on account of the resumption being compulsory;
- (aa) 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); (*Added 32 of 1973 s. 2. Amended 2 of 1988 s. 8(2); 4 of 1991 s. 9*)

- (b) no compensation shall be given in respect of any use of the land which is not in accordance with the terms of the Government lease under which the land is held; (*Amended 29 of 1998 s. 105*)
- (c) no compensation shall be given in respect of any expectancy or probability of the grant or renewal or continuance, by the Government or by any person, of any licence, permission, lease or permit whatsoever: (*Amended 29 of 1998 s. 105*)

Provided that this paragraph shall not apply to any case in which the grant or renewal or continuance of any licence, permission, lease or permit could have been enforced as of right if the land in question had not been resumed; and

- (d) subject to the provisions of section 11 and to the provisions of paragraphs (aa), (b) and (c) of this section, the value of the land resumed shall be taken to be the amount which the land if sold by a willing seller in the open market might be expected to realize. (*Amended 5 of 1924 s. 30; 32 of 1973 s. 2; 5 of 1984 s. 6*)

(*Replaced 9 of 1922 s. 2*)

[*cf. 1919 c. 57 s. 2 (1) & (2) U.K.*]

13-15. (*Repealed 63 of 1974 s. 12*)

16. Power to demise or grant land resumed

Any land resumed under the provisions of this Ordinance may be demised and granted by the Chief Executive on such terms and conditions and at such price, whether by way of rent, premium or

otherwise, and either by public auction or private contract, as the Chief Executive may determine.

(Amended 28 of 1911 s. 6(d); 3 of 2000 s. 3)

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)

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)

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.

18. Payment when owner absent, etc.

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

(18 of 1910 s. 7 incorporated. Amended 28 of 1911 s. 6(e); 50 of 1911; 1 of 1912 Schedule; 62 of 1985 s. 3; 3 of 2000 s. 3)

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))

20. Arrangement with owner of buildings or dwellings to reconstruct them

Whenever the buildings or dwellings on any land are of insanitary construction as regards conditions of light and air, the Chief Executive may, notwithstanding any of the powers of resumption herein contained or prior to the exercise of any such powers, permit the owner of such buildings or dwellings to reconstruct or rebuild the same or any part thereof, on such terms and conditions and subject to such security being given for the proper carrying out of such reconstruction or rebuilding as the Chief Executive may think fit.

(Amended 28 of 1911 s. 6(f); 50 of 1911; 1 of 1912 Schedule; 3 of 2000 s. 3)

21. *(Repealed 63 of 1974 s. 14)*

22. Saving of power of resumption under Government lease

This Ordinance shall not be deemed to prevent the exercise by the Government of any power of resumption contained in any Government lease.

(Amended 28 of 1911 s. 6(f); 50 of 1911; 1 of 1912 Schedule; 29 of 1998 s. 34)