

Chapter:	283	HOUSING ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To provide for the establishment and functions of a Housing Authority and for purposes connected therewith.

[1 April 1973]

(Originally 23 of 1973)

Part:	I	PRELIMINARY		30/06/1997
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Section:	1	Short title		30/06/1997
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This Ordinance may be cited as the Housing Ordinance.

Section:	2	Interpretation	L.N. 197 of 2004	12/02/2005
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In this Ordinance, unless the context otherwise requires-

"Authority" (委員會) means the Housing Authority established under section 3;

"authorized officer" (獲授權人員) means any person in relation to whom a delegation under section 10 is for the time being in force; (Replaced 24 of 1995 s. 2)

"car park" (停車場) means any land in an estate set aside and designated by signs by the Authority for use as a car park; (Added 19 of 1978 s. 2)

"common parts" (公用部分) means the whole of any land sold or otherwise disposed of under section 17A, except such parts thereof as have been specified or designated in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner; (Added 33 of 1978 s. 2. Amended 8 of 1993 s. 2)

"estate" (屋邨) means any land vested in the Authority or the control and management of which has been vested in the Authority under section 5 or under a deed of mutual covenant or otherwise; (Amended 33 of 1978 s. 2)

"household" (家庭), in relation to a tenant under a lease of any land in an estate, includes the persons whose names are listed in the lease and who are allowed to occupy the land under the terms of the lease; (Added 24 of 1998 s. 2)

"housing" (房屋) means residential, industrial, commercial and business accommodation, buildings or premises;

"land" (土地) means immovable property; (Replaced 15 of 1982 s. 2)

"Land Registry" (土地註冊處) means the Land Registry established under the Land Registration Ordinance (Cap 128); (Added 33 of 1978 s. 2. Amended 8 of 1993 s. 2; 20 of 2002 s. 5)

"lease" (租契) includes a licence, a tenancy agreement and an agreement for a lease, licence, or tenancy agreement, granted or made or deemed to have been granted or made under this Ordinance;

"owner" (擁有人) means-

(a) a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land; and (Amended 8 of 1993 s. 2)

(b) a registered mortgagee in possession of such undivided share in land; (Added 33 of 1978 s. 2)

"parking place" (泊車處) means a place on a restricted road designated by signs or road markings by the Authority as a place where vehicles may be parked; (Added 19 of 1978 s. 2)

"registered mortgagee" (註冊承按人) means-

(a) a person to whom an owner's interest in land has been mortgaged or charged under a mortgage or charge which has been registered in the Land Registry; and (Amended 8 of 1993 s. 2)

(b) a person in whose favour a charge upon land has been created by virtue of any Ordinance; (Added 33 of 1978 s. 2)

"registered owner" (登記車主) means the person registered as owner of a vehicle in the register of motor vehicles

maintained under the Road Traffic Ordinance (Cap 220); (Added 15 of 1982 s. 2)

"restricted road" (受限制道路) means a road, or any length of a road, designated as a restricted road under section 25A; (Added 19 of 1978 s. 2)

"road" (道路) means a road (as defined in section 2 of the Road Traffic Ordinance (Cap 374)) or private road (as defined in section 2 of the Road Traffic Ordinance (Cap 374)) within an estate; (Added 19 of 1978 s. 2. Amended 80 of 1988 s. 16)

"tenant" (租戶) includes licensee;

"vehicle" (車輛) means any vehicle whether mechanically propelled or otherwise intended or adapted for use on roads but does not include a perambulator. (Added 19 of 1978 s. 2)

Section:	3	Establishment and constitution of the Housing Authority	8 of 2003	28/03/2003
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- (1) There is hereby established a Housing Authority to be known as "the Hong Kong Housing Authority".
- (2) The Authority shall consist of-
 - (a) the Director of Housing; (Amended 16 of 1988 s. 2)
 - (b) such number of persons, other than public officers as the Chief Executive may appoint; (Amended 15 of 1982 s. 3)
 - (c) such number of public officers, not exceeding 3, as the Chief Executive may appoint. (Amended 16 of 1988 s. 2; 44 of 2000 s. 3)
- (3) The Chief Executive shall appoint- (Amended 44 of 2000 s. 3)
 - (a) one of the persons appointed under subsection (2)(b) or (c) as the Chairman of the Authority; and (Amended 8 of 2003 s. 2)
 - (b) one of the persons referred to in subsection (2) as the Vice-Chairman of the Authority. (Replaced 16 of 1988 s. 2)
- (4) The members of the Authority, other than public officers, shall be appointed for a period of 2 years and shall be eligible for reappointment.
- (5) Any member of the Authority who is not a public officer may at any time by notice in writing to the Chief Executive resign from the Authority. (Amended 44 of 2000 s. 3)
- (6) 9 members of the Authority shall form a quorum at any meeting of the Authority. (Amended 16 of 1988 s. 2)
- (7) At any meeting of the Authority, the Chairman or, in his absence, the Vice-Chairman, or, in the absence of both of them, such member as the members present shall select, shall preside.
- (8) The Chairman or the person presiding in his absence shall have a vote on all matters coming before the Authority; and in the case of an equality of votes he shall also have a casting vote.
- (9) Subject to this Ordinance, the Authority may make rules regulating the procedure at meetings of the Authority or of any committee appointed under section 7.

Section:	4	General powers and duties of the Authority	29 of 1998; 44 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 29 of 1998 ss. 60 & 105; 44 of 2000 s. 3

- (1) The Authority shall exercise its powers and discharge its duties under this Ordinance so as to secure the provision of housing and such amenities ancillary thereto as the Authority thinks fit for such kinds or classes of persons as the Authority may, subject to the approval of the Chief Executive, determine. (Amended 44 of 2000 s. 3)
- (2) The Authority shall have the following powers-
 - (a) to acquire and hold property of any description and, subject to the terms and conditions upon which the same is held, to dispose of any such property;
 - (aa) to prepare and execute proposals, plans and projects for the construction, alteration, enlargement or improvement of buildings; (Added 33 of 1978 s. 3)
 - (b) to construct new buildings, and any premises or structures ancillary thereto, for the provision of the housing referred to in subsection (1) and to acquire, alter, enlarge, improve, repair or demolish houses or buildings for this purpose;

- (c) to construct, acquire, alter, enlarge or improve any temporary buildings which may be, or may be made, suitable for housing purposes;
- (d) to provide fixtures, fittings or furniture in buildings acquired by, or under the control of, the Authority and to let, lend or hire such fixtures, fittings or furniture on such terms and conditions as to payment or otherwise as the Authority may think fit;
- (e) to manage any housing, and any premises, structures and grounds ancillary thereto, and any common parts, having regard to the interests, welfare and comfort of the tenants, owners or occupiers thereof, and to charge fees for its services in connection with such management; (Replaced 33 of 1978 s. 3)
- (ea) to construct new buildings, and any premises or structures ancillary thereto, or to acquire, alter, enlarge or improve any existing buildings, for use as car parks; (Added 19 of 1978 s. 3)
- (eb) to set aside for use as car parks any land, other than a carriageway, vested in or under the control and management of the Authority; (Added 19 of 1978 s. 3. Amended 16 of 1993 s. 2)
- (ec) to designate parking places; (Added 19 of 1978 s. 3)
- (ed) to control the user of car parks and parking places, to allocate any place in a car park or parking place for the use of vehicles of any description or any particular type or class or for the use of any person or persons of any particular class; (Added 19 of 1978 s. 3)
- (ee) to fix such fees for the use of car parks and parking places, and to collect the fees in such manner, as it thinks fit; (Added 19 of 1978 s. 3)
- (f) to carry out, subject to such directions as the Chief Executive may from time to time give, the clearance of any land in Hong Kong; (Amended 44 of 2000 s. 3)
- (g) to develop land and to lay out streets and open spaces for the purpose of providing housing or in connection therewith;
- (ga) to enter into, assign or accept the assignment of, and vary or rescind, any contract or obligation; (Added 33 of 1978 s. 3)
- (gb) to charge fees for such other purposes as it thinks fit; (Added 33 of 1978 s. 3)
- (h) to undertake and execute any lawful trust which has for its object the furtherance of the provision of housing in Hong Kong or any other object similar or incidental to any of the purposes of the Authority;
- (i) to accept gifts and donations, whether of property or otherwise and whether subject to any special trust or not;
- (ia) to guarantee financial obligations, loan money and provide other financial assistance and accept security; (Added 16 of 1988 s. 3. Amended 16 of 1993 s. 2)
- (j) to advise the Chief Executive concerning all matters of policy relating to residential accommodation and services ancillary thereto; (Amended 44 of 2000 s. 3)
- (ja) to act as agent for the Government in respect of the sale and development of any land, including the nomination of purchasers in respect of land leased from the Government; (Added 15 of 1982 s. 4. Amended 29 of 1998 s. 105)
- (k) to do all such other acts as are reasonably necessary for the exercise or performance of all or any of the powers or duties of the Authority under this Ordinance and to perform any other function which is incidental or conducive to or connected with the attainment or furtherance of the purposes of the Authority in accordance with this Ordinance.

(2A) The Authority may enter into an agreement with any person-

- (a) for the management by such person of any housing and any premises, structures and grounds ancillary to any housing, and any common parts;
- (b) generally for the provision by such person of amenities ancillary to housing,

and the Authority may authorize such person to do any act, including the charging of fees for services performed, which the Authority itself may do in that regard. (Added 16 of 1993 s. 2)

(2B) Where, under and in accordance with an agreement entered into by the Authority pursuant to subsection (2A), a person occupies Government land in an estate vested in or under the control and management of the Authority under section 5, 37 or 38, the person shall be deemed, for the purposes of sections 4 and 6 of the Land (Miscellaneous Provisions) Ordinance (Cap 28), to be occupying the land under a licence issued under section 5 of that Ordinance. (Added 16 of 1993 s. 2. Amended 29 of 1998 s. 60)

(3) In each financial year, before a date to be appointed by the Chief Executive, the Authority shall submit to the Chief Executive for his approval a programme of its proposed activities and estimates of the income and expenditure of the Authority for the next financial year: (Amended 44 of 2000 s. 3)

Provided that the programme and estimates for the first financial year of the Authority shall be forwarded as

soon as is practicable after the commencement of this Ordinance.

(4) The policy of the Authority shall be directed to ensuring that the revenue accruing to it from its estates shall be sufficient to meet its recurrent expenditure on its estates.

Section:	5	Property vested in the Government	29 of 1998; 44 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 29 of 1998 s. 105; 44 of 2000 s. 3

The Chief Executive may, by order, vest in the Authority the control and management of any property which is vested in the Government.

(Amended 29 of 1998 s. 105; 44 of 2000 s. 3)

Section:	5A	Transfer of assets and liabilities to Authority		30/06/1997
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The assets and liabilities accounted for in the Home Ownership Fund as at 31 March 1988 shall, on 1 April 1988, become assets and liabilities of the Authority.

(Added 16 of 1988 s. 4)

Section:	6	Incorporation		30/06/1997
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The Authority shall be a body corporate with perpetual succession and a common seal and, for the purposes of this Ordinance, with a capacity to acquire and hold land and to sue and be sued in the corporate name of the Authority.

(Amended 74 of 1974 s. 3)

Section:	6A	Staff of Authority		30/06/1997
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(1) The Authority may appoint persons to be its officers or other employees.

(2) Each of the Authority's officers and the other employees shall, as regards their employment, be paid such remuneration and allowances and shall hold their offices or employment on such other terms and conditions as the Authority may determine.

(3) The Authority may from time to time engage such consultants or advisers as it may consider necessary or expedient.

(4) For the avoidance of doubt the Authority shall be deemed always to have had the powers conferred on it by subsections (1) and (2).

(Added 24 of 1995 s. 3)

Section:	7	Committees		30/06/1997
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(1) The Authority may appoint committees for the better discharge of its functions under this Ordinance. (Amended 16 of 1993 s. 3)

(2) (Repealed 16 of 1993 s. 3)

(3) A committee appointed under this section may include persons who are not members of the Authority. (Amended 82 of 1984 s. 2)

Section:	7A	Appeal panel and tribunals	8 of 2003	28/03/2003
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(1) For the purpose of hearing appeals under section 20(1), the Chief Executive shall appoint a panel of persons ("the panel") comprising a chairman and such number of members as the Chief Executive thinks fit, none of whom shall be a public officer. (Amended 24 of 1998 s. 3; L.N. 106 of 2002; 8 of 2003 s. 3)

(2) (a) A person who for the time being holds an appointment under subsection (1) shall be ineligible for membership of the Authority.

(b) A person who for the time being is a member of the Authority shall be ineligible for appointment

under subsection (1).

(3) A person who holds an appointment under subsection (1) may surrender his appointment by letter addressed to the Chief Executive. (Amended L.N. 106 of 2002; 8 of 2003 s. 3)

(4) Subject to subsection (3), an appointment under subsection (1) shall remain in force for such period as is specified in the appointment, being a period of not more than 2 years beginning on the date of the appointment.

(5) Where an appointment under subsection (1) expires, the person concerned shall be eligible for reappointment.

(6) Where a person appeals to the panel under section 20(1), the chairman of the panel shall appoint from the members thereof a tribunal consisting of a chairman and not less than 2 other members, to determine the appeal.

(7) The Chief Executive in Council may make rules regulating the procedure for appeals to the panel. (Amended L.N. 106 of 2002; 8 of 2003 s. 3)

(Replaced 24 of 1995 s. 4)

Section:	8	Execution and authentication of documents		30/06/1997
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Any instrument purporting to be executed under the seal of the Authority shall be received in evidence upon its production without further proof and shall, unless the contrary is proved, be deemed to be an instrument so executed.

Section:	9	Power of Chief Executive to give directions	44 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 44 of 2000 s. 3

(1) The Chief Executive may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the Authority or a public officer, of any power, functions or duties under this Ordinance.

(2) The Authority and every public officer shall, in the exercise or performance of any powers, functions or duties under this Ordinance, comply with any directions given by the Chief Executive under subsection (1).

(Amended 44 of 2000 s. 3)

Section:	10	Delegation, etc.		30/06/1997
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(1) The Authority may delegate any of its powers and functions, other than a power to make bylaws, to-

- (a) a person who is an officer to whom this section applies; or
- (b) a committee.

(2) A committee to which a power or function has been delegated under subsection (1) may subdelegate that power or function to a person who is an officer to whom this section applies and who is specified in the subdelegation.

(3) The Director of Housing may, by notice published in the Gazette, delegate any of his powers and functions to a person who is an officer to whom this section applies and who is specified in the delegation.

(4) Any delegation or subdelegation under this section may be withdrawn or revoked by the Authority, the committee concerned or the Director of Housing, as may be appropriate, and no such delegation or subdelegation shall prevent or restrict the concurrent performance or exercise by the Authority or such committee or such Director of any of its or his functions or powers.

(5) In this section-

"committee" (小組委員會) means a committee appointed under section 7;

"functions" (職能) includes, in relation to the Director of Housing, duties;

"officer to whom this section applies" (本條適用的人員) means-

- (a) an officer of the Authority;
- (b) a public officer; or
- (c) a person who is both-
 - (i) an officer of the Authority or a public officer; and
 - (ii) an officer of a class or description specified for the time being for the purposes of this section by the Authority.

(Replaced 24 of 1995 s. 5)

Section:	11	Exercise of power		30/06/1997
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Where any power is conferred upon any person by this Ordinance, or any requirement, notice or direction is made or given thereunder, such power may be exercised by that person and by other persons acting by direction, and that person and any other persons so acting may use all force reasonably necessary for the exercise of that power.

Part:	II	FINANCE	44 of 2000	01/07/1997
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Section:	12	Borrowing powers	44 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 44 of 2000 s. 3

The Authority may borrow from the Government, or from such other sources as the Chief Executive may approve, such moneys as may be required for the discharge of the functions of the Authority under this Ordinance, upon such terms and conditions as may be approved by the Chief Executive.

(Amended 44 of 2000 s. 3)

Section:	13	Investment of surplus funds		30/06/1997
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(1) Any moneys in the hands of the Authority which are not immediately required for the purposes of the Authority may be invested in such securities as may be approved by the Financial Secretary: (Amended 16 of 1988 s. 7)

Provided that, during such time as any moneys are due by the Authority to the Government, no such investment shall be made without the prior approval of the Financial Secretary.

(2) If in any financial year there is an excess of revenue of the Authority over the total sum required by it-

(a) to meet the total outgoings and provisions of the Authority properly chargeable to revenue; and

(b) to enable the Authority to-

(i) make such allocations to reserves as it may reasonably consider adequate; and

(ii) pay any moneys owing by it, whether or not payment is legally due at the time,

the Financial Secretary may, after consultation with the Authority, give the Authority directions requiring it to pay the whole or part of the excess to the Government. (Added 16 of 1988 s. 7)

Section:	14	Accounts and audit	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Authority shall keep, under the general direction of the Director of Accounting Services, proper accounts and other records and shall prepare in respect of each financial year a statement of accounts. (Amended L.N. 16 of 1977)

(2) Not later than 30 September following the end of each financial year, or before a later date that the Chief Executive may allow, the accounts of the Authority shall be submitted to the Director of Audit who shall audit the accounts and furnish a report on them. (Replaced 16 of 1988 s. 8)

(3) As soon as the accounts of the Authority have been audited, the Authority shall send to the Chief Executive a copy of the statement of accounts signed by the Chairman together with a copy of the report made by the auditor on that statement or on the accounts of the Authority.

(4) The Secretary for Transport and Housing shall lay a copy of every such statement and report on the table of the Legislative Council not later than 31 December next following the end of the financial year or before such later date as the Chief Executive may allow. (Amended 16 of 1988 s. 8; L.N. 362 of 1997; L.N. 25 of 2004; L.N. 130 of 2007)

(Amended 44 of 2000 s. 3)

Section:	15	Annual reports	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Authority shall, as soon as possible after the end of each financial year, make to the Chief Executive a report dealing generally with the activities of the Authority during that year.

(2) The Secretary for Transport and Housing shall lay a copy of every such annual report on the table of the Legislative Council not later than 31 December next following the financial year to which the annual report relates or before such later date as the Chief Executive may allow. (Amended 16 of 1988 s. 9; L.N. 362 of 1997; L.N. 25 of 2004; L.N. 130 of 2007)

(Amended 44 of 2000 s. 3)

Part:	III	DISPOSAL OF PROPERTY	12 of 2007	01/01/2008
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Section:	16	Leases of land in estates	12 of 2007	01/01/2008
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(1) Subject to this Ordinance, the Authority may-

- (a) let to any person, for any period, any land in an estate, subject to the payment of such premium, rent or other consideration as the Authority may determine; and
- (b) fix the terms, covenants and conditions on which any land in an estate may be let or occupied.

(1A)-(1E) (Repealed 12 of 2007 s. 3)

(2) The terms, covenants and conditions fixed by the Authority pursuant to subsection (1)(b) may include terms, covenants and conditions which provide for-

- (a) the subletting by a lessee or sublessee of the whole or any part of the land or for the granting by such person of a licence to any person to occupy the whole or any part of the land; or
- (b) the management by a lessee of any land in an estate let to or occupied by him. (Replaced 16 of 1993 s. 5)

(3) Where-

- (a) the Authority grants a lease under subsection (1) of Government land in an estate vested in or under the control and management of the Authority under section 5, 37 or 38; or
- (b) by virtue of and in accordance with such a lease, a sublease or licence to occupy any part of the land is granted to any person,

the person occupying the land under and in accordance with the lease, sublease or licence shall be deemed for the purpose of sections 4 and 6 of the Land (Miscellaneous Provisions) Ordinance (Cap 28), to be occupying the land under a licence issued under section 5 of that Ordinance. (Added 16 of 1993 s. 5. Amended 29 of 1998 s. 60)

(4) Without prejudice to the general power mentioned in subsection (1)(a), the Authority may in writing require tenants of lands in an estate to pay different rents based on their total household income or total household income and assets. (Added 24 of 1998 s. 4.)

(5) For the avoidance of doubt the Authority shall be deemed always to have had the power conferred on it by subsection (4). (Added 24 of 1998 s. 4)

Section:	16A	Variation of rent for residential estates	12 of 2007	01/01/2008
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(1) The Authority shall review the relevant rent—

- (a) as soon as practicable after 1 January 2010; and
- (b) as soon as practicable after the second anniversary of the expiry date of the second period for the last review under this subsection.

(2) Despite section 16, the Authority shall not vary the relevant rent unless the variation is carried out under subsection (4).

- (3) This section—
- (a) does not apply to—
 - (i) an adjustment in the rent of a residential tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is greater than a threshold established by the Authority for the purposes of an increase in the rent; and
 - (ii) a re-adjustment in the rent of that tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is less than that threshold; and
 - (b) does not apply to—
 - (i) an adjustment in the rent of a residential tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is less than a threshold established by the Authority for the purposes of a reduction in the rent; and
 - (ii) a re-adjustment in the rent of that tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is greater than that threshold.
- (4) Subject to subsection (5), the Authority—
- (a) if satisfied on a review of the relevant rent that the income index for the second period is higher than the income index for the first period by more than 0.1%, shall as soon as practicable after the review increase the relevant rent by the rate of the increase of the income index or 10%, whichever is less; and
 - (b) if satisfied on a review of the relevant rent that the income index for the second period is lower than the income index for the first period by more than 0.1%, shall as soon as practicable after the review reduce the relevant rent by the rate of the reduction of the income index.
- (5) The Authority shall not vary the relevant rent—
- (a) on or before 1 January 2010; or
 - (b) where the relevant rent is varied under subsection (4), before the second anniversary of the date of the last variation.
- (6) In varying the relevant rent, the Authority may round down the amount of the relevant rent to the nearest dollar.
- (7) For the purpose of a review of the relevant rent—
- (a) the Authority may compile—
 - (i) an index that reflects the level of the mean monthly household income of any class of residential tenant over the first period; and
 - (ii) an index that reflects the level of the adjusted mean monthly household income of that class of residential tenant over the second period; and
 - (b) the Commissioner for Census and Statistics shall, in relation to the compilation of such an index, compute the index.
- (8) In this section—

“adjusted mean monthly household income” (經調整後的家庭每月平均收入), in relation to any class of residential tenant identified for the purpose of a review of the relevant rent, means the mean monthly household income of that class of residential tenant assessed on the basis of the distribution of the household size of that class of residential tenant over the first period for that review;

“first period” (第一期間)—

- (a) in relation to the first review of the relevant rent after 1 January 2010, means a period of 12 months expiring on 31 December 2007;
- (b) in relation to a subsequent review of the relevant rent, means—
 - (i) the second period for the last review of the relevant rent in consequence of which the relevant rent was varied; or
 - (ii) in the absence of a review in consequence of which the relevant rent was varied, a period of 12 months expiring on 31 December 2007;

“income index” (收入指數) means an index computed under subsection (7)(b);

“land” (土地) does not include land in respect of which the Authority has granted to a person a licence, or a permit,

to occupy;

“relevant rent” (有關租金) means the rent subject to the payment of which any land in an estate is let for residential purposes under section 16(1) but does not include the rent of a residential tenant who is required to pay a higher rent after an adjustment under subsection (3)(a)(i) or is permitted to pay a lower rent after an adjustment under subsection (3)(b)(i);

“residential tenant” (住宅租戶) means a tenant of the land in an estate let for residential purposes under section 16(1);

“second period” (第二期間)—

- (a) in relation to the first review of the relevant rent after 1 January 2010, means a period of 12 months expiring on 31 December 2009;
- (b) in relation to a subsequent review of the relevant rent, means a period of 12 months expiring on the second anniversary of the expiry date of the second period for the last review.

(Added 12 of 2007 s. 4)

Section:	17	Remission of rent		30/06/1997
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The Authority may remit, in whole or in part and for such period as it thinks fit, the payment of any rent, premium or other consideration payable under any lease.

Section:	17A	Sale of land	29 of 1998; 44 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 29 of 1998 s. 105; 44 of 2000 s. 3

(1) Subject to the conditions of the Government lease in respect of any land in an estate, and subject to the payment of such purchase price and such terms and conditions of payment as the Authority may determine with the prior approval of the Chief Executive, the Authority may sell or otherwise dispose of any such land. (Amended 44 of 2000 s. 3)

(2) Subject to the conditions of the Government lease in respect of any land in an estate, the Authority may fix the terms, covenants and conditions on which such land may be sold or otherwise disposed of.

(3) The Authority shall determine the eligibility of persons to purchase land in an estate, specify the form of application for the purchase of such land and the information to be provided in such application, and charge such fee in respect of such application as it may determine.

(Added 33 of 1978 s. 4. Amended 29 of 1998 s. 105)

Section:	17AA	Particular conditions of sale	44 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 44 of 2000 s. 3

(1) Without prejudice to the general power mentioned in section 17A(2), where-

(a) any land in an estate is sold under section 17A to any person; or

(b) any land in respect of which the Authority is authorized to nominate purchasers is sold to a person nominated by the Authority,

the Director of Housing may stipulate, by notice in the Gazette, that the agreement for sale and purchase and the deed of assignment shall be subject to the terms, covenants and conditions mentioned in the Schedule and the terms, covenants and conditions so stipulated shall be part of the agreement and deed. (Amended 16 of 1988 s. 10)

(2) The Chief Executive in Council may amend the Schedule; and any agreement for sale and purchase or any deed of assignment made subject to the terms, covenants and conditions mentioned in the Schedule under subsection (1) shall continue to have effect subject to any amendment of those terms, covenants and conditions under this subsection. (Amended 44 of 2000 s. 3)

(3) A statement in any agreement for sale and purchase or deed of assignment mentioned in subsection (1) that the agreement or deed is subject to the terms, covenants and conditions mentioned in the Schedule shall be sufficient

evidence, until the contrary is proved, that the Director of Housing has stipulated that the agreement or deed shall be subject to those terms, covenants and conditions. (Amended 16 of 1988 s. 10)

(4) For the avoidance of doubt it is declared that notices and stipulations whenever made under subsection (1) are not and have never been subsidiary legislation. (Added 103 of 1991 s. 2)

(Added 15 of 1982 s. 6)

Section:	17AB	Director of Housing may delegate his function to assess Prevailing Market Value	L.N. 212 of 1998	24/04/1998
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(1) The Director of Housing may delegate his function under paragraph 1(b) of the Schedule to assess Prevailing Market Value to-

- (a) any person with whom he enters into an agreement in writing to discharge that function;
- (b) any employee of such person.

(2) When the Chief Executive in Council amends the Schedule under section 17AA(2), he may at the same time make consequential amendment to subsection (1).

(Added 24 of 1998 s. 5)

Section:	17B	Void alienations, etc.		30/06/1997
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(1) Where-

- (a) (i) land in an estate is sold under section 17A; or
- (ii) land in respect of which the Authority is authorized to nominate purchasers is sold and the person selling the land acts without the written permission of the Authority; and
- (b) the person to whom the land is sold purports to mortgage or otherwise charge the land or to assign or otherwise alienate it; and
- (c) that person acts in breach of-
 - (i) any term or condition of the agreement for sale and purchase or any covenant in the deed of assignment relating to the land; or
 - (ii) in the case of such a mortgage or other charge, any term authorized under paragraph 4(a) of the Schedule as regards the mortgage or other charge,

the purported mortgage, other charge, assignment or other alienation, together with any agreement so to mortgage, charge, assign or otherwise alienate, shall be void.

(2) Where-

- (a) land described in subsection (1)(a)(ii) is sold with the written permission of the Authority; and
- (b) (i) the person to whom the land is sold purports to mortgage or otherwise charge the land and has not the written permission of the Authority so to mortgage or otherwise charge; or
- (ii) the mortgagee or the person in whose favour the charge is executed acts in breach of any of the terms on which the mortgage or other charge was authorized under paragraph 4 of the Schedule,

the purported mortgage or other charge, together with any agreement so to mortgage or otherwise charge, shall be void.

(3) For the avoidance of doubt it is hereby declared that subsection (1) is not to be construed as operating to invalidate a disposition by will (or codicil).

(Replaced 24 of 1995 s. 6)

Notes:

1. The saver provision contained in Section 10 of the Housing (Amendment) Ordinance 1995 (24 of 1995) read as follows-

"10. Saver

For the avoidance of doubt it is hereby declared that no provision of section 17B of the principal Ordinance which was in force immediately before the commencement of this Ordinance is to be construed as operating to invalidate a disposition by will or codicil."

2. 24 of 1995 commenced operation on 1 July 1995.

Section:	18	Certain Ordinances not to apply		30/06/1997
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(1) Part VII of the Public Health and Municipal Services Ordinance (Cap 132) and any regulations made under that Part shall not apply to any building or structure to which a lease under section 16 relates. (Amended 33 of 1978 s. 5; 10 of 1986 s. 32)

(2) Subject to subsection (3), the Buildings Ordinance (Cap 123) shall not apply to any building-

- (a) to be constructed, or which is being constructed, by the Authority;
- (b) on land vested in or under the control and management of the Authority under section 5, 37 or 38; or
- (c) on land which is vested in the Authority and no part of which has been sold or otherwise disposed of under section 17A. (Added 33 of 1978 s. 5. Amended 16 of 1993 s. 7)

(3) The Buildings Ordinance (Cap 123), other than section 21 thereof, shall apply to any such building if, after its construction has been completed, any part of it is sold or otherwise disposed of under section 17A of this Ordinance. (Added 33 of 1978 s. 5)

Part:	IV	CONTROL OF ESTATES		30/06/1997
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Section:	19	Termination of lease		30/06/1997
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(1) Notwithstanding the terms thereof, the Authority may terminate any lease-

- (a) without notice, if, in the opinion of the Authority, the land held under the lease has become unfit for human habitation, a nuisance, dangerous to health or unsafe; or
- (aa) without notice, if, in the opinion of the Authority, no person authorized under the lease to occupy the land or part thereof occupies the land or part thereof; or (Added 42 of 1976 s. 3)
- (b) otherwise, by giving such notice to quit as may be provided for in the lease or 1 month's notice to quit, whichever is the greater.

(2) Upon the termination of a lease under subsection (1), the tenant shall, if he is still occupying the land, be a trespasser thereon.

(3) No court shall have jurisdiction to hear any application for relief by or on behalf of a person whose lease has been terminated under subsection (1) in connection with such termination.

Section:	19A	Notice of termination		30/06/1997
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(1) Where a lease has been terminated under section 19(1)(a) or (aa), the Authority shall, as soon as practicable after such termination, serve notice in writing thereof on the tenant specifying the date of the termination and the reasons therefor.

(2) Service of a notice required to be served under subsection (1) may be effected-

- (a) by delivering it to the tenant personally; or
- (b) by sending it by post to the tenant at his last known postal address; or
- (c) where the last known postal address of the tenant is that of the premises which are the subject of the lease, by affixing the notice to the door of the premises.

(Added 42 of 1976 s. 4)

Section:	20	Appeal against termination		30/06/1997
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(1) Where a lease has been terminated under section 19(1)(a) or (aa), or where a notice to quit has been given under section 19(1)(b), the tenant may appeal to the panel, appointed under section 7A(1)*, not later than 15 days after the date on which-

- (a) service of the notice of termination has been effected under section 19A(2); or
- (b) notice to quit has been given under section 19(1)(b),

as the case may be:

Provided that where the chairman of the panel is satisfied that the tenant is unable to appeal by reason of ill-health, absence or other cause thought sufficient by the chairman, he may permit an appeal to be made on behalf of the tenant by a person authorized under the lease to occupy the land or part of it. (Replaced 42 of 1976 s. 5. Amended 15

of 1982 s. 8; 16 of 1993 s. 8)

- (2) An appeal under subsection (1) shall be in writing and shall state the grounds of the appeal.
- (2A) (a) Paragraph (b) shall apply in relation to any policy of the Authority which is stated and specified as being such in a certificate in writing issued for the purposes of this subsection by the Authority's secretary and as regards which the certificate also certifies that the policy was both considered and applied by the Authority when deciding to terminate the lease or, where appropriate, to issue the notice to quit to which the appeal relates.
- (b) In considering an appeal under subsection (1)-
 - (i) if the tribunal concerned is satisfied that at the time of making the decision to which a certificate mentioned in paragraph (a) relates, the appellant was aware of the policy or could reasonably be expected to have been so aware, the tribunal shall have regard to such policy; and
 - (ii) if such tribunal is not so satisfied, it may, where it considers it appropriate so to do, have regard to such policy. (Added 24 of 1995 s. 7)
- (3) A tribunal of the panel appointed under section 7A(6), in determining an appeal against a termination- (Amended 16 of 1993 s. 8; 24 of 1995 s. 7)
 - (a) under section 19(1)(a) or (aa), may confirm, suspend or cancel the termination; (Amended 42 of 1976 s. 5)
 - (b) under section 19(1)(b), may confirm, amend, suspend or cancel the notice to quit.
- (4) The decision of the tribunal shall be final. (Amended 16 of 1993 s. 8)

Note:

* **Section 7A was amended by the Housing (Amendment) Ordinance 2003 (8 of 2003). For the transitional provision relating to the amendments, see section 4 of that Ordinance.**

Section:	21	Eviction of trespassers		30/06/1997
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- (1) Subject to subsection (2), any person who is a trespasser in an estate shall leave the estate when ordered to do so by an authorized officer.
- (2) A person, upon whom a notice to quit has been served under section 19(1)(b) and who has appealed against the notice under section 20, shall not be deemed to be a trespasser until his appeal has been determined.
- (3) Any trespasser ordered to leave an estate who does not, within a reasonable time, obey such order may be evicted from the estate by an authorized officer who may use such force as may be reasonably necessary to evict such trespasser and, for that purpose, may request the assistance of a police officer or any other authorized officer.

Section:	22	Inspection of premises		30/06/1997
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An authorized officer may, at any time and in pursuance of his duties, enter and inspect-

- (a) any land in an estate; or
 - (b) any land sold by the Authority or in respect of which the Authority has nominated a purchaser and which land is subject to any restriction against alienation, conveyance or parting with possession.
- (Replaced 15 of 1982 s. 9)

Section:	23	Emergency closure of premises		30/06/1997
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- (1) If, in the opinion of the Authority, any building-
 - (a) on land vested in or under the control and management of the Authority under section 5, 37 or 38; or
 - (b) on land which is vested in the Authority and no part of which has been sold or otherwise disposed of under section 17A,or any part of such building, is or is likely to become dangerous by reason of fire, wind, rain or any other cause, the Authority may by order declare the building to be dangerous. (Amended 33 of 1978 s. 6; 16 of 1993 s. 9)
- (2) On the making of an order under subsection (1) every lease of the building or part thereof shall terminate forthwith.
- (3) Where an order has been made under subsection (1)-
 - (a) every person in the building or part thereof shall quit forth- with the same when required to do so by an authorized officer; and

(b) any authorized officer may evict any person who fails to quit forthwith the building or part thereof when required to do so by an authorized officer.

(4) In the exercise of his powers under subsection (3) an authorized officer, with such assistance from police officers as he considers necessary, may use such force as is reasonably necessary to evict any person who fails to quit the building or part thereof when required to do so by an authorized officer.

Section:	24	Power to take custody of and dispose of property		30/06/1997
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- (1) The Authority may take possession of any property-
 - (a) found on any land in an estate which has been the subject of a lease, after the tenant has left the land following the termination of his lease;
 - (b) found on any land in an estate (other than land leased under section 16) vested in or under the control and management of the Authority and which appears to an authorized officer to have been abandoned; (Replaced 33 of 1978 s. 7)
 - (c) which has been placed in or on or affixed to any land in an estate in contravention of any condition in a lease, deed of assignment or deed of mutual covenant; (Replaced 33 of 1978 s. 7)
 - (d) which causes an obstruction or nuisance on or in any land in an estate (other than land leased under section 16) vested in or under the control and management of the Authority. (Replaced 33 of 1978 s. 7)

(2) The Authority shall post, on or near the premises or place where the property is or was situate, a notice setting out details of any property of which it has taken possession under subsection (1) and shall, in such notice, call upon any claimant to submit his claim to the property-

- (a) in the case of property referred to in subsection (1)(a), within such time as is specified in the notice being not less than 7 days after the day on which the notice was posted; and
- (b) in the case of property referred to in subsection (1)(b), (c) or (d), within 2 days after the day on which the notice was posted.

(3) The Authority may refuse to return any property of which it has taken possession under subsection (1) unless satisfied that the claimant is the owner of the property.

(4) The Authority may recover from a claimant to whom any property, of which the Authority has taken possession under subsection (1), is returned any expenses incurred by it in the removal and storage of such property.

(5) Any property of which the Authority has taken possession under subsection (1), which is not claimed within the time referred to in subsection (2) or which the Authority refuses to return under subsection (3) to any person, shall become the property of the Authority free from the rights of any person and may be disposed of by the Authority by sale or otherwise.

(6) If, within 6 months after the day on which the notice was posted under subsection (2), any person satisfies the Authority that, at the time any property sold pursuant to subsection (5) became the property of the Authority by virtue of that subsection, he was the owner of such property, the Authority shall pay to such person the balance of the proceeds of sale after deducting any expenses incurred by the Authority in the removal, storage and sale of the property.

Section:	25	Power to obtain information	L.N. 212 of 1998	24/04/1998
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(1) The Authority and any authorized officer may, for the purposes of this Ordinance, serve on the owner or occupier of any land, whether or not in an estate, a requisition in the specified form requiring him to furnish to the Authority or the authorized officer, within the time stated in the form, the particulars specified in the requisition. (Amended 15 of 1982 s. 10)

(2) The Authority and an authorized officer may, for the purposes of this Ordinance, give notice in writing to the owner or occupier of any land, whether or not in an estate, requiring him to attend at a time and place stated in the notice and be examined concerning the occupation of the land. (Amended 15 of 1982 s. 10)

(3) The Authority and an authorized officer may require a person holding a lease to produce it at such time and place as the Authority or authorized officer may specify.

(4) Without prejudice to the general power mentioned in subsection (1), the Authority and any authorized officer may at any time serve on a tenant of any land in an estate a requisition in the specified form requiring him to furnish to the Authority or the authorized officer, within the time stated in the form, the particulars specified in the requisition regarding his total household income or his total household income and assets. (Added 24 of 1998 s. 6)

(5) For the avoidance of doubt the Authority shall be deemed always to have had the power conferred on it by subsection (4). (Added 24 of 1998 s. 6)

Section:	25A	Restricted roads		30/06/1997
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(1) The Authority may, with the approval of the Commissioner for Transport and the Director of Highways, designate in the prescribed manner any road or length of a road to be a restricted road. (Amended L.N. 76 of 1982; L.N. 127 of 1986)

(2) The Authority may restrict the entry to, or the parking of vehicles on, a restricted road to vehicles owned or used by-

- (a) the Authority or the Government;
- (b) the tenants of premises abutting on the restricted road;
- (c) bona fide visitors of such tenants; and
- (d) other persons permitted by the Authority.

(3) Entry to a restricted road may be refused by the Authority to a vehicle owned or used by any person specified in subsection (2)(b), (c) or (d) if no parking place is available on the restricted road for the parking of the vehicle or temporarily for any other reason.

(4) Nothing in this section shall apply to the rolling stock of the North-west Railway as defined in the Kowloon-Canton Railway Corporation Ordinance (Cap 372). (Added 56 of 1986 s. 24)

(Added 19 of 1978 s. 4)

Section:	25B	Removal, etc., of vehicles		30/06/1997
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(1) For the purposes of this section and section 25C "vehicle" (車輛) includes any load carried by a vehicle.

(2) The Authority or an authorized officer may impound or remove any vehicle which is-

- (a) on a restricted road in contravention of a restriction imposed under section 25A(2) or a refusal of entry imposed under section 25A(3);
- (b) parked, or permitted to remain at rest, for whatever reason in any place on a restricted road other than in a parking place;
- (c) parked, or permitted to remain at rest, for whatever reason on a pavement, road verge or hard shoulder of a restricted road or on a centre reservation or traffic island on a restricted road;
- (d) parked in a parking place unless such parking is authorized by the Authority or an authorized officer; or (Amended 15 of 1982 s. 11)
- (e) parked in a car park unless such parking is authorized by the Authority or an authorized officer. (Amended 15 of 1982 s. 11)

(3) The power of impounding or removing a vehicle under subsection (2) shall be exercised only when-

- (a) the vehicle is unattended and the driver cannot be located; or
- (b) the driver is unable to remove the vehicle, or refuses or fails to remove the vehicle, on being requested to do so by the Authority or an authorized officer.

(4) Subject to section 25C, any vehicle impounded or removed under this section may be detained by the Authority until there is paid to the Authority such impounding or removal charge and storage charge as may be prescribed and any parking fee incurred in respect of the vehicle prior to its impounding or removal.

(Added 19 of 1978 s. 4)

Section:	25C	Sale of detained vehicles		30/06/1997
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(1) When a vehicle which is detained under section 25B is not claimed within 3 days after its detention, the Authority or an authorized officer shall serve on the registered owner of the vehicle a notice informing him- (Amended 79 of 1979 s. 2; 15 of 1982 s. 12)

- (a) of the detention of the vehicle and the place of detention; and
- (b) that unless the vehicle is removed from the place of detention, on payment of any charges and parking fee payable under section 25B(4), within 14 days after the service of the notice on him, the vehicle shall become the property of the Authority free from the rights of any person and may be disposed of by the Authority by sale or otherwise.

(2) If a vehicle is not removed in accordance with the notice served under subsection (1), the vehicle shall become the property of the Authority free from the rights of any person and may be disposed of by the Authority by sale or otherwise as it thinks fit.

(3) If, within 6 months after the day on which a vehicle is sold pursuant to subsection (2), any person satisfies the Authority that at the time the vehicle became the property of the Authority by virtue of that subsection, he was the registered owner of the vehicle, the Authority shall pay to such person the balance of the proceeds of sale after deducting- (Amended 15 of 1982 s. 12)

- (a) any charges and parking fee payable under section 25B(4); and
- (b) any reasonable charges incurred by the Authority in respect of the sale of the vehicle.

(Added 19 of 1978 s. 4)

Section:	25D	Delegation of certain powers		30/06/1997
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The Authority may delegate to-

- (a) any person with whom it enters into an agreement for the management of any restricted road or car park, or for the control of the movement or parking of vehicles within an estate;
- (b) any employee of such person,

the exercise of any of the powers conferred on the Authority by section 25A(2) or (3), 25B(2), (3) or (4), or 25C(1) or (2).

(Added 16 of 1993 s. 10)

Part:	V	OFFENCES AND PENALTIES	L.N. 212 of 1998	24/04/1998
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Section:	26	False statements	L.N. 212 of 1998	24/04/1998
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(1) Any person who knowingly makes any false statement-

- (a) in furnishing the particulars specified in a requisition under section 25(1);
- (aa) in furnishing the particulars specified in a requisition under section 25(4); (Added 24 of 1998 s. 7)
- (b) in an examination under section 25(2);
- (c) in respect of an application for a lease; or
- (d) in respect of an application to the Authority for a loan or financial assistance in connection with the purchase of land other than land to which subsection (2) applies, (Added 16 of 1993 s. 11)

shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 6 months and, in the case of an offence under paragraph (aa) or (c), a further fine as provided under subsection (1A). (Amended 24 of 1998 s. 7)

(1A)Where a person-

- (a) is convicted of an offence under subsection (1)(aa) or (c); and
- (b) in consequence of the false statement to which the offence relates he has been undercharged rent,

then, in addition to any penalty prescribed in subsection (1) imposed on him, he may be subject to a further fine of treble the amount of rent undercharged. (Added 24 of 1998 s. 7)

(1B)For the purposes of this section, "rent undercharged", in relation to an offence under subsection (1)(aa) or (c), means the difference between the amount of rent the person would, but for the false statement to which the offence relates, have been required to pay having regard to section 16(4) and the amount of rent he has actually paid. (Added 24 of 1998 s. 7)

(1C)A certificate issued by the Authority stating the amount of rent undercharged in relation to an offence under subsection (1)(aa) or (c) shall be admissible in evidence in any proceedings before any court on its production without further proof and, in the absence of evidence to the contrary, the court shall presume that-

- (a) the certificate was issued by the Authority; and
- (b) that amount is the rent undercharged for the purposes of subsection (1A). (Added 24 of 1998 s. 7)

(2) Any person who makes any statement to the Authority-

- (a) in respect of any matter relating to the purchase of land in an estate or of land in respect of which the Authority is authorized to nominate purchasers; or
- (b) in providing any information to the Authority in respect of such matter,

which he knows to be false or misleading as to a material particular shall be guilty of an offence and shall be liable on

conviction to a fine of \$500000 and to imprisonment for 1 year. (Added 33 of 1978 s. 8)
 (Amended 15 of 1982 s. 13; L.N. 364 of 1995)

Section:	26A	Court orders on purchaser's conviction under section 26(2)		30/06/1997
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(1) Where a court convicts a person of an offence under section 26(2) committed in relation to the purchase of land by him, the court shall order, either-

- (a) that the land purchased by the offender be transferred to the Authority or to such person as the Authority may nominate; or
- (b) that the offender forfeit to the Authority a sum equivalent to the difference between the purchase price of the land, including any amount paid to the Authority under paragraph 1(b) of the Schedule, and its market value, with vacant possession and without any restriction as to alienation, conveyance or parting with possession, at the date of the conviction: (Amended 16 of 1993 s. 12)

Provided that-

- (i) the court may, for special reason relating to the circumstances of the offence, which it shall record, dispense with making an order; and
- (ii) the court shall not make an order mentioned in paragraph (a) where it would prejudice another person who has, in good faith and for valuable consideration, acquired an interest in the land.

(2) Following an order made under subsection (1)(a), the court shall appoint a person to transfer the land and to execute all proper conveyances for this purpose, against payment to the offender of the purchase price, including any amount paid to the Authority under paragraph 1(b) of the Schedule, paid by him, less- (Amended 16 of 1993 s. 12)

- (a) the amount due under any registered mortgage, which shall be paid to the mortgagee; and
- (b) any other amount that would have been deductible if the offender had assigned the land to the Authority or its nominee under the agreement for sale and purchase or the deed of assignment to him.

(Added 15 of 1982 s. 14)

Section:	26B	Court orders on conviction of other person under section 26(2)		30/06/1997
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(1) Where a court convicts a person of an offence under section 26(2) committed in relation to the purchase of land by another person, the court shall, on the application of the Authority, summon the purchaser to appear before it to show cause why an order should not be made under subsection (3).

(2) The summons mentioned in subsection (1) shall be served on the purchaser personally or by leaving it with some person at the purchaser's residence.

(3) If the purchaser fails to appear to answer to the summons or if the court, after due inquiry, is satisfied that the purchaser-

- (a) knew that the statement which was the subject of the offence had been made by the convicted person to the Authority; and
- (b) knew that the statement was false or misleading or, with reasonable diligence, could have ascertained that it was false or misleading,

the court shall order, either-

- (i) that the land purchased by the purchaser be transferred to the Authority or to such person as the Authority may nominate; or
- (ii) that the purchaser forfeit to the Authority a sum equivalent to the difference between the purchase price of the land, including any amount paid to the Authority under paragraph 1(b) of the Schedule, and its market value, with vacant possession and without any restriction as to alienation, conveyance or parting with possession, at the date of the order. (Amended 16 of 1993 s. 13)

(4) (a) The court may, for special reason relating to the circumstances of the offence, which it shall record, dispense with making an order mentioned in subsection (3).

- (b) The court shall not make an order mentioned in subsection (3)(i) where it would prejudice another person who has, in good faith and for valuable consideration, acquired an interest in the land.

(5) Following an order made under subsection (3)(i), the court shall appoint a person to transfer the land and to execute all proper conveyances for this purpose, against payment to the purchaser of the purchase price including any amount paid to the Authority under paragraph 1(b) of the Schedule, paid by him, less- (Amended 16 of 1993 s. 16)

- (a) the amount due under any registered mortgage, which shall be paid to the mortgagee; and
- (b) any other amount that would have been deductible if the purchaser had assigned the land to the

Authority or its nominee under the agreement for sale and purchase or the deed of assignment to him.

(6) For the purposes of subsection (3), the state of the purchaser's knowledge shall be judged at any time before the land was conveyed to him.

(7) For the purposes of conducting the procedure in the inquiry mentioned in subsection (3), the court shall have all the powers possessed by it when conducting any other hearing within its jurisdiction.

(Added 15 of 1982 s. 14)

Section:	27	Refusal to furnish information		30/06/1997
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Any person who-

(a) refuses or neglects to furnish any of the particulars specified in a requisition under section 25(1);

(b) refuses or neglects, when required under section 25(3), to produce his lease,

shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and to imprisonment for 3 months.

(Amended 15 of 1982 s. 15; L.N. 364 of 1995)

Section:	27A	Unlawful alienations, etc.		30/06/1997
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Where-

(a) a person whether as lender, borrower or otherwise purports to create a mortgage of or otherwise charge land or to assign or otherwise alienate land or to enter into an agreement which relates to land; and

(b) the purported mortgage or other charge or the purported assignment or other alienation or the purported agreement is void by virtue of section 17B,

the person commits an offence and is liable to a fine of \$500000 and to imprisonment for 1 year.

(Replaced 24 of 1995 s. 8. Amended L.N. 364 of 1995)

Section:	28	Offences in respect of leases		30/06/1997
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(1) Any person who, without the consent of the Authority, alters a lease shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(2) Any person who, knowing that a lease has been altered without the consent of the Authority, makes any claim under, upon or by virtue of the same shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for

6 months. (Added 42 of 1976 s. 6)

(Amended L.N. 364 of 1995)

Section:	29	Obstruction		30/06/1997
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Any person who obstructs the Authority or an authorized officer in the exercise of any power or the performance of any duty conferred or imposed under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(Amended L.N. 364 of 1995)

Section:	29A	Limitation of time for prosecution of offences	L.N. 212 of 1998	24/04/1998
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(1) Notwithstanding anything in the Magistrates Ordinance (Cap 227)-

(a) proceedings in respect of an offence against any section of this Ordinance, other than section 26(1)(aa) or (c) or (2), may be brought at any time within 2 years next after the commission of the offence or within 6 months after the discovery thereof by an authorized officer, whichever period expires first;

(b) proceedings in respect of an offence against section 26(1)(aa) or (c) or (2) may be brought at any time within 6 years next after the commission of the offence or within 1 year after the discovery thereof by an authorized officer, whichever period expires first. (Replaced 33 of 1978 s. 9. Amended 15 of 1982 s. 17; 24 of 1998 s. 8)

(2) This section as in force immediately on or after the commencement of section 8 of the Housing (Amendment) (No. 2) Ordinance 1998 (24 of 1998) shall not apply in relation to an offence committed before that

commencement but this section as in force immediately before that commencement shall apply in relation to such an offence. (Added 24 of 1998 s. 8)

Part:	VI	GENERAL		30/06/1997
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Section:	30	Authority may make bylaws		30/06/1997
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- (1) The Authority may make bylaws to provide for-
 - (a) the management and control of its estates;
 - (b) the sanitation and cleansing of its estates;
 - (c) the health of persons living in its estates;
 - (d) the selection of persons to whom leases may be granted;
 - (e) the manner in which applications for leases of premises in its estates may be made;
 - (f) the preservation of good order and the prevention of abuses and nuisances in its estates;
 - (fa) the management and control of common parts; (Added 33 of 1978 s. 10)
 - (g) the control of the use of vehicles within its estates;
 - (ga) the control of access by vehicles to, and the regulation of parking or vehicles on, restricted roads; (Added 19 of 1978 s. 5)
 - (gb) the control of the user of car parks and parking places and other matters relating thereto; (Added 19 of 1978 s. 5)
 - (gc) the erection, with the approval of the Commissioner for Transport and the Director of Highways, of road barriers and signs on restricted roads; (Added 19 of 1978 s. 5. Amended L.N. 76 of 1982; L.N. 127 of 1986)
 - (gd) the impounding and removal of vehicles, the storage of such vehicles, and prescribing charges therefor; (Added 19 of 1978 s. 5)
 - (ge) the ascertaining of the names and addresses of the registered owners and drivers of vehicles using restricted roads, car parks and parking places; (Added 15 of 1982 s. 18)
 - (h) the eviction of trespassers from its estates;
 - (i) the better carrying out of this Ordinance.
- (2) Bylaws made by the Authority shall be subject to the approval of the Legislative Council.
- (3) Bylaws made by the Authority may provide for a fixed penalty to be payable for contravention of bylaws made under subsection (1)(g) or (ga) and for the recovery of such fixed penalty. (Added 16 of 1993 s. 15)

Section:	31	No claim to lie against the Authority or the Government		30/06/1997
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Neither the Government, nor the Authority or any authorized officer, shall be liable for any loss or damage suffered by any person in consequence of anything done under section 24.

Section:	32	Certain parts of estates to be public places		30/06/1997
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Any land in an estate (other than land leased under section 16 or land which has been sold or otherwise disposed of under section 17A) vested in or under the control and management of the Authority shall be deemed to be a public place for the purposes of the Summary Offences Ordinance (Cap 228) and the Public Order Ordinance (Cap 245).
(Amended 33 of 1978 s. 11)

Section:	33	Power to specify forms		30/06/1997
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- (1) The Authority may specify the forms to be used under this Ordinance.
- (2) The Authority may publish in the Gazette any form specified by it under subsection (1).

Section:	34	Exemptions		30/06/1997
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(1) The Authority shall, for the purpose of this Ordinance, be exempt from the Inland Revenue Ordinance (Cap 112).

(2) Property vested in or placed under the control and management of the Authority for the purposes of this Ordinance shall be exempt from Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap 7). (Amended 16 of 1993 s. 16)

Section:	35	Dispute as to English or Chinese version of lease, etc.		30/06/1997
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If any dispute arises in respect of any difference between the English version and the Chinese version of any lease, assignment, agreement, deed of mutual covenant, letter, notice or other document required, granted, issued or made by, under or for the purposes of this Ordinance, the English version shall prevail.

(Amended 33 of 1978 s. 12)

Section:	36	Savings		30/06/1997
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(1) Any lease, tenancy, permit or licence granted under the repealed Housing Ordinance (Cap 283 1964 Ed.) or the repealed Resettlement Ordinance (Cap 304 1971 Ed.) and in force at the commencement of this Ordinance shall continue in force and have effect upon the same terms, covenants and conditions as if it were a lease.

(2) Any document referring to the repealed Resettlement Ordinance (Cap 304 1971 Ed.) shall, so far as may be necessary for preserving its effect, be construed as referring to or as including a reference to this Ordinance.

Section:	37	Vesting of property	29 of 1998 s. 105	01/07/1997
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Remarks:

Amendments retroactively made - see 29 of 1998 s. 105

(1) All the immovable property vested in the former Authority at the commencement of this Ordinance shall at that date be vested in the Authority by virtue of this Ordinance for the residue of the term of years created by the respective Government leases, subject to the covenants, conditions, stipulations, exceptions, reservations, provisos and powers contained in and reserved by the said Government leases. (Amended 29 of 1998 s. 105)

(2) Any other property, right and privilege vested in the former Authority at the commencement of this Ordinance shall at that date be vested in the Authority by virtue of this Ordinance on the terms and conditions, if any, on which the same was vested at that date, and the Authority shall be subject to the obligations and liabilities to which the former Authority was subject at the commencement of this Ordinance.

(3) All rights, obligations and liabilities which immediately before the commencement of this Ordinance were vested in or imposed on the Commissioner for Housing shall, at the commencement of this Ordinance, be deemed to be the rights, obligations and liabilities of the Authority.

(4) In this section, "former Authority" (前屋宇建設委員會) means the Hong Kong Housing Authority established by the repealed Housing Ordinance (Cap 283 1964 Ed.).

Section:	38	Transitional		30/06/1997
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(1) The control and management of all land in respect of which, at the commencement of this Ordinance, a competent authority had been appointed shall vest in the Authority.

(2) Any other property, right and privilege vested in a competent authority at the commencement of this Ordinance shall vest in the Authority on the terms and conditions, if any, on which the same was vested at that date, and the Authority shall be subject to the obligations and liabilities to which the competent authority was subject at the commencement of this Ordinance.

(3) At the commencement of this Ordinance, every competent authority shall deliver to the Authority all books, papers, documents, minutes, receipts and accounts relating to the competent authority and to its operation under the repealed Resettlement Ordinance (Cap 304 1971 Ed.).

(4) Every contract entered into under section 57 of the repealed Resettlement Ordinance (Cap 304 1971 Ed.),

whether in writing or not, to which a competent authority was a party and which was in force immediately prior to the commencement of this Ordinance, and whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from the commencement of this Ordinance as if-

- (a) the Authority had been a party to such agreement; and
- (b) for any reference (however worded and whether express or implied) to a competent authority there were substituted in respect of anything to be done on or after the commencement of this Ordinance a reference to the Authority.

(5) Any proceedings under the repealed Resettlement Ordinance (Cap 304 1971 Ed.) pending at the commencement of this Ordinance to which a competent authority was a party shall be construed as if the Authority was a party thereto in lieu of the competent authority.

(6) Where anything under the repealed Resettlement Ordinance (Cap 304 1971 Ed.) has been commenced by or under the authority of a competent authority and such thing is within the power of the Authority or was done in relation to any of the matters transferred by this section to the Authority, such thing may be carried on and completed by, or under the authority of, the Authority.

(7) Where, at the commencement of this Ordinance, rent is payable under the repealed Resettlement Ordinance (Cap 304 1971 Ed.) in respect of any lease, the Authority may, subject to subsections (8) and (9), vary, without the agreement of the tenant, the rent so payable.

(8) The Authority shall, if it intends to vary the rent of a lease under subsection (7), give to the tenant not less than 1 month's notice in writing of its intention and shall state in the notice the amount of the new rent.

(9) Subsection (7) shall not apply if the tenant has paid, or agreed to pay, a fine, premium or other consideration (other than rent) in order to obtain his lease.

(10) In this section "competent authority" (主管當局) means a competent authority under the repealed Resettlement Ordinance (Cap 304 1971 Ed.).

Schedule:	SCHEDULE	L.N. 129 of 1999	01/06/1999
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[sections 17AA, 26A & 26B]

TERMS, COVENANTS AND CONDITIONS

1A. In this Schedule-

"prescribed nominee" (訂明的被提名人) means a person referred to in paragraph 4(c)(B) of this Schedule;

"relevant land" (有關土地) means any land referred to in section 17AA(1)(a) or (b) of this Ordinance where the agreement for sale and purchase and the deed of assignment in relation to the land are subject to any of the terms, covenants and conditions mentioned in this Schedule. (Added L.N. 189 of 1997)

1. Subject to paragraph 4 of this Schedule, the purchaser shall not at any time alienate, convey, charge or part with possession or purport to alienate, convey, charge or part with possession or enter into any agreement to alienate, convey, charge or part with possession of the land sold other than to the Authority, or such person as the Authority may nominate, unless-

- (a) either-
 - (i) a period of 5 years has elapsed from the date of the first assignment of the land- (Amended L.N. 63 of 1999)
 - (A) from the Authority to any purchaser; or
 - (B) to any purchaser nominated by the Authority, whichever is the earlier; or
 - (ii) before that period has elapsed, the purchaser has offered to assign the land to the Authority and the Authority or its nominee (other than a prescribed nominee) has declined to accept the assignment; and
- (b) the purchaser has first paid to the Authority the amount of the premium calculated under the following formula-

$$\text{Premium} = \frac{\text{Prevailing Market Value (Initial Market Value - Purchase Price)}}{\quad}$$

Initial Market Value

Where-

"Premium" (補價) means the amount payable;

"Prevailing Market Value" (現行市值) means, subject to paragraph 6 of this Schedule, the market value of the land assessed by the Director of Housing (the "Director") as at the time when the purchaser pays the Premium;

"Initial Market Value" (最初市值) means the market value of the land assessed by the Director as at the time of purchase and as specified in the last assignment of the land-

(a) from the Authority to any purchaser; or

(b) to any purchaser nominated by the Authority (other than a prescribed nominee), whichever is the later;

"Purchase Price" (買價) means-

(a) if a list price is not specified in the assignment, the consideration stated in the assignment;

(b) if a list price is specified in the assignment, the list price, where that assignment is the last assignment of the land-

(i) from the Authority to any purchaser; or

(ii) to any purchaser nominated by the Authority (other than a prescribed nominee), whichever is the later. (Replaced L.N. 189 of 1997)

2. Where the purchaser offers to assign the land to the Authority, or a person nominated by the Authority (other than a prescribed nominee), the price shall be-

(a) where the purchaser offers to assign the land before the period of 2 years has elapsed from the date of the first assignment of the land- (Amended L.N. 63 of 1999)

(i) from the Authority to any purchaser; or

(ii) to any purchaser nominated by the Authority, whichever is the earlier, an amount equal to-

(A) subject to sub-subparagraph (B), the purchase price specified in that assignment;

(B) if there has been any subsequent sale of the land by the Authority or to any purchaser nominated by the Authority (other than a prescribed nominee), the purchase price specified in the last assignment of the land under such a sale;

(b) where the purchaser offers to assign the land after a period of not less than 2 years has elapsed from the date of the first assignment of the land- (Amended L.N. 63 of 1999)

(i) from the Authority to any purchaser; or

(ii) to any purchaser nominated by the Authority,

whichever is the earlier, an amount fixed by the Director who, in fixing that amount, shall have regard to-

(A) the market value of the land assessed by the Director of Housing at the time of the purchaser's offer to assign; and (Replaced L.N. 63 of 1999)

(B) the discount that was afforded to the purchaser at the time of purchase calculated under the following formula-

$$\text{Discount} = \frac{\text{Initial Market Value} - \text{Purchase Price}}{\text{Initial Market Value}}$$

Where "Initial Market Value" (最初市值) and "Purchase Price" (買價) have the same meanings respectively assigned to them under paragraph 1(b) of this Schedule. (Replaced L.N. 63 of 1999)

3. Against assignment of the land to the Authority, or a person nominated by the Authority (other than a prescribed nominee), the purchaser shall be entitled to receive the price as mentioned in paragraph 2(a) or (b) of this Schedule, less-

(a) the amount due under any registered mortgage, which shall be paid to the mortgagee;

(b) any rates or property tax due in respect of the land;

- (c) any amount certified by the Authority as being the reasonable cost of making good any damage or deterioration to the land;
- (d) any amount due under any deed of mutual covenant in respect of the land;
- (e) all legal costs, administrative fees and other expenses, fees and duty payable in respect of the assignment by the purchaser; and
- (f) any electricity, gas, water or other public utility charges due in respect of the land. (Replaced L.N. 189 of 1997)

4. Notwithstanding that the purchaser has not paid the premium mentioned in paragraph 1 of this Schedule, he may, in relation to the land-

- (a) mortgage or charge the land with the prior approval of the Director and on such terms as are authorized by the Director in writing; or
- (b) where-
 - (i) before the expiry of 5 years from the date of the first assignment of the land- (Amended L.N. 63 of 1999)
 - (A) from the Authority to any purchaser; or
 - (B) to any purchaser nominated by the Authority,
 whichever is the earlier, the purchaser has offered to assign the land to the Authority and the Authority or its nominee (other than a prescribed nominee) has declined to accept such an assignment; or
 - (ii) 5 years has elapsed since the date of the first assignment of the land- (Amended L.N. 63 of 1999)
 - (A) from the Authority to any purchaser; or
 - (B) to any purchaser nominated by the Authority,
 whichever is the earlier,

enter into an agreement for sale and purchase of the land providing it is a condition of such agreement that the premium as assessed by the Director be paid to the Authority prior to assignment and within 28 days of the date of the agreement or within such period as may be otherwise stipulated by the Director;
- (c) where 2 years has elapsed since the date of the first assignment of the land- (Amended L.N. 63 of 1999)
 - (i) from the Authority to any purchaser; or
 - (ii) to any purchaser nominated by the Authority,
 whichever is the earlier, enter into any provisional agreement for sale and purchase, agreement for sale and purchase, or assignment, provided that-
 - (A) the person entering into the provisional agreement for sale and purchase as the purchaser is certified by the Authority as a person eligible to buy relevant land;
 - (B) the person entering into the agreement for sale and purchase, and the assignment, as the purchaser is a person nominated for the purposes of this subparagraph by the Authority to buy particular relevant land; and
 - (C) the following-
 - (I) provisional agreement for sale and purchase;
 - (II) agreement for sale and purchase; and
 - (III) assignment,
 are each on such terms as are authorized in writing by the Authority and are each made subject to the terms, covenants and conditions mentioned in this Schedule. (Replaced L.N. 189 of 1997)

5. Where a purchaser applies for an assessment of premium to be calculated in accordance with paragraph 1(b) of this Schedule-

- (a) he purchaser shall pay to the Authority at the same time as he submits his application for the assessment, an administrative fee set and published by the Authority;
- (b) upon completing the assessment of premium, the Director shall give notice, in writing, to the purchaser of the prevailing market value, the amount of premium and the date, being not less than 28 days from the date of the notice, on or before which the premium must be paid to the Authority;
- (c) if the purchaser pays the premium as assessed by the Director to the Authority within the time notified

under subparagraph (b), the Authority shall deduct an amount equivalent to the administrative fee paid under subparagraph (a) from the premium as assessed;

- (d) the purchaser may appeal to the Lands Tribunal in accordance with the Lands Tribunal Rules (Cap 17 sub. leg. A) against the Director's assessment of the prevailing market value of the land within 28 days of the date of notification under subparagraph (b);
- (e) notwithstanding that an appeal to the Lands Tribunal has been lodged, the Director may vary his assessment of the premium at any time prior to the determination of the appeal by the Lands Tribunal.

6. The determination of the Lands Tribunal on an appeal shall be of the prevailing market value as at the date of the determination by the Lands Tribunal unless the purchaser has paid the premium in which case the determination shall be of the prevailing market value as at the date of the payment.

7. An appellant shall, if he withdraws his appeal, notify the Director accordingly within 7 days of the date of withdrawal.

8. If the Lands Tribunal assesses the prevailing market value at a different amount to that assessed by the Director, the prevailing market value so assessed shall be used in the formula set out in paragraph 1(b) of this Schedule to re-assess the amount of the premium.

9. If the effect of the Lands Tribunal's decision is to reduce the assessed premium, the purchaser shall-

- (a) where the purchaser has paid the assessed premium, be entitled to a refund of the amount by which the premium is reduced forthwith; or
- (b) where the purchaser has not paid the assessed premium, pay the premium as re-assessed by the Lands Tribunal less an amount equivalent to the administrative fee paid under paragraph 5(a) of this Schedule within 28 days of the Lands Tribunal's decision or such period as the Lands Tribunal orders.

10. If the effect of the Lands Tribunal's decision is to increase the assessed premium, the purchaser shall-

- (a) where he has paid the assessed premium, pay the amount by which the premium is increased; or
- (b) where he has not paid the assessed premium, pay the premium as re-assessed by the Lands Tribunal, within 28 days of the Lands Tribunal's decision or such period as the Lands Tribunal orders.

11. If a purchaser wishes to alienate, convey, charge or part with possession of the land while an appeal to the Lands Tribunal is pending, he may do so after paying the premium as assessed to the Authority within the period notified by the Director under paragraph 5(b) of this Schedule.

12. If the purchaser does not pay the premium in full to the Authority-

- (a) within the period notified under paragraph 5(b) of this Schedule, unless an appeal has been lodged with the Lands Tribunal and such appeal has not been discontinued or lapsed; or
- (b) within the period provided for in paragraph 9 or 10 of this Schedule as the case may require,

the assessment of the premium shall lapse.

(Replaced L.N. 381 of 1992)