Chapter:	499	ENVIRONMENTAL IMPACT ASSESSMENT ORDINANCE	Gazette Number	Version Date

		Long title	L.N. 70 of 1998	01/04/1998

An Ordinance to provide for assessing the impact on the environment of certain projects and proposals, for protecting the environment and for incidental matters.

[1 April 1998] *L.N. 70 of 1998*

(Originally 9 of 1997)

Section:	1	Short title	L.N. 70 of 1998	01/04/1998

PART I

PRELIMINARY

(1) This Ordinance may be cited as the Environmental Impact Assessment Ordinance.
(2) (Omitted as spent)

Section:	2	Interpretation	L.N. 70 of 1998	01/04/1998

In this Ordinance the expressions defined in Schedule 1 have the meanings set out there.

Section:	3	Application	L.N. 70 of 1998	01/04/1998

(1) This Ordinance binds the Government.

(2) Sections 26 and 27 do not have effect to permit proceedings to be taken against, or to impose criminal liability on, the Government or on a person doing anything in the course of carrying out his duties as a public officer in the service of the Government.

(3) If the Director considers that a public officer, in carrying out his duties in the service of the Government, has done, or has omitted to do, something in contravention of this Ordinance, the Director shall, if the act or omission is not immediately terminated to his satisfaction, report the matter to the Chief Secretary for Administration. (Amended L.N. 362 of 1997)

(4) On receiving a report, the Chief Secretary for Administration shall inquire into the matter and, if his inquiry shows that a public officer is continuing to contravene this Ordinance or is likely to contravene the Ordinance again, the Chief Secretary for Administration shall ensure that the best practicable steps are taken to stop the contravention or avoid the recurrence and to remedy any environmental damage that may have occurred. (Amended L.N. 362 of 1997)

Section:	4	Certain projects to be designated projects	L.N. 70 of 1998	01/04/1998

PART II

ENVIRONMENTAL IMPACT ASSESSMENT

(1) The projects listed in Schedules 2 and 3 are designated projects.

(2) The Secretary may by order published in the Gazette amend the lists of designated projects in Schedules 2 and 3 by adding projects to or removing projects from the lists.

(3) The addition of a designated project to Schedule 2 or 3 does not affect an existing project-

(a) if the existing project has been approved, permitted or authorized, or consented to, by the Government or a statutory authority under an Ordinance specified by the Secretary in the order amending the Schedule; or

(b) if construction of the project commences within 6 months of the addition of the project to the Schedule.

(4) The Secretary may after consulting the Director specify in writing as a designated project, contiguous projects which, if taken individually, do not meet the specified levels in Schedule 2 or 3 to qualify as a designated project, and which are proposed by the same person or associated persons, if he is satisfied that the purpose behind the separation of the projects is to avoid the purposes of this Ordinance. The Director must give the person or associated persons who propose or are carrying out the contiguous projects a copy of the specification of the projects as a designated project.

(5) A person or associated persons may apply to the Director for confirmation as to whether contiguous projects proposed by him or them are to be treated as designated projects. The Director must advise the person or associated persons within 14 days that the projects are to be treated as a designated project.

Section:	5	Application for brief or permission to apply directly for environmental permit	L.N. 70 of 1998	01/04/1998

(1) A person who is planning a designated project shall apply to the Director-

(a) for an environmental impact assessment study brief to proceed with an environmental impact assessment study for the project; or

(b) if the requirements of subsection (9), (10) or (11) are relevant, for approval to apply directly for an environmental permit.

(2) The applicant shall-

(a) submit the application in the form approved by the Director;

(b) submit a project profile that complies with the technical memorandum;

(c) advertise in the form the Director may require the availability of the project profile on the day following the lodging of the project profile with the Director in a Chinese language daily newspaper and an English language daily newspaper, each of which circulate generally in Hong Kong; and

(d) pay the prescribed application fee.

(3) The Director shall inform the Advisory Council on the Environment on the receipt of a project profile and forward a copy of the project profile to it.

(4) The Director may within 14 days of receiving the application request the applicant to give further information concerning the project profile or notify the applicant of any defects in the application.

(5) If the Director requires further information, the Director may also require the applicant to advertise the availability of the additional information or details relating to the information.

(6) The Advisory Council on the Environment and any person may comment on a project profile to the Director on environmental issues covered by the technical memorandum relevant to the designated project within 14 days of its being advertised. The Director is to consider any comments received in drawing up the study brief for the designated project.

(7) The Director shall within 45 days of receiving the application or further information under subsection (4)-

(a) issue to the applicant an environmental impact assessment study brief; and

(b) notify the Advisory Council on the Environment that he has issued the environmental impact assessment study brief; or

(c) by notice in writing permit the applicant to apply directly for an environmental permit.

(8) The Director is taken to have given his consent for an applicant under subsection (7)(c) to apply directly for an environmental permit if the Director has not given notice in writing refusing permission within 45 days of receiving the application or further information under subsection (4).

(9) The Director may permit an applicant to apply directly for an environmental permit if he satisfies the Director, having regard to the project profile, that-

(a) the environmental impact of the project is adequately assessed in an environmental impact assessment report in the register; and

(b) the information and findings of the environmental impact assessment report in the register are still relevant.

(10) The Director may permit an applicant to apply directly for an environmental permit for a material change to an exempted project by notice in writing if the applicant satisfies the Director, having regard to the project profile, that the impact of the material change to the project and the mitigation measures described in the project profile meet the requirements of the technical memorandum.

(11) The Director may, with the consent of the Secretary, permit an applicant to apply directly for an environmental permit if he satisfies the Director, having regard to the project profile, that the environmental impact of

the designated project is unlikely to be adverse and the mitigation measures described in the project profile meet the requirements of the technical memorandum.

(12) The Director may impose conditions on a permission to apply directly for an environmental permit that include, without limiting the power to impose any reasonable condition, requirements to be complied with for the issue and holding of an environmental permit for the designated project, but shall be guided by the relevant technical memorandum.

Section:	6	Environmental impact assessment report	L.N. 70 of 1998	01/04/1998

(1) An applicant shall prepare an environmental impact assessment report in accordance with-

(a) the requirements of the environmental impact assessment study brief; and

(b) the technical memorandum applicable to the assessment.

(2) The applicant shall deliver an environmental impact assessment report to the Director for approval and pay the prescribed application fee. The Director may require the applicant to supply sufficient copies of the report so that the Director is able to circulate copies to relevant parties as defined in the technical memorandum.

(3) The Director shall, within 60 days of receiving the environmental impact assessment report, decide if the assessment-

(a) meets the requirements of the environmental impact assessment study brief and technical memorandum; or

(b) does not meet the requirements of the environmental impact assessment study brief and technical memorandum.

(4) If the Director decides that the environmental impact assessment report meets the requirements of the brief and the technical memorandum, he shall advise the applicant when the report must be exhibited for public inspection, whether the advertisement is to contain any specific material and whether a submission to the Advisory Council on the Environment or its subcommittee is required.

(5) The Director is taken to have decided that the environmental impact assessment report meets the requirements of the environmental impact assessment study brief and the technical memorandum if the Director has not given notice in writing that the report does not meet the requirements of the brief and the technical memorandum within 60 days of receiving the report. The applicant is required to submit the number of copies of the report as set out in the brief.

(6) If the Director decides that the environmental impact assessment report does not meet the requirements of the brief and the technical memorandum, he shall advise the applicant of the reasons why the report is unacceptable.

(7) The applicant shall present his environmental impact assessment report to the Advisory Council on the Environment at the times and places advised by the Director if the applicant is required to submit the report to the Council.

Section:	7	Public inspection of reports	L.N. 70 of 1998	01/04/1998

(1) The applicant shall as soon as reasonably practicable after he has been notified under section 6(3)(a) that an environmental impact assessment report meets the requirements of the environmental impact assessment study brief-

(a) make the report available in such numbers as the Director may reasonably require at locations approved by the Director for public inspection free of charge for a period of 30 days;

(b) advertise as the Director may require the availability of the report once every 10 days of the period in a Chinese language newspaper and an English language newspaper, each of which circulate generally in Hong Kong; and

(c) provide free of charge sufficient quantities as the Director may require of the report to comply with paragraph (a).

(2) The applicant shall set out in the advertisement-

(a) the nature of the designated project and the site where the project is proposed to be carried out;

(b) the period for which, the places at which and the hours during which the report is available for public inspection;

(c) that a member of the public may give the Director written comments on the report before the period of public inspection expires;

(d) the address to which the comments are to be sent; and

(e) any other information that the Director may reasonably require relating to the project.

(3) The Director shall require an applicant to readvertise or extend the period of public inspection for up to another 30 days if the applicant fails to comply with any requirement under this Part or a direction that the Director gives to an applicant under this section unless the Director is satisfied that the failure is not significant.

(4) The Director shall notify the Advisory Council on the Environment if an environmental impact assessment report is suitable for public inspection.

(5) The Advisory Council on the Environment may give any comments it has on the report to the Director within 60 days of its receiving a copy of the report.

Section:	8	Approval of environmental impact assessment report	L.N. 70 of 1998	01/04/1998

(1) The Director may, within 14 days of the expiry of the public inspection period or the receipt of comments from the Advisory Council on the Environment, whichever is later, ask an applicant in writing to give him the information he requires to decide whether to approve an environmental impact assessment report. The Director shall supply the applicant with one set of written comments received from members of the public and the Advisory Council on the Environment free of charge where comments have been received.

(2) The Director shall not make a request for further information where comments have not been submitted to him on the report as a result of the public consultation or from the Advisory Council on the Environment.

(3) The Director shall, within 30 days of-

(a) the expiry of the public inspection period;

(b) the receipt of comments from the Advisory Council on the Environment; or

(c) the receipt of information under subsection (1),

whichever is the later, approve, approve with conditions or reject an environmental impact assessment report for the designated project.

(4) The Director is taken to have approved without conditions an environmental impact assessment report if the Director has not given notice in writing rejecting the report or approving it with conditions within 30 days of the happening of the later of the events set out in subsection (3)(a), (b) or (c).

(5) The Director shall place an approved environmental impact assessment report on the register.

(6) If the Director rejects an environmental impact assessment report, he shall give the applicant the reasons for the rejection.

Section:	9	Prohibition against carrying out designated project unless environmental permit has been issued, etc.	L.N. 70 of 1998	01/04/1998

PART III

ENVIRONMENTAL PERMITS

(1) A person shall not construct or operate a designated project listed in Part I of Schedule 2 or decommission a designated project listed in Part II of Schedule 2-

(a) without an environmental permit for the project; or

(b) contrary to the conditions, if any, set out in the permit.

(2) A project listed in Part I of Schedule 2 that has-

(a) had planning permission granted by the Town Planning Board under section 16 of the Town Planning Ordinance (Cap 131);

(b) had consent granted to commence building works by the Building Authority under the Buildings Ordinance (Cap 123);

(c) had reclamation authorized under the Foreshore and Sea-bed (Reclamations) Ordinance (Cap 127);

(d) had road works authorized under the Roads (Works, Use and Compensation) Ordinance (Cap 370);

(e) been approved as a new development under the Country Parks Ordinance (Cap 208) or the Marine Parks Ordinance (Cap 476);

(f) been authorized under the Water Pollution Control (Sewerage) Regulation (Cap 358 sub. leg. AL);

(g) commenced construction, or been in operation,

before this Ordinance comes into operation is exempt from the provisions of this Ordinance so far as the construction and operation of the project is concerned.

(3) A project listed in Part II of Schedule 2 and the demolition plan of which has been approved by the

Building Authority under the Buildings Ordinance (Cap 123) before this Ordinance comes into operation, is exempt from the provisions of this Ordinance so far as the decommissioning of the project is concerned.

(4) A material change to an exempted project is subject to this Ordinance and requires an environmental permit unless subsequently exempted under this Ordinance.

(5) The inclusion of a class of projects in Schedule 3 does not exempt the construction, operation or decommissioning of the whole or any part of the project from the need to have an environmental permit.

Section:	10	Application for environmental permit	L.N. 70 of 1998	01/04/1998

(1) A person who wishes to have constructed, construct or operate a designated project listed in Part I of Schedule 2 or to decommission a designated project listed in Part II of Schedule 2 shall-

(a) apply to the Director for an environmental permit in the form approved by the Director; and

(b) refer to an environmental impact assessment report on the register in the application for an environmental permit; or

(c) submit an environmental impact assessment report prepared under section 6 with the application; or

(d) refer to the permission under section 5(9), (10) and (11) to apply directly for an environmental permit and the conditions under section 5(12); and

(e) pay the prescribed application fee.

(2) In granting or refusing an environmental permit, the Director shall have regard to-

(a) the approved environmental impact assessment report on the register;

(b) the attainment and maintenance of an acceptable environmental quality;

(c) whether the environmental impact caused or experienced by the designated project is or is likely to be prejudicial to the health or well being of people, flora, fauna or ecosystems;

(d) any relevant technical memorandum;

(e) any environmental impact assessment report approved under this Ordinance or any conditions in an approval; and

(f) the comments, if any, submitted to him under section 7 on the report.

(3) The Director shall advise the applicant and the Advisory Council on the Environment, where it has been consulted under section 6(7), of the grant or refusal of the environmental permit within 30 days of the later of-

(a) the receipt of the application;

(b) the expiry of the public inspection period of the environmental impact assessment report under section 7;

(c) the receipt of comments from the Advisory Council on the Environment on the environmental impact assessment report; or

(d) the receipt of information under section 8(1).

(4) The Director is taken to have granted without conditions an environmental permit if the Director has not given notice in writing rejecting the permit or approving it with conditions within 30 days of the happening of the later of the events set out in subsection (3)(a), (b), (c) or (d).

(5) The Director may issue an environmental permit subject to the conditions, if any, as the Director thinks fit and specifies in the permit.

(6) Without limiting the general nature of conditions which the Director may include in an environmental permit, he may include conditions relating to the matters set out in Schedule 4 but shall be guided by the relevant technical memorandum.

(7) A condition specified in an environmental permit may be subject to a qualification, restriction or requirement concerning the location, time or period of the condition's application.

(8) The Director shall not specify in an environmental permit conditions that might be included in approval of any nature under another pollution control Ordinance unless-

(a) the conditions are necessary to meet the requirements of the technical memorandum or the environmental impact assessment study brief; and

(b) the environmental impact assessment report approved for the project or the conditions on which the applicant was allowed to apply directly for an environmental permit under section 5 specified expressly that the environmental permit may include the conditions.

(9) If the environmental permit is refused, the Director shall advise the applicant and give the reasons why the permit is refused.

Section:	11	Surrender of permit	L.N. 70 of 1998	01/04/1998

A person who is issued with an environmental permit may surrender the whole or a part of the permit after ceasing to be responsible for implementing the whole or a part of the project.

Section:	12	Issue of further environmental permit for a project	L.N. 70 of 1998	01/04/1998

(1) Where responsibility for a designated project for which an environmental permit has been issued changes while the environmental permit is still in force, the person who assumes responsibility of the designated project shall before he assumes the responsibility apply for and obtain an environmental permit for the whole or a part of the project.

(2) A person applying for a further environmental permit under this section is not required to submit an environmental impact assessment report where he satisfies the Director that there has been no material change to the designated project since the previous environmental permit was issued.

(3) The Director shall issue an environmental permit to an applicant under this section within 30 days of receipt of the application if he is satisfied that-

(a) there has been no material change to the designated project since the previous environmental permit was issued; and

(b) the information and findings of the environmental impact assessment report, if any, are still relevant and adequate.

(4) The Director is taken to have issued a further environmental permit on the same conditions as the previous environmental permit if the Director has not given notice in writing rejecting the application or approving it with conditions within 30 days of the receipt of the application.

(5) An applicant under this section shall apply in the form approved by the Director and shall pay the prescribed application fee.

(6) The Director may exempt a designated project from the requirement to be further subject to an environmental permit if-

(a) an environmental permit has been issued for the designated project and the terms of the environmental permit have been complied with; and

(b) the designated project is not subject to any conditions under the environmental permit that are of an on-going nature and require monitoring or other compliance.

(7) A material change to a designated project exempted under subsection (6) is subject to the provisions of this Ordinance and requires an environmental permit unless subsequently exempted under this Ordinance.

Section:	13	Application for variation of an environmental permit	L.N. 70 of 1998	01/04/1998

(1) The person holding an environmental permit or a person who assumes responsibility for a designated project the subject of an environmental permit may apply for a variation of the conditions of the environmental permit.

(2) The Director shall notify the applicant for a variation of an environmental permit within 30 days of the receipt of an application whether he requires the applicant to submit an environmental impact assessment report for the variations sought.

(3) The Director is taken not to require an environmental impact assessment report for the variations sought if the Director does not notify the applicant within 30 days of the receipt of the application.

(4) If the Director requires an applicant to submit an environmental impact assessment report, sections 5, 6, 7 and 8 apply to the report and assessment.

(5) The Director may amend the environmental permit without calling for an environmental impact assessment report if the applicant satisfies him that-

(a) there is no material change to the environmental impact of the project with the mitigation measures in place; and

(b) the project complies with the requirements described in the technical memorandum.

(6) An applicant under this section shall apply in the form approved by the Director and shall pay the prescribed application fee.

Section:	14	Cancellation or variation of environmental permit by the Director	L.N. 70 of 1998	01/04/1998

Remarks:
Adaptation amendments retroactively made - see 34 of 2000 s. 3

(1) The Director may, with the consent of the Secretary, suspend, vary or cancel an environmental permit if he is satisfied that-

(a) on the application for the environmental permit the applicant gave-

(i) misleading information;

(ii) wrong information;

(iii) incomplete information; or

(iv) false information; or

(b) the applicant is no longer able to comply with the conditions of the environmental permit.

(2) The Director shall give written notice of his decision to suspend, vary or cancel an environmental permit under this section together with the reasons for the suspension, variation or cancellation and the conditions on which the permit can be reinstated.

(3) The Chief Executive in Council may suspend, vary or cancel an environmental permit if he is satisfied that the continuation of the designated project is, or is likely to be more prejudicial to the health and well being of people, flora, fauna or ecosystems than expected at the time of issuing the environmental permit. (Amended 34 of 2000 s. 3)

(4) The Chief Executive in Council shall give the reasons for the suspension, variation or cancellation and the conditions on which the permit can be reinstated. (Amended 34 of 2000 s. 3)

(5) In this section, "vary" (更改) includes to delete, modify or add to the conditions of an environmental permit.

Section:	15	The register	L.N. 70 of 1998	01/04/1998

PART IV

THE REGISTER

(1) The Director shall keep a register in the form he determines containing details of-

(a) project profiles he receives;

(b) environmental impact assessment study briefs he issues;

(c) his decisions on the applications for permission to apply directly for an environmental permit under section 5(9), (10) or (11);

(d) environmental impact assessment reports he receives;

(e) his decisions on the environmental impact assessment reports;

(f) environmental impact assessment reports he held prior to the commencement of this Ordinance;

(g) applications for environmental permits;

(h) his decisions on the applications for environmental permits;

(i) matters required by regulations.

(2) The register is open for inspection by the public (free of charge) during normal office hours at the places the Director determines.

Section:	16	Technical memorandum	8 of 2002	03/05/2002

PART V

TECHNICAL MEMORANDUM

(1) The Secretary may issue technical memorandums setting out principles, procedures, guidelines, requirements and criteria for-

(a) the technical content of a project profile;

(b) the technical content of an environmental impact assessment study brief or environmental impact assessment report;
(c) deciding whether a designated project is environmentally acceptable;
(d) deciding whether an environmental impact assessment report meets the requirements of the environmental impact assessment study brief;
(e) deciding whether the Director will permit an applicant to apply directly for an environmental permit under section 5(9), (10) or (11);
(f) resolving conflicts on the content of the environmental impact assessment study brief and the environmental impact assessment report;
(g) taking advice from other authorities;
(h) deciding what is a material change, addition or alteration to an environmental impact or to a designated project;
(i) the issue of environmental permits;
(j) the imposition of environmental monitoring and audit requirements for designated projects as conditions in environmental permits.

(2) A technical memorandum may require or authorize the Director to follow the advice of the Secretary.

(3) In giving advice pursuant to a technical memorandum, the Secretary shall ensure that the effect of his advice is to protect the environment.

(4) The Director shall be guided by all applicable technical memorandums when deciding on matters under sections 5, 6, 8, 10, 12, 13 and 14.

(5) A technical memorandum is to be published in the Gazette and laid on the table of the Legislative Council at the next sitting after its publication.

(6) The Legislative Council may, by resolution passed at a sitting of the Legislative Council held before the expiration of a period of 28 days of the sitting at which a technical memorandum was laid on the table of the Legislative Council, repeal the technical memorandum.

(7) If the period for debate would but for this subsection expire-
(a) after the end of a session of the Legislative Council or a dissolution; but
(b) on or before the day of the second sitting of the Legislative Council in the next session,
the period extends to and expires on the day after that second sitting.

*(8) Before the expiry of the period referred to in subsection (6) or that period as extended by virtue of subsection (7), the Legislative Council may by resolution in relation to a technical memorandum specified therein-
(a) in the case of the period referred to in subsection (6), extend that period to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of its expiry;
(b) in the case where the period referred to in subsection (6) has been extended by virtue of subsection (7), extend that period as so extended to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of the second sitting in that next session. (Replaced 8 of 2002 s. 22)

(9) A resolution passed by the Legislative Council in accordance with this section is to be published in the Gazette within 14 days of its passing or within the further period the Chief Executive may allow in a particular case. (Amended 34 of 2000 s. 3)

(10) A technical memorandum issued under this section is to come into operation on the expiry of the period for debate of the technical memorandum in the Legislative Council.

(11) In this section, "sitting" (會議), when used to calculate time, means the day on which the sitting commences and only includes a sitting at which subsidiary legislation is included on the order paper.

(12) A technical memorandum is not subsidiary legislation.

Note:

*** For the transitional provision relating to this subsection as amended by section 22 of the Extension of Vetting Period (Legislative Council) Ordinance 2002 (8 of 2002), see section 23 of that Ordinance.**

Section:	17	Appeals	L.N. 70 of 1998	01/04/1998

PART VI

APPEALS

(1) An environmental permit holder or an applicant for-

(a) an environmental impact assessment study brief;

(b) permission to apply directly for an environmental permit;

(c) approval of an environmental impact assessment report; or

(d) an environmental permit,

may appeal to the Appeal Board if he is aggrieved by a decision of the Director-

(i) as to the content of an environmental impact assessment study brief issued by the Director under section 5(7)(a);

(ii) not to issue an environmental permit;

(iii) not to permit an applicant to apply directly for an environmental permit under section 5(9), (10) or (11);

(iv) as to the conditions imposed under section 5(12) on an applicant's applying directly for an environmental permit;

(v) not to approve an environmental impact assessment report;

(vi) to impose conditions on the issue or variation of an environmental permit;

(vii) to vary or to cancel an environmental permit;

(viii) to claim costs incidental to remedying environmental damage under this Ordinance.

(2) A person whose project is specified as a designated project under section 4(4) may appeal to the Appeal Board against the decision to designate the project.

(3) An applicant shall appeal by lodging notice of appeal in the prescribed manner within 30 days of receipt of the notice of the decision.

Section:	18	Appeal Board panel	L.N. 70 of 1998	01/04/1998

Remarks:
Adaptation amendments retroactively made - see 34 of 2000 s. 3

(1) The Appeal Board shall determine an appeal under this Ordinance.

(2) The Chief Executive shall appoint as Chairman of the Appeal Board panel a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336).

(3) The Chief Executive may appoint as Deputy Chairman of the Appeal Board panel a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336) who may act as Chairman in his absence.

(4) The Chairman, a Deputy Chairman and a person appointed to the Appeal Board panel are appointed for a term of 3 years but may be reappointed.

(5) The Chief Executive shall appoint a panel of persons whom he considers suitable for appointment as members of the Appeal Board to hear any appeal under this Ordinance.

(6) An appointment under subsection (2), (3) or (5) is to be notified in the Gazette.

(7) The Chairman, a Deputy Chairman and a person appointed to the Appeal Board panel may at any time resign by notice in writing to the Chief Executive.

(Amended 34 of 2000 s. 3)

Section:	19	Constitution of Appeal Board	L.N. 70 of 1998	01/04/1998

Remarks:
Amendments retroactively made-see 25 of 1998 s. 2

(1) The Chairman and the number of persons from the panel the Chairman appoints to be members to hear an appeal constitutes an Appeal Board.

(2) The Appeal Board may give directions to the Director as to the exercise of the Director's functions relevant to the appeal. The Director shall comply with the directions.

(3) The opinion of the majority of the members hearing the appeal determines a question before the Appeal Board except a question of law which the Chairman determines. The Chairman has a casting vote where there is an equality of votes.

(4) At least 3 members, one of whom must be either the Chairman or Deputy Chairman, shall hear and

determine the appeal.

(5) The Appeal Board must not include public officers.

(6) The contents of any technical memorandum must not be called into question in an appeal.

(7) In an appeal the Appeal Board may-

(a) administer an oath and receive evidence on oath;

(b) admit or take into account a statement, document, information or matter whether or not it would be admissible in a court of law;

(c) by notice in writing summon a person to appear before it to produce a document or to give evidence;

(d) confirm, reverse or vary the decision or requirement appealed against; and

(e) make an award of the costs of the appeal as is just and equitable in all the circumstances of the case.

(8) In the exercise of its powers under subsection (7) the Appeal Board has the powers which the Court of First Instance may exercise. (Amended 25 of 1998 s. 2)

(9) If a person-

(a) on being summoned as a witness before the Appeal Board fails to attend; or

(b) being in attendance as a witness refuses to take an oath required by the Appeal Board to be taken, or to produce a document under his power or control required by the Appeal Board to be produced by him, or to answer a question to which the Appeal Board may require an answer; or

(c) does any other thing which would, if the Appeal Board had been a court of law having power to commit for contempt, have been contempt of that court,

the Chairman may certify in writing the contempt of the person to the Court of First Instance. (Amended 25 of 1998 s. 2)

(10) The Court of First Instance may inquire into the alleged contempt and after hearing- (Amended 25 of 1998 s. 2)

(a) the witnesses who may be produced against or for the person charged with the contempt; and

(b) any statement that may be offered in defence,

punish or take steps for the punishment of that person in the same way if he had been guilty of contempt of the court.

(11) A witness before the Appeal Board has the same immunities and privileges as if he were a witness in civil proceedings before the Court of First Instance. (Amended 25 of 1998 s. 2)

(12) Costs awarded by the Appeal Board are enforceable as a civil debt and costs payable by the Director under an award are charged on the general revenue.

(13) The Chairman may determine a form or matter of practice or procedure of the Appeal Board for which a provision is not made in this Ordinance.

(14) In this section "public officer" (公職人員) does not include a judge who is appointed as the Chairman or a Deputy Chairman.

Section:	20	Supplementary provisions	L.N. 70 of 1998	01/04/1998

Remarks:
Adaptation amendments retroactively made - see 34 of 2000 s. 3

(1) If both the Chairman and Deputy Chairman are precluded by illness, absence from Hong Kong or any other cause from exercising his functions, the Chief Executive may appoint a person qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336) to act as Chairman and as such to exercise and perform all the functions of the Chairman during the period of his appointment. (Amended 34 of 2000 s. 3)

(2) If a person appointed by the Chairman to hear an appeal under this Part is precluded by illness, absence from Hong Kong or any other cause from exercising his functions, the Chairman may appoint another person from the panel to act in his place.

Section:	21	Case may be stated for Court of Appeal	L.N. 70 of 1998	01/04/1998

(1) The Appeal Board may, before an appeal under this Part is determined, refer a question of law arising in the appeal to the Court of Appeal for determination by way of case stated.

(2) On the hearing of the case the Court of Appeal may amend the case or order it to be sent back to the Appeal Board for amendment having regard to the opinion of the Court of Appeal.

Section:	22	Authorized officers	L.N. 70 of 1998	01/04/1998

PART VII

ENFORCEMENT

(1) The Director may in writing authorize a public officer to exercise the powers conferred on an authorized officer under this Part as the Director may specify in the authorization.

(2) A public officer exercising a power under this Part-

(a) may obtain the assistance of persons he reasonably requires for the purposes of the discharge of his functions;

(b) shall, if required, produce his identity card issued under the Registration of Persons Ordinance (Cap 177), together with his written authorization under this section.

Section:	23	Powers of entry and inspection, etc.	L.N. 70 of 1998	01/04/1998

(1) An authorized officer may without warrant and on production, if required, of his written authorization under this Part-

(a) enter and search a place if he reasonably believes that-

(i) an offence against this Ordinance has been or is being committed in the place;

(ii) there is in the place anything that is or is likely to constitute evidence that an offence against this Ordinance has been or is being committed;

(b) enter a place to serve a notice under this Ordinance;

(c) enter a place to measure, inspect, take samples and test as he reasonably believes is necessary to determine if an offence against this Ordinance has been or is being committed.

(2) An authorized officer shall not, except with the consent of the occupier or person in charge of the premises, enter domestic premises without a warrant issued by a magistrate under subsection (3) or (4).

(3) If a magistrate informed on oath is satisfied that there is reason to believe that-

(a) an offence against this Ordinance has been or is being committed on domestic premises; or

(b) there is on domestic premises anything that is or is likely to constitute evidence that an offence against this Ordinance has been or is being committed,

the magistrate may issue a warrant authorizing an authorized officer to enter and search the premises.

(4) If a magistrate informed on oath is satisfied that there is reason to believe that it is necessary for an authorized officer to enter domestic premises to serve a notice or to measure, inspect, take samples or test as the authorized officer reasonably believes is necessary to determine if an offence against this Ordinance has been or is being committed, the magistrate may issue a warrant authorizing the authorized officer to enter the domestic premises.

(5) An authorized officer who enters a place under subsection (1), (3) or (4) may require any person present at that place-

(a) to give details of his identity, name and address and produce his identity card issued under the Registration of Persons Ordinance (Cap 177) for inspection by the authorized officer; or

(b) who appears at the time to be responsible for or in charge of that place, to give such information or render such assistance as may be necessary to enable the authorized officer to carry out his functions under this Part.

(6) An authorized officer who enters any place under this section shall, if entry is by warrant, produce that warrant.

(7) A warrant issued under subsection (3) or (4) shall continue in force until the purpose for which the entry is necessary has been satisfied.

Section:	24	Cessation order	L.N. 70 of 1998	01/04/1998

(1) The Director may, with the consent of the Secretary, issue an order requiring persons working on a designated project to cease working on the project until the order is withdrawn, if-

(a) an environmental permit has not been issued for the project being undertaken;

(b) an environmental permit has been withdrawn from the project being undertaken; or

(c) there has been a breach of the conditions of an environmental permit issued for the project being

undertaken, resulting in environmental damage.

(2) The Director may, with the consent of the Secretary, issue an order requiring persons working on a designated project to carry out work on the project to remedy environmental damage identified by the Director.

(3) The Director may, with the consent of the Secretary, after issuing an order to cease working on a designated project, take direct action to remedy environmental damage identified by the Director and may recover the costs of the remedial work from the owner of, or the operator or the contractor on, the site of the designated project.

Section:	25	Recovery of costs	L.N. 70 of 1998	01/04/1998

(1) The Director may certify the costs due and names of the persons liable for the costs, apportioning the costs if appropriate, if he is authorized to recover the costs of works carried out under this Ordinance.

(2) Without limiting the general meaning of "costs" (費用), the costs may include supervision charges and the costs of materials supplied by the Director for the purpose of carrying out the works.

(3) The Director shall serve a copy of his certificate on each person who is liable to pay costs.

(4) Annual interest at the rate of 10% commencing 1 month after the date of service of the certificate is recoverable as part of the costs.

(5) Payment of costs by any person is without prejudice to his right to recover the payment from any other person who is liable to pay for the costs.

(6) Costs certified by the Director are recoverable as a civil debt due to the Government.

(7) A writ of summons initiating an action to recover costs as a civil debt due to the Government is presumed to have been served if the court is satisfied that the writ was left at the defendant's residence or place of business or, if those are not known, that it was left at the building or land for which the claim is made.

(8) A certificate purporting to be signed by the Director under subsection (1) is on its production admissible in any proceedings without further proof. The certificate is presumed, in the absence of evidence to the contrary, to be proof of the signature of the Director and of the facts certified in relation to the costs due from the person sued.

(9) At any time before the costs have been wholly recovered, a copy of the certificate referred to in subsection (1) may be registered under the Land Registration Ordinance (Cap 128) against the land or premises for which the costs arose, and the copy so registered constitutes a legal charge as defined in the Conveyancing and Property Ordinance (Cap 219).

(10) On the recovery of all of the costs certified under this section the Director shall, if there has been a registration against land or premises under subsection (9), register under the Land Registration Ordinance (Cap 128) a certificate of satisfaction against the land or premises.

Section:	26	Offences relating to environmental permit	L.N. 70 of 1998	01/04/1998

PART VIII

OFFENCES

(1) A person who contravenes section 9 commits an offence and is liable-

(a) on a first conviction on indictment to a fine of $2000000 and to imprisonment for 6 months;

(b) on a second or subsequent conviction on indictment to a fine of $5000000 and to imprisonment for 2 years;

(c) on a first summary conviction to a fine at level 6 and to imprisonment for 6 months;

(d) on a second or subsequent summary conviction to a fine of $1000000 and to imprisonment for 1 year,

and in any case where the offence is of a continuing nature, the court or magistrate may impose a fine of $10000 for each day on which he is satisfied the offence continued.

(2) A person does not commit an offence under subsection (1) if he carries out an action in response to an emergency and in the interests of public safety or public health.

(3) A person does not commit an offence under subsection (1) arising out of a breach of conditions of an environmental permit as set out in section 9(1)(b) if he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity.

(4) A person for whom a project is constructed, operated or decommissioned and who permits the carrying out

of the project contrary to section 9 commits an offence and is liable-

(a) on a first conviction on indictment to a fine of $2000000 and to imprisonment for 6 months;

(b) on a second or subsequent conviction on indictment to a fine of $5000000 and to imprisonment for 2 years;

(c) on a first summary conviction to a fine at level 6 and to imprisonment for 6 months;

(d) on a second or subsequent summary conviction to a fine of $1000000 and to imprisonment for 1 year,

and in any case where the offence is of a continuing nature, the court or magistrate may impose a fine of $10000 for each day on which he is satisfied the offence continued.

(5) A person does not commit an offence under subsection (4) if he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity.

(6) A person who either alone or with an associated person, separates contiguous projects, which, if taken individually, do not meet the specified levels in Schedule 2 or 3 to qualify as a designated project but which collectively qualify as a designated project, to avoid the purposes of this Ordinance is taken to have contravened subsection (4) if he permits the carrying out of any part of any of the contiguous projects without first applying to the Director under section 4(5).

(7) In proceedings for an offence under this section, the prosecution does not have to prove that the acts or omissions in question were accompained by any intention, knowledge or negligence on the part of the defendant as any element of the offence.

Section:	27	Offences in relation to enforcement	L.N. 70 of 1998	01/04/1998

A person who-

(a) wilfully resists, obstructs or delays any public officer in the exercise of a power conferred by section 23 which he is authorized to exercise;

(b) fails without reasonable excuse to comply with a requirement duly made by a public officer in the exercise of a power under section 23 which he is authorized to exercise;

(c) in compliance or purported compliance with a requirement of a public officer under Part VII produces a drawing, record or document which he knows to be incorrect or inaccurate in a material respect or does not believe to be correct or accurate; or

(d) wilfully or recklessly gives information which is incorrect in a material respect or withholds information as to any of the matters for which information is required to be given under Part VII,

commits an offence and is liable on conviction to a fine at level 5.

Section:	28	Offence to disclose confidential information obtained officially	L.N. 70 of 1998	01/04/1998

(1) A person who, except in the circumstances set out in subsection (2), discloses or gives to another person any information that concerns a trade, business or profession, and has come to his knowledge or into his possession in the course of the discharge of his functions under this Ordinance commits an offence.

(2) A person does not commit an offence under subsection (1) if he discloses or gives the information to another person-

(a) to discharge his functions under this Ordinance or in connected proceedings;

(b) under an order of a court under subsection (3); or

(c) with the consent in writing of all persons who appear to him, after reasonable inquiry, to be interested in the confidentiality of the information.

(3) Where in proceedings a court considers that the justice of the case requires, the court may order the disclosure of information referred to in subsection (1).

(4) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

Section:	29	Directors of body corporate liable in certain circumstances	L.N. 70 of 1998	01/04/1998

(1) Where a person convicted of an offence under this Ordinance is a body corporate and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect or omission on the part of, a director, manager, secretary or other person concerned in the management of the body corporate, the director,

manager, secretary or other person also commits the offence.

(2) Where a person convicted of an offence under this Ordinance is a partner in a partnership and it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect or omission on the part of, any other partner or any person concerned in the management of the partnership, the partner or the person concerned in the management also commits the offence.

Section:	30	Exemptions	L.N. 70 of 1998	01/04/1998

Remarks:
Adaptation amendments retroactively made - see 34 of 2000 s. 3

PART IX

MISCELLANEOUS

(1) The Chief Executive in Council may, in the public interest, exempt a project from the provisions of this Ordinance by an order published in the Gazette.

(2) The Chief Executive in Council may make the order-

(a) subject to conditions and limitations;

(b) have effect for a period of time; and

(c) be partial in operation with respect to the project or to specified provisions of this Ordinance.

(3) A person who breaches a condition or requirement imposed under an exemption order is deemed to have breached an environmental permit and is subject to the provisions of this Ordinance that apply to the breach of an environmental permit.

(Amended 34 of 2000 s. 3)

Section:	31	Protection of Government and public officers	L.N. 70 of 1998	01/04/1998

(1) A public officer is not personally liable for an act or omission of his if he did it in the honest belief that the act or omission was required or authorized to discharge his functions under this Ordinance.

(2) The protection given to a public officer by subsection (1) for an act or omission does not in any way affect any liability of the Government in tort for the act or omission.

Section:	32	Regulations	L.N. 70 of 1998	01/04/1998

(1) The Secretary may, after consultation with the Advisory Council on the Environment, by regulation-

(a) prescribe anything required or permitted to be prescribed under this Ordinance;

(b) prescribe the minimum qualifications and experience of persons undertaking environmental impact assessment studies;

(c) regulate appeals under Part VI and the practice and procedure of the Appeal Board;

(d) generally, provide for the better carrying into effect of the provisions and purposes of this Ordinance.

(2) A regulation for the payment of fees may provide for different fees to be charged according to different circumstances.

Section:	33	Power of Director to set forms	L.N. 70 of 1998	01/04/1998

(1) The Director may set the form of a document required under this Ordinance.

(2) The Director's power under subsection (1) is subject to any express requirement under this Ordinance for a form to comply with the requirement.

(3) The Director may include in a form a statutory declaration to be made by the person completing the form confirming that the particulars contained in the form are correct to the best of the person's knowledge.

Section:	34	Service of notices	L.N. 70 of 1998	01/04/1998

A notice to be served under this Ordinance may be served by registered post or by serving a copy personally.

Schedule:	1	INTERPRETATION	L.N. 130 of 2007	01/07/2007

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.

[section 2]

In this Ordinance, unless the context otherwise requires-

"abattoir" (屠場) means premises or a place habitually used for the slaughter of animals for human consumption;

"aircraft maintenance and repair plant" (飛機維修與修理廠) means a place, building or structure where aircraft or its parts are stored, repaired, washed or greased;

"Appeal Board" (上訴委員會) means the appeal board constituted under section 19;

"associated person" (相聯繫的人) means-

(a) the spouse or minor child or minor step-child of the person;

(b) a corporation of which the person is a director;

(c) an employee or partner of the person;

(d) the trustee of a trust of which the person, his spouse, minor child or minor step-child, is a beneficiary or a discretionary object;

(e) another person who has agreed or arranged to act together with the person to acquire, hold or dispose of shares or other interests in a corporation or to act together in voting in the corporation;

(f) another person in accordance with whose directions the person is accustomed or obliged to act;

(g) another person accustomed or obliged to act in accordance with the directions of the person;

(h) a corporation in accordance with whose directions or the directions of its directors the person is accustomed or obliged to act;

(i) a corporation accustomed or obliged to act, or whose directors are accustomed or obliged to act, in accordance with the directions of the person;

(j) a corporation of which the person, either alone or together with his spouse, minor child or minor step-child, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;

(k) a corporation of which the person, either alone or together with another, including a corporation in which the person is entitled to exercise or control the exercise of 35% or more of its voting power, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;

(l) a corporation of which the person controls the composition of the board of directors of the corporation;

(m) if the person is a corporation-

(i) a director of the corporation;

(ii) a corporation which is a holding company of the corporation or a subsidiary of the holding company;

(iii) a subsidiary of the corporation;

(iv) a director or employee of the subsidiary;

(v) a pension fund, provident fund or employee share scheme of the corporation or of a subsidiary of the corporation;

"bathing beach" (泳灘) means any bathing beach which is specified in the Fourth Schedule to the Public Health and Municipal Services (Cap 132);

"bulk chemical storage facility" (散裝化學物品貯存設施) means a facility that is or may be used for storing materials of a hazardous nature for delivery to or by seagoing bulk chemical carriers and includes related product blending, drum and bottle storage and dispatch facilities;

"Chairman" (主席) means the Chairman of the Appeal Board panel appointed under section 18(2);

"chemical waste" (化學廢物) means waste which is chemical waste within the meaning of Waste Disposal (Chemical

Waste) (General) Regulation (Cap 354 sub. leg. C);

"coastal protection area" (海濱保護區) means a coastal protection area shown in a draft or approved plan prepared under section 3 of the Town Planning Ordinance (Cap 131);

"conservation area" (自然保育區) means a conservation area shown in a draft or approved plan prepared under section 3 of the Town Planning Ordinance (Cap 131);

"container backup facilities" (貨櫃支援設施) means facilities essential to the handling of containers which do not require (but may have) a waterfront location and includes container yards, empty container storage and repair depots, container freight stations and container vehicle parks;

"controls the composition of the board of directors of the corporation" (控制法團董事局的組成) means to be able, either alone or with the consent or concurrence of another person, to appoint or remove a majority of the directors and a person is taken as having the power to appoint or remove a director if-

(a) a director cannot be appointed without the person exercising a power in favour of the prospective director; or

(b) a person's appointment as a director follows necessarily from his being a director or other officer of the person;

"corporation" (法團) means any company or other body corporate incorporated in Hong Kong or elsewhere, but does not include-

(a) any body corporate that is incorporated in Hong Kong and is a public authority or an organ or agency of the Government;

(b) any corporation sole;

(c) any credit union registered under the Credit Unions Ordinance (Cap 119); or

(d) any corporation registered under the Building Management Ordinance (Cap 344);

"country park" (郊野公園) means a country park within the meaning of section 2 of the Country Parks Ordinance (Cap 208);

"crematorium" (火葬場) means a crematorium within the meaning of the Public Health and Municipal Services Ordinance (Cap 132);

"decommissioning" (解除運作) means ceasing production and demolishing an existing plant for the development or redevelopment of the site;

"Deputy Chairman" (副主席) means a Deputy Chairman of the Appeal Board panel appointed under section 18(3);

"designated project" (指定工程項目) means a project listed in Schedule 2 or 3 or specified by the Secretary under section 4(4) as a designated project;

"Director" (署長) means the Director of Environmental Protection;

"education institution" (教育機構) means an institution, organization or place which provides, or where there is provided, for 10 or more persons during any one day, whether or not at the same time, kindergarten, primary, secondary or post secondary education or any other educational course;

"environment" (環境)-

(a) means the components of the earth; and

(b) includes-

(i) land, water, air and all layers of the atmosphere;

(ii) all organic and inorganic matter and living organisms; and

(iii) the interacting natural systems that include any of the things referred to in subparagraph (i) or (ii);

"environmental impact" (環境影響), for a designated project, means-

(a) an on-site or off-site change that the project may cause in the environment;

(b) an effect of the change on-

(i) the well being of people, flora, fauna and ecosystems;

(ii) physical and cultural heritage;

(iii) a structure, site or other thing that is of historical or archaeological significance;

(c) an on-site or off-site effect on any of the things referred to in paragraph (b) from activities carried on for the project;

(d) a change to the project that the environment may cause,

whether the change or effect occurs within or outside the site of the project;

"environmental impact assessment report" (環境影響評估報告) means a report prepared under section 6;

"environmental impact assessment study brief" (環境影響評估研究概要) means a study brief issued under section 5(7)(a);

"environmental permit" (環境許可證) means an environmental permit issued under section 10(5);

"existing uses" (現有用途) means those uses existed at the time when the application under sections 9 and 13 are made;

"expressway" (快速公路) means an expressway within the meaning of section 122 of the Road Traffic Ordinance (Cap 374);

"fish culture zone" (魚類養殖區) means a fish culture zone within the meaning of section 2 of the Marine Fish Culture Ordinance (Cap 353);

"health care institution" (健康護理機構) means hospitals, polyclinics and clinics;

"heavy railway" (重型鐵路) means railway for freight transport or for a passenger transit system with a capacity exceeding 40000 passengers per hour per direction;

"industrial estate" (工業邨) means any industrial estate referred to in Schedule 1 to the Hong Kong Science and Technology Parks Corporation Ordinance (Cap 565); (Replaced 5 of 2001 s. 40)

"light railway" (輕型鐵路) means railway for a passenger transit system with a capacity not exceeding 40000 passengers per hour per direction;

"major extensions or improvements to existing roads" (對現有道路作重大擴建或改善) means a physical addition, alteration or re-alignment to existing roads which results in an adverse environmental impact as defined in the technical memorandum;

"marine park" (海岸公園) means a park within the meaning of the Marine Parks Ordinance (Cap 467);

"marine reserve" (海岸保護區) means a reserve area that falls within the meaning of the Marine Parks Ordinance (Cap 476);

"material change" (實質改變) means a physical addition or alteration to a designated project which results in an adverse environmental impact as defined in the technical memorandum;

"mid-stream operations" (中流作業) means the working of cargo by a ship while moored at a buoy or while at anchor;

"mitigation" (緩解), for a designated project-

(a) means the elimination, reduction or control of the adverse environmental impact of the project;

(b) includes restitution by replacement, restoration, compensation or other means for damage to the environment caused by the impact;

"pier" (碼頭) means a structure built out over the water and supported by pillars or piles, used as a landing place for ferries, boats, ships and other vessels including structures accommodating hydrofoil and jetfoil vessels;

"planned use" (計劃用途) means the land use proposed in the draft or approved plans prepared under the Town Planning Ordinance (Cap 131) or any other land use plans published by the Government;

"primary distributor" (主要幹路) means roads forming the major network of the urban area including roads having high capacity junctions, although they may be at grade or grade separated, with segregated pedestrian facilities wherever possible and frontage access limited if not entirely restricted, and with a 24 hour stopping restriction;

"project profile" (工程項目簡介) means the description of the project that complies with the requirements of the technical memorandum;

"public cargo working area" (公眾貨物裝卸區) means an area set out in the Port Control (Cargo Working Areas) Ordinance (Cap 81) as a public cargo working area;

"quarantine station or segregation place for animals" (動物檢疫站或隔離處) means a place used for the quarantine of animals when they are imported into Hong Kong and detained there for such period as the veterinary officer may require;

"railway depot" (鐵路車廠) means a facility for the storage, maintenance or repair of light or heavy railway rolling stock or equipment used for track maintenance, including areas where shunting facilities are used for operational purposes;

"railway marshalling yard" (鐵路調車場) means a facility in a railway system mainly for sorting train wagons into

different formations according to an order for operation purposes;

"religious institution" (宗教機構) means a place or building, or a place of worship where in accordance with the practice of religious principles services are held or prayers said by congregations loyal to a belief and includes Chinese temples as set out in paragraph (b) of the definition of "Chinese temple" in section 2 of the Chinese Temples Ordinance (Cap 153) and ancillary offices car parks and quarters that are essential to the operation of the particular organization;

"river trade limits" (內河航限) means the river trade limits defined in the Shipping and Port Control Ordinance (Cap 313);

"river trade terminal" (內河碼頭) means a terminal for handling or storing cargo by vessels routinely operating within waters within river trade limits;

"road tunnel" (行車隧道) means a private or public tunnel and its portal area within the meaning of the Road Tunnels (Government) Ordinance (Cap 368);

"Secretary" (局長) means the Secretary for the Environment; (Replaced 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007)

"service reservoir" (配水庫) means a place or structure where water from a water treatment works is stored for delivery to other service reservoirs for distribution to the consumers of a water supply district;

"ship building or ship repairing yard" (船舶建造或修理場) means any place, structure or building in which ships, boats and other sailing vessels are constructed, repaired, renewed or broken down into parts;

"site of cultural heritage" (文化遺產地點) means an antiquity or monument, whether being a place, building, site or structure or a relic, as defined in the Antiquities and Monuments Ordinance (Cap 53) and any place, building, site, or structure or a relic identified by the Antiquities and Monuments Office to be of archaelogical, historical or palaeontological significance;

"site of special scientific interest" (具有特別科學價值的地點) means an area of land or water of special scientific interest by reason of its flora, fauna or geographical features identified by the Agriculture, Fisheries and Conservation Department and listed in the register of sites of special scientific interest maintained by the Planning Department; (Amended L.N. 331 of 1999)

"special area" (特別地區) means a special area as defined in the Country Parks Ordinance (Cap 208);

"special wastes" (特殊廢物) includes clinical waste, animal carcasses and security waste, including Government documents including those to be treated by centralised incineration facility;

"technical memorandum" (技術備忘錄) means a technical memorandum issued under section 16;

"tramway" (電車軌道) means the roadway over which a tram passes and the roadway of any bridge forming part of or leading to the roadway as defined in the Tramway Ordinance (Cap 107);

"transport depot" (運輸車廠) means a facility for the construction, repair or maintenance of transport vehicles and their parking when not in operation;

"trunk road" (幹道) means a road connecting the main centres of population being a high capacity road with no frontage access or development, pedestrians segregation, widely spaced grade-separated junctions, and a 24 hour stopping restriction;

"typhoon shelter" (避風塘) means a typhoon shelter within the meaning of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap 548 sub. leg. E); (Amended 24 of 2005 s. 55)

"wild animal protection area" (野生動物保護區) means an area designated as a restricted area under the Sixth Schedule to the Wild Animals Protection Ordinance (Cap 170).

Schedule:	2	DESIGNATED PROJECTS REQUIRING ENVIRONMENTAL PERMITS	36 of 2000	16/06/2000

[sections 4, 9, 10 & 26
& Schedule 1]

PART I

A-ROADS, RAILWAYS AND DEPOTS

A.1 A road which is an expressway, trunk road, primary distributor road or district distributor road including new roads, and major extensions or improvements to existing roads.

A.2 A railway and its associated stations.

A.3 A tramway and its associated stations.

A.4 A railway siding, depot, maintenance workshop, marshalling yard or goods yard.

A.5 A tram depot located less than 100 m from the nearest boundary of an existing or planned-
- (a) residential area;
- (b) place of worship;
- (c) educational institution; or
- (d) health care institution.

A.6 A transport depot located less than 200 m from the nearest boundary of an existing or planned-
- (a) residential area;
- (b) place of worship;
- (c) educational institution; or
- (d) health care institution.

A.7 A road or railway tunnel more than 800 m in length between portals.

A.8 A road or railway bridge more than 100 m in length between abutments.

A.9 A road fully enclosed by decking above and by structure on the sides for more than 100 m.

B-AIRPORTS AND PORT FACILITIES

B.1 An airport (including its runway and the development and activities related to aircraft maintenance, repair, fueling and fuel storage, engine testing or air cargo handling).

B.2 A helipad within 300 m of existing or planned residential development.

B.3 A container terminal (including its container backup facility).

B.4 A public cargo working area-
- (a) of more than 1000 m cargo working length; or
- (b) with a cargo working length between 500 m and 1000 m and within 50 m of an existing or planned-
  - (i) residential area;
  - (ii) place of worship;
  - (iii) educational institution; or
  - (iv) health care institution.

B.5 A container backup area, container storage, container handling or container packing area (including a container vehicle parking area) more than 5 ha in size and within 300 m of an existing or planned-
- (a) residential area;
- (b) place of worship;
- (c) educational institution; or
- (d) health care institution.

B.6 A facility for ship building or ship repairing yard more than 1 ha in size or with a lifting capacity in excess of 20000 tonnes.

B.7 A river trade terminal.

B.8 A mid-stream operation facility.

C-RECLAMATION, HYDRAULIC AND MARINE FACILITIES, DREDGING AND DUMPING

C.1 Reclamation works (including associated dredging works) more than 5 ha in size.

C.2 Reclamation works (including associated dredging works) more than 1 ha in size and a boundary of which-

(a) is less than 500 m from the nearest boundary of an existing or planned-
  (i) site of special scientific interest;
  (ii) site of cultural heritage;
  (iii) bathing beach;
  (iv) marine park or marine reserve;
  (v) fish culture zone;
  (vi) wild animal protection area;
  (vii) coastal protection area;
  (viii) conservation area;
  (ix) country park; or
  (x) special area;

(b) is less than 100 m from a seawater intake point; or

(c) is less than 100 m from an existing residential area.

C.3 Reclamation works-

(a) resulting in 5% decrease in cross sectional area calculated on the basis of 0.0 mPD in a sea channel; or

(b) occupying an area on plan in excess of 10% of any enclosed or semi-enclosed waterbody.

C.4 A breakwater more than 1 km in length or a breakwater extending into a tidal flushing channel by more than 30% of the channel width.

C.5 A typhoon shelter designed to provide moorings for not less than 30 vessels.

C.6 A dam more than 10 m in height.

C.7 A land borrow area of more than 200000 m^3.

C.8 A land borrow area of more than 50000 m^3 of which-

(a) a boundary of which is less than 500 m from the nearest boundary of an existing or planned-
  (i) residential area;
  (ii) place of worship;
  (iii) educational institution;
  (iv) health care institution;
  (v) country park; or
  (vi) special area; or

(b) wholly or partly within a-
  (i) site of special scientific interest; or
  (ii) wild animal protection area.

C.9 A marine borrow area.

C.10 A marine dumping area.

C.11 A public dumping area of not less than 2 ha in size.

C.12 A dredging operation exceeding 500000 m^3 or a dredging operation which-

(a) is less than 500 m from the nearest boundary of an existing or planned-

(i) site of special scientific interest;

(ii) site of cultural heritage;

(iii) bathing beach;

(iv) marine park or marine reserve;

(v) fish culture zone;

(vi) wild animal protection area;

(vii) coastal protection area; or

(viii) conservation area; or

(b) is less than 100 m from a seawater intake point.

D-ENERGY SUPPLY

D.1 Public utility electricity power plant.

D.2 Public utility gas generation plant.

E-WATER EXTRACTION AND WATER SUPPLY

E.1 A primary reservoir.

E.2 Water treatment works with a capacity of more than 100000 m^3 per day.

E.3 A submarine water supply pipeline with a diameter of 1200 mm or more and a length of more than 1 km.

F-SEWAGE COLLECTION, TREATMENT, DISPOSAL AND REUSE

F.1 Sewage treatment works with an installed capacity of more than 15000 m^3 per day.

F.2 Sewage treatment works-

(a) with an installed capacity of more than 5000 m^3 per day; and

(b) a boundary of which is less than 200 m from the nearest boundary of an existing or planned-

(i) residential area;

(ii) place of worship;

(iii) educational institution;

(iv) health care institution;

(v) site of special scientific interest;

(vi) site of cultural heritage;

(vii) bathing beach;

(viii) marine park or marine reserve;

(ix) fish culture zone; or

(x) seawater intake point.

F.3 A sewage pumping station-

(a) with an installed capacity of more than 300000 m^3 per day; or

(b) with an installed capacity of more than 2000 m^3 per day and a boundary of which is less than 150 m from an existing or planned-

(i) residential area;

(ii) place of worship;

(iii) educational institution;

(iv) health care institution;

(v) site of special scientific interest;

(vi) site of cultural heritage;

(vii) bathing beach;
(viii) marine park or marine reserve;
(ix) fish culture zone; or
(x) seawater intake point.

F.4 An activity for the reuse of treated sewage effluent from a treatment plant.

F.5 A submarine sewage pipeline with a diameter of 1200 mm or more and a length of 1 km or more.

F.6 A submarine sewage outfall.

G-WASTE STORAGE, TRANSFER AND DISPOSAL FACILITIES

G.1 A landfill for waste as defined in the Waste Disposal Ordinance (Cap 354).

G.2 A refuse transfer station.

G.3 An incinerator with an installed capacity of more than 50 tonnes per day.

G.4 A waste disposal facility (excluding any refuse collection point), or waste disposal activity, for-
(a) refuse; or
(b) chemical, industrial or special wastes.

G.5 A facility for the treatment of construction waste-
(a) with a designed capacity of not less than 500 tonnes per day; and
(b) a boundary of which is less than 200 m from an existing or planned-
(i) residential area;
(ii) place of worship;
(iii) educational institution; or
(iv) health care institution.

G.6 A waste disposal facility for pulverized fuel ash, furnance bottom ash or gypsum.

H-UTILITY PIPELINES, TRANSMISSION PIPELINES
AND SUBSTATIONS

H.1 A 400 kV electricity substation and transmission line.

H.2 A submarine gas pipeline or submarine oil pipeline.

I-WATERWAYS AND DRAINAGE WORKS

I.1 A drainage channel or river training and diversion works-
(a) with a channel width of more than 100 m; or
(b) which discharges or discharge into an area which is less than 300 m from the nearest boundary of an existing or planned-
(i) site of special scientific interest;
(ii) site of cultural heritage;
(iii) marine park or marine reserve;
(iv) fish culture zone;
(v) wild animal protection area;
(vi) coastal protection area; or
(vii) conservation area.

I.2 A flood storage pond more than 10 ha in size.

J-MINERAL EXTRACTION

J.1 An oil or gas extraction activity.

J.2 A mining operation.

J.3 A quarrying or quarry rehabilitation.

J.4 A coal industry works with a handling capacity of more than 100 tonnes per day.

K-INDUSTRIAL ACTIVITIES

K.1 An industrial estate.

K.2 A brewery works with an annual production capacity of more than 0.4 million hecto litres.

K.3 A tannery or leather finishing factory with an annual production capacity of more than 500000 m^2.

K.4 A metallurgical works with a processing capacity of more than 200000 tonnes per annum (expressed as metal).

K.5 A cement works or concrete batching plant with a total silo capacity of more than 10000 tonnes in which cement is handled and manufactured.

K.6 A chemical or biochemical plant with a storage capacity of more than 500 tonnes and in which substances are processed or produced.

K.7 An oil refinery.

K.8 A petro-chemical plant with an annual production capacity of more than 70000 tonnes.

K.9 A tobacco or cigarette manufacturing plant in a stand-alone, purpose built building.

K.10 An explosives depot or explosives manufacturing plant in a stand-alone, purpose built building.

K.11 A sand depot with a site area of more than 1 ha in size.

K.12 A bulk chemical storage facility with a storage capacity of more than 80000 tonnes.

K.13 A dangerous goods godown with a storage capacity exceeding 500 tonnes.

L-STORAGE, TRANSFER AND TRANS-SHIPMENT OF FUELS

L.1 A storage, transfer and trans-shipment of liquefied petroleum gas facility with a storage capacity of not less than 200 tonnes.

L.2 A storage, transfer and trans-shipment of liquefied natural gas facility with a storage capacity of not less than 200 tonnes.

L.3 A storage, transfer and trans-shipment of coal or ore facility with a storage capacity of not less than 200 tonnes.

L.4 A storage, transfer and trans-shipment of oil facility with a storage capacity of not less than 1000 tonnes.

M-AGRICULTURE AND FISHERIES ACTIVITIES

M.1 A fish culture zone-

(a) more than 5 ha in size; or

(b) a boundary of which is less than 500 m from the nearest boundary of an existing or planned-

(i) marine park or marine reserve; or

(ii) bathing beach.

N-COMMUNITY FACILITIES

N.1 An abattoir with a daily slaughter capacity of more than 500 numbers of livestock.

N.2 A quarantine station, or quarantine lairage, for animals.

N.3 A wholesale market.

N.4 A crematorium.

O-TOURIST AND RECREATIONAL DEVELOPMENTS

O.1 An outdoor golf course and all managed turf areas.

O.2 A marina designed to provide moorings or dry storage for not less than 30 vessels used primarily for pleasure or recreation.

O.3 A horse racing course.

O.4 A motor racing circuit.

O.5 An open firing range.

O.6 An open air concert venue with a capacity to accommodate more than 10000 persons.

O.7 An outdoor sporting facility with a capacity to accommodate more than 10000 persons.

O.8 A theme park or amusement park with a site area of more than 20 ha in size. (Added L.N. 205 of 1999)

P-RESIDENTIAL AND OTHER DEVELOPMENTS

P.1 A residential or recreational development, other than New Territories exempted houses within Deep Bay Buffer Zone 1 or 2.

P.2 A residential development-

(a) of not less than 2000 flats; and

(b) not served by public sewerage networks by the time a flat is occupied.

Q-MISCELLANEOUS

Q.1 All projects including new access roads, railways, sewers, sewage treatment facilities, earthworks, dredging works and other building works partly or wholly in an existing or gazetted proposed country park or special area, a conservation area, an existing or gazetted proposed marine park or marine reserve, a site of cultural heritage, and a site of special scientific interest, except for the following-

(a) minor maintenance works to roads, drainage, slopes and utilities;

(b) minor public utility works including the installation of telecommunications wires, joint boxes, power lines with a voltage level of not more than 66 kV, and gas pipelines with a diameter of 120 mm or less; (Amended 36 of 2000 s. 28)

(c) education and recreational facilities not otherwise designated projects listed in Parts A to P and

approved by the Country and Marine Parks Authority;

(d) all earthworks relating to forestry, agriculture, fisheries and the management of vegetation;

(e) New Territories exempted houses;

(f) footpaths and facilities relating to sitting out areas;

(g) minor facilities relating to the management and protection of marine parks, marine reserves, country parks and special areas;

(h) all works not otherwise designated projects listed in Parts A to P undertaken by the Country and Marine Parks Authority under section 4 of the Country Parks Ordinance (Cap 208) or section 4 of the Marine Parks Ordinance (Cap 476) for developing and managing country parks and special areas, marine parks and marine reserves;

(i) maintenance of existing waterworks installations; or

(j) minor works including-

(i) improvements to catchwaters;

(ii) the provision of-

(A) water pipes and valves of diameter 450 mm or less;

(B) water tanks;

(C) hydrological stations and associated structures; and

(D) village supply schemes.

Q.2 Underground rock caverns.

PART II

DECOMMISSIONING PROJECTS

1. Airports, including fueling and fuel storage, the aircraft maintenance and repair facilities.

2. An oil refinery.

3. A municipal, chemical or clinical waste incinerator.

4. A public utility-electricity power plant.

5. A public utility-gas generation plant.

6. A water treatment works of a treatment capacity of 100000 m^3 per day or more.

7. An installation for storage or disposal of radioactive waste.

8. A waste disposal facility for pulverised fuel ash, furnace bottom ash or gypsum.

9. A metallurgical works with melting capacity exceeding 200000 tonnes per annum (expressed as metal).

10. A petro-chemical works.

11. An explosives depot or explosives manufacturing plant.

12. A bulk chemical storage facility.

13. A store for liquefied petroleum gas with a storage capacity exceeding 200 tonnes.

14. A store for liquefied natural gas with a storage capacity exceeding 200 tonnes.

15. A store for coal and ores with a storage capacity exceeding 200 tonnes.

16. A store for oil with a storage capacity exceeding 200 tonnes.

17. A facility for ship building or repairing more than 1 ha in size or with a lifting capacity in excess of 20000 tonnes.

Schedule:	3	MAJOR DESIGNATED PROJECTS REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT REPORTS	L.N. 70 of 1998	01/04/1998

[sections 4, 9 & 26
& Schedule 1]

1. Engineering feasibility study of urban development projects with a study area covering more than 20 ha or involving a total population of more than 100000.

2. Engineering feasibility study of redevelopment projects with a study area covering more than 100000 existing or new population.

Schedule:	4	MATTERS THAT MAY BE SPECIFIED IN ENVIRONMENTAL PERMIT	L.N. 70 of 1998	01/04/1998

[section 10]

1. The design, alignment, plan, layout or visual appearance of a designated project.

2. The physical scale, scope or extent of a designated project.

3. The methods for carrying out a designated project or the timing, phasing or order of the stages of a designated project.

4. The amount, rate or quality of a discharge, emission or deposit of pollutants or wastes from a designated project, including the colour or temperature of, or amount or concentration of, a contaminant, impurity or other substance in, the discharge, emission or deposit.

5. Limits on the strength, severity or level of the environmental impact of a designated project.

6. The mitigation of the environmental impact of a designated project, and the timing, phasing or order of mitigation measures, including-
   (a) pollution control or environmental protection equipment, processes, systems, practices or technologies;
   (b) equipment, processes, systems, practices or technologies for the prevention, reduction, reuse, recovery and recycling of wastes or wastewater;
   (c) equipment, processes, systems, practices or technologies for the management of wastes, including the storage, treatment or disposal of wastes;
   (d) acoustic barriers and enclosures, noise insulation equipment, or equipment, processes, systems, practices or technologies for the avoidance, prevention, reduction, minimization or control of noise;
   (e) equipment, processes, systems, practices or technologies for the avoidance, prevention, reduction, minimization or control of air pollution; or
   (f) processes, systems, practices, procedures or technologies for the conservation, preservation or protection of flora, fauna, ecological habitats, sites of special scientific interest, or of cultural heritage importance, or resources.

7. Pollution control, environmental protection or other mitigation measures to be carried out outside the site of a designated project.

8. Compensation or restoration measures for the conservation, preservation or protection of flora, fauna, ecological

habitat or other ecological resources, including replanting, relocation, re-establishment or rehabilitation measures, to mitigate an adverse environmental impact of a designated project.

9. Landscaping measures to mitigate the environmental impact of a designated project.

10. Programmes or exercises for monitoring the environmental impact of a designated project or the effectiveness of measures to mitigate its environmental impact, whether such impact may occur within or outside its physical boundary or site, and the review and audit of data and information derived from such programmes or exercises, including specification of-
    (a) the parameters or impact to be monitored;
    (b) the frequency of monitoring, or the procedures, practices, methods or equipment to be used for monitoring, including the maintenance and calibration of such equipment and quality assurance and laboratory accreditation procedures;
    (c) the standards or criteria to be used for evaluating and auditing monitoring data;
    (d) plans and procedures for action in response to the results of such monitoring programmes or exercises, including action to intensify or increase monitoring, inspect or investigate revealed or indicated problems, or take remedial measures to address such problems;
    (e) the nature, format or frequency of the reporting of the results and findings of monitoring or action plans and procedures.

11. Equipment, methods, processes, systems, procedures or practices for the construction, operation, use, implementation or decommissioning of a designated project.

12. Requirements for the training, qualifications or expertise of personnel involved in the carrying out of a designated project.

13. The preparation of management plans, procedures manuals or other materials and documents for guiding and regulating the carrying out of a designated project.

14. Environmental studies, investigation or information to be obtained and submitted during the carrying out of a designated project.

15. The release to the public of reports on monitoring or auditing work or other reports or information in relation to the assessment or carrying out of a designated project.

16. The requirements for carrying out of environmental monitoring by accredited laboratories, or environmental audit by qualified personnel.

17. The requirements of the implementation and completion of mitigation measures to be checked and certified by qualified personnel, and for the submission of certified reports on the status of the implementation of mitigation measures.