

LEGISLATIVE COUNCIL BRIEF

- Lands Resumption Ordinance
(Chapter 124)
- Foreshore and Sea-bed (Reclamations) Ordinance
(Chapter 127)
- Land Acquisition (Possessory Title) Ordinance
(Chapter 130)
- Country Parks Ordinance
(Chapter 208)
- Mass Transit Railway (Land Resumption and
Related Provisions) Ordinance
(Chapter 276)
- Air Pollution Control Ordinance
(Chapter 311)
- Water Pollution Control Ordinance
(Chapter 358)
- Roads (Works, Use and Compensation) Ordinance
(Chapter 370)
- Land Drainage Ordinance
(Chapter 446)
- New Territories Land Exchange Entitlements
(Redemption) Ordinance
(Chapter 495)
- Railways Ordinance
(Chapter 519)

INTEREST RATES (MISCELLANEOUS AMENDMENTS) BILL 2001

INTRODUCTION

At the meeting of the Executive Council on 20 February 2001, the Council ADVISED and the Chief Executive ORDERED that the Interest Rates (Miscellaneous Amendments) Bill 2001, at Annex A,

should be introduced into the Legislative Council to re-define the interest rates applicable to provisional payment, redemption money and compensation payable under the various Ordinances.

BACKGROUND AND ARGUMENT

General Background

2. At present, interest is payable on provisional payment, redemption money or compensation under 11 Ordinances at a rate to be determined by the relevant authorities. The relevant provisions are set out at Annex B. With some minor variations⁽¹⁾, the rates so determined make reference to "the lowest rate payable from time to time by members of the HKAB on time deposits"⁽²⁾, which shall normally be the deposits at 24 hours' call.

3. Prior to the de-regulation of interest rates rules on time deposits with a maturity of less than seven days on 3 July 2000, the rates offered by all members of the HKAB were largely the same and the Administration's practice was to adopt the rates announced by the HKAB from time to time. However, after the de-regulation, the interest rates for these time deposits vary among members (some 150) of the HKAB. Government does not have any statutory power to require all of them to provide the requisite information. We have requested all the member banks of the HKAB to provide us with the information on their interest rates paid on deposits at 24 hours' call on each working day, but only 31 banks have provided the information. It is therefore practically impossible for the Government to identify the "lowest rate" from all the banks for the calculation of interest payment for provisional payment, redemption money or compensation payable under the above-mentioned

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- Notes
- (1) The variations in the different Ordinances are:
 - (a) some stipulate that the lowest interest rate should be paid;
 - (b) some require that the interest rate payable should have regard to the lowest rate offered from time to time by members of the HKAB and
 - (c) some also make reference to such other rate as may be determined by resolution of the Legislative Council.
 - (2) The only exception among these Ordinances is the New Territories Land Exchange Entitlements (Redemption) Ordinance, which makes reference to the note-issuing banks instead of members of the HKAB.

Ordinances and subsidiary legislation.

4. Among the Ordinances affected, the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance is the only one which makes reference to the interest rate paid from time to time by members of the HKAB on deposits at seven days' call. It also makes reference to such other rate as may be determined by resolution of the Legislative Council. Although deposits at seven days' call were already deregulated in 1995, the Lands Tribunal can still rely on the rate determined by the resolution of the Legislative Council made in 1977 which provides that the rate of interest payable under the Ordinance should be the lowest rate paid from time to time by members of the HKAB on time deposits. But with the de-regulation of the interest rate rule on time deposit with a maturity of less than seven days effective from 3 July 2000, both ways of determining the interest rates become impracticable.

5. As an interim administrative measure and in line with the existing provisions in the various ordinances, we are now paying the lowest interest rate on deposits at 24 hours' call offered by banks which have provided us with the information or the lowest rate on 24-hour deposit offered by the three note-issuing banks, as the case may be⁽³⁾. The rate, calculated on a daily basis, is the "close of business" rate on working days. For non-working days, the rate of the last working day preceding the non-working days will be used.

The proposal

6. In view of the practical problem the Administration is facing as outlined above, we **propose** to amend the respective Ordinances and subsidiary legislation to re-define the interest rate applicable to provisional payment, redemption money and compensation payable under these Ordinances and subsidiary legislation. The intention is that the re-defined interest rate should be as close to the original formula as possible.

Note (3) Where the existing provisions require that the lowest rate be paid, we are paying the lowest rate from among the banks which have provided us with the information. Where the existing provisions allow the exercise of discretion, we are paying the lowest rate offered by the three note-issuing banks.

7. The lowest interest rate on time deposits is normally the deposits at 24 hours' call. For the purposes of re-defining the interest rates, reference will be made in the amended provisions to the lowest of the interest rates paid on deposits at 24 hours' call by the note-issuing banks at the close of business on a day. We **propose** to make reference to the note-issuing banks instead of all members of the HKAB because the three note-issuing banks are unlikely to offer an exceptionally high or low rate on deposits at 24 hours' call as compared with other banks. Moreover, such reference to the note-issuing banks is adopted in the existing New Territories Land Exchange Entitlements (Redemption) Ordinance in relation to redemption money payable under that Ordinance. It is therefore considered both reasonable, consistent and more practicable to make reference to the note-issuing banks in determining the interest rates payable.

THE BILL

8. This is an omnibus Bill amending the provisions in various Ordinances and their subsidiary legislation relating to the calculation of interest payment on provisional payment, redemption money and compensation. The Bill has 13 clauses, providing for 11 Schedules detailing the amendments made to the 11 Ordinances under this Bill. Apart from the introductory clause 1, the substantive clauses are as follows –

- (a) **Clause 2** refers to Schedule 1 that amends sections 2, 16A and 17 of the Lands Resumption Ordinance.
- (b) **Clause 3** refers to Schedule 2 that amends sections 2, 14 and 15 of the Foreshore and Sea-bed (Reclamations) Ordinance.
- (c) **Clause 4** refers to Schedule 3 that amends sections 2, 9 and 10 of the Land Acquisition (Possessory Title) Ordinance.
- (d) **Clause 5** refers to Schedule 4 that amends section 21 of the Country Parks Ordinance.

- (e) **Clause 6** refers to Schedule 5 that amends section 26 of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance. It also repeals the Resolution of the Legislative Council. This is because the content of this Resolution, which is almost the same as the provisions under various Ordinances to be amended by this Bill, is no longer enforceable. Although the Resolution is repealed, its enabling provision in the Ordinance remains intact. The Legislative Council can thus make another resolution if it so wishes.
- (f) **Clause 7** refers to Schedule 6 that amends paragraph 8 of Schedule 4 to the Air Pollution Control Ordinance.
- (g) **Clause 8** refers to Schedule 7 that amends paragraph 8 of the Second Schedule to the Water Pollution Control Ordinance and section 22 of the Water Pollution Control (Sewerage) Regulation.
- (h) **Clause 9** refers to Schedule 8 that amends section 33 of the Roads (Works, Use and Compensation) Ordinance.
- (i) **Clause 10** refers to Schedule 9 that amends section 42 of the Land Drainage Ordinance.
- (j) **Clause 11** refers to Schedule 10 that amends sections 2 and 6 of the New Territories Land Exchange Entitlements (Redemption) Ordinance.
- (k) **Clause 12** refers to Schedule 11 that amends section 38 of the Railways Ordinance.
- (l) **Clause 13** is a validation and application clause that –
 - (i) validates interest payments that were made in accordance with the interim administrative measures described in paragraph 5 above before the commencement of the proposed Ordinance; and
 - (ii) provides statutory authority for interest payments to be

made similarly after the commencement of the proposed Ordinance in relation to periods that occurred before the commencement of the proposed Ordinance.

9. The amended provisions in all Ordinances above will provide for interest payment to be made by reference to the lowest of the interest rates paid on deposits at 24 hours' call by the note-issuing banks at the close of business on every working day. Where interests are to be paid for non-working days, the rate will be the same as the one at the close of business on the last working day preceding the non-working day. Such arrangement is in fact the same as the present interim administrative measure as mentioned in paragraph 5 above.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows -

Publication in the Gazette	2 March 2001
First Reading and commencement of Second Reading debate	14 March 2001
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

BASIC LAW IMPLICATIONS

11. The Department of Justice advises that the Bill is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

12. The Department of Justice advises that the Bill has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

13. The amendments in the Bill will not affect the current binding effect of the various Ordinances.

FINANCIAL AND STAFFING IMPLICATIONS

14. The Bill has no financial or staffing implications.

ECONOMIC IMPLICATIONS

15. The Bill has no economic implications.

PUBLIC CONSULTATION

16. As the Bill will require relevant information to be obtained from the note-issuing banks, we have consulted the note-issuing banks. They agree to provide the requisite information to Government on an ongoing basis.

17. The Legislative Council Panel on Planning, Lands and Works was consulted. It raised no objection in principle to the proposal.

PUBLICITY

18. A press release will be issued. A spokesman will be available to handle media enquiries.

ENQUIRIES

19. Enquiries about this brief may be directed to Miss Wong Yuet-wah, Assistant Secretary for Planning and Lands at 2848 2112.

Planning and Lands Bureau
28 February 2001

**INTEREST RATES (MISCELLANEOUS AMENDMENTS)
BILL 2001**

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A BILL

To

Re-define the interest rates applicable to provisional payments, redemption money and compensation payable under various Ordinances.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Interest Rates (Miscellaneous Amendments) Ordinance 2001.

2. Amendment of Lands Resumption Ordinance—(Schedule 1)

The Lands Resumption Ordinance (Cap. 124) is amended as specified in Schedule 1.

3. Amendment of Foreshore and Sea-bed (Reclamations) Ordinance—(Schedule 2)

The Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) is amended as specified in Schedule 2.

4. Amendment of Land Acquisition (Possessory Title) Ordinance—(Schedule 3)

The Land Acquisition (Possessory Title) Ordinance (Cap. 130) is amended as specified in Schedule 3.

5. Amendment of Country Parks Ordinance—(Schedule 4)

The Country Parks Ordinance (Cap. 208) is amended as specified in Schedule 4.

6. Amendment of Mass Transit Railway (Land Resumption and Related Provisions) Ordinance and its subsidiary legislation – (Schedule 5)

The Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) and its subsidiary legislation are amended as specified in Schedule 5.

7. Amendment of Air Pollution Control Ordinance – (Schedule 6)

The Air Pollution Control Ordinance (Cap. 311) is amended as specified in Schedule 6.

8. Amendment of Water Pollution Control Ordinance and its subsidiary legislation – (Schedule 7)

The Water Pollution Control Ordinance (Cap. 358) and its subsidiary legislation are amended as specified in Schedule 7.

9. Amendment of Roads (Works, Use and Compensation) Ordinance – (Schedule 8)

The Roads (Works, Use and Compensation) Ordinance (Cap. 370) is amended as specified in Schedule 8.

10. Amendment of Land Drainage Ordinance – (Schedule 9)

The Land Drainage Ordinance (Cap. 446) is amended as specified in Schedule 9.

11. Amendment of New Territories Land Exchange Entitlements (Redemption) Ordinance – (Schedule 10)

The New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495) is amended as specified in Schedule 10.

**12. Amendment of Railways Ordinance—
(Schedule 11)**

The Railways Ordinance (Cap. 519) is amended as specified in Schedule 11.

**13. Validation of interest payments and
application**

(1) Notwithstanding that interest payments on provisional payments, redemption money or compensation in respect of claims or proceedings under any enactments amended by this Ordinance made before the commencement of this Ordinance for any day of the period from 3 July 2000 to the day immediately before the date of the commencement of this Ordinance were not made in accordance with the provisions of the enactments amended by this Ordinance as they existed immediately before the commencement of this Ordinance ("the existing provisions"), those payments are deemed to have been validly made in accordance with the existing provisions.

(2) Where any interest payments on provisional payments, redemption money or compensation in respect of claims or proceedings under any enactments amended by this Ordinance may be or are required to be made on or after the date of the commencement of this Ordinance in respect of which the period or any day of the period to which those payments relate occurred before the date of the commencement of this Ordinance, the following provisions apply—

- (a) if that period or any day of that period occurred before 3 July 2000, the existing provisions will apply to interest payments in relation to that period or any day of that period, as the case may require;
- (b) if that period or any day of that period occurred on or after 3 July 2000 but before 3 October 2000, the rate of interest applicable in relation to that period or any day of that period, as the case may require, is the lowest interest rate

paid by members of The Hong Kong Association of Banks on time deposits on 2 July 2000;

- (c) if that period or any day of that period occurred on or after 3 October 2000 but before the date of the commencement of this Ordinance and such interest payments relate to the provisions of the enactments amended by Schedule 4, 5 or 6 or section 1 of Schedule 7 as they existed immediately before the commencement of this Ordinance, subsection (3) will apply to the interest payments in relation to that period or any day of that period, as the case may require;
 - (d) if that period or any day of that period occurred on or after 3 October 2000 but before the date of the commencement of this Ordinance and such interest payments relate to the provisions of the enactments amended by Schedule 1, 2 or 3, section 2 of Schedule 7 or Schedule 8, 9 or 11 as they existed immediately before the commencement of this Ordinance, subsection (4) will apply to the interest payments in relation to that period or any day of that period, as the case may require;
 - (e) if that period or any day of that period occurred on or after 3 October 2000 but before the date of the commencement of this Ordinance and such interest payments relate to the provisions of the enactment amended by Schedule 10 as they existed immediately before the commencement of this Ordinance, subsection (5) will apply to the interest payments in relation to that period or any day of that period, as the case may require.
- (3) For the purposes of subsection (2)(c), the rate of interest payable—
- (a) in respect of a working day is the lowest of the interest rates paid on deposits at 24 hours' call at the close of

business on that day by those members of The Hong Kong Association of Banks that provide the Government with the relevant interest rate; and

- (b) in respect of a non-working day is the lowest of the interest rates paid on deposits at 24 hours' call at the close of business on the last working day before that day by those members of The Hong Kong Association of Banks that provide the Government with the relevant interest rate.

(4) For the purposes of subsection (2)(d), the rate of interest payable —

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call at the close of business on that day by those members of The Hong Kong Association of Banks that provide the Government with the relevant interest rate; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call at the close of business on the last working day before that day by those members of The Hong Kong Association of Banks that provide the Government with the relevant interest rate.

(5) For the purposes of subsection (2)(e), the rate of interest payable —

- (a) in respect of a working day is the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day is the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(6) In this section —

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than—

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

SCHEDULE 1

[s. 2]

AMENDMENT OF LANDS RESUMPTION ORDINANCE

1. **Interpretation**

Section 2 of the Lands Resumption Ordinance (Cap. 124) is amended by adding—

""non-working day" (非工作日) means a day that is not a working day;

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

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

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

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

Section 16A is amended—

(a) in subsection (1)(b), by repealing everything after "calculated" and substituting "on a daily basis according to subsection (1A).";

(b) by adding—

"(1A) For the purposes of subsection (1)(b), the rate of interest paid—

(a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and

(b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day."

3. **Payment of compensation and interest**

Section 17(3A) is repealed and the following substituted—

"(3A) Subject to subsection (3B), the rate of interest for the purposes of subsection (3) shall be such rate as the Lands Tribunal may fix.

(3B) The rate of interest fixed under subsection (3A)—

(a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and

- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day."

SCHEDULE 2

[s. 3]

AMENDMENT OF FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE

1. **Interpretation**

Section 2 of the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) is amended by adding—

"non-working day" (非工作日) means a day that is not a working day;

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

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

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

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

Section 14 is amended—

- (a) in subsection (1)(b), by repealing everything after "calculated" and substituting "on a daily basis according to subsection (1A).";

(b) by adding—

"(1A) For the purposes of subsection (1)(b), the rate of interest paid—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day."

3. **Payment of compensation and interest**

Section 15(4) is repealed and the following substituted—

"(4) Subject to subsection (4A), the rate of interest for the purposes of subsection (3) shall be such rate as the Lands Tribunal may fix.

(4A) The rate of interest fixed under subsection (4)—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day."

SCHEDULE 3

[s. 4]

AMENDMENT OF LAND ACQUISITION (POSSESSORY
TITLE) ORDINANCE**1. Interpretation**

Section 2 of the Land Acquisition (Possessory Title) Ordinance (Cap. 130) is amended by adding—

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行), for the purposes of sections 9 and 10, has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日), for the purposes of sections 9 and 10, means any day other than—

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

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

Section 9 is amended—

- (a) in subsection (1)(b), by repealing everything after "calculated" and substituting "on a daily basis according to subsection (1A).";
- (b) by adding—

"(1A) For the purposes of subsection (1)(b), the rate of interest paid—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day."

3. **Payment of compensation and interest**

Section 10(4) is repealed and the following substituted—

"(4) Subject to subsection (4A), the rate of interest for the purposes of subsection (3) shall be such rate as the Lands Tribunal may fix.

(4A) The rate of interest fixed under subsection (4)—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day."

SCHEDULE 4

[s. 5]

AMENDMENT OF COUNTRY PARKS ORDINANCE

1. Interest on compensation

Section 21 of the Country Parks Ordinance (Cap. 208) is amended—

- (a) by renumbering it as section 21(1);
- (b) in subsection (1), by repealing "lowest rate paid from time to time by members of The Hong Kong Association of Banks on time deposits" and substituting "rate specified in subsection (2)";
- (c) by adding—

"(2) For the purposes of subsection (1), the rate of interest paid—

- (a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this section—

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than—

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

SCHEDULE 5

[s. 6]

AMENDMENT OF MASS TRANSIT RAILWAY (LAND RESUMPTION AND RELATED PROVISIONS) ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Mass Transit Railway (Land Resumption and Related Provisions) Ordinance

1. Interest on compensation

Section 26 of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) is amended—

- (a) by renumbering it as section 26(1);
- (b) in subsection (1), by repealing "paid from time to time by members of The Hong Kong Association of Banks on deposits at 7 days' call" and substituting "specified in subsection (2)";
- (c) by adding—

"(2) For the purposes of subsection (1), the rate of interest paid—

- (a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this section —

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than —

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

Resolution of the Legislative Council

2. Repeal

The Resolution of the Legislative Council (L.N. 182 of 1977)(Cap. 276 sub. leg.) is repealed.

SCHEDULE 6

[s. 7]

AMENDMENT OF AIR POLLUTION CONTROL
ORDINANCE**1. Determination of compensation**

Schedule 4 to the Air Pollution Control Ordinance (Cap. 311) is amended—

- (a) by renumbering paragraph 8 as paragraph 8(1);
- (b) in paragraph 8(1), by repealing "lowest rate paid from time to time by members of The Hong Kong Association of Banks on time deposits" and substituting "rate specified in subparagraph (2)";
- (c) in paragraph 8, by adding—

"(2) For the purposes of subparagraph (1), the rate of interest paid—

- (a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this paragraph—

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than—

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

SCHEDULE 7

[s. 8]

AMENDMENT OF WATER POLLUTION CONTROL ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Water Pollution Control Ordinance

1. Determination of compensation

The Second Schedule to the Water Pollution Control Ordinance (Cap. 358) is amended

- (a) by renumbering paragraph 8 as paragraph 8(1);
- (b) in paragraph 8(1), by repealing "lowest rate paid from time to time by members of The Hong Kong Association of Banks on time deposits" and substituting "rate specified in subparagraph (2)";
- (c) in paragraph 8, by adding—

"(2) For the purposes of subparagraph (1), the rate of interest paid—

- (a) in respect of a working day shall be the lowest of the interest rates

paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and

- (b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this paragraph—

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than—

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

Water Pollution Control (Sewerage) Regulation

2. Interest

Section 22 of the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.) is amended—

- (a) by renumbering it as section 22(1);

- (b) in subsection (1)(b), by repealing everything after "appropriate and" and substituting ", subject to subsection (2), at such rate as it may fix.";
- (c) by adding—

"(2) The rate of interest fixed under subsection (1)(b)

—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this section, "non-working day" (非工作日), "note-issuing bank" (發鈔銀行) and "working day" (工作日) have the meanings assigned to them respectively by paragraph 8(3) of the Second Schedule to the Ordinance."

SCHEDULE 8

[s. 9]

AMENDMENT OF ROADS (WORKS, USE AND
COMPENSATION) ORDINANCE

1. **Interest**

Section 33 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) is amended—

- (a) by renumbering it as section 33(1);
- (b) in subsection (1)(b), by repealing everything after "fit and" and substituting ", subject to subsection (2), at such rate as it may fix.";
- (c) by adding—

"(2) The rate of interest fixed under subsection (1)(b)

—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and
- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this section—

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than—

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

SCHEDULE 9

[s. 10]

AMENDMENT OF LAND DRAINAGE ORDINANCE

1. **Interest**

Section 42 of the Land Drainage Ordinance (Cap. 446) is amended—

- (a) by renumbering it as section 42(1);
- (b) in subsection (1)(b), by repealing everything after "fit and" and substituting ", subject to subsection (2), at such rate as it may fix.";
- (c) by adding—

"(2) The rate of interest fixed under subsection (1)(b)

—

- (a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks

at the close of business on that day; and

- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this section —

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than —

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

SCHEDULE 10

[s. 11]

AMENDMENT OF NEW TERRITORIES LAND
EXCHANGE ENTITLEMENTS (REDEMPTION)
ORDINANCE

1. Interpretation

Section 2 of the New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495) is amended by repealing the definition of "note-issuing bank" and substituting —

""note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);".

2. Interest on redemption money

Section 6 is amended —

(a) by repealing subsection (2) and substituting —

"(2) The rate of interest payable under subsection (1)

—

(a) in respect of a working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on that day; and

(b) in respect of a non-working day shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.";

(b) by adding—

"(4) In this section—

"non-working day" (非工作日) means a day that is not a working day;

"working day" (工作日) means any day other than—

(a) a public holiday; or

(b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).".

SCHEDULE 11

[s. 12]

AMENDMENT OF RAILWAYS ORDINANCE

1. **Interest**

Section 38 of the Railways Ordinance (Cap. 519) is amended—

(a) by renumbering it as section 38(1);

(b) in subsection (1)(b), by repealing everything after "fit and" and substituting ", subject to subsection (2), at such rate as it may fix.";

(c) by adding—

"(2) The rate of interest fixed under subsection (1)(b)

—

(a) in respect of a working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at

the close of business on that day; and

- (b) in respect of a non-working day must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on the last working day before that day.

(3) In this section —

"non-working day" (非工作日) means a day that is not a working day;

"note-issuing bank" (發鈔銀行) has the meaning assigned to it by section 2 of the Legal Tender Notes Issue Ordinance (Cap. 65);

"working day" (工作日) means any day other than —

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

Explanatory Memorandum

The purpose of this Bill is to introduce amendments to various Ordinances in order to re-define the interest rates applicable to provisional payments, redemption money and compensation payable under them.

2. Clauses 2 to 12 give effect to the Schedules to the proposed Ordinance.

3. Clause 13 is a validation and application clause. Before 3 July 2000, the maximum interest rates payable on time deposits with a maturity of less than 7 days by members of The Hong Kong Association of Banks ("members") were determined by the Association. Almost all of the enactments being amended by the proposed Ordinance that provided for payment of interest on provisional payments, redemption money or compensation made reference to the lowest interest rate payable on time deposits by the members. On 3 July 2000, the practice of determination of these interest rates by the Association was abandoned and members were free to determine their own rates of interest. Since the members were not obliged to inform the Government of the rates they offered, those enactments became practically impossible to administer. The Government therefore adopted the following practical administrative measures —

- (a) if the period or any day of the period to which the interest payments related occurred before 3 July 2000, the provisions of the enactments amended by the proposed Ordinance, as they existed immediately before the commencement of the proposed Ordinance ("the existing provisions"), would apply to those payments in relation to that period or any day of that period;
- (b) if the period or any day of the period to which the interest payments related occurred on or after 3 July 2000 but before 3 October 2000, the rate of interest applicable in relation to that period or any day of that period would be the lowest interest rate paid by the members on time deposits on 2 July 2000;
- (c) if the period or any day of the period to which the interest payments related occurred on or after 3 October 2000 but before the date of the commencement of the proposed Ordinance and those payments related to the existing provisions of some enactments (the Country Parks

Ordinance (Cap. 208), the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276), the Resolution of the Legislative Council (Cap. 276 sub. leg.), the Air Pollution Control Ordinance (Cap. 311) and the Water Pollution Control Ordinance (Cap. 358)), the rate of interest payable in relation to that period or any day of that period would be the lowest of the interest rates paid on deposits at 24 hours' call at the close of business on each day by those members that provided the Government with the relevant interest rate;

- (d) if the period or any day of the period to which the interest payments related occurred on or after 3 October 2000 but before the date of the commencement of the proposed Ordinance and those payments related to the existing provisions of some enactments (the Lands Resumption Ordinance (Cap. 124), the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127), the Land Acquisition (Possessory Title) Ordinance (Cap. 130), the Water Pollution CONTROL (Sewerage) Regulation (Cap. 358 sub. leg.), the Roads (Works, Use and Compensation) Ordinance (Cap. 370), the Land Drainage Ordinance (Cap. 446) and the Railways Ordinance (Cap. 519)), the rate of interest payable in relation to that period or any day of that period must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call at the close of business on each day by those members that provided the Government with the relevant interest rate;
- (e) if the period or any day of the period to which the interest payments related occurred on or after 3 October 2000 but before the date of the commencement of the proposed

Ordinance and those payments related to the existing provisions of the New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495), the rate of interest payable in relation to that period or any day of that period would be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on each day.

Clause 13 validates interest payments that were made in accordance with the administrative measures taken before the commencement of the proposed Ordinance and provides statutory authority for interest payments to be made similarly after the commencement of the proposed Ordinance in relation to periods that occurred before the commencement of the proposed Ordinance.

4. Schedule 1 amends the Lands Resumption Ordinance (Cap. 124) by re-defining the interest rate applicable to—

- (a) the provisional payment of compensation pending the determination by the Lands Tribunal of disputed claims for compensation for the resumption of land by the Government (section 2 of Schedule 1);
- (b) the sum payable as compensation by virtue of a determination of the Lands Tribunal or an agreement under that Ordinance (section 3 of Schedule 1).

5. The proposed amendment in paragraph 4(a) enables the Director of Lands to calculate interest applicable to the provisional payment on a daily basis and at a rate that must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on each day. The proposed amendment in paragraph 4(b) provides that the rate of interest applicable to the sum payable as compensation, which may be fixed by the Lands Tribunal, must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on each day.

6. Schedule 2 amends the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) by re-defining the interest rate applicable to—

- (a) the provisional payment of compensation (that is pending the determination by the Lands Tribunal) in respect of reclamations under that Ordinance (section 2 of Schedule 2);
- (b) the sum payable as compensation by virtue of a determination of the Lands Tribunal or an agreement under that Ordinance (section 3 of Schedule 2).

The proposed amendments in subparagraphs (a) and (b) are similar in effect to the amendments described in paragraph 5.

7. Schedule 3 amends the Land Acquisition (Possessory Title) Ordinance (Cap. 130) by re-defining the interest rate applicable to—

- (a) the provisional payment of compensation (that is pending the determination by the Lands Tribunal) in respect of the acquisition of any land under that Ordinance (section 2 of Schedule 3);
- (b) the sum payable as compensation by virtue of a determination of the Lands Tribunal or an agreement under that Ordinance (section 3 of Schedule 3).

The proposed amendments in subparagraphs (a) and (b) are similar in effect to the amendments described in paragraph 5.

8. Schedule 4 amends the Country Parks Ordinance (Cap. 208) by re-defining the interest rate applicable to the compensation payable under that Ordinance. The proposed amendment would have the effect that the interest rates paid on compensation under that Ordinance will be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on each day.

9. Schedule 5 amends the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) and its subsidiary legislation. The

Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) is amended by re-defining the interest rate applicable to the compensation payable under that Ordinance (section 1 of Schedule 5). The proposed amendment is similar in effect to the amendment described in paragraph 8. The Resolution of the Legislative Council (Cap. 276 sub. leg.) is repealed (section 2 of Schedule 5).

10. Schedule 6 amends the Air Pollution Control Ordinance (Cap. 311) by re-defining the interest rate applicable to compensation in respect of the cancellation and variation of licences and exemptions under that Ordinance. The proposed amendment is similar in effect to the amendment described in paragraph 8.

11. Schedule 7 amends the Water Pollution Control Ordinance (Cap. 358) and its subsidiary legislation. The Water Pollution Control Ordinance (Cap. 358) is amended by re-defining the interest rate applicable to compensation in respect of the cancellation and variation of licences under that Ordinance (section 1 of Schedule 7). The proposed amendment is similar in effect to the amendment described in paragraph 8.

12. The Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.) is amended by re-defining the interest rate applicable to the compensation payable in certain cases under that Regulation (section 2 of Schedule 7). The proposed amendment provides that the rate of interest, which may be fixed by the Lands Tribunal, must not be lower than the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on each day.

13. Schedules 8, 9 and 11 amend the Roads (Works, Use and Compensation) Ordinance (Cap. 370), the Land Drainage Ordinance (Cap. 446) and the Railways Ordinance (Cap. 519) respectively. Those Ordinances are amended by re-defining the interest rate applicable to the compensation payable in certain cases under those Ordinances. The proposed amendments are similar in effect to the amendment described in paragraph 12.

14. Schedule 10 amends the New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495) by re-defining the interest rate applicable to any redemption money payable under that Ordinance. The proposed amendment provides that the rate of interest shall be the lowest of the interest rates paid on deposits at 24 hours' call by note-issuing banks at the close of business on each day.

Relevant provisions for the determination of interest rates under 11 Ordinances

	<u>Ordinance</u>	<u>Section</u>		<u>Authority to determine the interest rate payable</u>
1	Lands Resumption Ordinance (Cap.124)	s.16A(1)(b)	Interest on any payment made ...calculated having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	Director of Lands
		s.17(3A)	The rate of interest...shall be such rate as the Lands Tribunal may fix having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	Lands Tribunal
2	Foreshore and Seabed (Reclamation) Ordinance (Cap. 127)	s.14(1)(b)	Interest on any payment made...calculated having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	Director of Lands
		s.15(4)	The rate of interest...shall be such rate as the Lands Tribunal may fix having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	Lands Tribunal

3	Land Acquisition (Possessory Title) Ordinance (Cap. 130)	s.9(1)(b)	Interest on any payment made...calculated having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	Director of Lands
		s.10(4)	The rate of interest...shall be such rate as the Lands Tribunal may fix having regard to the lowest rate payable from time to time by members of the HKAB on time deposits.	Lands Tribunal
4	Country Parks Ordinance (Cap. 208)	s.21	The Lands Tribunal may direct that interest be paid on compensation (but not costs)...at the lowest rate paid from time to time by members of the HKAB on time deposits or at such other rate as may be determined by resolution of the Legislative Council	Lands Tribunal
5	Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) Resolution of the Legislative Council (Cap. 276, sub. leg.)	s.26	The Lands Tribunal may direct that interest be paid...at the rate paid from time to time by members of the HKAB on deposits at 7 days' call or at such other rate as may be determined by resolution of the Legislative Council. Resolved that the rate of interest payable on compensation shall be the lowest rate paid from time to time by members of the HKAB on time deposits.	Lands Tribunal

6	Air Pollution Control Ordinance (Cap. 311)	Paragraph 8, Schedule 4	The Lands Tribunal may direct that interest be paid on compensation (but not costs)...at the lowest rate paid from time to time by members of the HKAB on time deposit or at such other rate as may be determined by resolution of the Legislative Council	Lands Tribunal
7.	(a) Water Pollution Control Ordinance (Cap. 358) (b) Water Pollution Control (Sewerage) Regulation (Cap. 358, sub. leg.)	Paragraph 8, Schedule 2 s.22(b)	The Lands Tribunal may direct that interest be paid ... from such date and for such period as the Lands Tribunal thinks fit, at the lowest rate paid from time to time by members of the HKAB on time deposits or at such other rate as may be determined by resolution of the Legislative Council. The Lands Tribunal may direct that interest be paid ... from a date and for a period that it considers appropriate and at a rate that it may fix but not below the lowest rate payable during that period by members of the HKAB on time deposits.	Lands Tribunal Lands Tribunal
8	Roads (Works, Use and Compensation) Ordinance (Cap. 370)	s.33(b)	The Lands Tribunal may direct that interest be paid ... from such date and for such period as it thinks fit and at such rate as it may fix but not below the lowest rate payable during that period by members of the HKAB on time deposits.	Lands Tribunal

9	Land Drainage Ordinance (Cap. 446)	s.42(b)	The Lands Tribunal may direct that interest be paid ... from such date and for such period as it thinks fit and at such rate as it may fix but not below the lowest rate payable during that period by members of the HKAB on time deposits.	Lands Tribunal
10	New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495)	s.6(2)	The rate of interest payableshall be at the lowest rate payable from time to time by note-issuing banks on deposits at 24 hours' call.	Director of Lands
11	Railways Ordinance (Cap. 519)	s.38(b)	The Lands Tribunal may direct that interest be paid ... from the date and for the period as it thinks fit and at the rate it may fix but not below the lowest rate payable during that period by members of the HKAB on time deposits.	Lands Tribunal