

LEGISLATIVE COUNCIL BRIEF

LANDS TRIBUNAL (AMENDMENT) RULES 2002

INTRODUCTION

This brief explains the Lands Tribunal (Amendment) Rules 2002 at **Annex** (“Amendment Rules”). The Amendment Rules, made by the Chief Justice under section 10(3) of the Lands Tribunal Ordinance, will govern the procedure for lodging an appeal to the Lands Tribunal under the Government Rent (Assessment and Collection) Ordinance (Cap. 515) (“the Ordinance”).

BACKGROUND

2. The Ordinance enacted in 1997 provides for the assessment and collection of rents on certain Government leases extending past 30 June 1997. Sections 26, 27, 28 and 30 of the Ordinance set out the provisions in relation to appeals against the decision of the Director of Lands or the Commissioner of Rating and Valuation. These provisions mirror those in sections 42, 44, 44A and 42B of the Rating Ordinance (Cap. 116).

3. Specific provisions (rules 60 to 63) have been made in the Lands Tribunal Rules governing the procedure on appeals made under the Rating Ordinance. It is considered necessary to set out similar procedure in the Lands Tribunal Rules in respect of appeals made under section 26 of the Ordinance.

THE AMENDMENT RULES

4. The Amendment Rules add a new Part XIVB to the Lands Tribunal Rules to stipulate the procedure for lodging an appeal to the Lands Tribunal under section 26 of the Ordinance. In particular, it provides for –

- (a) commencement of proceedings by filing with the Registrar of the Lands Tribunal a notice of appeal and a copy of the notice of decision (rule 78H);

(b) giving of notice of opposition to the appeal (rule 78I); and

(c) application for hearing appeal (rule 78J).

5. The new Part XIVB of the Amendment Rules largely models on Part XI (rules 60 to 63) of the Lands Tribunal Rules concerning appeals under the Rating Ordinance (Cap. 116), albeit with some improvements. In parallel, rule 61 is amended to improve upon the wording in that rule so as to convey the legislative intent more clearly. Rule 62 is amended so that similar procedures are employed under Part XI and the new Part XIVB.

PUBLIC CONSULTATION

6. The Hong Kong Bar Association and the Law Society of Hong Kong have been consulted. They have no comment on the Amendment Rules.

BASIC LAW IMPLICATIONS

7. The Department of Justice advises that the Amendment Rules do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

8. The Department of Justice advises that the Amendment Rules are consistent with the human rights provisions of the Basic Law.

BINDING EFFECTS OF THE LEGISLATION

9. The Amendment Rules will not affect the current binding effect of the Lands Tribunal Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

10. The financial and staffing implications arising from the Amendment Rules are insignificant.

LEGISLATIVE TIMETABLE

11. The Amendment Rules will be published in the Gazette on 17 May 2002 and tabled in the Legislative Council on 22 May 2002 for negative vetting.

PUBLICITY

12. A press release will be issued and a spokesman of the Judiciary will be available to answer enquiries.

ENQUIRY

13. Enquiries on this brief should be directed to Ms Rebecca Pun, Assistant Judiciary Administrator, on telephone number 2825 4244.