

**For discussion  
on 22 July 2013**

**LEGISLATIVE COUNCIL  
PANEL ON DEVELOPMENT**

**Proposed Enhancements to the General Ex-gratia  
Compensation and Rehousing Arrangements  
for Development Clearance Exercises**

**Purpose**

This paper sets out the Government's proposal to enhance the general ex-gratia compensation and rehousing (C&R) arrangements to be offered to eligible clearnees affected by the Government's development clearance exercises, with a view to better addressing their genuine needs and thereby smoothing future clearance exercises.

**Background**

2. When land is required to be resumed and cleared for public works projects, apart from the provisions for statutory compensation under the relevant ordinances, the Government offers administrative Ex-gratia Allowances (EGAs) to affected landowners and occupiers under different scenarios to facilitate the clearance process. Pursuant to the stated objective that no one would be rendered homeless in clearance exercises, the Government also offers rehousing arrangements to residents affected by clearances according to their eligibility. The various types of EGAs as well as the rehousing arrangements have largely been effective in facilitating land resumption and clearances for public works projects.

3. However, as indicated by the land resumption and clearance exercises in recent years, there has been a growing concern that the needs of individual categories of clearnees (particularly inhabitants who are not land owners of the affected land) had not been adequately addressed. Meanwhile, two special C&R packages were introduced in 2009 and 2011/12 to facilitate smooth land resumption and clearance for the Hong Kong Section of Guangzhou – Shenzhen – Hong Kong Express Rail Link and the Liantang/Heung Yuen Wai Boundary Control Point and Associated Works projects. There appears a case for reviewing the current general C&R arrangements with a view to better catering for the genuine needs of the affected clearnees and ensuring a smoother clearance for the timely implementation of public works projects.

4. Against the above background, the Government has reviewed the existing general C&R arrangements. The aim of the review is to examine the effectiveness of the existing EGAs and rehousing arrangements in addressing the needs of occupiers affected by land resumption and clearances for public works projects and to identify areas for enhancement where appropriate. Since the two special packages were offered to two mega projects under specific circumstances, they cannot reasonably form a basis for the subject review. We have therefore made reference mainly to the experiences of other land resumption and clearance exercises. The proposed enhancements do not cover other facets of the current general C&R arrangements, including the ex-gratia zonal land compensation system payable to land owners and the various EGAs for village house removals, occupiers of legal properties and farmers. As evidenced from the experience of development clearance exercises, these arrangements have been working relatively well.

### **Proposal for Enhancing Ex-gratia Allowances**

5. Our review has concluded that by and large, the majority of the existing EGAs administered by the Lands Department (LandsD) had been working effectively over the years. They are subject to regular updating as to the applicable rates of value or cost components. The review has identified certain possible enhancements to a few areas in the light of changing circumstances to more effectively address the needs and concerns of clearerees, especially some of those occupiers of licensed structures and surveyed squatter structures who are not eligible for rehousing or EGAs under the current arrangements. On this basis, we recommend enhancements to four existing EGAs, by relaxing the present eligibility criteria as well as the basis of assessment of these EGAs as reasonable and appropriate. These EGAs are:

- (a) EGA for Permitted Occupiers (EGAPO) <sup>1</sup>;

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<sup>1</sup> Over the years, the Government has issued different licences permitting erection of temporary structures on Government land and private agricultural land, and these include Short Term Tenancies (STT), Government Land Licences (GLL), Modification of Tenancy Permits (MOT), Short Term Waivers (STW) and Letters of Approval (L of A). The structures covered by these licences are referred to as “licensed structures” which could be for domestic or non-domestic use.

Moreover, in 1982, the Government conducted a territory-wide Squatter Structure Survey (1982 SSS) to register the location, dimension and use of squatter structures. The survey results are used as a baseline for squatter control whereby the existence of squatters covered by the 1982 SSS (i.e. “surveyed structures”) is tolerated. These surveyed structures could be for domestic or non-domestic use. The 1982 SSS, together with the 1984/85 Squatter Occupancy Survey (1984/85 SOS) in which the particulars of occupiers of these surveyed structures were registered, have become the cornerstone of Government’s prevailing squatter control policy as well as the basis for processing rehousing of clearerees and payment of applicable EGAs during clearance exercises.

“Permitted occupiers” under the EGAPO context means: (a) licencees of licensed domestic structures; or (b) occupiers of surveyed domestic structures registered in the 1984/85 SOS.

- (b) Domestic Removal Allowance (DRA);
- (c) EGA for Shops, Workshops, Godowns, Slipways, Schools, Churches, and Ornamental Fish Breeding Undertakings; and
- (d) EGA for the Clearance of Graves, Kam Taps (金塔, urns) and Shrines.

Furthermore, we propose to enhance the existing rehousing arrangements by allowing eligible clearerees to either choose to be rehoused to public housing units, or to substitute it by EGAPO. Such arrangements would give more options to clearerees who are eligible for rehousing. Details of the proposed enhancements are set out in **Annex A**. A brief background of the current C&R arrangements covered by the proposal is at **Annex B**. A comparison of the existing and proposed arrangements is at **Annex C**.

6. The above proposal would provide more generous EGAs with wider coverage as well as more options to clearerees. We believe that such arrangements could better address the needs of clearerees and in turn smoothen clearance of land in future, so as to facilitate timely implementation of public works projects to serve the needs of the wider community.

### **Financial Implications**

7. The number of clearerees affected by development clearance projects varies among projects. Also, the relevant information in relation to a particular project, like household numbers, structure status, clearerees' length of occupancy, etc., cannot be ascertained until after completion of a Pre-clearance Survey<sup>2</sup>. In this circumstance, it is not possible to provide an accurate quantitative assessment of the financial implications of the proposal.

### **Way Forward**

8. Subject to Members' views, we intend to make a submission to the Finance Committee of the Legislative Council (LegCo) to seek approval of the proposal after the commencement of the next session. Subject to the approval of the Finance Committee, our intention is to apply the proposed enhancements to all on-going and future land resumption and clearance exercises as of 15 July 2013<sup>3</sup>.

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<sup>2</sup> For a development clearance exercise, a Pre-clearance Survey would generally be conducted at the date when the development plan is published in the gazette or when the project is publicly announced so as to provide a snapshot of the occupancy situation of the area affected by the exercise.

<sup>3</sup> "On-going exercises" refer to those for which the project departments have submitted clearance application to LandsD and the land clearance have not yet been completed.

## **Advice Sought**

9. Members are invited to offer views on the above-mentioned proposed enhancements to the general C&R arrangements for development clearance exercises.

Development Bureau  
July 2013

## **Proposed Enhancements to the General Compensation and Rehousing Arrangements**

We recommend that the following enhancements to the general compensation and rehousing arrangements be introduced -

### *Ex-gratia Allowances (EGAs)*

(a) Extend the eligibility and improve the following four types of EGAs –

(i) EGA for Permitted Occupiers (EGAPO)

(1) Extend the eligibility from permitted occupiers of surveyed or licensed domestic structures<sup>1</sup> to include domestic occupiers of licensed domestic structures who are not licencees and domestic occupiers of surveyed domestic structures as registered in the 1984/85 SOS (i.e. those who are not permitted occupiers under the existing regime), provided that they are covered in the Pre-clearance Survey (PCS) with a minimum of ten-year continuous occupation for domestic use immediately preceding the date of PCS; and

(2) Enhance the basis of EGAPO rate from 36-month to 72-month rental value; introduce a five-band system (attached at Appendix) under which the EGAPO offered will be at a proportion of the EGAPO rate according to

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<sup>1</sup> Over the years, the Government has issued different licences permitting erection of temporary structures on Government land and private agricultural land, and these include Short Term Tenancies (STT), Government Land Licences (GLL), Modification of Tenancy Permits (MOT), Short Term Waivers (STW) and Letters of Approval (L of A). The structures covered by these licences are referred to as “licensed structures” which could be for domestic or non-domestic use.

Moreover, in 1982, the Government conducted a territory-wide Squatter Structure Survey (1982 SSS) to register the location, dimension and use of squatter structures. The survey results are used as a baseline for squatter control whereby the existence of squatters covered by the 1982 SSS (i.e. “surveyed structures”) is tolerated. These surveyed structures could be for domestic or non-domestic use. The 1982 SSS, together with the 1984/85 Squatter Occupancy Survey (1984/85 SOS) in which the particulars of occupiers of these surveyed structures were registered, have become the cornerstone of Government’s prevailing squatter control policy as well as the basis for processing rehousing of clearerees and payment of applicable EGAs during clearance exercises.

“Permitted occupiers” under the EGAPO context means: (a) licencees of licensed domestic structures; or (b) occupiers of surveyed domestic structures registered in the 1984/85 SOS.

the length of occupation for domestic use whereby eligible clearerees with longer length of such occupation will receive EGAPO at a higher proportion of the EGAPO rate, subject to a ceiling of \$600,000;

(ii) Domestic Removal Allowance (DRA)

(1) Extend the eligibility from domestic occupiers of surveyed or licensed **domestic** structures only at present to include domestic occupiers of surveyed or licensed **non-domestic** structures (who are not eligible for DRA under existing arrangements) subject to a minimum of two-year continuous occupation for domestic use immediately preceding the date of PCS (at present, no minimum length of occupation applies to domestic occupiers of surveyed or licensed domestic structures); and

(2) Remove the present rule that DRA would not be payable to clearerees who receive EGAPO.

(iii) EGA for Shops, Workshops, Godowns, Slipways, Schools, Churches, and Ornamental Fish Breeding Undertakings

(1) Extend the eligibility from business undertakings of specified non-domestic uses covered by the 1982 SSS or pre-1982 licences to include business undertakings operating in structures held under licences issued after 1 June 1982, provided that the licences are derived from pre-1982 licences in respect of the structures to be cleared and without substantial changes to the conditions of the pre-1982 licences; and

(2) Increase the EGA rates for shops and workshops from 4 and 12 months' rental value to 7 and 15 months' rental value respectively (the current arrangements that EGA rates for godowns, slipways, schools, churches and ornamental fish breeding undertakings are determined as a proportion of the EGA rates for shops and workshop

will be maintained).

(iv) EGA for the Clearance of Graves, Kam Taps and Shrines

- (1) Extend the eligibility of EGA from graves and Kam Taps belonging to indigenous villagers to include graves and Kam Taps belonging to non-indigenous villagers provided that the graves and Kam Taps had been in existence before 1 July 1983 (1 October 1983 for Tuen Mun District);
- (2) Extend the payment of additional allowance of “fung shui significance” to cover all graves, Kam Taps and shrines eligible for the EGA, and rename this additional allowance as “fung shui / religious significance” to reflect such change; and
- (3) Revise the basis for assessing the EGA rates by adopting the material cost for “Shanghai plaster” for assessing the replacement cost for the removal of Yee Kun Chung (衣冠塚, memorial graves), formal graves and shrines constructed by “cement plaster” or “chunam plaster” as well to reflect current day situation.

*Applicable Date of EGA Rates*

- (b) The EGAs listed in paragraphs 1(a)(i)-(iii) above applicable in relation to a particular project shall apply at the rates prevailing on either the date of posting of the resumption notice for the project if land resumption is involved, or the date which is six months before the first scheduled clearance date for the project if only Government land is involved (as opposed to the earlier date of PCS at present).

*Rehousing*

- (c) Enhance the existing rehousing arrangements for, and extend EGAPo to, the following categories of clearerees –
  - (i) For domestic occupiers of surveyed or licensed domestic

structures meeting the Comprehensive Means Test (CMT) and all other existing eligibility criteria of Housing Authority's (HA's) Waiting List (WL) under the present arrangements, provide the following options –

(1) Public Rental Housing (PRH) or Green Form Certificates (GFCs) for the purchase of Subsidised Home Ownership Scheme (SHOS) flats from the HA or in the Secondary Market Scheme (SMS) (i.e. the same with the existing arrangements); or

(2) eligible EGAPo in accordance with paragraph 1(a)(i) above if applicable in lieu of the rehousing option in (1) above (at present, carees eligible for rehousing are not allowed to opt for EGAPo in lieu even if they meet the eligibility criteria).

(ii) For domestic occupiers of surveyed or licensed domestic structures meeting CMT and all other existing eligibility criteria of HA's WL except the requirement that at least half of the family members have lived in Hong Kong for seven years, who are as a result ineligible for PRH for the time being and only eligible for Interim Housing (IH) at licence fee during such period under the existing arrangements, provide the following options –

(1) IH at a licence fee (i.e. the same with the existing arrangements); or

(2) eligible EGAPo in accordance with paragraph 1(a)(i) above if applicable in lieu of the rehousing option in (1) above.

(iii) For domestic occupiers of surveyed or licensed domestic structures failing CMT who are ineligible for PRH and only eligible for one-year IH at market licence fee under the present arrangements, provide the following options –



- (1) eligible EGAP0 in accordance with paragraph 1(a)(i) above (i.e. the same with the existing arrangements); or
- (2) one-year IH at market licence fee, plus 80% of eligible EGAP0.

**Proposed Banding System for  
Ex-gratia Allowance for Permitted Occupiers**

<b>Banding</b>	<b>Types of Households</b>	<b>Proportion of Full EGAPO Rate</b>
Band 1	Occupation covered by the 1984/85 Squatter Occupancy Survey (SOS), or permitted occupiers of licensed domestic structures <sup>(1)</sup>	Full EGAPO rate
Band 2	Occupation of 26 years or more before Pre-clearance Survey (PCS), but not covered by the 1984/85 SOS <sup>(2)</sup>	85% EGAPO rate
Band 3	Occupation between 21 and 25 years before PCS <sup>(2)</sup>	70% EGAPO rate
Band 4	Occupation between 16 and 20 years before PCS <sup>(2)</sup>	55% EGAPO rate
Band 5	Occupation between 10 and 15 years before PCS <sup>(2)</sup>	40% EGAPO rate

Note:

- (1) This type of households is eligible for EGAPO under the existing arrangements.
- (2) These types of households are not eligible for EGAPO under the existing arrangements.

## **Background of Current Compensation and Rehousing Elements Covered by the Proposal**

### **Ex-gratia Allowance for Permitted Occupiers (EGAPO)**

#### *Background*

The Finance Committee of the Legislative Council (FC) endorsed on 15 July 2002 (FCR(2002-03)34) payment of EGAPO as an alternative to Interim Housing (IH) for eligible persons affected by Government clearances. The authority to approve changes to EGAPO in accordance with the approved formula was delegated to the Secretary for Financial Services and the Treasury (SFST).

#### *Eligibility*

2. The following groups of occupiers affected are eligible for EGAPO:

- (a) Permitted occupiers of a licensed domestic structure<sup>1</sup> on private agricultural land or unleased Government land affected by clearance who are not provided with Public Rental Housing (PRH) of the Housing Authority (HA); and
- (b) Permitted occupiers of a domestic squatter structure on unleased Government land i.e. where the structure was covered by the 1982 Squatter Structure Survey (SSS) by the Housing Department (HD) and the occupiers were registered in the 1984/85 Squatter Occupancy Survey by HD (SOS)<sup>2</sup>, but who are not eligible for PRH.

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<sup>1</sup> Over the years, there have been different licences issued by Government permitting erection of temporary structures on Government land and private agricultural land, including Short Term Tenancies (STT), Government Land Licences (GLL), Modifications of tenancy (MOT), Short Term Waivers (STW) and Letters of Approval (L of A). The squatters covered by these licences are referred to as licensed structures. “Permitted occupiers” under the EGAPO context means licencees of licensed domestic structures.

<sup>2</sup> In 1982, the Government conducted a territory-wide Squatter Structure Survey (1982 SSS) to register the location, dimension and use of squatter structures. The survey results are used as a baseline for squatter control whereby the existence of squatters covered by the 1982 SSS (i.e. “surveyed structures”) is tolerated. These surveyed structures could be for domestic or non-domestic use. The 1982 SSS, together with the 1984/85 Squatter Occupancy Survey (1984/85 SOS) in which the particulars of occupiers of these surveyed structures were registered, have become the cornerstone of Government’s prevailing squatter control policy as well as the basis for processing rehousing of clearances and payment of applicable EGAs during clearance exercises.

“Permitted occupiers” under the EGAPO context means occupiers of surveyed domestic structures registered in the 1984/85 SOS.

### *Basis of Assessment*

3. EGAPO is assessed having regard to 36 months rental value for comparable but lawful structures of the same size in the same area for three years. The approved basis for calculating EGAPO rates is as follows:

- (a) The whole of Hong Kong is divided into three broad regions – Urban, Extended Urban and the New Territories for the purpose of calculating the applicable EGA rates;
- (b) The EGA rates are determined by reference to the latest rental data available to the Rating and Valuation Department on the average unit rental of village type houses and/or tenement buildings; and
- (c) The EGA rates would be updated every six months in strict accordance with (b) above.

4. The prevailing rates (effective from 15 July 2013) are as follows. There is no ceiling to the eligible EGAPO.

Urban:	\$7,920 / m <sup>2</sup>
Extended Urban:	\$6,408 / m <sup>2</sup>
New Territories:	\$4,968 / m <sup>2</sup>

### **Domestic Removal Allowance (DRA)**

#### *Background*

5. Since 1976, Ex-gratia Rehousing Allowance and Ex-gratia Building Allowance had been paid by HD to needy families in clearances when they moved into permanent public and temporary housing respectively. In 1977, these two types of EGAs were combined and renamed as Domestic Removal Allowance (DRA). Under this revised arrangement, DRA was payable to families compulsorily cleared into permanent or temporary housing to help them meet the initial cost of moving. At that time, payment of DRA was also subject to income limit which was later abolished in 1978.

6. On 30 November 1988, the FC approved a new basis to revise the DRA based on the following three cost components: (i) basic fitting-out costs; (ii) removal costs and (iii) telephone (domestic line) removal cost.

7. The FC on 19 July 1996 (FCR(96-97)51) approved that the basic fitting out cost component be calculated with reference to the changes in Tender Price Index (TPI) applicable to HD's building projects in the corresponding period. The authority to approve future revisions to the DRA rates in accordance with the new formulae was delegated to the Secretary for the Treasury.

8. With effect from 1 December 1999, the rates applicable to temporary housing were no longer adopted by HD because there had been no admission of family into this type of public housing.

### *Eligibility*

9. Occupiers of surveyed or licensed domestic structures affected by Government clearance exercises are eligible for DRA to help them meet the initial cost of moving. Details of eligibility criteria are set out as follows:

- (a) To be eligible for DRA, occupiers affected by Government clearances must be living in a domestic structure covered by the 1982 SSS or 1986 surveyed rear-lane domestic structure and are eligible for rehousing. Eligible occupiers who opt for various Subsidized Home Ownership Schemes by HD or those who relinquish their rehousing rights are eligible for DRA.
- (b) Occupiers eligible for rehousing in every respect but fail the Comprehensive Means Test (CMT) alone who either opt to move to IH for one year of restricted stay and pay licence fees at market level or choose to move out voluntarily without accepting any rehousing arrangements are eligible for DRA.
- (c) Occupiers who opt for HD's singleton/doubleton allowance in lieu of rehousing are also eligible for DRA.

10. Domestic property owners who are ineligible for any form of rehousing will not be eligible for DRA. Also, it is existing policy that EGAPO recipients will not be eligible for DRA in respect of the same structure affected by clearance.

### *Basis of Assessment*

11. As explained above, the basis of DRA is composed of (i) basic fitting-out costs; (ii) removal costs and (iii) telephone (domestic line) removal cost and the basic fitting out cost component is calculated with reference to the changes in TPI applicable to HD's building projects in the corresponding period. As for the removal cost component, it is based on the averages of prices quoted by transportation contractors whereas the telephone removal cost component adopts the current charges by the telephone company for removing and installing telephone line. The rates are reviewed annually.

12. The rates are calculated with reference to the family size. The prevailing rates (effective from 1 December 2012) are:

1-person:	\$4,137
2 to 3-person:	\$9,134
4 to 6-person:	\$11,884
6-person and above:	\$15,091

### **Ex-gratia Allowance for Shops, Workshops, Godowns, Slipways, Schools, Churches, and Ornamental Fish Breeding Undertakings**

#### *Background*

13. Prior to January 1988, EGA for shops and workshops affected by clearances were based on the rents payable for HA estate shops and flatted factories capitalised over six months and twelve months respectively. The rates for schools, godowns, slipways and ornamental fish breeding undertakings were set at a proportion of those rates applicable to shops and workshops.

14. Following approval of the FC in January 1988 (FCC(87-88)29), EGAs for shops and workshops have been linked to the rents payable for premises in the private sector, capitalized over four months for shops and twelve months for workshops. It was stated that the rationale was to allow the operators a suitable period of time to re-establish their business and to provide them with a measure of compensation for any loss of business and any other costs incurred through removal. The initial area of a shop (10 m<sup>2</sup>) or workshop (5 to 20 m<sup>2</sup>) continued to attract an allowance at a higher rate. This was to provide an incentive for operators of small business undertakings

to move voluntarily.

15. In July 1988, the FC approved vide paper FCC(88-89)10 that the first tier of workshop area which attracted a higher rate be extended from 5 to 20 m<sup>2</sup> to 5 to 25 m<sup>2</sup>. The FC further approved that the amount to be paid in respect of the first 5 to 25 m<sup>2</sup> should be twice the standard rate in order to tally with the factor applied to shops. It was further approved that the authority to approve future changes in the allowances in accordance with the approved formulae was delegated to the Deputy Financial Secretary.

16. As regards the rates of other different EGA items, the ratio among them have remained unchanged as follows:

<b>EGA Items</b>	<b>Ratio Between EGA Items</b>
Open area : Covered area	1 : 6
School : Shop	2 : 3
Slipway / Godown : Workshop	1 : 2
Ornamental fish : Workshop breeding	1 : 1

17. In August 1988, the FC considered vide paper FCC(88-89)13 that churches involved in clearance, like commercial undertakings and schools / kindergartens of a commercial nature, would have to incur expenditure for their re-establishment. It was therefore agreed that churches should also be eligible for EGA at rates applicable to school and kindergarten.

18. In July 1999, the FC approved vide paper FCR(1999-2000)34 that the calculation of EGA for slipways should be based on the total area of slipways including the underwater portion because the underwater portion formed an integral part of slipways.

### *Eligibility*

19. The EGA is applicable upon clearance of the affected undertakings operating at the time of the Pre-clearance Survey (PCS) and their uses are covered by the 1982 SSS. Undertakings operating in structures held under

Short Term Tenancies / Short Term Waivers issued before 1982 may be eligible.

### *Basis of Assessment*

20. The rates for this EGA for shops and workshops are linked to the average rental of shops and flatted factories respectively in the private sector as advised by the Rating and Valuation Department capitalized over four months for shops and twelve months for workshops. At present, the applicable rates prevailing on the date of PCS are adopted in calculating the amount of EGA. The surveyed or licensed area of the structure or the occupied area at the time of PCS, whichever is the least, is adopted as the basis for computation of the EGA.

21. The current rate of covered areas for shops is \$10,040 per m<sup>2</sup> for the first 10m<sup>2</sup>, and \$5,020 per m<sup>2</sup> thereafter; and \$65,000 for the first 5 to 25m<sup>2</sup> and \$1,300 per m<sup>2</sup> thereafter for workshops.

## **Ex-gratia Allowance for the Clearance of Graves, Kam Taps and Shrines**

### *Background*

22. It has long been a custom for indigenous villagers (IVs) and locally based fishermen in the New Territories to bury their dead on rural hillsides. When Britain leased the New Territories under the Peking Convention in 1898, a proclamation was made by the then Governor on 15 April 1899 assuring all these inhabitants that their traditional good customs would not be interfered with. As a result, the custom of hillside burials by the IVs and the local fishermen in the New Territories has been tolerated ever since the early British colonial era.

23. When the whole New Territories began urbanisation involving massive land resumption and clearance required for public projects in the early 1960s, EGA for clearance of tolerated graves and Kam Taps (金塔, urns)<sup>3</sup> was paid to the IVs and the local fishermen for voluntary removal of graves and Kam Taps. From early 1960s till 1977, the payment of the EGA varied according to the merits of each case. In order to streamline the administrative procedures in the assessment and release of the EGA, the FC of

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<sup>3</sup> Urns (commonly known as Kam Taps) are "bone-pots" containing human remains after the exhumation of the first burial.



the Legislative Council approved on 23 November 1977 the introduction of standard rates and eligibility criteria for payment. The eligibility criteria and basis of assessment have remained unchanged and are applicable today.

24. Before 1984, EGA was paid upon the removal and reprovisioning of shrine at rates determined on an individual basis. On 25 July 1984, the FC, upon review the standard rates for payment of EGAs for the clearance of tolerated graves and Kam Taps, approved that the standard rates applicable in the assessment of EGA for Yee Kun Chung (衣冠塚, memorial graves) and formal graves were also applicable to the clearance of shrines. The EGA for the clearance of shrines is only paid for those built and worshipped by the villagers of a village as a whole. Shrines for individual families or persons are not eligible for the EGA. In case where the shrine is a natural object, such as a piece of rock, it will not normally be reprovisioned and no EGA will be paid.

25. On 5 July 1989, while the FC approved a further increase of standard rates of the EGA, it delegated the authority to the then Secretary for the Treasury to approve future changes of the EGA in accordance with the approved formulae. As from 1989 till now, the EGA rate is reviewed annually by Compensation Review Committee<sup>4</sup> with final approval obtained from the SFST.

### *Eligibility*

26. The EGA is payable by Government upon the clearance of the following graves / Kam Taps:

- (a) Pre-1898 graves / Kam Taps belonging to indigenous inhabitants of the New Territories and New Kowloon and other pre-1898 graves / Kam Taps at the discretion of District Officers;
- (b) Graves / Kam Taps of all pre-1898 New Kowloon and New Territories villagers and local fishermen or their descendants in the male line and wives of such persons; and

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<sup>4</sup> The Compensation Review Committee (CRC) is chaired by Development Bureau with members from Lands Department, Agricultural, Fisheries and Conservation Department, Housing Department, Home Affairs Department and Financial Services and Treasury Bureau. The functions of CRC is to:

- (a) Conduct annual review of compensation rates payable to persons affected by lands resumption / clearance; and
- (b) Examine the rules governing eligibility of such compensation.

- (c) Graves / Kam Taps for which specific Government permission can be proved to have been given.

27. The EGA is only paid for the clearance of shrines built and worshipped by the villagers of a village as a whole. Shrines for individual families or persons are not eligible for the allowance. If the graves / Kam Taps / shrines are not removed by the concerned claimants themselves but removed by the Administration instead, no EGA for the clearance of the graves / Kam Taps / shrines will be payable.

*Basis of Assessment*

28. The basis of the EGA takes into account the physical (material and size) and abstract (historical, religious and Fung Shui significance) elements of the grave. In essence, the EGA is determined by the following:

- (a) Huet Chong Grave (穴葬墳, first burial grave with no structure above ground) – the amount is paid at a flat rate per grave based on the cost of exhumation and preparation for re-interment;
- (b) Yee Kun Chung (衣冠塚, memorial graves) and formal grave (second burial grave) – the amount is paid according to a schedule of unit rate of construction materials and based on the cost of reconstructing them to the same dimensions and in the same materials elsewhere;
- (c) Clan significance – an additional amount is payable to each branch of the clan on removal of a clan grave;
- (d) Fung Shui significance – an additional payment for ceremonial costs and geomancer's fee is payable for each grave with Fung Shui attributes;
- (e) Age significance – an additional payment is payable for pre-1898 graves; and
- (f) EGA for Kam Taps – the amount is payable at standard rates for Kam Taps with and without shelters.

29. The basis of assessment of EGA for clearance of shrines is based on that of the Yee Kun Chung and formal grave. The additional payment mentioned in para. 28(d) above is also payable for clearance of shrines with Fung Shui attributes.

30. The rates for the EGA are reviewed and updated annually to keep pace with inflation and market costs (see para. 25 above). The Lands Department (LandsD) has been authorised by the FC to increase the EGA rates for graves / Kam Taps by up to 50% and for shrines by up to 75% for special cases. Any further increase would require prior approval from SFST.

### **Rehousing of Occupants of Squatter Structures Affected by Government Clearance Operations**

#### *Background*

31. According to the prevailing policy, the general eligibility criteria for rehousing are summarised as follows:

#### Public Rental Housing (PRH)

- (a) Affected persons must be genuine residents of a licensed domestic structure or a surveyed domestic structure<sup>5</sup> and have been covered by PCS;
- (b) (i) Affected persons must be covered by the 1984/85 SOS and having satisfied other eligibility criteria of the Waiting List (WL); or  
(ii) For affected persons with proof of two-year residence in a licensed or surveyed domestic structure prior to the date of announcement of squatter area clearance, subject to their fulfilling the eligibility criteria of WL for PRH, they will be allotted a notional WL application number. If their application is to be due for allocation within twelve months, advance action will be taken to handle the application;
- (c) At least half of the family members must have lived in Hong Kong

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<sup>5</sup> This refers to structures covered by the Housing Department's 1982 SSS. Please see footnote 2.

without any conditions of stay for seven years and are still living in Hong Kong. Children under the age of 18 who are residing in Hong Kong with established Hong Kong birth status regardless of their length of residence in Hong Kong and their parents' residence status, or those under the age of 18 who are residing in Hong Kong regardless of their place of birth if one of their parents has lived in Hong Kong without any conditions of stay for seven years, are deemed to have satisfied the seven-year residence rule;

- (d) During the period from the date of PCS up to the date of intake, the applicant or his / her family members must not –
- (i) own or co-own or have an interest in any domestic property in Hong Kong; or
  - (ii) have entered into an agreement (including provisional agreement) to purchase any domestic property in Hong Kong; or
  - (iii) hold more than 50% of shares in a company which owns, directly or through its subsidiaries, any domestic property in Hong Kong.

Domestic property includes any domestic property, uncompleted private domestic property, rooftop structure approved by the Buildings Authority, domestic building lots and Small House Grants approved by the Lands Department in the Hong Kong; and

- (e) Persons affected by clearance operations are subject to a CMT, and their total family monthly income and net assets value must not exceed the income and net asset limits laid down by HA.

### Interim Housing (IH)

32. For those affected persons who fail to meet criteria (b) and/or (c) of the above eligibility for PRH, subject to fulfilling criterion (a) above and other eligibility criteria of PRH, they will be rehoused to IH while awaiting PRH through WL application.

33. Families failing CMT are ineligible for PRH or IH. Those having

a temporary need for housing will be offered IH but their stay there will be restricted to one year, during which they are required to pay licence fee at market level (“market licence fee”).

### Comparison of the Current and Proposed General Compensation and Rehousing Arrangements

Key Aspects	Existing Arrangements	Proposed Arrangements
<b>EGA for Permitted Occupiers (EGAPO)</b>		
Eligibility	The following types of occupiers covered by the Pre-clearance Survey (PCS) to be eligible: (a) Permitted occupiers of licenced or surveyed domestic structures <sup>1</sup> ; and (b) Those failing to meet the Housing Authority (HA)'s Comprehensive Means Test (CMT).  Domestic property owners who are ineligible for any form of rehousing will not be eligible.	The following types of occupiers covered by PCS to be eligible: (a) Permitted occupiers of licensed or surveyed domestic structures, <u>or</u> domestic occupiers of licensed and surveyed domestic structures subject to a minimum of ten-year continuous occupation for domestic use immediately preceding the date of PCS; and (b) Those failing to meet HA's CMT.  Domestic property owners who are ineligible for any form of rehousing will not be eligible.  Note: Notwithstanding criterion (b), those eligible for Public Rental Housing (PRH) and Interim Housing (IH) at licence fee may also opt for EGAPO in lieu of PRH or IH (please see "rehousing" section below).
Composition / basis of rates assessment	36-month rental value of the average unit rental of village type houses and/or tenement buildings in the private market according to three broad regions: (a) Urban; (b) Extended urban; and (c) New Territories.	72-month rental value according to the same three broad regions subject to a ceiling of \$600,000. The EGAPO rate will be apportioned according to the length of occupation for domestic use: (a) <u>Band 1 (Full EGAPO rate)</u> – occupation covered by the 1984/85 SOS, or permitted occupiers of licensed domestic structures; (b) <u>Band 2 (85% EGAPO rate)</u> – occupation of 26 years or more before PCS, but not covered by the 1984/85 SOS; (c) <u>Band 3 (70% EGAPO rate)</u> – occupation between 21 and 25 years before PCS; (d) <u>Band 4 (55% EGAPO rate)</u> – occupation between 16 and 20 years before PCS; and (e) <u>Band 5 (40% EGAPO rate)</u> – occupation between 10 and 15 years before PCS.
Granting of Domestic Removal Allowance (DRA) to EGAPO recipients	Not eligible for DRA.	Not to be barred from receiving DRA.
Other restrictions	Not eligible to apply for any form of public housing for the subsequent two years.	Not eligible to apply for any form of public housing for the subsequent two years.
Application of prevailing EGA rates in relation to a particular project	Calculation of the amount of the eligible EGA is based on prevailing rates on the date of PCS.	Calculation of the amount of the eligible EGA to be based on prevailing rates on: (a) The date of posting of the resumption notice for that project if land resumption is involved; or (b) The date which is six months before the first scheduled clearance date for that project if only Government land is involved.
<b>Domestic Removal Allowance (DRA)</b>		
Eligibility	Occupiers affected by Government clearance and living in a surveyed or licenced domestic	Occupiers affected by Government clearance who are:

<sup>1</sup> Over the years, the Government has issued different licences permitting erection of temporary structures on Government land and private agricultural land, including Short Term Tenancies (STT), Government Land Licences (GLL), Modification of Tenancy Permits (MOT), Short Term Waivers (STW) and Letters of Approval (L of A). The structures covered by these licences are referred to as "licensed structures" which could be of domestic or non-domestic use.

Moreover, in 1982, the Government conducted a territory-wide Squatter Structure Survey (1982 SSS), registering the location, dimension and use of squatter structures. It was used as a baseline for squatter control whereby the existence of squatters covered by the 1982 SSS (i.e. the "surveyed structures") is tolerated. These surveyed structures could be of domestic or non-domestic use. The 1982 SSS, together with the 1984/85 SOS which registered the particulars of occupiers of surveyed structures, became the cornerstone of Government's prevailing squatter control policy as well as the basis for processing rehousing of clearances and payment of applicable EGAs during clearance exercises.

"Permitted occupiers" under the existing EGAPO context means (a) licencees of licensed domestic structures; or (b) occupiers of surveyed domestic structures registered in the 1984/85 SOS.

Key Aspects	Existing Arrangements	Proposed Arrangements
	<p>structure and eligible for rehousing.</p> <p>The following types of occupiers are ineligible:</p> <p>(a) Those living in surveyed or licenced non-domestic structures;</p> <p>(b) Those non-surveyed and non-licenced structures;</p> <p>(c) Those who own or dispose of any domestic property on or after PCS;</p> <p>(d) Impostors who move into clearance area after PCS; or</p> <p>(e) Those who have received EGAPO within two years.</p>	<p>(a) Occupiers of surveyed or licensed domestic structure and eligible for rehousing; or</p> <p>(b) Domestic occupiers of licensed or surveyed non-domestic structures with two-year continuous occupation for domestic use immediately preceding PCS.</p> <p>Clearees belonging to Group (a) but without two-year continuous occupation for domestic use immediately preceding PCS, and clearees belonging to Groups (b), (c) and (d) remain ineligible under the proposed arrangements.</p>
Composition / basis of rates assessment	<p>The DRA rates are assessed and revised with reference to three components:</p> <p>(a) Basic fitting-out cost – adjustments based on Housing Department’s Tender Price Index (TPI);</p> <p>(b) Removal costs – adjustments based on market quotations; and</p> <p>(c) Telephone (domestic line) removal cost – adjustments based on market quotations.</p>	Same as existing arrangements.
Application of prevailing DRA rates in relation to a particular project	Calculation of the amount of the eligible DRA is based on prevailing rates on the date of PCS.	<p>Calculation of the amount of the eligible DRA to be based on prevailing rates on:</p> <p>(a) The date of posting of the resumption notice for that project if land resumption is involved; or</p> <p>(b) The date which is six months before the first scheduled clearance date for that project if only Government land is involved.</p>
<b>EGA for Shops, Workshops, Godowns, Slipways, Schools, Churches, and Ornamental Fish Breeding Undertakings</b>		
Eligibility	<p>Applicable to undertakings of specified non-domestic uses covered by the 1982 SSS or licences issued before 1982.</p> <p>Undertakings operating under licences issued after 1982 are not eligible.</p>	<p>No change.</p> <p>Undertakings operating in structures held under licences issued after 1 June 1982, provided that the licences are derived from pre-1982 licences in respect of the structures to be cleared and without substantial changes to the conditions of the pre-1982 licences, are to be eligible</p>
Composition / basis of rates assessment	<p>Four-month rental value for shops and 12-month rental value for workshops with reference to the average rental value for these premises in the private sector.</p> <p>Rates for godowns, slipways, schools, churches and ornamental fish breeding undertakings are set at a proportion of the rates applicable to that of shops and workshops.</p>	<p>Seven-month rental value for shops and 15-month rental value for workshops.</p> <p>No change to the proportion of rates applicable to godowns, slipways, schools, churches and ornamental fish breeding undertakings.</p>
Application of prevailing EGA rates in relation to a particular project	Calculation of the amount of the eligible EGA is based on prevailing rates on the date of PCS.	<p>Calculation of the amount of the eligible EGA to be based on prevailing rates on:</p> <p>(c) The date of posting of the resumption notice for that project if land resumption is involved; or</p> <p>(d) The date which is six months before the first scheduled clearance date for that project if only Government land is involved.</p>
<b>EGA for the Clearance of Graves, Kam Taps and Shrines</b>		
Eligibility	<p><b><u>Graves and Kam Taps</u></b></p> <p>The following types of graves and Kam Taps are eligible:</p> <p>(a) Pre-1898 graves and Kam Taps belonging to indigenous inhabitants of the New Territories and New Kowloon and other pre-1898 graves at the discretion of District Officers;</p> <p>(b) Graves and Kam Taps of all pre-1898 New Kowloon and New Territories villagers and local fishermen or their descendants in the male line and wives of such persons; or</p>	Graves and Kam Taps belonging to non-indigenous villagers but have been in existence before 1 July 1983 (1 October 1983 for Tuen Mun District) are to be eligible for the EGA.

Key Aspects	Existing Arrangements	Proposed Arrangements
	(c) Graves and Kam Taps for which specific Government permission can be proved to have been given.	
	<b><u>Shrines</u></b> Shrines built and worshipped by villagers of a village as a whole are eligible for the EGA. Shrines for individual families or persons are ineligible for the EGA.	No change.
Composition / basis of rates assessment	<b><u>Huet Chong Graves (穴葬墳, first burial graves with no structure above ground)</u></b> EGA paid at a flat rate per grave based on the cost of exhumation and preparation for re-internment.	No change.
	<b><u>Yee Kun Chungs (衣冠塚, memorial graves), formal graves (second burial graves) and shrines</u></b> EGA paid according to the cost of reconstructing them with the same dimensions and in the same materials elsewhere with reference to a schedule of unit rate of construction materials: (a) Blue brick; (b) Shanghai plaster; (c) Chunam plaster; and (d) Cement plaster.	To make reference to the unit rate of the following construction materials in the assessment of EGA: (a) Blue brick (no change); (b) Shanghai plaster (no change); (c) Chunam plaster (to adopt the unit rate of Shanghai plaster); and (d) Cement plaster (to adopt the unit rate of Shanghai plaster).
Clan significance	An additional amount at standard rate is payable to each branch of the clan on the removal of a clan grave.	No change.
Fung Shui significance	An additional allowance at standard rate for ceremonial costs and geomancer's fees is payable for the removal of each grave or shrine with "fung shui" attributes.	To extend the payment of the additional allowance for removal of all graves, Kam Taps and shrines eligible for the EGA to recognise Fung Shui / religious significance. The name of this additional allowance is to be renamed as "fung shui/religious significance". The level of additional allowance with "fung shui" or religious attributes for the removal of Kam Taps be pitched at 20% of the same allowance offered for the removal of Huet Chong Graves with "fung shui" or religious attributes.
Age significance	An additional allowance at standard rate for ceremonial costs and geomancer's fees is payable for the removal of each pre-1898 grave.	No change.
Kam Taps	The amount of EGA is payable at standard rates for Kam Taps with or without shelters.	No change.
<b>Rehousing</b>		
Eligibility	(a) Domestic occupiers of surveyed or licenced domestic structures covered by PCS; and (b) Covered by the 1984/85 SOS, <u>or</u> with a minimum of two-year residence before PCS.  Note: On criterion (b) above, subject to the provision of proof of at least two-year residence prior to the date of PCS, they will be allotted a notional Waiting List (WL) number with a two-year waiting time. If their application is to be due for allocation within 12 months, advance action will be taken to handle the application.	No change proposed.
Application for Green Form	Only those who meet all existing eligibility criteria of HA's WL (including CMT) and are therefore eligible for admission into PRH <sup>2</sup> can apply for GFC.	No change proposed.

<sup>2</sup> The eligibility criteria of HA's WL are mainly:

- (a) CMT which covers both the income and total net assets;
- (b) at least half of the family members must have lived in Hong Kong for seven years; and



Key Aspects	Existing Arrangements	Proposed Arrangements
Certificate (GFC)		
Rehousing options	<p><b><u>Failing CMT</u></b>            (a) Eligible EGAPo (under existing eligibility and calculation); or            (b) One-year IH at market licence fee.</p>	<p><b><u>Failing CMT</u></b>            (a) Eligible EGAPo (under proposed eligibility and calculation); or            (b) One-year IH at market licence fee, plus 80% of eligible EGAPo.</p>
	<p><b><u>Meeting CMT and all other eligibility criteria of HA's WL</u></b>            (a) PRH or GFCs for the purchase of Subsidised Home Ownership Scheme (SHOS) flats (either new flats or flats in the Secondary Market Scheme (SMS)).</p>	<p><b><u>Meeting CMT and all other eligibility criteria of HA's WL</u></b>            (a) PRH or GFCs for the purchase of SHOS flats (either new flats or flats in the SMS); or            (b) Eligible EGAPo.</p>
	<p><b><u>Meeting CMT and all other eligibility criteria of HA's WL except the requirement of at least half of the family members have lived in Hong Kong for seven years</u></b>            (a) IH at licence fee.</p>	<p><b><u>Meeting CMT and all other eligibility criteria of HA's WL except the requirement of at least half of the family members have lived in Hong Kong for seven years</u></b>            (a) IH at licence fee; or            (b) Eligible EGAPo.</p>

(c) the “no domestic property” criterion, i.e. from the date of completing the application form for HA’s WL to the date of signing the tenancy agreement of the PRH flat, the applicant and his family members must not own or co-own any domestic property or have entered into an agreement to purchase any domestic property.