

**LEGISLATIVE COUNCIL BRIEF**

Housing Ordinance  
(Chapter 283)

**HOUSING ORDINANCE**

**(AMENDMENT OF SCHEDULE) ORDER 1999**

**INTRODUCTION**

At the meeting of the Executive Council on 2 March 1999, the Council ADVISED and the Chief Executive ORDERED that the Housing Ordinance (Amendment of Schedule) Order 1999, at Annex A, should be made under section 17AA of the Housing Ordinance, to -

- (a) provide for the resale restrictions for flats sold under the Tenants Purchase Scheme (TPS);
- (b) relax the resale restrictions for flats sold under the Home Ownership Scheme (HOS) and Private Sector Participation Scheme (PSPS); and
- (c) relate the buy back price offered by the Housing Authority (HA) for the HOS, PSPS and TPS flats to the discount of the market value enjoyed by the owner at the time of original purchase.

**BACKGROUND AND ARGUMENT**

**Resale restrictions for Flats Sold under Tenants Purchase Scheme**

2. The Executive Council had approved in December 1997 that the TPS should be implemented. The target is to provide the opportunity for at least 250,000 families living in public rental housing to buy their flats at reasonable and affordable prices over the next ten years.

3. The Executive Council had approved a set of resale restrictions for flats sold under the TPS under which a TPS flat owner can sell the flat -

- (a) in the first two years from first assignment, to the HA at the original purchase price; or
- (b) after two years from first assignment -
  - (i) to the HA at assessed market value less the original discount <sup>(1)</sup> ; or
  - (ii) to a current or prospective public rental tenant, at a negotiated price without payment of a premium; or
- (c) after five years from first assignment, in the open market subject to payment of a premium proportionate to the original discount at the time of purchase.

4. Amendments to the Schedule to the Housing Ordinance, which applies to all the subsidised flat sale schemes of the HA (including TPS amongst others), are necessary to put these approved resale restrictions into effect.

### **Resale Restrictions for Flats Sold under Home Ownership Scheme and Private Sector Participation Scheme**

5. The HOS and the PSPS were introduced in 1978 and 1979 respectively to provide flats for sale to lower and middle-income families and public rental tenants at prices well below market value. In 1998, about 17,000 flats were offered for sale under the two schemes, which were over-subscribed by seven times overall.

6. To discourage speculation, flats sold under the HOS and PSPS are subject to a set of resale restrictions, as specified in the Schedule to the Housing Ordinance, which are stricter than those for the TPS flats. Currently, a flat owner can sell the flat -

- (a) in the first three years from first assignment, to the HA at the original purchase price; or

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<sup>(1)</sup> The price is the assessed market value at the time of buy-back by the HA less an amount proportionate to the original discount at the time of purchase. Any credit granted on initial purchase would also be refundable to HA.

- (b) after the first three years from first assignment -
  - (i) to the HA at the prevailing HOS or PSPS prices <sup>(2)</sup> ; or
  - (ii) to a current or prospective public rental tenant, at a negotiated price<sup>(3)</sup> without payment of a premium; or
- (c) after ten years from first assignment, in the open market, subject to the payment of a premium.

7. We consider that the resale restrictions for HOS flats and PSPS flats should be relaxed in line with those under the TPS because -

- (a) the TPS, HOS and PSPS are all subsidised flat sale schemes administered by the HA; it is unfair that flats sold under the HOS and PSPS are subject to stricter resale restrictions than those under the TPS; and
- (b) by relaxing the resale restrictions for the HOS and PSPS flats, the turnover of these flats can be increased, thereby helping to meet the demand for subsidised home ownership flats and freeing public rental flats for re-allocation to people in genuine need.

### **Buy back by Housing Authority**

8. As stated in paragraph 6(b) above, the existing provisions in the Schedule to the Housing Ordinance provide that an owner of an HOS or PSPS flat can sell the flat to the HA after the first three years from first assignment at the prevailing price of a similar HOS or PSPS flat currently put on sale by the HA. This buy back price is assessed in the same way as the price at which the same flat will be resold by the HA, and does not relate to the discount of the market value enjoyed by the owner at the time of original purchase.

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<sup>(2)</sup> The prevailing HOS or PSPS prices refer to the selling price of a similar HOS/PSPS flat put on sale by the HA at the time of the owner's offer to assign to the HA.

<sup>(3)</sup> The HOS and PSPS flat owners are allowed to sell the flats to current or prospective public rental tenants in the secondary market for HOS and PSPS flats. Upon sale, the new owner will be required to surrender his existing public rental flat (if he is a public rental tenant), or to forego the right to be allocated a public rental flat (if he is a prospective public rental tenant). The seller will not be required to pay a premium. The new owner will take over the premium liability from the seller, but will not be required to pay a premium unless and until he wishes to sell the flat in the open market after expiry of the restriction period.

9. In the previous two phases launched in 1998, an HOS or PSPS buyer could choose from a range of discount rates in purchasing a flat<sup>(4)</sup>. The TPS flat purchasers enjoy similar flexibility. The existing basis of assessment of the buy back price is no longer applicable. It is more equitable for the buy back price to relate to the discount enjoyed by the owner at the time of original purchase.

## **THE PROPOSALS**

10. It is proposed that -
- (a) the resale restrictions for the TPS flats should be put into effect as approved;
  - (b) the resale restrictions for flats sold under the HOS and the PSPS should be relaxed as those under the TPS; and
  - (c) the buy back price for HOS, PSPS and TPS flats should relate to the discount enjoyed by the owner at the time of original purchase.

## **THE ORDER**

11. The Order will amend the Schedule to the Housing Ordinance to reflect the proposals in paragraph 10 above. A copy of the existing Schedule is at Annex B.

12. The new provisions will be applicable to all the HOS, PSPS and TPS sale and purchase agreements and assignments, whether concluded before or after the amended Schedule comes into effect.

## **LEGISLATIVE TIMETABLE**

13. As approved by the Chief Executive in Council, the legislative timetable will be -

Publication in the Gazette	12 March 1999
Tabling at the Legislative Council	17 March 1999

## **HUMAN RIGHTS IMPLICATIONS**

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<sup>(4)</sup> The HA has decided to revert to a single discount in the next phase of HOS/PSPS to be launched in March 1999.

14. The Department of Justice advises that the Order has no human rights implications.

### **FINANCIAL AND STAFFING IMPLICATIONS**

15. The proposal will allow the disposal of flats from the sixth year instead of the eleventh year after first assignment in the open market upon payment of premium. However, in view of fluctuation in the market situation, it is difficult to estimate precisely at this juncture the amount of premium payment advanced to the earlier years under the new arrangement. There are no staffing implications for Government.

### **ECONOMIC IMPLICATIONS**

16. At present, there are about 16,000 HOS and PSPS flats in the third year after the first assignment, and 80,000 units between the sixth and the tenth years from the first assignment. The implementation of our proposal will, accordingly, allow 16,000 and 80,000 HOS and PSPS flats to be sold in the secondary market<sup>(3)</sup> and the open market respectively.

17. The release of an additional 16,000 HOS/PSPS flats into the secondary market which is restricted for current or prospective public rental tenants will help reduce the demand for public rental flats. Past experience indicates that the turnover of this restricted secondary market is thin. Thus, the likely impact on the private residential property market should be minimal. As to the release of an additional 80,000 HOS/PSPS flats into the open market, the actual turnover of such flats will depend largely on their attractiveness vis-à-vis private sector flats in terms of price, quality and mortgage terms. Given the current market situation, the likely impact on the private residential property market should not be significant. As all these are occupied flats, it is most probable that the concerned HOS/PSPS flat owners, after selling their flats in the secondary market or the open market, will need to buy or rent another flat in the market. The likely impact on the private residential market should be more or less neutral.

### **PUBLIC CONSULTATION**

18. The HA has been consulted and supports the proposal. An information paper has also been issued to the Legislative Council Panel on Housing.

### **PUBLICITY**

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

Housing Bureau  
March 1999

**HOUSING ORDINANCE (AMENDMENT OF SCHEDULE) ORDER 1999**

(Made by the Chief Executive in Council under section 17AA  
of the Housing Ordinance (Cap. 283))

**1. Commencement**

This Order shall come into operation on a day to be appointed by the Secretary for Housing by notice in the Gazette.

**2. Terms, Covenants and Conditions**

The Schedule to the Housing Ordinance (Cap. 283) is amended -

- (a) in paragraph 1(a)(i), by repealing “10” and substituting “5”;
- (b) in paragraph 2 -
  - (i) in subparagraphs (a) and (b), by repealing “3” and substituting “2”;
  - (ii) in subparagraph (b), by repealing sub-subparagraphs (A) and (B) and substituting -
    - “(A) the market value of the land assessed by the Director of Housing at the time of the purchaser's offer to assign; and
    - (B) the discount that was afforded to the purchaser at the time of

purchase calculated under the following

formula -

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

Where “Initial Market Value” (最初市值) and “Purchase Price” (買價) have the same meanings respectively assigned to them under paragraph 1(b) of this Schedule.”;

- (c) in paragraph 4 -
- (i) in subparagraph (b)(i) and (ii), by repealing “10” and substituting “5”;
  - (ii) in subparagraph (c), by repealing “3” and substituting “2”.

Clerk to the Executive Council

COUNCIL CHAMBER

1999



Explanatory Note

This Order amends paragraphs 1, 2 and 4 of the Schedule to the Housing Ordinance (Cap. 283) to -

- (a) reduce certain statutory periods specified in the resale restrictions applicable to flats sold under schemes subject to the provisions of that Schedule (section 2(a), (b)(i) and (c)); and
- (b) repeal and replace the existing matters that the Director of Housing shall have regard to in fixing the price for any such flat offered for assignment to the Housing Authority (or a nominee of the Housing Authority) after the expiration of a certain statutory period (section 2(b) ii). The new matters the Director of Housing shall so have regard to are the market value of the flat at the time of buy back and the discount that was enjoyed by the purchaser at the time the flat was purchased.