

URBAN RENEWAL AUTHORITY BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Planning and Lands

Clause

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(a) By deleting subclause (1) and substituting -

"(1) There shall be established a Board to be named the Board of the Urban Renewal Authority comprised of the following members -

(a) a Chairman of the Board of the Authority ("the Chairman"), who is at the same time a non-executive director and is not a public officer;

(b) a Managing Director who is at the same time an executive director and is not a public officer;

(c) 2 other executive directors, not being public officers;

(d) not less than 7 non-executive directors, not being public officers; and

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- (e) 4 non-executive directors who are public officers."
- (b) In subclause (2), by deleting "Chairman" and substituting "Chairman and the Managing Director".
- (c) By deleting subclause (3) and substituting -
- "(3) The Managing Director is, by virtue of holding that office, the Deputy Chairman of the Board of the Authority."
- (d) By deleting subclause (5) and substituting -
- "(5) The Managing Director is the administrative head of the Authority. Together with the other executive directors, the Managing Director is responsible, subject to the direction of the Board of the Authority, for administering the affairs of the Authority and, subject to that direction, has such other responsibilities as may be assigned by the Board of the Authority."
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- (a) In subclause (1), by deleting "the Deputy Chairman, if any" and substituting "the Managing Director".
- (b) In subclause (5), by deleting "the Deputy Chairman, if any" and substituting "the Managing Director".

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9 By deleting "Chairman" in both places where it appears and substituting "Managing Director".

16 By deleting the clause and substituting -

"16A. Authority to keep proper accounting records and to prepare financial statements

(1) The Authority shall keep such accounting records as correctly explain its financial transactions and financial position and so that -

(a) true and fair financial statements can be prepared from time to time; and

(b) those statements can be conveniently and properly audited in accordance with section 16C.

(2) The Authority shall ensure that the following financial statements are prepared as soon as practicable and in any case not later than 3 months after the end of each financial year -

(a) an income and expenditure account that gives a true and fair view of the Authority's income and expenditure for that year;

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(b) a balance sheet as at the end of that year that provides a true and fair view of the Authority's financial position as at the end of that year.

(3) The Authority shall ensure that the financial statements comply with any accounting standards notified to the Authority in writing by the Financial Secretary.

16B. Authority to appoint auditor

(1) The Authority shall appoint an auditor to audit the accounts of the Authority.

(2) As soon as practicable after a vacancy occurs in the office of auditor, the Authority shall appoint another auditor to fill the vacancy.

16C. Authority's financial statements to be audited

(1) Not later than 3 months after the end of each financial year, the Authority shall submit the financial statements prepared for the financial year to the Authority's auditor for auditing.

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(2) As soon as practicable after receiving financial statements submitted by the Authority, the Authority's auditor shall audit the statements and prepare an auditor's report on audit of the financial statements.

(3) The auditor's report shall state whether or not the financial statements are, in the auditor's opinion, properly drawn up so as to provide a true and fair view of the matters referred to in section 16A(2) and in accordance with the accounting standards, if any, notified under section 16A(3) and, if not, the reasons for that opinion.

(4) The Authority's auditor is entitled -

- (a) to have access at all reasonable times to the Authority's accounting records; and
- (b) to require the Managing Director, the executive directors and any member of the staff of the Authority to provide the auditor with such explanations and information as the auditor considers necessary for the purpose of conducting the audit.

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(5) As soon as practicable after completing the audit and preparing the auditor's report, the Authority's auditor shall -

- (a) attach the report to, or endorse the report on, the financial statements that were audited; and
- (b) deliver those statements and the report to the Authority.

(6) The Authority shall, as soon as practicable and in any case not later than 6 months after the expiry of a financial year, furnish -

- (a) a report of the affairs of the Authority for that year;
- (b) a copy of the audited financial statements thereof; and
- (c) the auditor's report on audit of the financial statements, to the Financial Secretary who shall cause the same to be tabled in the Legislative Council."

New

The following is added at the beginning of Part V -
"17A. Urban renewal strategy

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(1) The Secretary may prepare from time to time an urban renewal strategy for the purposes of this Part relating to the carrying out of urban renewal.

(2) The Secretary shall consult the public before finalizing the urban renewal strategy referred to in subsection (1) in such manner as he may determine, unless he considers that such consultation is not practicable due to the existence of an urgent need to prepare, revoke or amend the urban renewal strategy.

(3) In the course of consultation under subsection (2), the Secretary need not disclose information which, in his opinion, would not be in the public interest to disclose."

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- (a) By deleting subclause (3)(a) and substituting -
- "(a) shall follow any guidelines set out in an urban renewal strategy prepared under section 17A(1) in relation to the implementation of those proposals and projects;"
- (b) In subclause (4)(a), by deleting "with or without amendments".

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19	In subclause (5)(a), by deleting "with or without amendments".
20.	In subclause (1), by deleting "one month" and substituting "2 months".
21.	(a) by deleting subclause (4) and substituting - "(4) The Secretary shall consider the development project and any objections which are not withdrawn and determine, consequent upon those objections, whether - (a) to authorize the Authority to proceed with the development project without any amendment; or (b) to make an amendment to the development project to meet an objection raised under subsection (1); or (c) to decline to authorize the development project to meet an objection raised under subsection (1)."; (b) By deleting subclauses (6), (7) and (8) and substituting -

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"(6) Where the Secretary makes an amendment to a development project under subsection (4)(b) to meet an objection raised under subsection (1), he shall order the Authority to publish in the Gazette notice of an amendment to the development project. Where the amendment appears to the Secretary to affect any land, other than that of the objector, the Secretary shall serve notice in writing of that amendment on the owner of that other land or give such other notice by advertisement or otherwise as he deems desirable and practicable to the owner of that other land to inform that owner of the amendment.

(7) The owner of the other land mentioned in subsection (6) who wishes to object to the amendment made by the Secretary under subsection (4)(b) shall send to the Secretary a written statement of that objection within -

- (a) 14 days in the case of an owner of the land included in the original development project

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submitted to the Secretary
under subsection (3); or

- (b) one month in the case of an
owner of the land affected
by the amendment made by
the Secretary under
subsection (4) and not
included in the original
development project
submitted to the Secretary
under subsection (3),

after the service or giving of notice by
the Secretary under subsection (6). The
Secretary shall consider the written
statement to determine, in view of that
objection, whether to authorize the
Authority to proceed with the development
project with or without amendment and
shall serve notice in writing of that
determination on the owner who made the
objection.

(8) Where the Secretary makes an
amendment to a development project under
subsection (4)(b) with amendments which
include an expansion of the boundaries of
the project, the commencement date of the
implementation of the part of the project

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concerning the land not included in the original development project submitted to the Secretary under subsection (3) shall be the date when notice was published in the Gazette under subsection (6). The commencement date of the implementation of the part of the project concerning the land included in the original development project submitted to the Secretary under subsection (3) shall remain as provided under section 20(2).";

(c) In subclause (9), by deleting "subsection (4) or (7)" and substituting "subsection (4)(a) or (7)";

(d) By adding -

"(9A) Where the Secretary declines to authorize a development project under subsection (4)(c), he shall order the Authority to publish in the Gazette notice of withdrawal of the project. The Authority shall serve notice in writing of that decision on the owner of the land included in the original development project submitted to the Secretary under subsection (3) or give such other notice by advertisement or otherwise as the Authority deems desirable and practicable

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to the owner of the land to inform that owner of the decision. Any such withdrawal shall be without prejudice to the preparation of a new development project and the publication thereof under section 20."

New

The following is added -

"23A. Appeal Board

(1) The Chief Executive may appoint a panel of persons ("the Appeal Board panel") whom he considers suitable to sit as members of an appeal Board to hear an appeal under section 23B.

(2) The Chief Executive shall not appoint -

- (a) a director of the Authority;
- (b) an employee of the Authority;
- or
- (c) a public officer;

to the Appeal Board panel.

(3) For the avoidance of doubt, in subsection (2), "public officer" does not include a judge of the Court of First Instance, a recorder of the Court of First Instance, a deputy judge of the Court of First Instance or a District Judge.

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(4) The Chief Executive may appoint a member of the Appeal Board panel as Chairman of the panel and may appoint one or more members as Deputy Chairmen of the panel as he thinks fit.

(5) The Chief Executive may appoint a public officer to be the secretary to the Appeal Board panel who at the same time serves as the secretary to an Appeal Board.

(6) Members of the Appeal Board panel shall be appointed for a term not exceeding 3 years but shall be eligible for reappointment.

(7) Members of the Appeal Board panel may resign at any time by notice in writing given to the Chief Executive.

(8) On receipt of a notice of appeal, the secretary to the Appeal Board panel shall notify the Chairman of the panel who, subject to subsections (9), (10), (15) and (20), shall nominate an Appeal Board.

(9) The Chairman of the Appeal Board panel shall not nominate an Appeal Board to hear an appeal or act as its Chairman if he has a direct or indirect interest in the appeal.

(10) A Deputy Chairman of the Appeal Board panel designated for the purpose by the

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Chairman of the panel shall, in the absence of the Chairman of the panel, or if the Chairman of the panel has a direct or indirect interest in an appeal, nominate an Appeal Board to hear the appeal.

(11) Subsection (9) shall apply to a Deputy Chairman of the Appeal Board panel as it applies to the Chairman of the panel.

(12) A member of the Appeal Board panel shall not be nominated to an Appeal Board to hear an appeal or act as its member if he has a direct or indirect interest in the appeal.

(13) Subject to subsections (9), (10), (12), (15) and (20), the Chairman or a Deputy Chairman and 4 other members of the Appeal Board panel shall constitute an Appeal Board to hear an appeal.

(14) Subject to subsections (9), (10), (15) and (20), the Chairman or a Deputy Chairman of the Appeal Board panel shall act as the Chairman of an Appeal Board.

(15) If the Chairman of the Appeal Board panel and the Deputy Chairman designated under subsection (10) have a direct or indirect interest in an appeal, the Chief Executive may appoint another Deputy Chairman or another member of the panel, who does not have a

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direct or indirect interest in the appeal, to nominate an Appeal Board to hear the appeal and to act as the Chairman of the Appeal Board.

(16) At least 3 members, one of whom must be the Chairman of the Appeal Board, shall be present to hear and determine an appeal.

(17) The Appeal Board shall hear the appeal and a majority of the members hearing the appeal shall determine questions before it.

(18) Where there is an equality of votes in respect of any question to be determined in an appeal, the Chairman of the Appeal Board shall have a casting vote in addition to his original vote.

(19) A member shall not take part in determining the questions before the Appeal Board unless he has been present at all the Appeal Board meetings held in respect of the appeal concerned.

(20) If the Chairman of the Appeal Board panel is precluded by illness or absence from Hong Kong from exercising his functions -

- (a) the Deputy Chairman designated under subsection (10) shall act as Chairman; or

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(b) if the Deputy Chairman designated under subsection (10) is unable to act as Chairman, the Chief Executive may appoint another Deputy Chairman or another member to act as Chairman.

(21) The Chairman and the members of an Appeal Board shall be paid such remuneration and allowances as the Financial Secretary may determine.

23B. Appeals

(1) An objector to a development project who is aggrieved by a decision of the Secretary under section 21(4)(a) or 21(7) may appeal by lodging a notice of appeal with the secretary to the Appeal Board panel, with a copy to the Secretary, within 30 days after notification of the Secretary's decision under section 21(9).

(2) A notice of appeal under subsection (1) shall contain the following information -

(a) the name, address and telephone number of the appellant and the appellant's authorised representative, if any;

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- (b) details of the decision appealed against;
- (c) the grounds of the appeal;
- (d) the name, address and telephone number of all proposed witnesses; and
- (e) particulars of the evidence to be given by the witnesses and documents and any other thing to be produced by or on behalf of the appellant sufficient to ensure that the Appeal Board and the Secretary are fully and fairly informed of the grounds of appeal.

(3) On receipt of a notice under subsection (1), the secretary to the Appeal Board panel shall fix a date, time and place for the hearing of the appeal, which shall be a date not sooner than 30 days but not more than 60 days of the receipt of such notice and shall give at least 14 days' notice thereof to the appellant and the Secretary.

(4) The Secretary shall, within 30 days of receipt of a notice under subsection (1), serve on the secretary to the Appeal Board

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panel and on the appellant a notice containing the following information -

- (a) the name, address and telephone number of the Secretary's authorised representative;
- (b) the grounds for opposing the appeal;
- (c) the name, address and telephone number of any proposed witnesses; and
- (d) particulars of the evidence to be given by the witnesses and documents and any other thing to be produced by or on behalf of the Secretary sufficient to ensure that the appellant and the Appeal Board are fully and fairly informed of the grounds of opposing the appeal.

(5) Not less than 7 days prior to the date set for the hearing of the appeal, the appellant and the Secretary shall -

- (a) lodge with the secretary to the Appeal Board panel a copy of witness statements, documents and any other thing to be given

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or produced in evidence at the hearing of the appeal; and

- (b) serve on each other a copy of witness statements and documents and shall give details of any other thing lodged with the secretary to the Appeal Board panel, which statement, document or thing is to be given or produced in evidence at the hearing of the appeal.

(6) The appellant may abandon the whole or any part of his appeal before the date set for hearing or any adjourned date by giving the secretary to the Appeal Board panel and the Secretary not less than 7 days' notice in writing of his intention to abandon the whole or part of the appeal.

(7) Subject to subsections (8) and (9), the hearing of an appeal shall be in public.

(8) The Appeal Board may, by order, direct that a hearing or part of a hearing is to be held in private, if after consulting the appellant and the Secretary it is satisfied that it is desirable to do so.

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(9) Where the Appeal Board makes an order under subsection (8), it may give directions prohibiting the publication or disclosure of evidence given before the Appeal Board or any matter contained in a document lodged with or received in evidence by the Appeal Board to some or all of the parties to the appeal.

(10) The appellant and the Secretary may appear before an Appeal Board in person or by an authorised representative.

(11) Prior to or at the hearing of an appeal, an Appeal Board may -

- (a) consider and determine whether a party should have access to documents, records, books of account or other exhibits which the party claims are relevant to the appeal and which are in the possession or control of another person and order that other person to give the party access to such documents, records, books of account or other exhibits as it may think fit;

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- (b) hear evidence on oath and administer any oath necessary to swear in a witness;
- (c) admit or take into account any statement, document, record, book of account, other exhibit, information or matter whether or not it would be admissible as evidence in a court of law; and
- (d) by notice in writing summon any person to appear before it to give evidence and to produce any document, record, book of account or other exhibit specified in the notice.

(12) A witness who is called to give evidence at an appeal shall have all of the rights and privileges of a witness in a civil action in the Court of First Instance.

(13) Any person who -

- (a) is served with a summons under subsection (11)(d) and who -
 - (i) refuses or neglects without sufficient cause to appear or to produce any document,

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record or other thing
required to be
produced; or

(ii) refuses to be sworn
or give evidence; or

(b) refuses to comply with an order
of the Appeal Board under
subsection (11),

commits an offence and is liable to a fine of
\$50,000.

(14) The Appeal Board shall inquire into
any matter which it may consider relevant to
the appeal, whether or not it has been raised
by a party.

(15) No decision of an Appeal Board shall
be questioned by virtue of the absence of a
member of the Appeal Board during the hearing
of an appeal provided that member does not
participate in the final decision of the
Appeal Board.

(16) At the completion of the hearing of
an appeal, the Appeal Board may -

(a) confirm, reverse or vary the
decision appealed against as it
thinks fit;

(b) order any party to the appeal
to pay only the costs and

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expenses incurred by the Appeal Board in hearing and determining the appeal, and the amount of such costs and expenses shall be determined by the Appeal Board having regard to -

- (i) the amount of remuneration and allowances payable to the Chairman and the members of the Appeal Board under section 23A(21); and
- (ii) the amount of administrative or other costs and expenses incurred by the Appeal Board in relation to the hearing and determination of an appeal.

(17) Where an Appeal Board makes an order for costs and expenses under subsection (16), the Appeal Board shall specify in the order -

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- (a) the time limit for making payment, not being earlier than 14 days from the date of the order; and
- (b) the person to whom payment shall be made. Where an order for costs and expenses under this section is made against -
 - (i) the appellant, the amount of the costs and expenses shall be recoverable as a civil debt; or
 - (ii) the Secretary, the amount of the costs and expenses shall be paid out of the general revenue.

(18) If a person mentioned in subsection (10) fails to appear on a date set for the hearing of an appeal, an Appeal Board may -

- (a) if it is satisfied that the failure to appear is due to reasonable cause, adjourn the hearing to a date and time that it thinks fit;
- (b) proceed to hear the appeal; or

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(c) dismiss the appeal, if the person who fails to appear as stated above is the appellant or the appellant's authorised representative.

(19) If an Appeal Board dismisses an appeal under subsection (18)(c), an appellant may, within 14 days of the making of the order dismissing the appeal, apply in writing to the secretary to the Appeal Board for the Appeal Board to review its decision.

(20) On a review under subsection (19), the Appeal Board may, if it is satisfied that the failure to appear was due to reasonable cause, set aside the order and fix a date and time as it thinks fit for the hearing, and, unless the parties agree, the date shall be not less than 14 days from the date of the review.

(21) The secretary to the Appeal Board shall keep a written record for each appeal of -

- (a) the name of the appellant;
- (b) grounds of appeal;
- (c) the name of the appellant's authorised representative, if any;

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- (d) the name of the Secretary's authorised representative;
- (e) the name of any witness called by either party to the appeal;
- (f) an outline of the evidence of each witness;
- (g) the decision of the Appeal Board and the reasons for the decision; and
- (h) any orders made by the Appeal Board.

(22) The secretary to the Appeal Board shall serve on both the appellant and the Secretary the decision of the Appeal Board, the reasons for the decision and any orders made by the Appeal Board.

(23) The secretary to the Appeal Board shall publish in the Gazette notice of decision of the Appeal Board concerning -

- (a) any decision referred to in subsection (16), in the case where no review of the decision is applied under subsection (19); or
- (b) any decision of the Appeal Board after consideration of

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the review under subsection
(19).

(24) Any notice or order of an Appeal Board shall be issued under the hand of the Chairman of the Appeal Board.

(25) The Chairman of the Appeal Board panel may, as regards the general application by all, determine the practice or procedure in relation to a matter if provision has not been made under sections 23A and 23B for the practice or procedure in respect thereof.

(26) The Chairman of an Appeal Board may, as regards a particular hearing, determine the practice or procedure in relation to a matter if provision has not been made under sections 23A and 23B for the practice or procedure in respect thereof."

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- (a) In subclause (1)(b), by deleting "21(4), (5) or (7) and substituting "21(4)(a), (5) or (7)";
 - (b) In subclause (2)(b), by deleting "21(4), (5) or (7) and substituting "21(4)(a), (5) or (7)".

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(a) In subclause (5), by deleting ", including every employment contract or other agreement with any person,";

(b) By adding -

"(8A) The effect of subsections (5) and (8) in relation to any employment contract with the Land Development Corporation in force immediately before the commencement of Parts II to VIII of this Ordinance is merely to modify that contract (as from that day) by substituting the Authority for the Land Development Corporation and, accordingly, employment with the Land Development Corporation and the Authority under an employment contract to which those subsections apply is deemed for all purposes to be a single continuing employment.".

Schedule

(a) By deleting subsection (1) and substituting -

"(1) The Chief Executive shall determine the terms and conditions of appointment of the Chairman of the Board of the Authority.";

(b) By adding -

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"(1A) An executive director, including the Managing Director, is entitled to such terms and conditions of office (including remuneration and allowances) as the Chief Executive may, from time to time, determine in respect of the director.";

- (c) In section 7(3), by deleting "Chairman of the Board" and substituting "Managing Director";
- (d) In section 7(4), by deleting "Chairman of the Board" and substituting "Managing Director".