

For Discussion
on 13 January 2000

LEGISLATIVE COUNCIL

PANEL ON PLANNING, LANDS AND WORKS

Land Resumption Policy and Related Matters

This paper provides information on land resumption policy and rehousing arrangements in respect of clearances for the implementation of public works projects and the clearance of Shek Wu San Tsuen.

Land Resumption Policy

2. Resumption of private land is sometimes required for the purpose of implementing public works projects. Land resumption is normally undertaken by Lands Department at the request of a client department. Lands Department will critically examine the resumption requirements of the project and to ensure that only the minimum amount of private land will be resumed for the purpose. Affected landowners may raise objections to the land resumption proposals. Their objections will be submitted together with the land resumption proposals for consideration by the Executive Council under the relevant Ordinances e.g. Lands Resumption Ordinance.

3. Affected landowners will be offered compensation for the land resumed. In this regard, the Government adopts an ex-gratia zonal compensation system for land resumption in the New Territories, which consists of four compensation zones, namely A to D. The four zones attract ex-gratia compensation rates in descending order. The rate of each zone is set at a different percentage of the basic rate. When assessing the compensation rate, the Government considers two basic factors: the location of the site and their proximity to the new towns and the potential for development of the land. The basic ex-gratia compensation rates are revised twice a year to take into account changing property prices, and the revised rates take effect on 1 April and 1 October respectively. The boundaries of the compensation zones are reviewed from time to time.

4. The ex-gratia zonal compensation system has been adopted since 1985. In 1996, the Government completed a review of the system and concluded that it had worked satisfactorily although a refinement of the definition of Zone A would be required. In 1996, the Executive Council and the Legislative Council Finance Committee approved the refinement respectively. The current definitions of Zones A to D and their ex-gratia compensation rates are set out at **Annex A**.

5. If the landowner refuses to accept the compensation offered, he may follow the procedure stipulated in the relevant resumption ordinance to submit a claim to the Government within one year from the date of resumption. In his statement of claim, he should state the compensation amount he wishes to claim, supported by documentary evidence, for consideration by the Government. If no agreement can be reached in respect of the compensation amount, either the owner or Government may submit the claim to the Lands Tribunal for determination. Once the compensation amount is determined by the Lands Tribunal, it cannot be amended and the decision shall be final irrespective of whether the amount is higher or lower than the original ex-gratia compensation offer.

Rehousing Arrangements and Granting of Ex-gratia Allowances

6. Genuine residents affected by clearances arising from implementation of public works projects are offered rehousing in public rental housing/interim housing and domestic removal allowances, subject to Housing Department's screening of their eligibility. The existing eligibility criteria for rehousing are set out at **Annex B**. Residents who are not eligible for rehousing may be offered accommodation in transit centres and considered for subsequent rehousing to interim housing on homeless grounds.

7. Business operators conducting a business at the time of Housing Department's pre-clearance survey and in a structure registered for that purpose in the 1982 Squatter Structure Survey will be offered ex-gratia allowances, the amount of which varies depending on the type and size of the business involved.

8. Residents who are dissatisfied with the decision on their eligibility for rehousing or ex-gratia allowances may appeal to the Housing Department. If they are not content with the Department's reply, they may appeal to the Housing Authority Complaints Committee.

Determination of Clearance Dates

9. Clearance dates are determined by Departments concerned, having regard to the dates of commencement of the public works projects, progress of land resumption and rehousing arrangements, and clearers' requests.

Mechanism for Handling Clearers' Concern

10. Home Affairs Department adopts a coordination role in liaison and consultation with the clearers. The District Offices provide channels of communication between the clearers and relevant Government Departments by arranging consultation meetings, with

District Boards, rural committees and the clearerees. Clearerees' requests will be considered on the basis of the laid down policies.

Clearance of Shek Wu San Tsuen

11. The clearance of Shek Wu San Tsuen was required to facilitate Territory Development Department's River Indus training project. The purpose of the project is to alleviate the flooding problem in the North District. The project involves the realignment, dredging and widening of the upper section of River Indus, and construction of embankments, retaining walls, maintenance access roads and surface water drainage etc. The North Provisional District Board, and the Fanling, Sheung Shui and Ta Kwu Ling Rural Committees were consulted in 1997. They supported the project.

12. Housing Department announced the clearance and conducted the pre-clearance survey in June 1998 for the purposes of arranging rehousing and payment of ex-gratia allowances to the affected residents and business operators respectively in accordance with the criteria set out in paragraphs 6 and 7 above. Lands Department sought the Executive Council's approval of the land resumption required in December 1998, and offered ex-gratia compensation to the affected landowners in January and April 1999 respectively in accordance with the ex-gratia zonal compensation system described in paragraph 3 above.

13. It was originally planned that the clearance would be carried out in July 1999. However, the affected residents and business operators had requested further discussions with the departments concerned on the land compensation and rehousing arrangements. District Office (North) therefore convened meetings in May and July 1999 respectively for departments concerned to explain to the clearerees the prevailing land compensation and rehousing policies. The clearance was then rescheduled to September 1999. By September 1999, over 80% of the affected landowners had accepted the offer of ex-gratia compensation and over 90% of the eligible families have accepted the rehousing arrangements. To further address the remaining clearerees' requests, District Office (North) convened another meeting in October 1999 between Departments concerned and the clearerees. The clearance was eventually carried out on 16 November 1999.

Planning and Lands Bureau

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Definitions of Zones A-D and Ex-gratia Compensation Rates
分區 A-D 的定義及其特惠補償率

Zone 分區	Definition 定義	Compensation 補償
A	New Town Development Areas (namely areas within the New Town boundaries as shown on gazetted outline zoning plans for new towns), and those areas that are affected by essential projects with territory-wide significance.	120% of basic rate for agricultural land. Valuation + 120% of basic rate for building land.
「A」區	新市鎮發展區（位於憲報公布的新市鎮分區計劃大綱圖所示新市鎮範圍內的地區），以及受到與全港有關且必需的工程影響的地區。	農地的補償為基本率的 120%，屋地的補償則為估價另加基本率的 120%。
B	Areas which may be brought under urban development in the near future, either by extensions to the adjoining layout areas due to their proximity to such areas or by reason of their known potential for urban development.	75% of basic rate for agricultural land. Valuation + 75% of basic rate for building land.
「B」區	因地點接近毗鄰藍圖區擴大範圍或由於其已知的市鎮發展潛力，可能在不久將來納入市鎮發展的地區。	農地的補償為基本率的 75%，屋地的補償則為估價另加基本率的 75%。
C	Areas in which no urban development is planned and which are unlikely to be affected by later extension to layout areas, but where resumptions are required sometimes for purposes directly connected with urban layout development and sometimes for local improvement schemes.	50% of basic rate for agricultural land. Valuation + 50% of basic rate for building land.
「C」區	並無計劃作市鎮發展及不大會受藍圖區日後擴大範圍影響的地區。但在有關地區內，政府須為與市鎮設計發展直接有關的目的或須為地區改善計劃而進行收地。	農地的補償為基本率的 50%，屋地的補償則為估價另加基本率的 50%。
D	Areas not included in other zones.	30% of basic rate for agricultural land. Valuation + 30% of basic rate for building land.
「D」區	未有包括在其他分區內的地區。	農地的補償為基本率的 30%，屋地的補償則為估價另加基本率的 30%。

Rehousing Eligibility Criteria for Squatter Clearees

To be eligible for public housing, the affected squatters must satisfy the following eligibility criteria -

A. Eligibility Criteria for Public Rental Housing

- (1) Genuine residents of domestic structures covered by the 1982 Squatter Structure Survey at the time of pre-clearance survey;
- (2) Covered by the 1984/85 Squatter Occupancy Survey;
- (3) At least half of the family members must have lived in Hong Kong for seven years. For this purpose, all children under the age of 18 who are residing in Hong Kong without any condition of stay, regardless of their place of birth, are deemed as having satisfied the seven-year residence rule provided that one of their parents has lived in Hong Kong for seven years.
- (4) Not owning any domestic property within 24 months prior to the pre-clearance survey until the date of intake; and
- (5) Satisfy a comprehensive means test covering both income and net asset of the applicants and their family members. *[This criterion is applicable to clearance operations announced on or after 11 September 1998 only.]*

Note: Clearees not satisfying criterion A(3) above but all other criteria may be rehoused to refurbished flats in older estates.

B. Eligibility Criteria for Interim Housing

- (1) Genuine residents of domestic structures covered by the 1982 Squatter Structure Survey at the time of pre-clearance survey;
- (2) Not owning any domestic property within 24 months prior to the pre-clearance survey until the date of intake; and
- (3) Satisfy a comprehensive means test covering both income and net asset of the applicants and their family members. *[This criterion is applicable to clearance operations announced on or after 15 April 1999 only.]*