

Amended Sections

2C. Meetings of Board and of committees

- (1) Subject to subsection (2), all meetings of the Board or of any committee appointed under section 2(3) or 2A shall be open to the public.
- (2) Subsection (1) does not apply to –
 - (a) in the case of any meeting held under or for the purposes of section 6D, 6H, 12A, 16, 16A or 17, such part or parts of the meeting that are held for deliberation by the Board or the committee, as the case may be, for making any decision under section 6D(8), 6H(8) (whether with or without application of section 6H(9)), 12A(21), 16(3), 16A(7) or 17(6), after hearing any person who, not being a member of the Board or the committee, as the case may be, is entitled or allowed to be heard or otherwise has an opportunity of making representations or providing information at the meeting; and
 - (b) in the case of any other meeting, the meeting or any part or parts of the meeting if in the opinion of the Board or the committee, as the case may be, it is likely that-
 - (i) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would not be in the public interest;
 - (ii) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in premature release of information that would prejudice the position of the Board, the Government, the Chief Executive or the Chief Executive in Council or, in the case of a meeting of the committee, the committee in carrying out its or his functions under this Ordinance;
 - (iii) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in a disclosure of information in breach of any duty of confidentiality owed to any person by the Board or the Government or, in the case of a meeting of the committee, the committee, or owed to the Government by the Board or, in the case of a meeting of the committee, the committee, by virtue of any law or any requirement under any law, or in contravention of any prohibition by any order of a magistrate or a court or by any law or any requirement under any law;

- (iv) the application of subsection (1) to such meeting or such part or parts of the meeting, as the case may be, would result in a disclosure of information in respect of which a claim to legal professional privilege could be maintained in law; or
 - (v) any matter transacted at such meeting or such part or parts of the meeting, as the case may be, would be relevant to the institution or conduct of any legal proceedings.
- (3) Subject to the provisions of this Ordinance, the Board or any committee appointed under section 2(3) or 2A may determine its practice and procedure at its meeting.

s.5 Exhibition of draft plans

Any draft plan, prepared under sections 3 and 4 under the direction of the Board, which the Board deems suitable for publication, shall be exhibited by the Board for public inspection at reasonable hours for a period of 2 months. During such period the Board shall advertise once a week in 2 daily Chinese language local newspapers and 1 daily English language local newspaper and shall notify in each issue of the Gazette the place and hours at which such plan may be inspected. The Board shall supply a copy of each plan to any person on payment of such fee as the Board may determine.

[similar amendments in respect of publication in newspapers included in ss. 6(5), 6E(2), 7(2), 12A(7)(b), 16(2D)(b) and 17(2B)(b)]

s.6(2) A representation referred to in subsection (1) shall –

- (a) indicate -
 - (i)
 - (ii) the nature of and reasons for the representation; and
 - (iii)

s.6(3) Where a representation referred to in subsection (1) –

- (a) is made to the Board after the expiration of the period of 2 months referred to in subsection (1), it shall be treated as not having been made; or
- (b) does not comply with any of the requirements specified in or made under subsection (2), it may be treated as not having been made.

[similar amendments included in s.6A(3), 6F(3), 12A(11), 16(2H) and 17(2F)]

s.12A(1) Subject to subsection (2), any person may apply to the Board for consideration of any proposal in relation to an original approved plan for the purposes of this section.

s.12A(3) An application made under subsection (1) shall –

(a) set out -

(i) whether the applicant considers he has within a reasonable period before the application is made –

(A) obtained the consent in writing of each person (other than himself) who is a current land owner in respect of the application, or otherwise notified such person in writing of the application; or

(B) taken such reasonable steps as the Board requires in order to so obtain the consent of such person, or to so notify such person; and

(ii) particulars of such consent or notification or such steps, as the case may be;

[similar amendments included in s.16(2)(a)]

s.12A(5) Notwithstanding subsection (14), the Board may refuse to consider an application made under subsection (1) where –

(a) the applicant does not comply with any of the requirements specified in or made under subsection (3); or

(b) the Board is not satisfied that the applicant has within a reasonable period before the application is made –

(i) obtained the consent in writing of each person (other than the applicant) who is a current land owner in respect of the application, or otherwise notified such person in writing of the application; or

(ii) taken such reasonable steps as the Board requires in order to so obtain the consent of such person, or to so notify such person.

[similar amendments included in s.16(2B)]

s.12A(23) "current land owner" means any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at the commencement of such period before the application is made as is specified by the Board by notice published in the Gazette.

[similar amendments included in s.16(8)]

s.14(3) Any fees prescribed under subsection (2) for the purposes of section 12A(3)(c), 16(2)(c) or 16A(3)(b) -

(a) may be fixed at levels sufficient to effect the recovery of expenditure incurred, or likely to be incurred, whether by the Board or by the Government, in relation generally to the processing of applications made under section 12A(1), 16(1) or 16A(2), as the case may be; and

(b) shall not be limited by reference to the amount of administrative or other costs incurred, or likely to be incurred, in relation to the processing of any particular application to which such fees relate.

s.14(5) No fees prescribed under subsection (2) shall be payable by any Government department which does not operate under a trading fund within the meaning of the Trading Funds Ordinance (Cap.430), and for the purposes of subsection (3)(a), any expenditure incurred, or likely to be incurred, whether by the Board or by the Government, in relation to the processing of any application made by any such Government department under section 12A(1), 16(1) or 16A(2), as the case may be, shall be disregarded.

s.22(2) Notwithstanding subsection (1) -

(a) the Authority shall not exercise any power under subsection (1) for the purposes of ascertaining any matter described in subsection (1)(aa) unless the Authority has reasonable grounds to suspect that there is or was unauthorized development and it is necessary to enter the land or premises in question, or to have access through the land or premises in question, as the case may be, in order to enable the Authority to ascertain the matter; and

(b) the Authority shall not, save with the consent of the occupier or person in charge of the premises, enter domestic premises without a warrant issued by a magistrate under subsection (3)."

s.22(7) For the purposes of exercising any power or performing any duty under or for the purposes of section 20, 21 or 23, or determining whether there is or was any contravention of any of the provisions of section 20, 21 or 23, where the Authority has reasonable grounds to believe that any person has any relevant information, the Authority may by notice in writing served on the person require him to provide the relevant information to the Authority, within the period specified in the notice.

s.22(9) In subsection (7), "relevant information" (有關資料) means information reasonably required by the Authority for the purposes of –

(a) ascertaining whether there is or was unauthorized development or any matters that in the opinion of the Authority constitute or constituted an unauthorized development;

(b) identifying any person –

(i) who undertakes or continues, or undertook or continued, any development; or

(ii) on whom a notice may be served under section 23(1).

s.24A In any proceedings under this Ordinance, any document incorporating an image of a photograph of land, or any copy of such document, purporting to be issued by the Lands Department and purporting to be signed or initialled by public officer authorized by the Director of Lands in that behalf shall on its production be admissible, without further proof, as prima facie evidence of the matters shown therein.

26A. Board to supply copies of documents or materials

Where any document or material is available for public inspection under section 6(4), 6A(4), 6E(1), 6F(4), 6J(2), 12A(6) or (11A), 16(2C) or (2HA) or 17(2A) or (2FA), the Board shall supply a copy of the document or material to any person on payment of such fee as the Board may determine.