

立法會

Legislative Council

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Paper for the House Committee Meeting on 29 January 2010

Legal Service Division Report on Subsidiary Legislation Gazetted on 22 January 2010

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Amendment to be made by : 24 February 2010 (or 17 March 2010 if extended by resolution)

Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice (L.N. 6)

The Notice is made by the Chief Executive in Council under section 3(5) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (the Ordinance).

2. Under section 3(1) of the Ordinance, the person or persons who owns or own, otherwise than as a mortgagee, not less than 90% of the undivided shares in a land lot may make an application to the Lands Tribunal for an order to sell all the undivided shares in the lot for the purposes of the redevelopment of the lot.

3. Section 3(5) provides that the Chief Executive in Council may, by notice in the Gazette, specify a percentage lower than 90% in section 3(1). However, section 3(6) provides that no percentage may be specified in such a notice which is less than 80%.

4. The Notice specifies a lower percentage of 80% for the following three classes of land lot for the purpose of section 3(1) of the Ordinance –

- (a) a lot with units each of which accounts for more than 10% of the undivided shares in the lot;
- (b) a lot with all buildings aged 50 years or above; and

- (c) a lot with all industrial buildings aged 30 years or above and not located within an industrial zone.

5. According to the LegCo Brief, the pace at which the Urban Renewal Authority (URA) has been carrying out urban renewal is slower than originally envisaged. There is a need to enhance the ability of private property owners in redeveloping their buildings to better complement the URA's effort to help tackle building deterioration and meet Hong Kong's changing economic needs. The greatest hurdle to private sector redevelopment efforts lies in the difficulty in unifying multiple ownership in a land lot. The Administration has received requests from owners of old buildings for action to help expedite the redevelopment process through lowering the compulsory sale application threshold percentage specified in section 3(1) of the Ordinance. The lowering of the application threshold will help expedite urban redevelopment by the private sector and in turn make better use of valuable land resources.

6. The Administration launched a public consultation exercise in 2006 to gather public views on whether the compulsory sale application threshold should be lowered for lots with "all units but one acquired", lots with all buildings aged 40 years or above and lots with missing or untraceable owners. In April 2008, the Administration commissioned an opinion survey to further gauge public views.

7. On 23 June 2009, the Administration briefed the Panel on Development on its proposals to lower the application threshold on compulsory sale. Panel members had divergent views on the proposals. Some members urged the Administration to put in place complementary measures to enhance the protection of minority owners and tenants, and some of them held the view that the proposals should only be considered after the review of the Urban Renewal Strategy and the Outline Zoning Plans. As regards lots with industrial buildings aged 30 or above located in non-industrial zones, some members considered that relaxation on the uses of those industrial buildings could be considered.

8. Some other members opined that there were views in the community that the pace of urban renewal should be expedited and the Administration's proposals would facilitate owners to improve their living conditions through private redevelopment. They considered that conducting a public auction to sell the lot sold by compulsory sale would offer sufficient protection for minority owners. The Administration's proposals were acceptable because the Lands Tribunal would serve as the gatekeeper. Members may refer to the minutes of the meeting of the Panel on Development for further information (LC Paper No. CB(1)2515/08-09).

9. Members may refer to the LegCo Brief issued by the Development Bureau in January 2010 (Ref.: DEVB(PL-UR)70/41/85) for further information.

10. The Legal Service Division is making enquiry with the Administration on certain aspect of the Notice and will report further if necessary.

11. The Notice will come into operation on 1 April 2010.

Census and Statistics Ordinance (Cap. 316)

Census and Statistics (Annual Earnings and Hours Survey) Order (L.N. 7)

12. The Order was made by the Secretary for Financial Services and the Treasury under section 11 of the Census and Statistics Ordinance (Cap. 316).

13. According to the LegCo Brief, a voluntary Annual Earnings and Hours Survey (AEHS) was launched in May 2009 to collect wage, employment and demographic information of employees from about 10,000 business undertakings in Hong Kong. The information is required to compile statistics on various matters, which are essential inputs for analyses related to the implementation of the Statutory Minimum Wage (SMW) scheme.

14. The Order makes AEHS a mandatory survey to be carried out by the Census and Statistics Department (C&SD). The sampled business undertakings will be subject to a legal obligation to supply the required employee data to C&SD as set out in the Schedule to the Order. According to the LegCo Brief, making AEHS a mandatory survey is to align with the established practice adopted in Hong Kong and other statistically advanced economies to ensure adequate response from selected business undertakings across all sectors and the quality of the data obtained. It is also in line with international practices in conducting SMW-related surveys.

15. According to the LegCo Brief, C&SD wrote in November 2009 to about 700 key stakeholders covering major employer associations, employee unions, chambers of commerce, associations of small and medium enterprises, societies of human resource professionals and relevant statutory bodies to gauge their views on the legislative proposal. A great majority of the respondents did not raise any objection.

16. C&SD also consulted the Statistics Advisory Board (SAB), which is a non-statutory advisory body comprising representatives from the academia, business sector and general community chaired by the Commissioner for Census and Statistics. SAB expressed strong support for turning AEHS into a mandatory survey. Members of the Provisional Minimum Wage Commission also raised no objection to the proposal.

17. The Panel on Manpower has not been consulted on the Order. However, the Administration briefed the Panel on AEHS at its meeting on 20 November 2008 under the subject "Introduction of a new survey and enhancement of a current survey for the purpose of implementing a statutory minimum wage". Questions raised by

members were mainly focused on the technical aspects of the survey. Members may refer to the minutes of the meeting (LC Paper No. CB(2)681/08-09) for further information.

18. Members may refer to the LegCo Brief issued by the Financial Services and the Treasury Bureau and the Labour and Welfare Bureau dated 20 January 2010 (File Ref.: FSB G4/62C(2009)) for further information on the Order.

19. The Order will come into operation on 18 March 2010.

Legal Practitioners Ordinance (Cap. 159)
Foreign Lawyers Registration (Fees) (Amendment) Rules 2010 (L.N. 8)

20. The Amendment Rules are made by the Council of The Law Society of Hong Kong under section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice.

21. The Amendment Rules amend the Foreign Lawyers Registration (Fees) Rules (Cap. 159 sub. leg. U) to change the fees payable for the registration as a foreign lawyer to practise foreign law in Hong Kong, and for the renewal of such registration.

22. Under section 2(1) of the Amendment Rules, which will come into operation on 1 July 2010, the new fees for the first registration as a foreign lawyer are –

First Registration that is valid from a date that falls within the period	Existing Fees	New Fees	Expiry of the First Registration
1 July to 31 March inclusive	\$10,000	\$9,000	For first registration between 1 July and 31 December, 30 June of the next year For first registration between 1 January and 31 March, 30 June of the same year
1 April to 30 June inclusive	\$5,000	Not applicable	30 June of the same year
1 April to 14 May inclusive	Not applicable	\$4,500	Ditto
15 May to 30 June inclusive	Ditto	\$13,500	30 June of the next year

23. According to The Law Society, a registered foreign lawyer may apply for renewal of the registration. All renewed registrations are valid between 1 July and 30 June of the next year.

24. Under section 2(2) of the Amendment Rules, which will come into operation on 1 April 2010, the new fee for renewing registration is reduced from \$10,000 to \$9,000.

Disciplined Services Legislation (Miscellaneous Amendments) Ordinance 2009 (6 of 2009)

Disciplined Services Legislation (Miscellaneous Amendments) Ordinance 2009 (Commencement) Notice (L.N. 9)

25. On 17 June 2009, the Disciplined Services Legislation (Miscellaneous Amendments) Ordinance 2009 (6 of 2009) was passed by the Legislative Council. The Ordinance seeks to –

- (a) introduce for civil servants under the Civil Service Provident Fund Scheme (CSPF) removal punishments (i.e. dismissal with forfeiture of full Government's voluntary contribution (GVC) benefits and compulsory retirement with full or reduced GVC benefits);
- (b) include retired CSPF civil servants as beneficiaries under their respective disciplined services welfare funds;
- (c) provide for the compulsory retirement of traffic warden grade officers found guilty of disciplinary offence; and
- (d) revise the date from which pay and allowance may cease to be payable to police officers upon criminal conviction.

26. By the Commencement Notice, the Secretary for Civil Service appoints 31 March 2010 as the day on which the Ordinance comes into operation.

Concluding Remarks

27. Apart from L.N. 6, no difficulties in the legal and drafting aspects on the above items of subsidiary legislation have been identified.

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