

Chapter:	545	LAND (COMPULSORY SALE FOR REDEVELOPMENT) ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 104 of 1999	07/06/1999
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An Ordinance to enable persons who own a specified majority of the undivided shares in a lot to make an application to the Tribunal for an order for the sale of all of the undivided shares in the lot for the purposes of the redevelopment of the lot; to enable the Tribunal to make such an order if specified criteria are met; and for matters incidental thereto or connected therewith.

[7 June 1999] *L.N. 104 of 1999*

(Originally 30 of 1998)

Section:	1	Short title	L.N. 104 of 1999	07/06/1999
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- (1) This Ordinance may be cited as the Land (Compulsory Sale for Redevelopment) Ordinance.
- (2) (Omitted as spent)

Section:	2	Interpretation	L.N. 104 of 1999; 14 of 2002	07/06/1999
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Remarks:

Adaptation amendments retroactively made - see 14 of 2002 s. 3

- (1) In this Ordinance, unless the context otherwise requires-
- "auction" (拍賣), in relation to a lot, means the auction of the lot pursuant to section 5(1)(a);
- "building" (建築物) means a building within the meaning of the Buildings Ordinance (Cap 123);
- "directions" (指示) means directions under section 4(6);
- "lis pendens" (待決案件) means a lis pendens-
- (a) within the meaning of section 1A of the Land Registration Ordinance (Cap 128); and
 - (b) which is registered under that Ordinance;
- "lot" (地段)-
- (a) means-
 - (i) any piece or parcel of ground the subject of a Government lease;
 - (ii) a section which by virtue of section 8(3) or 27(2) of the Government Rent and Premium (Apportionment) Ordinance (Cap 125) is deemed to be a lot for the purposes of that Ordinance; (Amended 14 of 2002 s. 3)
 - (b) includes a section and subsection of a lot;
- "majority owner" (多數份數擁有人), in relation to a lot-
- (a) means the person or persons who has or have made an application under section 3(1) in respect of the lot; and
 - (b) includes any person who becomes a successor in title to any such person or persons at any time before a purchaser of the lot becomes the owner of the lot where the lot is the subject of an order for sale;
- "minority owner" (少數份數擁有人), in relation to a lot which is the subject of an application under section 3(1)-
- (a) means the person or persons who-
 - (i) owns or own undivided shares in the lot otherwise than as a mortgagee; but
 - (ii) is or are not the person or persons who has or have made the application; and
 - (b) includes any person who becomes a successor in title to any such person or persons at any time before a purchaser of the lot becomes the owner of the lot where the lot is the subject of an order for sale;
- "mortgage" (按揭) means a security over a lot (including an undivided share in a lot) for securing money or money's worth;

"mortgagee" (承按人) includes any person claiming under a mortgagee but does not include a mortgagee in possession;

"order for sale" (售賣令) means an order under section 4(1)(b)(i);

"property" (物業) means immovable property;

"purchaser" (購買者), in relation to a lot the subject of an order for sale, means the purchaser of the lot at an auction (or, where section 5(1)(b) is applicable, the purchaser of the lot by the other means referred to in that section);

"redevelopment" (重新發展), in relation to a lot, means the replacement of a building on (or formerly on) the lot;

"tenancy" (租賃) includes a sub-tenancy;

"tenant" (租客) includes a sub-tenant;

"Tribunal" (審裁處) means the Lands Tribunal;

"trustees" (受託人), in relation to an order for sale, means the trustees appointed under the order.

(2) References in this Ordinance to an application under section 3(1) shall be construed to include any documents required by that section or Schedule 1 to accompany the application.

(3) It is hereby declared that-

(a) for the purposes of-

(i) the definition of "minority owner"; and

(ii) the definition of "majority owner" as read with section 3(1),

a mortgagee in possession of any property on a lot shall be deemed to be the owner of the undivided shares in the lot which relate to that property;

(b) where there is any inconsistency between the provisions of this Ordinance and the provisions of the Trustee Ordinance (Cap 29) in relation to the trustees under an order for sale, the provisions of this Ordinance shall prevail over the provisions of the Trustee Ordinance (Cap 29) to the extent of that inconsistency;

(c) for the purposes of this Ordinance, the purchaser of a lot the subject of an order for sale does not become the owner of the lot until the purchaser of the lot is the legal owner of all the undivided shares in the lot.

Section:	3	Application to Tribunal for compulsory sale of lot	L.N. 104 of 1999	07/06/1999
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(1) Subject to subsection (5), the person or persons who owns or own, otherwise than as a mortgagee, not less than 90% of the undivided shares in a lot may make an application-

(a) accompanied by a valuation report as specified in Part 1 of Schedule 1; and

(b) to the Tribunal for an order to sell all the undivided shares in the lot for the purposes of the redevelopment of the lot.

(2) Without prejudice to the operation of subsection (5), an application under subsection (1) may cover-

(a) 2 or more lots where the majority owner owns not less than the percentage specified in subsection (1) of the undivided shares in each lot; or

(b) 2 or more lots-

(i) on which one building is connected to another building by a staircase intended for common use by the occupiers of the buildings; and

(ii) where the average of-

(A) the percentage of the undivided shares owned by the majority owner in the lot or lots on which one of the buildings stands; and

(B) the percentage of the undivided shares owned by the majority owner in the lot or lots on which the other of the buildings stands,

is not less than the percentage specified in subsection (1).

(3) The majority owner of a lot who has made an application under subsection (1) shall-

(a) subject to subsection (4), serve a copy of the application on each minority owner of the lot;

(b) cause a copy of the application to be registered under the Land Registration Ordinance (Cap 128) against the lot; and

(c) cause a notice, as specified in Part 2 of Schedule 1 and in the Chinese and English languages-

(i) to be affixed-

(A) upon a conspicuous part of the building on the lot (or, if there is more than one building on

- the lot, upon a conspicuous part of each building); or
- (B) where there is no building on the lot, upon a conspicuous part of the lot (or, if the application relates to 2 or more lots, upon a conspicuous part of each lot); and
- (ii) to be published in not less than 1 Chinese language newspaper (and in the Chinese language), and in not less than 1 English language newspaper (and in the English language), circulating generally in Hong Kong.

(4) Where it appears to the Tribunal that a copy of an application under subsection (1) cannot be served in accordance with subsection (3)(a), the Tribunal may, if it thinks fit, by order-

- (a) dispense with such service on any minority owner or class of minority owners mentioned in the order; and
- (b) direct notices to be published at such time and in such manner as it thinks fit, calling upon all persons claiming to be minority owners of the lot and who have not been so served, to establish their claims before the Tribunal within a time specified in the notice,

and after expiration of the time specified, all persons claiming to be minority owners shall be bound by the proceedings as if they had been served in accordance with subsection (3)(a).

(5) Subject to subsection (6), the Chief Executive in Council may, by notice in the Gazette, specify a percentage lower than the percentage mentioned in subsection (1) in respect of a lot belonging to a class of lots specified in the notice and, in any such case, subsection (1) and the other provisions of this Ordinance shall be construed as if, in relation to a lot belonging to that class of lots, that percentage so specified were substituted for the percentage mentioned in subsection (1).

(6) No percentage may be specified in a notice under subsection (5) which is less than 80%.

(7) It is hereby declared that-

- (a) without prejudice to the generality of the definition of "minority owner" or the operation of subsection (1)(b) or section 4(1)(b)(i), for the purposes of this section, in the calculation of any percentage of undivided shares in a lot owned by a person or persons (and whether or not he is or they are the person or persons referred to in subsection (1)), there shall be disregarded any undivided shares which are undivided shares in respect solely of any common parts of the lot;
- (b) a notice under subsection (5) is subsidiary legislation.

Section:	4	Determination of application	32 of 2000	09/06/2000
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(1) Subject to subsection (2), the Tribunal shall determine an application under section 3(1) by-

- (a) first-
 - (i) if any minority owner of the lot the subject of the application disputes the value of any property as assessed in the application, hearing and determining the dispute;
 - (ii) in the case of any minority owner of the lot who cannot be found, requiring the majority owner of the lot to satisfy the Tribunal that the value of the minority owner's property as assessed in the application is-
 - (A) not less than fair and reasonable; and
 - (B) not less than fair and reasonable when compared with the value of the majority owner's property as assessed in the application;
- (b) second-
 - (i) making an order that all the undivided shares in the lot the subject of the application be sold for the purposes of the redevelopment of the lot; or
 - (ii) refusing to make such an order; and
- (c) third, where paragraph (b)(i) is applicable-
 - (i) appointing in the order for sale trustees satisfactory to the Tribunal nominated by the majority owner to discharge the duties imposed on trustees under this Ordinance in relation to the lot; and
 - (ii) authorizing the trustees to charge such remuneration for their services as trustees as the Tribunal thinks fit and specified in the order.

(2) The Tribunal shall not make an order for sale unless, after hearing the objections, if any, of the minority owners of the lot the subject of the application under section 3(1) concerned, the Tribunal is satisfied that-

- (a) the redevelopment of the lot is justified (and whether or not the majority owner proposes to or is capable of undertaking the redevelopment)-
 - (i) due to the age or state of repair of the existing development on the lot; or

- (ii) on 1 or more grounds, if any, specified in regulations made under section 12; and
 - (b) the majority owner has taken reasonable steps to acquire all the undivided shares in the lot (including, in the case of a minority owner whose whereabouts are known, negotiating for the purchase of such of those shares as are owned by that minority owner on terms that are fair and reasonable).
- (3) Subject to section 8(3) and (4), the Tribunal shall not, in determining an application under section 3(1), take into account any provision of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) relating to the right of a tenant whose tenancy is terminated or is sought to be terminated.
- (4) The majority owner of the lot the subject of an order for sale shall cause-
- (a) subject to subsection (5), a copy of the order to be served on each minority owner of the lot;
 - (b) a copy of the order to be served on the Director of Lands; and
 - (c) a notice to be published-
 - (i) in not less than 1 Chinese language newspaper (and in the Chinese language), and in not less than 1 English language newspaper (and in the English language), circulating generally in Hong Kong; and
 - (ii) stating-
 - (A) sufficient particulars of the lot to identify the lot;
 - (B) that the Tribunal has made an order that all the undivided shares in the lot be sold for the purposes of the redevelopment of the lot; and
 - (C) that the lot will be sold by auction (or, where section 5(1)(b) is applicable, the other means referred to in that section by which the lot will be sold).
- (5) Where it appears to the Tribunal that a copy of an order for sale cannot be served in accordance with subsection (4)(a), the Tribunal may, if it thinks fit, by order-
- (a) dispense with such service on any owner or class of owners mentioned in the order; and
 - (b) direct notices to be published at such time and in such manner as it thinks fit, informing all persons claiming to be owners of the lot-
 - (i) that the Tribunal has made an order for sale of the lot; and
 - (ii) where and the times during which a copy of the order may be obtained.
- (6) Where the Tribunal makes an order for sale, it may order, subject to section 8(3), (4) and (5), that compensation be paid to a tenant for termination of his tenancy under section 8(1)(b) and it may also give such directions as it thinks fit-
- (a) relating to-
 - (i) the sale and purchase of the lot the subject of the order, including (but without limiting the generality of the foregoing) settling the particulars and conditions of sale of the lot;
 - (ii) the termination of tenancies of any tenants of any property on the lot;
 - (iii) subject to section 11(5), the application of the proceeds of the sale including-
 - (A) the holding by the trustees of such part of those proceeds as is specified by the Tribunal in view of any *lis pendens* affecting the lot; and
 - (B) the payment of that part of those proceeds, upon the occurrence of an event specified by the Tribunal, to such person or persons as is or are specified by the Tribunal;
 - (b) requiring the trustees under the order for sale to pay into the Tribunal the proceeds of sale of the lot the subject of the order (after deduction, if any, pursuant to section 10(2) or 11(1) or (2)(a) and (b)), which includes but is not limited to- (Amended 32 of 2000 s. 48)
 - (i) any deposit money for the purchase of the lot;
 - (ii) any other part of the proceeds of sale that is required under this Ordinance to be held by or paid to the trustees; and
 - (c) which are not inconsistent with the other provisions of this Ordinance,
- and, in any such case, subsections (4)(a) and (5) shall, with all necessary modifications, apply to those directions as they apply to an order for sale.
- (7) Where proceeds of sale are paid into the Tribunal pursuant to a direction given under subsection (6)(b), the Tribunal shall, in accordance with rules made under section 10A(1) of the Lands Tribunal Ordinance (Cap 17), release such proceeds or any part of it to the respective persons who would have been entitled to payment of the proceeds under the provisions of this Ordinance if the proceeds of sale had remained with the trustees.
- (8) Any proceeds of sale-
- (a) paid into the Tribunal pursuant to a direction given under subsection (6)(b); and
 - (b) not yet released pursuant to subsection (7) on the expiration of 3 years beginning with the date on

which such proceeds were paid into the Tribunal, shall be paid into the general revenue, and, in any such case, section 11(7)(b) and (c) shall apply in relation to the proceeds with all necessary modifications.

(9) In any case of doubt or difficulty or in any matter not provided for under this Ordinance, the trustees under an order for sale, or the majority owner or any minority owner of the lot the subject of the order, may apply to the Tribunal for directions.

(10) The Tribunal may make an order amending an order for sale by appointing a new trustee or trustees either in substitution for or in addition to any existing trustee or trustees under the order for sale (even though there is no existing trustee)-

- (a) upon the application of the trustees under the order for sale or the majority owner or minority owner of the lot; and
- (b) if the Tribunal is of the opinion that it is expedient to do so.

(11) The remuneration referred to in subsection (1)(c)(ii) to be paid to the trustees under an order for sale shall be paid by the majority owner of the lot the subject of the order.

(12) Where-

- (a) an application under section 3(1) is made by a majority owner consisting of 2 or more persons; and
- (b) any of those persons (or if the undivided share in the lot owned by any such person has been assigned, his successor in title) informs the Tribunal, at any time before an order for sale, if any, is made on the application, that he no longer wishes to be a party to the application,

then the application shall thereupon be deemed to be withdrawn irrespective of the percentage of undivided shares in the lot the subject of the application owned by the other persons or their successors in title (if applicable) who wish to remain as parties to the application.

(13) Where the Tribunal refuses to make an order for sale, the majority owner in the application made under section 3(1) shall, as soon as practicable thereafter, cause the registration referred to in section 3(3)(b) of the application to be vacated under section 20 of the Land Registration Ordinance (Cap 128).

Section:	5	Lot to be sold by auction or other means and default on payment by the purchaser of the lot	L.N. 104 of 1999	07/06/1999
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(1) Where an order for sale is granted and the trustees under the order have complied with section 7(1) in respect of the lot the subject of the order-

- (a) subject to paragraph (b), the lot shall be sold by public auction in accordance with the conditions specified in Schedule 2; or
- (b) if the whereabouts of each minority owner of the lot is known, the lot may be sold by any other means-
 - (i) agreed in writing by each minority owner and majority owner of the lot;
 - (ii) approved by the Tribunal in its absolute discretion; and
 - (iii) in accordance with such conditions, if any, as the Tribunal specifies in directions.

(2) Where the trustees under an order for sale receive-

- (a) at any time before there is a purchaser of the lot the subject of the order; and
- (b) if the whereabouts of each minority owner of the lot is known, notices in writing-
 - (i) from each majority owner and minority owner of the lot the subject of the order; and
 - (ii) expressly stating that they each do not want the lot to be sold,

then that order shall immediately be deemed to be of no effect as if it had been cancelled by the Tribunal.

(3) Where the purchaser of a lot the subject of an order for sale defaults on a payment for the lot-

- (a) the trustees under the order shall, with the agreement in writing of the majority owner and minority owner of the lot, institute legal proceedings to seek-
 - (i) relief for the loss and damages caused to the owners by reason of the purchaser's default;
 - (ii) specific performance of the purchaser's agreement to purchase the lot, as may be applicable; and
- (b) subject to paragraph (a), the deposit money paid by the purchaser of the lot shall be forfeited to the trustees for the benefit of the majority owner and minority owner of the lot.

(4) Where the lot the subject of an order for sale is not sold-

- (a) subject to paragraph (b), within the 3 months immediately following the date on which the order is made; or
- (b) within such further period of 3 months as the Tribunal may specify in directions given on application

made to it by the trustees under the order or the majority owner or any minority owner of the lot, then that order shall immediately be deemed to be of no effect as if it had been cancelled by the Tribunal.

- (5) It is hereby declared that-
 - (a) if the lot the subject of an order for sale is to be sold by auction, it shall be sold to the highest bidder at the auction;
 - (b) nothing in this Ordinance shall operate to prevent the majority owner or any minority owner of the lot the subject of an order for sale from being the purchaser of the lot.

Section:	6	Amount to be paid to trustees where majority owner or minority owner is successful purchaser	L.N. 104 of 1999	07/06/1999
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- (1) The majority owner of a lot the subject of an order for sale who is the purchaser of the lot-
 - (a) subject to paragraph (b), is not required to pay to the trustees under the order the full purchase price; but
 - (b) is required to pay to the trustees not less than that proportion of that amount that the trustees calculate is necessary-
 - (i) for the majority owner to purchase all the undivided shares in the lot not already owned by the majority owner; and
 - (ii) to enable the trustees to comply with section 11(2) to the extent that any liability due to the Government in respect of the lot, or compensation payable to any tenant, referred to in that section is attributable to the majority owner.

(2) Subsection (1) shall apply to any minority owner of a lot the subject of an order for sale who is the purchaser of the lot as it applies to the majority owner of a lot the subject of an order for sale who is the purchaser of the lot.

Section:	7	Registration of order for sale, etc.	L.N. 104 of 1999	07/06/1999
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- (1) The trustees under an order for sale shall cause a copy of-
 - (a) the order; and
 - (b) Schedule 3,

to be registered under the Land Registration Ordinance (Cap 128) against the lot to which the order relates and, immediately upon that registration-

- (i) notwithstanding any other law, there shall by virtue of this section vest in the trustees the power to assign all the estate, right and interest in the lot held by the majority owner and the minority owner of the lot for-
 - (A) the purposes of selling the lot only to the purchaser of the lot (or, if the purchaser is the majority owner or any minority owner, selling such part of the lot which is not already owned by the purchaser);
 - (B) the purposes of discharging the duties imposed on trustees under this Ordinance in relation to the lot; and
 - (C) the purposes of executing any documents required for any of the purposes referred to in subparagraph (A) or (B); and
- (ii) the conditions specified in Schedule 3 shall be binding on and enforceable against the purchaser and the purchaser's successors in title.

(2) A new trustee or trustees appointed by virtue of section 4(10) shall cause a copy of the order appointing him or them to be registered under the Land Registration Ordinance (Cap 128) against the lot to which the order relates and, immediately upon that registration-

- (a) the order for sale concerned shall be read and have effect to take into account the effect of that first-mentioned order; and
- (b) the references to "trustees" in subsection (1)(i), and the other provisions of this Ordinance, shall be construed accordingly.

(3) Where an order for sale is of no effect by virtue of section 5(2) or (4), the trustees under the order shall as soon as practicable thereafter cause-

- (a) the registration referred to in subsection (1) of the order and of Schedule 3 (insofar as it relates to the lot); and

(b) the registration, if any, referred to in subsection (2) of the order first-mentioned in subsection (2), to be vacated under section 20 of the Land Registration Ordinance (Cap 128).

(4) Where the purchaser of the lot the subject of an order for sale is the majority owner or any minority owner of the lot, the power vested under subsection (1)(i) in the trustees under the order to assign all the estate, right and interest in the lot shall cease immediately upon the purchaser becoming the owner of that part of the lot which is not already owned by the purchaser.

(5) It is hereby declared that-

(a) subsection (1)(i) shall not operate to prevent the majority owner or any minority owner of the lot the subject of an order for sale from assigning all or any part of the estate, right and interest in the lot respectively held by them-

- (i) at any time before there is a purchaser of the lot; and
- (ii) that they have the power to assign;

(b) where the trustees exercise the power vested under subsection (1)(i) to assign all the estate, right and interest in the lot, then for all purposes the assignment shall be as valid and effectual as if it had been made by the majority owner and minority owner of the lot.

(6) The purchaser of the lot shall, not later than 14 days after the day on which he became the owner of the lot, notify the Director of Lands in writing that he became such owner.

Section:	8	Protection of purchaser of lot, etc.	L.N. 104 of 1999	07/06/1999
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(1) Where the lot the subject of an order for sale is sold-

(a) immediately upon the purchaser of the lot becoming the owner of the lot all the rights of any prior owner (including the prior owner's assigns or personal representatives) in or over the lot or any part thereof shall absolutely cease except to the extent, if any, specified in the order;

(b) notwithstanding the terms of any lease or the provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) but in accordance with such conditions, if any, as the Tribunal specifies in directions-

- (i) immediately upon the day on which the purchaser of the lot becomes the owner of the lot it shall be deemed, by virtue of this section and for all purposes, that there has on that day been terminated the tenancy of any tenant of any property on the lot who is such a tenant by virtue of any lease entered into at any time before the purchaser became such owner; and
- (ii) immediately upon the expiration of 6 months immediately following that day, the purchaser is entitled to, and the tenant is required to deliver up, vacant possession of the property.

(2) Where there is any tenancy terminated by virtue of subsection (1)(b)(i), the purchaser of the lot to which the tenancy relates shall, not later than 14 days after the day on which he became the owner of the lot, cause a notice, as specified in Schedule 4 and in the Chinese and English languages, to be served on the tenant of the tenancy by leaving the notice with an adult occupier of the property in which the tenant resides and to which the tenancy relates.

(3) Subject to subsections (4) and (5), the order for compensation referred to in section 4(6) may relate to compensation-

(a) payable by-

- (i) the majority owner of the lot concerned to the tenant under a lease referred to in subsection (1)(b) which relates to property on the lot which was owned by the majority owner immediately before the purchaser of the lot became the owner of the lot (and whether or not the majority owner is the purchaser);
- (ii) the minority owner of the lot concerned to the tenant under a lease referred to in subsection (1)(b) which relates to property on the lot which was owned by the minority owner immediately before the purchaser of the lot became the owner of the lot (and whether or not the minority owner is the purchaser);

(b) determined by reference to any of the provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap 7), and whether with or without modifications thereto specified in the order.

(4) Without prejudice to the generality of subsection (3), the Tribunal may take into account-

- (a) the representations, if any, of the tenant as to whether compensation should be payable and, if so, the amount of the compensation;
- (b) for the purposes of determining any such compensation, the benefit, if any, afforded the tenant by virtue of the operation of subsection (1)(b)(ii).

(5) No compensation shall be payable under this Ordinance to the tenant in relation to any lease entered into on or after the date on which the order for sale of the lot concerned was made.

(6) In this section-

"lease" (租契) includes every agreement for the letting of any premises, whether oral or in writing, and howsoever described;

"prior owner" (前擁有人), in relation to a lot-

- (a) means a person who formerly owned an undivided share in the lot;
- (b) does not include the purchaser of the lot;

"rights" (權利), in relation to a prior owner of a lot, means all rights which-

- (a) were exercisable by virtue of the prior owner's ownership of an undivided share in the lot; and
- (b) affect the lot.

Section:	9	Conditions deemed to be conditions of Government lease, etc.	L.N. 104 of 1999	07/06/1999
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Each condition specified in Schedule 3 shall be deemed to be a condition of the Government lease of the lot the subject of an order for sale and, accordingly, a breach of such a condition shall entitle the Government to re-enter the lot under and in accordance with the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap 126).

Section:	10	Basis of apportionment of expenses and proceeds	L.N. 104 of 1999	07/06/1999
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(1) The expenses of the auction or of the other means referred to in section 5(1)(b) by which the lot is sold incurred by the trustees under an order for sale shall be borne-

- (a) where there is no purchaser of the lot, solely by the majority owner of the lot; and
- (b) where there is a purchaser of the lot, by the majority owner and minority owner of the lot as apportioned amongst them on the basis specified in Part 3 of Schedule 1.

(2) The trustees may deduct the expenses required to be borne by the majority owner or any minority owner of the lot pursuant to subsection (1) from any deposit money of the purchase price of the lot that is apportioned to such owner.

(3) The apportionment between the majority owner and minority owner of the lot the subject of an order for sale of-

- (a) the proceeds of sale of the lot; and
- (b) any deposit money forfeited as referred to in section 5(3)(b),

shall be on the basis specified in Part 3 of Schedule 1.

Section:	11	Application of proceeds of sale	L.N. 104 of 1999	07/06/1999
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(1) The proceeds of sale for the lot the subject of an order for sale shall, after deduction of-

- (a) the expenses referred to in section 10(1) (unless such expenses have already been deducted in accordance with section 10(2) or otherwise paid); and
- (b) the legal costs on the assignment of the lot incurred by the trustees under the order as assignor to the assignment,

be paid to the trustees.

(2) The trustees under an order for sale shall apply the proceeds of sale paid to them in respect of the lot the subject of the order in the following order-

- (a) first, in the discharge of any liability due to the Government in respect of the lot;
- (b) second, subject to subsection (3), in the discharge of any incumbrance affecting the lot;
- (c) third, subject to any directions given by virtue of section 4(6)(a)(iii)(A) and (B) and to subsection (4), in payment of the residue to-
 - (i) the majority owner of the lot in accordance with directions but only after any compensation payable by the majority owner under section 8(3) to the tenant concerned has been deducted by the trustees out of the residue payable to the majority owner; and
 - (ii) the minority owner of the lot in accordance with directions but only after any compensation payable by the minority owner under section 8(3) to the tenant concerned has been deducted by

the trustees out of the residue payable to the minority owner.

- (3) The trustees under an order for sale do not have to comply with subsection (2)(b)-
 - (a) where the purchaser of the lot the subject of the order is the majority owner or any minority owner of the lot; and
 - (b) to the extent that-
 - (i) any incumbrance affecting the lot is attributable to the purchaser; and
 - (ii) the purchaser agrees in writing that the incumbrance is not to be discharged.
- (4) Where compensation is payable under section 8(3) to a tenant of any property on a lot the subject of an order for sale, the trustees under the order shall not pay more than half of the compensation to the tenant before the trustees are satisfied that the tenant has delivered up vacant possession of the property to the purchaser of the lot.
- (5) The trustees under an order for sale shall pay into the Tribunal-
 - (a) any amount held by the trustees pursuant to any directions given by virtue of section 4(6)(a)(iii)(A) and (B) where the event referred to that section has not occurred before the trustees have started to discharge their duty under subsection (2)(c) in respect of the proceeds of sale of the lot the subject of the order; and
 - (b) any residue referred to in subsection (2)(c) in respect of which the majority owner or minority owner cannot be found.
- (6) Any amount or residue paid into the Tribunal under subsection (5) shall-
 - (a) where subsection (5)(a) is applicable, be paid to such person or persons as is or are specified in the directions concerned under section 4(6)(a)(iii)(A) and (B) upon the occurrence of the event referred to in that section;
 - (b) where subsection (5)(b) is applicable-
 - (i) be paid to the majority owner or minority owner, as the case may be, if and when the owner is found;
 - (ii) be paid into the general revenue if, upon the expiration of 3 years beginning with the date on which the Tribunal was paid the residue, that owner has still not been found.
- (7) It is hereby declared that-
 - (a) the application of the proceeds of sale to discharge any liability or incumbrance referred to in subsection (2)(a) or (b) shall be on the basis that the majority owner or minority owner of the lot shall pay for the discharge to the extent that the liability or incumbrance, as the case may be, is attributable to that majority owner or minority owner, as the case may be;
 - (b) subsection (6)(b)(ii) shall not operate to prevent any claim being made against the Government-
 - (i) in relation to any residue referred to in that subsection; and
 - (ii) by a person who would have been entitled, or who appears would have been entitled, to be paid the residue if the residue had remained with the Tribunal;
 - (c) where a person claims to have had an interest in the lot sold pursuant to an order for sale, nothing in this section or in section 8(1)(a) shall prevent the person from taking any action or commencing any proceedings in relation to any proceeds of sale arising from the sale of that part of the lot to which the interest relates.
- (8) Without prejudice to the operation of subsection (3), in this section "incumbrance" (產權負擔), in relation to a lot, does not include, unless otherwise specified in directions-
 - (a) if Part II of the New Territories Ordinance (Cap 97) applies to the lot, any Chinese custom or customary right affecting the land;
 - (b) any easements, rights of way or rights of water; or
 - (c) any covenants which run with the lot.

Section:	12	Regulations	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

- (1) The Secretary for Development may make regulations- (Amended L.N. 330 of 1999; L.N. 106 of 2002; L.N. 130 of 2007)
 - (a) specifying grounds for the purposes of section 4(2)(a)(ii);

- (b) specifying matters to be taken into account for the purposes of section 4(2)(b);
- (c) specifying matters to be taken into account in the nomination or appointment of trustees to discharge the duties imposed on trustees under this Ordinance in relation to the lot the subject of an order for sale; and
- (d) generally, providing for the better carrying into effect of the provisions and purposes of this Ordinance.

(2) A regulation made under subsection (1)(a) or (b) shall not apply to any proceedings arising out of an application made under section 3(1) before the commencement of the regulation.

Section:	13	Amendment of Schedules	L.N. 104 of 1999	07/06/1999
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The Chief Executive in Council may, by notice in the Gazette, amend Schedule 1, 2, 3 or 4.

Section:	14	(Omitted as spent)	L.N. 104 of 1999	07/06/1999
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(Omitted as spent)

Section:	15	(Omitted as spent)	L.N. 104 of 1999	07/06/1999
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(Omitted as spent)

Schedule:	1	VALUATION REPORT, NOTICE THAT APPLICATION HAS BEEN MADE AND APPORTIONMENT OF PROCEEDS	L.N. 104 of 1999	07/06/1999
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[sections 2(2), 3, 10 & 13]

PART 1

VALUATION REPORT

A valuation report, prepared not earlier than 3 months before the date on which the application under section 3(1) of the Ordinance is made, setting out the assessed market value of each property on the lot-

- (a) on a vacant possession basis;
- (b) assessed as if the lot could not be made the subject of an application for an order for sale; and
- (c) not taking into account the redevelopment potential of the property or the lot.

PART 2

NOTICE THAT APPLICATION HAS BEEN MADE
UNDER THE LAND (COMPULSORY SALE FOR
REDEVELOPMENT) ORDINANCE (CAP 545)
FOR THE SALE OF LOT NO.
...../LOT NOS.....* LOCATED
AT.....

Persons occupying any part of the above lot/lots* are hereby notified that an application has been made under section 3(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545) to the Lands Tribunal for an order to sell the lot/lots* for the purposes of the redevelopment of the lot/lots*.

It should be noted that if such an order for sale is made, the Lands Tribunal-

- (a) may order compensation to be paid to a tenant (including any sub-tenant) of any property on such lot/lots* whose tenancy is terminated by the operation of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545); and
- (b) may take into account the representations, if any, of the tenant as to whether compensation should be

payable to the tenant and, if so, the amount of the compensation.

* Delete whichever is inapplicable.

PART 3

BASIS OF APPORTIONMENT OF PROCEEDS OF SALE OF LOT

On a pro rata basis in accordance with-

- (a) subject to paragraph (b), the values of the respective properties of each majority owner and each minority owner of the lot as assessed in the application concerned under section 3(1) of the Ordinance;
- (b) where-
 - (i) there has been a dispute referred to in section 4(1)(a)(i) of the Ordinance which has resulted in a variation of those values; or
 - (ii) in consequence of the requirement under section 4(1)(a)(ii) on the majority owner to satisfy the Tribunal as to the matter referred to in that section, there has been a variation of those values, those values as so varied.

Schedule:	2	CONDITIONS IN ACCORDANCE WITH WHICH LOT SHALL BE SOLD BY AUCTION	L.N. 104 of 1999	07/06/1999
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[sections 5(1) & 13]

1. The public shall be given notice of the auction by means of an advertisement-

- (a) published-
 - (i) in not less than 1 Chinese language newspaper (and in the Chinese language), and in not less than 1 English language newspaper (and in the English language), circulating generally in Hong Kong; and
 - (ii) not less than once in each of the 3 weeks immediately preceding the date on which the auction is to be held; and
- (b) stating-
 - (i) that the lot the subject of the auction is being sold pursuant to an order for sale under this Ordinance;
 - (ii) that the purchaser of the lot and the purchaser's successors in title will be subject to the conditions specified in Schedule 3 and the conditions, if any, specified in the order for sale;
 - (iii) where, and during what times, a copy of the order for sale and the directions may be obtained or inspected; and
 - (iv) the date, time and place of the auction.

2. The lot the subject of the auction shall be sold subject to a reserve price-

- (a) which takes into account the redevelopment potential of the lot on its own (or, where 2 or more lots are the subject of the auction, on their own); and
- (b) approved by the Tribunal.

Schedule:	3	CONDITIONS TO WHICH PURCHASER OF LOT AND PURCHASER'S SUCCESSORS IN TITLE SHALL BE SUBJECT	L.N. 104 of 1999	07/06/1999
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[sections 7, 9 & 13 & Sch. 2]

1. There shall be redevelopment of the lot and the redevelopment shall be completed and made fit for occupation-

- (a) subject to paragraph (b), within such period, not being a period which expires after 6 years after the

date on which the purchaser of the lot became the owner of the lot, as specified by the Tribunal in the order for sale to which the lot is subject;

- (b) such further period, if any, as the Tribunal may allow on the application of the purchaser of the lot or his successor in title.

Schedule:	4	NOTICE THAT TENANCIES OF LOT HAVE BEEN TERMINATED	L.N. 104 of 1999	07/06/1999
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[sections 8(2) & 13]

Tenants (including sub-tenants) under any tenancies of any properties on this lot which were entered into any time before..... [insert date on which purchaser of lot became owner of lot] are hereby notified that pursuant to section 8(1)(b) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545)-

- (a) all those tenancies were terminated on that date; and
- (b) the purchaser is entitled to, and those tenants are required to deliver up, vacant possession of those properties immediately upon the expiration of 6 months immediately following that date.