

A BILL

To

Amend the Land (Miscellaneous Provisions) Ordinance to increase the penalties for offences relating to the occupation of unleased land; and to provide for related matters.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Land (Miscellaneous Provisions) (Amendment) Ordinance 2014.

2. Land (Miscellaneous Provisions) Ordinance amended

The Land (Miscellaneous Provisions) Ordinance (Cap. 28) is amended as set out in sections 3, 4 and 5.

3. Section 6 amended (unlawful occupation of unleased land)

(1) Section 6(4)—

Repeal

everything after “offence”

Substitute a full stop.

(2) After section 6(4)—

Add

- “(4AA) A person who is guilty of an offence under subsection (4) is liable—
- (a) on the first occasion on which the person is convicted of the offence, to a fine of \$500,000 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of \$50,000 for each day during which the offence continues; and
 - (b) on each subsequent occasion on which the person is convicted of the offence, to a fine of \$1,000,000 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of \$100,000 for each day during which the offence continues.”.
- (3) Section 6(4A)—

Repeal

everything after “offence”

Substitute a full stop.

- (4) After section 6(4A)—

Add

- “(4B) A person who is guilty of an offence under subsection (4A) is liable—
- (a) on the first occasion on which the person is convicted of the offence—
 - (i) if the contravening act is done for the purpose of disposing of the structure for the gain of the person or another (*gainful purpose*)—to a fine of \$2,500,000 and to imprisonment for 1 year; or

- (ii) if the contravening act is done for any other purpose—to a fine of \$500,000 and to imprisonment for 6 months; and
 - (b) on each subsequent occasion on which the person is convicted of the offence—
 - (i) if the contravening act is done for a gainful purpose—to a fine of \$5,000,000 and to imprisonment for 1 year; or
 - (ii) if the contravening act is done for any other purpose—to a fine of \$1,000,000 and to imprisonment for 6 months.”.
- (5) After section 6(5)—

Add

- “(6) In any court proceedings for an offence under subsection (4) or (4A), the court may, on application by the Authority or on the court’s own initiative, order the person convicted of the offence to pay the cost mentioned in subsection (5).
- (7) The cost mentioned in subsection (5) may be recovered from or ordered against a person in addition to any penalty imposed on the person under subsections (4AA) and (4B) for the offence.”.

4. Section 7 amended (prohibition of removal of earth, turf or stone from unleased land)

Section 7(4)—

Repeal

“\$5,000”

Substitute

“\$250,000”.

5. Schedule amended (designated Authorities)

The Schedule, column headed “Section”—

Repeal

“6(4A) and
6(5)”

Substitute

“6(4A)
6(5) and
6(6)”.

Explanatory Memorandum

This Bill amends the Land (Miscellaneous Provisions) Ordinance (Cap. 28) (*Ordinance*).

2. Sections 6 and 7 of the Ordinance respectively prohibit—
 - (a) the unlawful occupation of, and erection of structures on, unleased land; and
 - (b) the extraction or removal of earth, turf or stone from unleased land without authorization.

3. The object of the Bill is to amend those provisions—
 - (a) to increase the penalties for the offences under sections 6 and 7;
 - (b) to introduce an escalating scale of fines and a daily fine for the offences under section 6; and
 - (c) to enable the Authority to recover the cost of enforcement actions in proceedings under section 6.