

## LEGISLATIVE COUNCIL BRIEF

Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301)

**Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997  
(Amendment) Order 2021**

**Hong Kong Airport (Control of Obstructions) (Exemption) Order  
(Repeal) Order**

### INTRODUCTION

The Secretary for Development, on the advice of the Director-General of Civil Aviation, has made the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Amendment) Order 2021 (the “Amendment Order”), at **Annex A**, and the Hong Kong Airport (Control of Obstructions) (Exemption) Order (Repeal) Order (the “Repeal Order”), at **Annex B**, to cater for the changes in the airspace protection requirements arising from the development of Hong Kong International Airport (“HKIA”) into a Three-Runway System (“3RS”) and also the latest developments in international aviation standards.

### BACKGROUND

2. The Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) provides for, among others, the restriction of heights of buildings in the interest of the safety of aircraft. These restrictions are generally known as Airport Height Restrictions (“AHRs”).

3. The existing AHRs came into operation on 20 June 1997 to cater for the then newly commissioned HKIA at Chek Lap Kok operating under a Two-Runway System. These existing AHRs are set out in the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Cap. 301D) made under section 3(1AA) and section 3(1A) of Cap. 301. These AHRs, in the form of specific limits (expressed in terms of metres above Hong Kong Principal Datum, or mPD) for different areas across the territory, are set out in a series of plans under the series named “AHRP”, as described in section 3(2) of Cap. 301D, and deposited in the Land Registry.

4. With the development of HKIA into a 3RS, the Civil Aviation Department (“CAD”), working closely with the Airport Authority Hong Kong (“AAHK”), has formulated new AHRs for controlling the heights of buildings to cater for the changes in airspace protection requirements necessitated by the 3RS. CAD and AAHK have also reviewed the entire airspace protection requirements taking into account the latest international aviation standards, including the latest standards set by the International Civil Aviation Organization to safeguard the operation of aircraft and air navigation service equipment. The new AHRs are set out in a new series of 46 plans under the series named “AHRP 2021”.

## **THE AMENDMENT ORDER**

5. To give effect to the new AHRs, the Amendment Order will amend the coverage of the prescribed areas and the restricted heights of buildings in the areas under section 3 of Cap. 301D by replacing the existing plans under series “AHRP” being referred to under section 3(2) of Cap. 301D with the new plans under series “AHRP 2021” showing the new AHRs. Copies of the new plans under series “AHRP 2021” have been delivered to the Legislative Council Secretariat for reference by Members (the originals have been deposited at the Land Registry). An indicative plan showing the new AHRs grouped by range is also set out at **Annex C** for easy reference.

6. As compared with the existing AHRs, certain areas in the vicinity of HKIA (mainly the surrounding sea or mountainous areas) will be subject to more stringent restrictions for safeguarding the operations of HKIA under the 3RS, while the remaining areas constituting the majority of Hong Kong will be subject to less stringent AHRs. Some areas, mostly covered by sea or country parks in the eastern part of Hong Kong, are not covered by the existing AHRs at present but will come under the scope of the new AHRs taking into account the latest requirements.

7. The Amendment Order will also amend the disapplication provisions set out under section 5 of Cap. 301D to modify the cut-off date therein to the commencement date of the Amendment Order, i.e. 31 May 2022, such that

the new AHRs will disapply to specified buildings that have been erected before, or are erected in accordance with building plans approved or endorsed before, the said cut-off date<sup>1</sup>. This arrangement is similar to the past practice.

## **THE REPEAL ORDER**

8. A number of exemptions had been granted through the Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301E) (made under section 3(3A) of Cap. 301) to exempt, with condition(s), specific pieces of land from the operation of Cap. 301D, mainly tele-communication facilities erected on hills or in the countryside.

9. As all the buildings on the lands specified in Cap. 301E have already been erected and are to be disappplied by new AHRs under the disapplication provision section 5(1)(a) of Cap. 301D as amended by the Amendment Order, the relevant exemption under Cap. 301E is no longer required. Cap. 301E will therefore be repealed by the Repeal Order.

## **LEGISLATIVE TIMETABLE**

10. The Amendment Order and the Repeal Order will be published in the Gazette on 20 August 2021 and introduced into the Legislative Council on 25 August 2021. To facilitate the commissioning of the Third Runway, the two orders shall come into force on 31 May 2022.

## **IMPLICATIONS OF THE PROPOSAL**

11. The proposal is in conformity with the Basic Law, including provisions concerning human rights. The proposal has no economic, financial, civil service, productivity, environmental, sustainability, family or gender implications. It will not affect the current binding effect of Cap. 301 and its subsidiary legislations.

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<sup>1</sup> In view of the introduction of the Minor Works Control System (“MWCS”) under the Buildings Ordinance (Cap. 123) in 2010, section 5 of Cap. 301D as amended by the Amendment Order will also provide that the new AHRs will not apply to minor works (“MW”) and designated exempted works (“DEW”) completed before the new AHRs come into effect on 31 May 2022. Under the MWCS, building works which have been designated as MW may be carried out under the simplified requirements without the need to obtain the Building Authority’s approval of building plans and consent to the commencement of building works. Building works which have been designated as DEW may be carried out without the need to obtain approval and consent from the Building Authority nor following the simplified requirements of the MWCS.

## **CONSULTATION**

12. The proposed changes to AHRs, which are technical in nature and are formulated in accordance with the relevant standards set by the International Civil Aviation Organization, were reported to the Panel on Economic Development on 26 April 2021. The Panel had no objection to the proposal.

## **PUBLICITY**

13. A press release will be issued on 20 August 2021. A spokesman will be available to answer enquiries.

## **ENQUIRIES**

14. Any enquiries on this brief can be addressed to Miss Polly CHONG, Principal Assistant Secretary (Planning and Lands) at 3509 8830 or Mr Melvin NG, Assistant Secretary (Lands) at 3509 8870.

**Development Bureau**  
**August 2021**

**Hong Kong Airport (Control of Obstructions) (No. 2)  
Order 1997 (Amendment) Order 2021**

(Made by the Secretary for Development under section 3(1AA) and (1A) of  
the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) on  
the advice of the Director-General of Civil Aviation)

**1. Commencement**

This Order comes into operation on 31 May 2022.

**2. Hong Kong Airport (Control of Obstructions) (No. 2) Order  
1997 amended**

The Hong Kong Airport (Control of Obstructions) (No. 2) Order  
1997 (Cap. 301 sub. leg. D) is amended as set out in sections 3, 4 and  
5.

**3. Section 2 repealed (interpretation)**

Section 2—

**Repeal the section.**

**4. Section 3 amended (prescribed areas and restriction of heights  
of buildings)**

(1) Section 3(1)—

**Repeal**

“area.”

**Substitute**

“area, and the principal datum is also known as Hong Kong  
Principal Datum.”

(2) Section 3—

**Repeal subsection (2)**

**Substitute**

“(2) The plans are those under series AHRP 2021, signed by  
the Secretary and deposited in the Land Registry, and  
named—

(a) Sheet HKE;

(b) Sheet HKW;

(c) Sheet 5-SE-B;

(d) Sheet 5-SE-D;

(e) Sheet 6-SW-A;

(f) Sheet 6-SW-B;

(g) Sheet 6-SW-C;

(h) Sheet 6-SW-D;

(i) Sheet 6-SE-A;

(j) Sheet 6-SE-C;

(k) Sheet 6-SE-D;

(l) Sheet 9-NW-B;

(m) Sheet 9-NW-D;

(n) Sheet 9-NE-A;

(o) Sheet 9-NE-B;

(p) Sheet 9-NE-C;

(q) Sheet 9-NE-D;

(r) Sheet 9-SW-B;

(s) Sheet 9-SE-A;

(t) Sheet 9-SE-B;

(u) Sheet 10-NW-A;

- (v) Sheet 10-NW-B;
- (w) Sheet 10-NW-C;
- (x) Sheet 10-NW-D;
- (y) Sheet 10-NE-A;
- (z) Sheet 10-NE-B;
- (za) Sheet 10-NE-C;
- (zb) Sheet 10-NE-D;
- (zc) Sheet 10-SW-A;
- (zd) Sheet 10-SW-B;
- (ze) Sheet 10-SE-A;
- (zf) Sheet 10-SE-B;
- (zg) Sheet 11-NW-A;
- (zh) Sheet 11-NW-B;
- (zi) Sheet 11-NW-C;
- (zj) Sheet 11-NW-D;
- (zk) Sheet 11-SW-A;
- (zl) Sheet 11-SW-B;
- (zm) Sheet 11-SW-C;
- (zn) Sheet 11-SE-A;
- (zo) Sheet 11-SE-C;
- (zp) Sheet 11-SE-D;
- (zq) Sheet 12-SW-C;
- (zr) Sheet 14-NW-B;
- (zs) Sheet 14-NW-D; and
- (zt) Sheet 16-NW-A.”.

**5. Section 5 amended (disapplication)**

- (1) Section 5—  
**Renumber the section as section 5(1).**
- (2) Section 5(1)(a)—  
**Repeal**  
“the commencement of this Order”  
**Substitute**  
“31 May 2022”.
- (3) Section 5(1)(c)—  
**Repeal**  
“before the commencement of this Order; and”  
**Substitute**  
“or the Office of the Permanent Secretary for Transport and Housing (Housing) before 31 May 2022;”.
- (4) Section 5(1)(d)—  
**Repeal**  
“the commencement of this Order”  
**Substitute**  
“31 May 2022”.
- (5) Section 5(1)(d)—  
**Repeal**  
“Ordinance.”  
**Substitute**  
“Ordinance;”.
- (6) After section 5(1)(d)—  
**Add**

- “(e) part of a building referred to in paragraph (a) or (c) that comprises a structure the construction of which is minor works or designated exempted works—
- (i) carried out in relation to the external part of the building; and
  - (ii) completed before 31 May 2022; and
- (f) any building that is a structure projecting skywards the construction of which is minor works or designated exempted works completed before 31 May 2022.”.

(7) After section 5(1)—

**Add**

“(2) In this section—

**Building Authority** (建築事務監督) means the Director of Buildings;

**designated exempted works** (指定豁免工程) has the meaning given by section 2(1) of the Building (Minor Works) Regulation (Cap. 123 sub. leg. N);

**minor works** (小型工程) has the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123);

**plans approved by the Building Authority** (建築事務監督批准的圖則) means plans approved by the Building Authority under—

- (a) the Buildings Ordinance (Cap. 123); or
- (b) the Buildings Ordinance 1935 (18 of 1935).”.



Secretary for Development

13 Aug 2021

### Explanatory Note

The Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Cap. 301 sub. leg. D) (*Cap. 301D*) is made under the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301). Cap. 301D prescribes—

- (a) the areas within which no building may exceed the height specified in Cap. 301D; and
  - (b) the buildings to which Cap. 301D does not apply.
2. This Order amends Cap. 301D to update the airport height restrictions arising from the development of the Hong Kong International Airport into a Three-runway System and the latest developments in international aviation standards by revising—
- (a) the prescribed areas and restricted heights of the buildings in the areas (see section 4 of the Order); and
  - (b) the types of buildings to which Cap. 301D does not apply, including certain structures the construction of which are minor works or designated exempted works (see section 5 of the Order).



**Hong Kong Airport (Control of Obstructions)  
(Exemption) Order (Repeal) Order**

(Made by the Secretary for Development under section 3(3A) of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) on the advice of the Director-General of Civil Aviation)

**1. Commencement**

This Order comes into operation on 31 May 2022.

**2. Repeal**

The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) is repealed.



Secretary for Development

13 Aug 2021

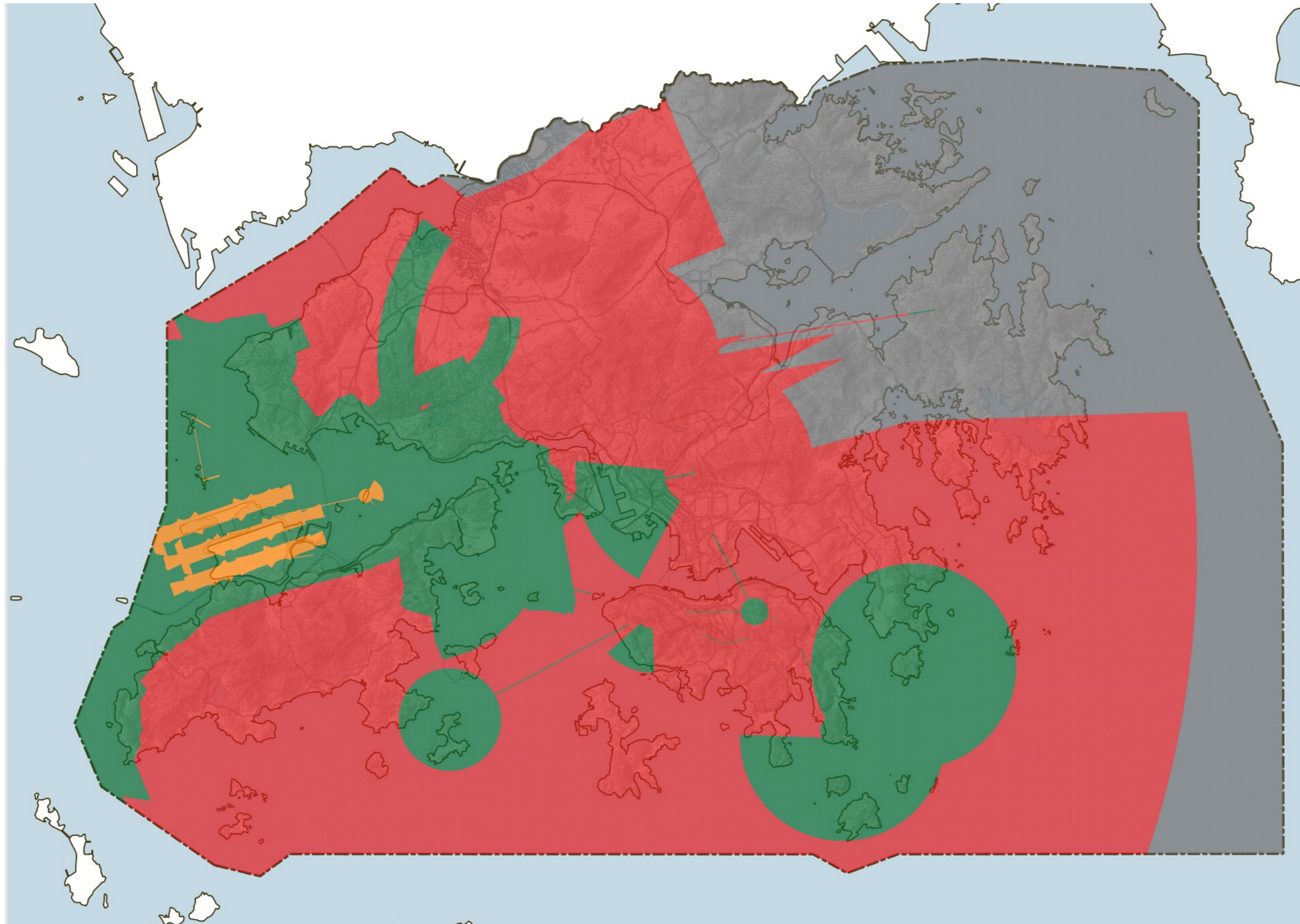
**Explanatory Note**

Under the Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) (*Exemption Order*), certain pieces of land (*exempted land*) are exempt from the operation of the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Cap. 301 sub. leg. D) (*Cap. 301D*).

2. This Order repeals the Exemption Order as all the buildings erected on the exempted land are to fall outside the scope of application of Cap. 301D by virtue of section 5(1)(a) of Cap. 301D as amended by the Hong Kong Airport (Control of Obstructions) (No. 2) Order 1997 (Amendment) Order 2021.

Indicative Plan (參考圖)  
New Airport Height Restrictions  
新機場高度限制

**Annex C**  
(附件三)



New AHR (metres above Hong Kong Principal Datum, mPD)

新機場高度限制  
(香港主水平基準,米)

- $\geq 1000$
- 450 to (至)  $< 1000$
- 50 to (至)  $< 450$
- $< 50$