

## LANDS TRIBUNAL ORDINANCE 1974

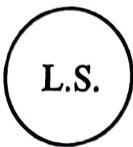
## ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Page</i>
1. Short title and commencement ... ..	A360
2. Interpretation ... ..	A360
3. Establishment of Lands Tribunal ... ..	A360
4. President and members of the Tribunal ... ..	A360
5. Appointment of deputy of the President ... ..	A361
6. Acting appointments of President and members ... ..	A361
7. Panel of persons appointed to sit on Tribunal ... ..	A361
8. Jurisdiction of the Tribunal ... ..	A361
9. Exercise of the Tribunal's jurisdiction ... ..	A362
10. Practice and procedure of Tribunal ... ..	A363
11. Decisions of Tribunal final ... ..	A364
12. Award of costs by the Tribunal ... ..	A365
13. Compensation, etc. determined by Tribunal payable out of general revenue ... ..	A365
14. Saving in respect of other Ordinance ... ..	A366
15. Governor's power to amend First Schedule ... ..	A366
16. Consequential amendments of other Ordinances ... ..	A366
First Schedule. Ordinances under which matters may be submitted to the Tribunal for determination ... ..	A366
Second Schedule. Consequential amendments of other Ordinances ... ..	A367

**HONG KONG**

No. 62 OF 1974

I assent.



MURRAY MACLEHOSE,  
Governor.

15th August, 1974.

Ordinance not  
disallowed—  
see G.N. 2067/74

Ordinance not  
disallowed—  
see G.N. 2454/74

An Ordinance to establish a Lands Tribunal and to provide for matters connected therewith.

[ 1 DEC 1974 ]

L.N. 226/74

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

Short title  
and com-  
mencement.

1. This Ordinance may be cited as the Lands Tribunal Ordinance 1974, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*.

Interpreta-  
tion.

2. In this Ordinance, unless the context otherwise requires—  
“President” means the president of the Lands Tribunal appointed under section 4;

(Cap. 336.)

“qualified in law” means qualified for appointment as a District Judge under section 5 of the District Court Ordinance; and

“Tribunal” means the Lands Tribunal established under section 3.

Establish-  
ment of  
Lands  
Tribunal.

3. There shall be a tribunal to be known as the Lands Tribunal.

President  
and mem-  
bers of the  
Tribunal.

4. (1) The Tribunal shall consist of a president and such number of other members as the Governor may appoint.

(2) The President shall be a person who is qualified in law.

(3) The other members of the Tribunal shall be persons who are qualified in law or persons who, in the opinion of the Governor, are sufficiently experienced in the practice of land valuation in order to qualify them to sit as members of the Tribunal.

5. (1) If the President is temporarily unable to exercise his functions as the president of the Tribunal, the Chief Justice may appoint any other member of the Tribunal to act as the deputy of the President for such period as the Chief Justice may specify.

Appoint-  
ment of  
deputy of the  
President.

(2) A member of the Tribunal appointed under subsection (1) to act as the deputy of the President may exercise the powers and perform the duties of the President during the period of his appointment.

6. (1) If the President is precluded by illness, absence from Hong Kong or any other cause from exercising his functions as the president of the Tribunal, the Governor may appoint any other person holding the qualifications referred to in section 4(2) to act as the president of the Tribunal for such period as the Governor may specify.

Acting ap-  
pointments  
of President  
and mem-  
bers.

(2) If a member of the Tribunal other than the President is precluded by illness, absence from Hong Kong or any other cause from exercising his functions as a member of the Tribunal, the Governor may appoint any other person holding the qualifications referred to in section 4(3) to act as a member of the Tribunal for such period as the Governor may specify.

7. The Governor may appoint a panel of persons other than public officers whom he considers to be suitable to be additional members of the Tribunal in the exercise of its jurisdiction under this Ordinance and shall cause the name of each person so appointed to be published in the *Gazette*.

Panel of  
persons  
appointed  
to sit on  
Tribunal.

8. (1) The Tribunal shall have jurisdiction to determine the amount of compensation (if any) payable by the Government in respect of any claim submitted to it under any Ordinance specified in the First Schedule.

Jurisdiction  
of the  
Tribunal.

First Schedule.

(2) The Tribunal shall have jurisdiction to determine the amount of compensation (if any) payable by the Government in respect of any claim submitted to it under an Ordinance other than an Ordinance specified in the First Schedule if—

(a) the claim arises from any action taken by or on behalf of the Government in connexion with—

(i) the compulsory acquisition of land or any interest therein;

(ii) the extinguishment or variation of any rights pertaining to land;

(iii) the creation of any easements in, over or under any land; or

(iv) the authorization of any undertaking affecting any land or any interest therein; and

(b) the claim is submitted to the Tribunal for determination by agreement by or on behalf of both the Government and the claimant.

(3) Subsection (2) shall apply notwithstanding any other provision made in any such Ordinance for the determination of any such claim.

(4) The Tribunal shall have jurisdiction to determine any appeal submitted to it for determination under any Ordinance specified in the First Schedule.

(5) The Tribunal shall have such other jurisdiction as may be vested in it under any Ordinance.

9. (1) Subject to the provisions of this section, the jurisdiction of the Tribunal shall be exercised by one or more of its members selected by the President and in respect of any proceedings before the Tribunal in which the President selects more than one member he shall designate which member shall preside at the hearing.

(2) The President may select another member of the Tribunal in substitution for a member previously selected to hear any proceedings before the Tribunal, including any proceedings which have been part heard.

(3) The President may select from the panel of persons appointed under section 7 any person to be an additional member of the Tribunal in the hearing of any proceedings before the Tribunal.

(4) The President may appoint any person who has specialized knowledge or experience of a specified subject to sit as an assessor in any proceedings before the Tribunal.

(5) Subject to subsection (6), any difference between the members exercising the jurisdiction of the Tribunal shall be decided by the majority of votes, and in the event of an equality of votes the member presiding at the hearing shall be entitled to a second or casting vote.

First Schedule.

Exercise of the Tribunal's jurisdiction.

- (6) If, during any proceedings before the Tribunal—
- (a) a point of law arises which is disputed by any party to the proceedings; and
  - (b) the proceedings are being heard by a member or members not qualified in law,

the point of law shall be determined by the President, who may for such purpose take part in such proceedings in such manner as he thinks fit.

(7) The President shall determine the form of documents to be made or issued by the Tribunal.

(8) It shall be sufficient if any document made or issued by the Tribunal is signed by the presiding member.

(9) The Tribunal may—

- (a) receive evidence on oath; and
- (b) admit and take into account any statement, document, information or matter whether or not it would be admissible as evidence in a court of law.

10. (1) The Tribunal shall have the powers which are vested in the Supreme Court in the exercise of its civil jurisdiction in respect of the following matters—

Practice and procedure of Tribunal.

- (a) the attendance, examination and payment of witnesses;
- (b) the hearing of any matter with the assistance of an assessor or assessors;
- (c) the consolidation or hearing of any matters;
- (d) the punishment of persons guilty of contempt;
- (e) the ordering of inspection of any premises or place;
- (f) the entering and viewing of any premises or place,

and, so far as circumstances permit, shall follow the practice and procedure of the Supreme Court in the exercise of its civil jurisdiction.

(2) Without prejudice to the generality of the powers vested in it under subsection (1), the Tribunal may—

- (a) on the application of any party to any proceedings before it, or of its own motion, order any party to the proceedings to disclose to the Tribunal the existence of any document which is in the power of such party to produce

and which the Tribunal considers is or may be material to the determination of the matter being heard by the Tribunal;

- (b) order any party to any proceedings before it—
    - (i) to produce to the Tribunal any document which it may require and which is in the power of such party to produce; and
    - (ii) to afford to any other party to the proceedings an opportunity to examine any such document or copy thereof and to take copies thereof; and
  - (c) together with the parties to any proceedings before it and any expert witness of any such party, enter on and inspect any land, premises or place which relates to the proceedings before the Tribunal or any land, premises or place contiguous or adjacent thereto.
- (3) The Chief Justice may make rules prescribing—
- (a) the form of any document to be made or issued by any party or intending party for the purpose of any proceedings before the Tribunal;
  - (b) the fees payable in respect of any proceedings before the Tribunal; and
  - (c) the practice and procedure to be followed in any proceedings before the Tribunal or in any appeal from a decision of the Tribunal in so far as no provision is made therefor in this Ordinance.
- (4) The President may, after consultation with the other members of the Tribunal, determine any form or matter of practice in so far as no provision is made therefor in this Ordinance or in rules made under subsection (3).

Decisions of  
Tribunal  
final.

**11.** (1) Subject to subsections (2) and (3), the decision of the Tribunal in determining—

- (a) the amount of compensation payable by the Government in the case of any claim submitted to it under subsection (1) or (2) of section 8; or
  - (b) any appeal submitted to it under section 8(4),
- shall be the final determination thereof.

(2) Any person who alleges that the Tribunal, in arriving at its decision under subsection (1), erred in any point of law in

arriving at that decision, may apply, within fourteen days after the decision has been given, in writing to the clerk to the Tribunal requesting the President, or the member of the Tribunal presiding over the proceedings in question—

- (a) to state in writing the decision of the Tribunal and the reasons therefor; and
  - (b) to submit these documents to the Full Court for its decision on the alleged error of law.
- (3) On an appeal submitted to it under subsection (2), the Full Court may thereupon—
- (a) affirm, reverse or vary the decision of the Tribunal; or
  - (b) remit the matter to the Tribunal for its determination on fact in the light of the decision of the Full Court given on a point of law.
- (4) Without prejudice to subsection (2), the President may, of his own motion, refer a matter to the Full Court by way of case stated.

**12.** The President or member presiding over any proceedings before the Tribunal may, at his discretion, award costs to any party to any proceedings before the Tribunal under such circumstances, and subject to such conditions, as he thinks fit.

Award of costs by the Tribunal.

**13.** Subject to the provisions of any other Ordinance—

- (a) any sum of money determined by the Tribunal as compensation payable by the Government in any case submitted to the Tribunal under section 8 and any interest payable thereon;
- (b) any sum of money determined by the President as remuneration to, or emoluments or expenses of, any person selected by the President to assist the Tribunal in the hearing of any proceedings before the Tribunal;
- (c) any sum of money determined by the President as remuneration to, or emoluments or expenses of, any assessor hearing any proceedings before the Tribunal; and
- (d) any costs awarded by the Tribunal against the Government in any proceedings before the Tribunal,

Compensation, etc. determined by Tribunal payable out of general revenue.

shall be paid out of the general revenue of the Government.

Saving in respect of other Ordinance.

14. (1) In exercising its jurisdiction under section 8, the Tribunal shall make its determination in accordance with the provisions of the Ordinance under which the matter is submitted to it for determination and in accordance with the provisions of any subsidiary legislation made thereunder.

(2) Nothing in this Ordinance shall affect the operation of any Ordinance under which a matter is submitted under section 8 of this Ordinance to the Tribunal for determination except so far as relates to the determination of—

- (a) the amount of compensation (if any) payable by the Government in respect of any claim submitted to it under subsection (1) or (2) of section 8; or
- (b) any appeal submitted to it under section 8(4).

Governor's power to amend First Schedule.

15. The Governor may, by order published in the *Gazette*, amend the First Schedule.

Consequential amendments of other Ordinances. Second Schedule.

16. The Ordinances specified in the Second Schedule are amended in the manner specified therein.

---

### FIRST SCHEDULE

[s. 8(1) & 15.]

#### ORDINANCE UNDER WHICH MATTERS MAY BE SUBMITTED TO THE TRIBUNAL FOR DETERMINATION

<i>Chapter Number</i>	<i>Short title</i>
113.	Public Reclamations and Works Ordinance.
116.	Rating Ordinance.
124.	Crown Lands Resumption Ordinance.
127.	Foreshores and Sea Bed Ordinance.
130.	Streets (Alteration) Ordinance.
301.	Hong Kong Airport (Control of Obstructions) Ordinance.
337.	Demolished Buildings (Re-development of Sites) Ordinance.



## SECOND SCHEDULE

[s. 16]

## CONSEQUENTIAL AMENDMENTS OF OTHER ORDINANCES

<i>Chapter</i>	<i>Ordinance</i>	<i>Amendments</i>
1.	Interpretation and General Clauses Ordinance.	Section 3 is amended by inserting after the definition of "Kowloon" the following— " "Lands Tribunal" means the Lands Tribunal established under section 3 of the Lands Tribunal Ordinance 1974;"
113.	Public Reclamations and Works Ordinance.	<p>1. Section 3(2) is amended in paragraph (d) by deleting "determined by a tribunal in accordance with section 7 and refer the claim to the tribunal for the purpose" and substituting the following— "determined by the Lands Tribunal and refer the claim to the Lands Tribunal for the purpose".</p> <p>2. Section 6(2) is amended by deleting "a tribunal by the Governor, who shall so refer it" and substituting the following— "the Lands Tribunal for determination".</p> <p>3. Sections 7 and 7A are repealed and replaced by the following section— "Compensation payable out of general revenue of Government. 7. Any compensation determined by the Lands Tribunal in respect of any claim referred to it under section 3(2) shall be paid out of the general revenue of the Government if the proposed undertaking is authorized by the Governor or the Governor in Council under this Ordinance."</p> <p>4. The Public Reclamations and Works Compensation Tribunal Rules are revoked.</p>
116.	Rating Ordinance.	<p>1. Section 2 is amended by deleting the definition of "court".</p> <p>2. Section 42(1) is amended by deleting "court" and substituting the following— "Lands Tribunal".</p> <p>3. Section 43 is amended— (a) in subsection (1), by deleting "Registrar of the court" and substituting the following— "registrar or clerk of the Lands Tribunal"; and</p>

Chapter	Ordinance	Amendments
127.	Foreshores and Sea Bed Ordinance.	<p>(b) in subsection (2), by deleting "Registrar" and substituting the following— "said registrar or clerk".</p> <p>4. Section 44 is amended—</p> <p>(a) in subsection (1), by deleting "court" and substituting the following— "Lands Tribunal";</p> <p>(b) in subsection (2)—</p> <p>(i) by deleting "court" where it twice occurs and substituting the following— "Lands Tribunal"; and</p> <p>(ii) by deleting "Supreme" and substituting the following— "Full"; and</p> <p>(c) in subsection (3), by deleting "court" and substituting the following— "Lands Tribunal".</p> <p>5. Section 52 is amended by deleting "or magistrate" and substituting the following— ", magistrate or member of the Lands Tribunal".</p> <p>1. Section 5(3) is amended in paragraph (b) by deleting "by a judge in accordance with that section and refer the claim to a judge for the purpose of such determination" and substituting the following— "by the Lands Tribunal in accordance with that section and refer the claim to such Tribunal for the purpose of such determination".</p> <p>2. Section 7 is amended—</p> <p>(a) in subsection (2)—</p> <p>(i) by deleting "a judge" and substituting the following— "the Lands Tribunal"; and</p> <p>(ii) by deleting "to such one of the judges as the Chief Justice shall in each case nominate for the</p>

Chapter

Ordinance

## Amendments

purpose" and substituting the following—

"accordingly";

- (b) by deleting subsections (3), (4), (5) and (6) and substituting the following—

"(3) The Lands Tribunal shall—

- (a) hear any evidence which either the Director of Public Works or the claimant may wish to tender and, if so desired, hear counsel or a solicitor on behalf of the Crown and the claimant; and
- (b) determine the amount of compensation (if any) payable by the Government to the claimant for any such injurious affection as is described in subsection (1)."

3. Section 8 is repealed and replaced by the following section—

8. Any compensation determined by the Lands Tribunal in respect of any claim submitted to it under section 7(1) shall be paid out of the general revenue of the Government if the Crown lease in question is granted by the Governor or the Governor in Council under this Ordinance."

130. Streets (Alteration) Ordinance.

1. Section 4(6) is amended by deleting "a tribunal" and substituting the following—

"the Lands Tribunal".

2. Section 6(1) is amended in paragraph (d) by deleting "a tribunal in accordance with section 7, and refer the claim to the tribunal" and substituting the following—

"the Lands Tribunal in accordance with section 7, and refer the claim to the Lands Tribunal".

Chapter

Ordinance

Amendments

3. Section 7 is repealed and replaced by the following new section—

“Lands Tribunal to determine claims for compensation. 7. The Lands Tribunal shall hear and determine any claim for compensation—

(a) in relation to an undertaking authorized under subsection (1) of section 6, as so authorized; or

(b) referred to it by the Governor in Council under paragraph (d) of subsection (1) of section 6.”.

4. Section 8 is repealed and replaced by the following section—

“Compensation payable out of general revenue. 8. Any compensation determined by the Lands Tribunal in respect of any claim submitted to it under section 4(2) and approved by the Governor or the Governor in Council shall be paid out of the general revenue of the Government.”.

5. Section 10 is amended by deleting “tribunal” and substituting the following—

“Lands Tribunal”.

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

1. Section 24 is amended—

(a) by deleting “tribunal referred to in section 25,” and substituting the following—

“Lands Tribunal”;

(b) by deleting “tribunal” where it appears in paragraphs (a) and (f) and substituting the following—

“Lands Tribunal”.

2. Section 25 is amended—

(a) in subsection (1), by deleting “tribunal established under subsection (3)” and substituting the following—

“Lands Tribunal”;

<i>Chapter</i>	<i>Ordinance</i>	<i>Amendments</i>
		<p>(b) in subsection (2), by deleting "tribunal" wherever it occurs and substituting the following— "Lands Tribunal"; and</p> <p>(c) by deleting subsections (3), (4), (5) and (6).</p> <p>3. Section 26 is repealed.</p> <p>4. The Airport Obstructions Compensation Tribunal Rules are revoked.</p>
337.	Demolished Buildings (Re-development of Sites) Ordinance.	<p>1. Section 2(1) is amended by deleting the definition of "Tribunal".</p> <p>2. Section 4(1) is amended by deleting "Tribunal" wherever it occurs and substituting the following— "Lands Tribunal".</p> <p>3. Section 6(3) is amended by deleting "Tribunal" and substituting the following— "Lands Tribunal".</p> <p>4. Section 14 is repealed and replaced by the following new section—</p> <p>14. (1) In determining an appeal under section 4 or section 6 the Lands Tribunal may confirm or set aside the re-development order or the incremental value and may substitute therefor any other re-development order or incremental value which it thinks proper and which could have been made by the Director.</p> <p>(2) The decision of the Lands Tribunal shall set out the matters for which allowance is made in making its determination and such decision shall be final."</p>

Passed by the Hong Kong Legislative Council this 14th day of August, 1974.

K. H. WHEELER,  
*Clerk to the Legislative Council.*

---

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

K. H. WHEELER,  
*Clerk to the Legislative Council.*