

土地 (為重新發展而強制售賣) 條例

LAND (COMPULSORY SALE FOR
REDEVELOPMENT) ORDINANCE

目錄

CONTENTS

| 條次 | | 頁次 |
|-----|---|------|
| 1. | 簡稱及生效日期 | A852 |
| 2. | 釋義 | A852 |
| 3. | 向審裁處申請強制售賣地段 | A856 |
| 4. | 對申請所作出的裁定 | A860 |
| 5. | 以拍賣方式或其他方式售賣地段及地段的購買者沒有履行支付買價的責任的情況 | A866 |
| 6. | 多數份數擁有人或少數份數擁有人成為地段的購買者時須付予受託人的款額 | A870 |
| 7. | 售賣令的註冊等 | A870 |
| 8. | 對地段的購買者的保障 | A874 |
| 9. | 指明條件當作政府租契中的條件等 | A876 |
| 10. | 費用及收益的分攤基準 | A876 |
| 11. | 售賣收益的運用 | A878 |
| 12. | 規例 | A882 |
| 13. | 附表的修訂 | A882 |

| Section | | Page |
|---------|--|------|
| 1. | Short title and commencement | A853 |
| 2. | Interpretation | A853 |
| 3. | Application to Tribunal for compulsory sale of lot | A857 |
| 4. | Determination of application | A861 |
| 5. | Lot to be sold by auction or other means and default on payment by the purchaser of the lot | A867 |
| 6. | Amount to be paid to trustees where majority owner or minority owner is successful purchaser | A871 |
| 7. | Registration of order for sale, etc. | A871 |
| 8. | Protection of purchaser of lot, etc. | A875 |
| 9. | Conditions deemed to be conditions of Government lease, etc. | A877 |
| 10. | Basis of apportionment of expenses and proceeds | A877 |
| 11. | Application of proceeds of sale | A879 |
| 12. | Regulations | A883 |
| 13. | Amendment of Schedules | A883 |

相應修訂

Consequential Amendments

《土地審裁處條例》

Lands Tribunal Ordinance

| | | |
|------|--|------|
| 14. | 加入條文 10A. 關於在《土地 (為重新發展而強制售賣) 條例》下的司法管轄權的規則 | A884 |
| 15. | 將有關事宜呈交審裁處裁定所根據的條例 | A884 |
| 附表 1 | 估值報告、已提出申請的通知及售賣收益的分攤 | A886 |
| 附表 2 | 規限地段拍賣的條件 | A888 |
| 附表 3 | 規限地段購買者及其所有權繼承人的條件 | A888 |
| 附表 4 | 地段上各物業的租賃已予終止的通告 | A890 |

| | | |
|------------|--|------|
| 14. | Section added 10A. Rules in relation to jurisdiction under Land (Compulsory Sale for Redevelopment) Ordinance | A885 |
| 15. | Ordinances under which matters may be submitted to the Tribunal for determination | A885 |
| Schedule 1 | Valuation report, notice that application has been made and apportionment of proceeds | A887 |
| Schedule 2 | Conditions in accordance with which lot shall be sold by auction | A889 |
| Schedule 3 | Conditions to which purchaser of lot and purchaser's successors in title shall be subject | A889 |
| Schedule 4 | Notice that tenancies of lot have been terminated | A891 |

香港特別行政區

1998 年第 30 號條例

印章位置

行政長官
董建華
1998 年 4 月 16 日

本條例旨在使在地段的不分割份數中擁有達到一個指明多數的份數的人可向土地審裁處提出申請，要求作出一項為重新發展該地段而強制售賣該地段所有不分割份數的命令，並使土地審裁處可在若干指明條件已符合的情況下作出該項命令，以及就附帶事宜或相關事宜訂定條文。

[]

由臨時立法會制定。

1. 簡稱及生效日期

- (1) 本條例可引稱為《土地 (為重新發展而強制售賣) 條例》。
- (2) 本條例自規劃環境地政局局長以憲報公告指定的日期起實施。

2. 釋義

- (1) 在本條例中，除文意另有所指外——
- “少數份數擁有人” (minority owner) 就屬第 3(1) 條所指申請的標的之地段而言——
- (a) 指擁有該地段的不分割份數且符合以下說明的人——
 - (i) 並非以承按人身分擁有該等不分割份數；及
 - (ii) 並非提出該項申請的人；及
 - (b) (如該地段屬某項售賣令標的之地段) 包括在該地段的購買者成為該地段的擁有人之前成為 (a) 段所指的人的所有權繼承人的人；
- “地段” (lot)——
- (a) 指——
 - (i) 屬政府租契標的之任何一片或一幅地；

L.S.

TUNG Chee-hwa
Chief Executive
16 April 1998

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.

[]

Enacted by the Provisional Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Land (Compulsory Sale for Redevelopment) Ordinance.
- (2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Planning, Environment and Lands by notice in the Gazette.

2. Interpretation

- (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) 藉《地稅及地價(分攤)條例》(第125章)第8(3)或27(2)條為施行該條例而當作為一個地段的任何分段；

(b) 包括該地段的分段及小分段；

“多數份數擁有人”(majority owner)就某地段而言——

(a) 指已就該地段提出第3(1)條所指申請的人；及

(b) (如該地段屬某項售賣令標的之地段)包括在該地段的購買者成為該地段的擁有人之前成為(a)段所指的人的所有權繼承人的人；

“承按人”(mortgagee)包括在承按人之下作申索的人，但不包括管有承按人；

“受託人”(trustees)就一項售賣令而言，指根據該項命令委任的受託人；

“物業”(property)指不動產；

“拍賣”(auction)就某地段而言，指依據第5(1)(a)條拍賣該地段；

“指示”(directions)指根據第4(6)條作出的指示；

“待決案件”(lis pendens)指——

(a) 《土地註冊條例》(第128章)第1A條所指；並

(b) 根據該條例註冊的，

待決案件；

“按揭”(mortgage)指將某地段(包括該地段的不分割份數)作為金錢或金錢等值的償還保證的抵押；

“重新發展”(redevelopment)就某地段而言，指以新的建築物取代座落於該地段或先前座落於該地段的建築物；

“建築物”(building)指《建築物條例》(第123章)所指的建築物；

“租客”(tenant)包括分租租客；

“租賃”(tenancy)包括分租租賃；

“售賣令”(order for sale)指根據第4(1)(b)(i)條作出的命令；

“審裁處”(Tribunal)指土地審裁處；

“購買者”(purchaser)就屬某項售賣令標的之地段而言，指在拍賣中購得該地段的人；但如第5(1)(b)條適用，則指以該條提述的其他方式購得該地段的人。

(2) 在本條例中，對第3(1)條所指申請的提述，須解作包括該條或附表1規定須附於該項申請的任何文件。

(ii) a section which by virtue of section 8(3) or 27(2) of the Crown Rent and Premium (Apportionment) Ordinance (Cap. 125) is deemed to be a lot for the purposes of that Ordinance;

(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) 現宣布——
- (a) 就——
- (i) “少數份數擁有人”的定義而言；及
- (ii) 在與第3(1)條一併理解的情況下的“多數份數擁有人”的定義而言，
- 座落於某地段上的物業的管有承按人，須當作為該地段的不分割份數中與該物業有關的不分割份數的擁有人；
- (b) 在關於根據售賣令所委任的受託人方面，如本條例的條文與《受託人條例》(第29章)的條文有不一致之處，則在該不一致之處的範圍內，本條例的條文凌駕《受託人條例》(第29章)的條文；
- (c) 就本條例而言，屬某項售賣令標的之地段的購買者在其成為該地段所有不分割份數的法定擁有人之時，方成為該地段的擁有人。

3. 向審裁處申請強制售賣地段

- (1) 除第(5)款另有規定外，凡任何人以承按人以外的身分，擁有某地段的不分割份數中不少於90%的不分割份數，他可向審裁處提出符合以下說明的申請——
- (a) 附有附表1第1部指明的估值報告的；及
- (b) 申請作出一項為重新發展該地段而強制售賣該地段所有不分割份數的命令的。
- (2) 在不影響第(5)款的施行的原則下，第(1)款所指的申請——
- (a) 在多數份數擁有人在有關的各地段中擁有該地段的不分割份數中不少於第(1)款指明的百分比的情況下，可涉及2個或多於2個地段；或
- (b) 在以下情況下可涉及2個或多於2個地段——
- (i) 在上述地段有2幢建築物，而該等建築物是由一條擬供其佔用人共同使用的樓梯所連接的；且
- (ii) 以下兩者相加之後的平均百分比不少於第(1)款指明的百分比——
- (A) 多數份數擁有人在其中一幢建築物所座落的地段的所有不分割份數中擁有的不分割份數所佔的百分比；及

- (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.

3. Application to Tribunal for compulsory sale of lot

- (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) 多數份數擁有人在其中另一幢建築物所座落的地段的所有不分割份數中擁有的不分割份數所佔的百分比。

(3) 根據第(1)款提出申請的某地段的多數份數擁有人須——

- (a) (除第(4)款另有規定外)將該項申請的文本送達該地段的每名少數份數擁有人；
- (b) 安排將該項申請的文本就該地段而根據《土地註冊條例》(第128章)註冊；及
- (c) 安排——
 - (i) 以中、英兩種語文將附表1第2部指明的通告張貼於——
 - (A) 座落於該地段的建築物的一個顯眼部分，如有多於一幢建築物座落於該地段，則須在每幢建築物的一個顯眼部分張貼該通告；或
 - (B) (如該地段上並無建築物)該地段的一個顯眼部分，如該項申請關乎2個或多於2個地段，則須在每個地段的一個顯眼部分張貼該通告；及
 - (ii) 在行銷於香港的中文報章(以中文刊登)及英文報章(以英文刊登)最少各一份刊登。

(4) 如審裁處覺得根據第(1)款提出的申請的文本不能按照第(3)(a)款送達，則審裁處在其認為合適的情況下，可作出命令——

- (a) 免除向該命令所述的任何少數份數擁有人或該命令所述類別的少數份數擁有人送達該申請的文本；及
- (b) 指示在審裁處認為合適的時間並以審裁處認為合適的方式刊登公告，籲請所有聲稱是該地段的少數份數擁有人而未獲送達該文本的人，在該公告指明的時間內在審裁處席前確立其申索，

而在上述指明的時間終結後，所有聲稱是少數份數擁有人的人須受有關法律程序約束，猶如已獲按照第(3)(a)款送達該申請的文本一樣。

(5) 在符合第(6)款的規定下，行政長官會同行政會議可藉憲報公告就屬於該公告中指明的地段類別的地段，指明一個較第(1)款所述百分比為低的百分比，而在此情況下，對第(1)款及本條例的其他條文的解釋，須猶如第(1)款所述百分比已就屬於該類別的地段而由如此指明的百分比取代一樣。

(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) 根據第(5)款指明的百分比不得少於80%。
- (7) 現宣布——
- (a) 在不影響“少數份數擁有人”的定義的一般性及第(1)(b)款及第4(1)(b)(i)條的施行的原則下，就本條而言，在計算某人或某些人士(而不論其是否第(1)款提述的人)在某地段擁有的不分割份數所占百分比時，不得將純粹是關乎該地段的公用部分的不分割份數計算在內；
- (b) 第(5)款所指的公告是附屬法例。

4. 對申請所作出的裁定

- (1) 在符合第(2)款的規定下，審裁處在裁定第3(1)條所指申請時——
- (a) (i) 在有任何屬該項申請標之土地段的少數份數擁有人對任何物業在該項申請中獲評估的價值有所爭議的情況下，首先必須就該爭議進行聆訊和作出裁定；
- (ii) 在有該地段的任何少數份數擁有人無法尋獲的情況下，首先亦須要求該地段的多數份數擁有人使審裁處信納該名少數份數擁有人物業在該項申請中獲評估的價值——
- (A) 不少於公平及合理的價值；及
- (B) 與在該項申請中所評估的多數份數擁有人物業的價值比較，不少於公平及合理的價值；
- (b) 其次，必須——
- (i) 作出命令飭令為重新發展屬該項申請標之土地段而售賣該地段的所有不分割份數；或
- (ii) 拒絕作出該項命令；及
- (c) 又其次，在(b)(i)段適用的情況下，必須——
- (i) 在該項售賣令中，委任由多數份數擁有人提名並獲審裁處信納的受託人以履行本條例就該地段而賦予受託人的責任；及
- (ii) 授權有關受託人就其提供的受託人服務收取審裁處認為合適而在該項命令中指明的費用。

(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.

4. Determination of application

- (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) 除非審裁處在聆訊屬第 3(1) 條所指申請的標的之有關地段的少數份數擁有人所提出的反對(如有的話)後, 信納——

(a) 基於——

- (i) 在該地段上的現有發展的齡期或其維修狀況; 或
- (ii) 根據第 12 條訂立的規例所指明的一項或多於一項理由(如有的話),

該地段理應重新發展(而不論多數份數擁有人是否擬有能力承擔該項重新發展項目); 及

(b) 多數份數擁有人已採取合理步驟以獲取該地段的所有不分割份數(就任何下落已知的少數份數擁有人而言, 包括以公平及合理的條件商議購買該名少數份數擁有人所擁有的不分割份數),

否則審裁處不得作出售賣令。

(3) 在第 8(3) 及 (4) 條的規限下, 審裁處在裁定第 3(1) 條所指的申請時, 不得考慮《業主與租客(綜合)條例》(第 7 章) 中任何關於租客在其租賃被終止的情況下或在有他人尋求將該租賃終止的情況下所享有的權利的條文。

(4) 屬某項售賣令標的之地段的多數份數擁有人須安排——

(a) (除第 (5) 款另有規定外) 將售賣令的文本送達該地段的每名少數份數擁有人;

(b) 將售賣令的文本送達地政總署署長; 及

(c) 刊登符合以下說明的通告——

(i) 在行銷於香港的中文報章(以中文刊登)及英文報章(以英文刊登)最少各一份刊登; 及

(ii) 述明——

(A) 足以識別該地段的充分詳情;

(B) 審裁處已作出命令, 飭令為重新發展該地段而售賣該地段的所有不分割份數; 及

(C) 該地段將以拍賣方式售賣(但如第 5(1)(b) 條適用, 則為將以該條提述的其他方式售賣該地段)。

(5) 如審裁處覺得售賣令的文本不能按照第 (4)(a) 款送達, 則審裁處在其認為合適的情況下, 可作出命令——

(a) 免除向該命令所述的任何擁有人或該命令所述類別的擁有人送達該命令文本; 及

(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) 指示在審裁處認為合適的時間並以審裁處認為合適的方式刊登公告，將以下事項通知所有聲稱為該地段的擁有人的人——
- (i) 審裁處已作出命令飭令售賣該地段；及
 - (ii) 可在何處及何時取得該命令的文本。
- (6) 凡審裁處作出售賣令，審裁處可在符合第 8(3)、(4) 及 (5) 條的規限下，命令對其租賃根據第 8(1)(b) 條終止的租客予以賠償，亦可發出審裁處認為合適並符合以下說明的指示——
- (a) 關乎——
 - (i) 屬售賣令標的之地段的售賣及購買，在不影響前文的一般性的原則下，包括擬定出售該地段的細則及條件；
 - (ii) 該地段之上任何物業的租客的租賃的終結；
 - (iii) (在不抵觸第 11(5) 條的條文下) 售賣所得收益的運用，包括——
 - (A) 由受託人持有審裁處鑑於有任何影響該地段的待決案件而指明的售賣收益中的某部分；及
 - (B) 在審裁處所指明的情況發生時，將售賣收益中的該部分付予審裁處所指明的人；
 - (b) 規定根據售賣令委任的受託人將屬該售賣令標的之地段的售賣收益，在扣除任何依據第 10(2)、11(1) 或 (2)(a) 及 (b) 條而扣除的數目 (如有的話) 後付予審裁處，該等售賣收益包括而不限於——
 - (i) 為購買該地段所付的按金；
 - (ii) 本條例規定須由受託人持有或付予受託人的上述售賣收益中的任何部分；及
 - (c) 與本條例的其他條文並無不一致之處，
- 而在任何上述情況下，第 (4)(a) 及 (5) 款在經必要的變通後適用於該指示，一如該等條文適用於售賣令。
- (7) 凡售賣收益依據某項根據第 (6)(b) 款發出的指示而付予審裁處，則審裁處須按照根據《土地審裁處條例》(第 17 章) 第 10A(1) 條訂立的規則，將售賣收益或其任何部分發放予在售賣收益倘若由受託人持有的情況下本會有權獲付該收益的各人。
- (8) 如售賣收益——

- (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 sections 10(2), 11(1) or (2)(a) and (b)), which includes but is not limited to—
 - (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) 依據某項根據第(6)(b)款發出的指示而付予審裁處；且

(b) 在自其付予審裁處當日起計的3年內仍未依據第(7)款發放，

則該收益須付予政府的一般收入內，而在任何上述情況下，第11(7)(b)及(c)條在經必要的變通後適用於該收益。

(9) 如有疑問或困難或本條例並無條文訂定的事項，根據售賣令委任的受託人、或屬該命令標的之地段的多數份數擁有人或任何少數份數擁有人，可向審裁處提出申請，要求發出指示。

(10) 在下述情況下，審裁處可命令委任新的受託人，以取代任何現有的根據售賣令委任的受託人，或作為該等現有的受託人以外(包括在並無現有的受託人的情況下)增添的受託人，藉以修訂某項售賣令——

(a) 根據售賣令委任的受託人或該地段的多數份數擁有人或少數份數擁有人提出申請；及

(b) 審裁處認為如此行事是合宜的。

(11) 第(1)(c)(ii)款提述的須付予根據售賣令委任的受託人的費用，須由屬售賣令標的之地段的多數份數擁有人支付。

(12) 凡——

(a) 提出第3(1)條所指申請的多數份數擁有人是由2名或多於2名人士組成；而

(b) 其中任何人(如有關地段中由該人擁有的不分割份數已轉讓，則為其所擁有權繼承人)在審裁處未有應該項申請作出售賣令的情況下，告知審裁處他不欲繼續作為該項申請的一方，

則該項申請即當作撤銷，而無須理會欲繼續作為該項申請的申請人的其他人士或其所有權繼承人(如適用的話)在屬該項申請標的之地段的不分割份數中所擁有的不分割份數所佔百分比。

(13) 凡審裁處拒絕作出售賣令，根據第3(1)條提出的有關申請中的多數份數擁有人，須在其後於可行範圍內盡快安排將第3(3)(b)條提述的該項申請的文本的註冊，根據《土地註冊條例》(第128章)第20條撤銷。

5. 以拍賣方式或其他方式售賣地段及地段的 購買者沒有履行支付買價的責任的情況

(1) 凡審裁處就某地段作出售賣令並根據該命令委任的受託人已就該地段遵從第7(1)條，則——

(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).

5. Lot to be sold by auction or other means and default on payment by the purchaser of the lot

(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) 除 (b) 段另有規定外，該地段須按照附表 2 指明的條件而以公開拍賣方式售賣；或
- (b) 如該地段的每名少數份數擁有人的下落已知，則該地段可採用符合以下說明的方式售賣——
- (i) 獲該地段的每名少數份數擁有人及多數份數擁有人以書面同意；
 - (ii) 經審裁處憑其絕對酌情權批准；及
 - (iii) 按照審裁處在指示中指明的條件 (如有的話)。
- (2) 凡根據某項售賣令委任的受託人接獲符合以下說明的書面通知——
- (a) 在屬該命令標的之地段有購買者之前接獲的；並
 - (b) (在該地段的每名少數份數擁有人的下落已知的情況下)——
 - (i) 是由該地段的每名多數份數擁有人及少數份數擁有人發出的；並
 - (ii) 明言他們均不欲售賣該地段，
- 則該項售賣令須立即當作無效，猶如審裁處已撤銷該項售賣令一樣。
- (3) 如購買屬某項售賣令標的之地段的購買者沒有履行支付該地段的買價的責任——
- (a) 根據該項售賣令委任的受託人在獲得該地段的多數份數擁有人及少數份數擁有人書面同意的情况下，須提起法律程序——
 - (i) 就該等擁有人因該購買者沒有履行上述責任而蒙受的損失或損害尋求濟助；
 - (ii) 尋求強制該購買者履行其購買該地段的協議，視何者適用而定；及
 - (b) 在 (a) 段的規限下，該地段的購買者支付的按金須予沒收並付予根據該項售賣令委任的受託人，由該受託人為該地段的多數份數擁有人及少數份數擁有人的利益而持有。
- (4) 凡——
- (a) (除 (b) 段另有規定外) 屬售賣令標的之地段在該命令作出當日之後的 3 個月內仍未售賣；或
 - (b) 根據該命令委任的受託人、或該地段的多數份數擁有人或任何少數份數擁有人提出申請而審裁處應該項申請在指示中指明額外的一段 3 個月的限期，而屬售賣令標的之地段在該段額外的限期內仍未售賣，
- 則該項售賣令須立即當作無效，猶如審裁處已撤銷該項售賣令一樣。
- (5) 現宣布——

- (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,
 - (b) 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) 如屬售賣令標之之地段須以拍賣方式售賣，則該地段須在拍賣中售予出價最高的競投人；
- (b) 本條例的施行並不阻止屬售賣令標之地段的多數份數擁有人或任何少數份數擁有人購買該地段。

6. 多數份數擁有人或少數份數擁有人成為地段的購買者時須付予受託人的款額

- (1) 屬某項售賣令標之之地段的多數份數擁有人如成為該地段的購買者——
 - (a) (在 (b) 段的規限下) 他無須付予根據該項售賣令委任的受託人買價的全數；但
 - (b) 他須付予受託人一筆不少於受託人所計算為為以下目的而需要的款額之數的款額——
 - (i) 多數份數擁有人購買該地段中所有並非由其擁有的不分割份數；及
 - (ii) 在第 11(2) 條提述的就該地段而須對政府履行的法律責任及須付予租客的賠償是與多數份數擁有人有關的範圍內，使受託人能遵從該條的規定。
- (2) 第 (1) 款適用於成為屬某項售賣令標之之地段的購買者的任何少數份數擁有人，一如該款適用於成為該地段的購買者的多數份數擁有人。

7. 售賣令的註冊等

- (1) 屬根據某項售賣令委任的受託人，須安排將——
 - (a) 該項命令的文本；及
 - (b) 附表 3 的文本，
 根據《土地註冊條例》(第 128 章) 就該地段註冊，而在該等文本如此註冊後——
 - (i) 即使任何其他法律另有規定，將該地段的多數份數擁有人及少數份數擁有人在該地段所持有的一切產業權、權利及權益轉讓的權力，立即為以下目的而憑藉本條歸屬受託人——
 - (A) 將該地段售予該地段的購買者 (如多數份數擁有人或任何少數份數擁有人為該地段的購買者，則為該地段中並非該購買者已經擁有的部分)；

- (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.

6. Amount to be paid to trustees where majority owner or minority owner is successful purchaser

- (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.

7. Registration of order for sale, etc.

- (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) 解除在本條例下就該地段而施加予受託人的責任；及
- (C) 簽立任何為 (A) 或 (B) 節中提述的任何目的而需要的文件；及
- (ii) 附表 3 指明的條件，立即對該地段的購買者及其所有權繼承人具約束力，並可針對該購買者及其所有權繼承人而強制執行。
- (2) 憑藉第 4(10) 條委任的新受託人，須安排將委任他的命令的文本，根據《土地註冊條例》(第 128 章) 就該命令所關乎的地段註冊，而在該文本如此註冊後——
- (a) 有關售賣令須立即在顧及首述命令的情況下予以理解及在該情況下具有效力；及
- (b) 在第 (1)(i) 款中對“受託人”的提述及本條例的其他條文，須據此而解釋。
- (3) 凡某項售賣令藉第 5(2) 或 (4) 條而不具效力，根據該命令委任的受託人須在其後於可行範圍內盡快安排將——
- (a) 第 (1) 款提述的該項命令及附表 3 (在其與該地段有關的範圍內) 的註冊；及
- (b) 第 (2) 款提述的在該款中首述的命令的註冊 (如有的話)，
- 根據《土地註冊條例》(第 128 章) 第 20 條撤銷。
- (4) 如屬售賣令標的之地段的購買者是該地段的多數份數擁有人或任何少數份數擁有人，根據第 (1)(i) 款歸屬根據該命令委任的受託人的將該地段的一切產業權、權利及權益轉讓的權力，在原先並非由該購買者擁有的該地段部分成為由其所擁有之時起即告終止。
- (5) 現宣布——
- (a) 第 (1)(i) 款並不阻止屬售賣令標的之地段的多數份數擁有人或任何少數份數擁有人——
- (i) 在有該地段的購買者之前；及
- (ii) 將其各自在該地段的一切或部分產業權、權利或權益 (並屬其有權轉讓的) 轉讓；
- (b) 凡受託人行使根據第 (1)(i) 款歸屬予他的轉讓該地段的一切產業權、權力或權益的權力，則就所有目的而言，該項轉讓的效力及作用須猶如該項轉讓是由該地段的多數份數擁有人及少數份數擁有人所簽立的一樣。
- (6) 有關地段的購買者在他成為該地段的購買者當日之後的 14 日內，必須以書面通知地政總署署長他已成為上述擁有人。

- (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.

8. 對地段的購買者的保障

(1) 凡有屬某項售賣令標的之地段售賣，則——

- (a) 在該地段的購買者成為該地段的擁有人時，任何前擁有人(包括該前擁有人的受讓人及遺產代理人)在該地段或之上或其任何部分的所有權利，除在該命令指明(如有指明的話)的範圍內，立即絕對終止；
- (b) 在按照審裁處在指示中指明的條件(如有的話)的規限下並即使在任何租契的條款或《業主與租客(綜合)條例》(第7章)的條文另有規定的情況下——

(i) 憑藉本條並就所有目的而言，在該地段上任何物業的租客如屬憑藉在有關購買者成為該地段的擁有人之前已訂立的租契而成為該等租客，則自該地段的購買者成為該地段的擁有人之日起，該租客的租賃即當作已在該日終止；及

(ii) 在該日之後的6個月屆滿後，該購買者有權取回有關物業在空置情況下的管有，而有關租客必須交回有關物業在空置情況下的管有。

(2) 凡有任何租賃憑藉第(1)(b)(i)款的施行而終結，則該租賃所關乎的地段的購買者須在他成為該地段的擁有人當日之後的14日內，安排以中、英兩種語文將附表4指明的通告送達該租賃所關乎的租客，送達方式須為將該通告留給在該租客所居住、並與該租賃有關的物業內的一名成年佔用人。

(3) 在不抵觸第(4)及(5)款的條文下，第4(6)條提述的賠償令可關乎——

- (a) (i) 須由有關地段的多數份數擁有人支付予第(1)(b)款所提述、並關乎在該地段上而由多數份數擁有人在緊接於該地段的購買者成為該地段的擁有人之前所擁有的任何物業的租契中的租客的賠償(而不論該名多數份數擁有人是否該購買者)；
- (ii) 須由有關地段的少數份數擁有人支付予第(1)(b)款所提述、並關乎在該地段上而由少數份數擁有人在緊接於該地段的購買者成為該地段的擁有人之前所擁有的任何物業的租契中的租客的賠償(而不論該名少數份數擁有人是否該購買者)；

8. Protection of purchaser of lot, etc.

(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) 參照《業主與租客 (綜合) 條例》(第 7 章) 的條文 (不論該等條文是否經在有關命令中所指明的變通) 而釐定的賠償。
- (4) 在不影響第 (3) 款的一般性的原則下，審裁處可——
- (a) 考慮租客就應否付予租客任何賠償及 (如付賠償的話) 賠償款額而作出的申述 (如有的話)；
- (b) 在釐定任何該等賠償時，考慮憑藉第 (1)(b)(ii) 款的施行而給予租客的利益 (如有的話)。
- (5) 如任何租契是在有關地段的售賣令作出當日或之後訂立的，則無須就該租契而向租客付予本條例下的賠償。
- (6) 在本條中——
- “前擁有人” (prior owner) 就某地段而言——
- (a) 指先前擁有該地段的不分割份數的人；
- (b) 不包括購買該地段的購買者；
- “租契” (lease) 包括為出租、承租任何處所而以口頭或書面訂立的協議，不論如何稱述；
- “權利” (rights) 就某地段的前擁有人而言，指所有符合以下說明的權利——
- (a) 憑藉該名前擁有人對該地段的不分割份數的擁有權而可行使；及
- (b) 影響有關地段的。

9. 指明條件當作政府租契中的條件等

附表 3 指明的每項條件均當作為屬有關售賣令標的之地段的政府租契中的條件，據此，任何該等條件如遭違反，政府即有權根據和按照《政府土地權 (重收及轉歸補救) 條例》(第 126 章) 重收該地段。

10. 費用及收益的分攤基準

- (1) 根據某項售賣令委任的受託人所招致的拍賣開支或第 5(1)(b) 條提述的其他售賣地段的方式的開支——
- (a) 在並無購買有關地段的購買者的情況下，須由該地段的多數份數擁有人悉數支付；及

- (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.

9. Conditions deemed to be conditions of Government lease, etc.

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).

10. Basis of apportionment of expenses and proceeds

- (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) 在有購買有關地段的購買者的情況下，須由該地段的多數份數擁有人及少數份數擁有人按附表 1 第 3 部指明的分攤基準支付。

(2) 依據第 (1) 款而須由該地段的多數份數擁有人或任何少數份數擁有人支付的開支，可由上述受託人從分攤予該名擁有人之該地段買價的按金部分中扣除。

(3) 以下項目須按附表 1 第 3 部指明的基準，在屬售賣令標之土地的多數份數擁有人與少數份數擁有人之間分攤——

- (a) 該地段的售賣收益；及
- (b) 第 5(3)(b) 條提述的予以沒收的按金。

11. 售賣收益的運用

(1) 屬某項售賣令標之土地之售賣收益，在扣除——

- (a) (如屬第 10(1) 條提述的費用並未按照第 10(2) 條予以扣除，亦並未以其他方式支付的情況) 第 10(1) 條提述的費用後；及
- (b) 根據該項售賣令委任的受託人作為該地段的轉讓契中的轉讓方而招致的轉讓契的法律費用後，

須付予該受託人。

(2) 根據一項售賣令委任的受託人，須按以下次序運用就屬有關命令標之土地而付予受託人的售賣收益——

- (a) 首先用於解除就該地段而須對政府履行的任何法律責任；
- (b) 其次，除第 (3) 款另有規定外，用於解除影響該地段的產權負擔；
- (c) 除在憑藉第 4(6)(a)(iii)(A) 及 (B) 條作出的指示中或第 (4) 款另有規定外，再其次，按指示而將餘數付予該地段的——
 - (i) 多數份數擁有人，但如審裁處根據第 8(3) 條指明須由該名多數份數擁有人付予租客的賠償，則受託人必須在他已從須付予該名多數份數擁有人之餘數中扣除須付予有關租客的賠償後，方可將餘數付予該名多數份數擁有人；及
 - (ii) 少數份數擁有人，但如審裁處根據第 8(3) 條指明須由該名少數份數擁有人付予租客的賠償，則受託人必須在他已從須付予該名少數份數擁有人之餘數中扣除須付予有關租客的賠償後，方可將餘數付予該名少數份數擁有人。

(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.

11. Application of proceeds of sale

(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) 根據售賣令委任的受託人——
- (a) 在屬該項售賣令標之地段的多數份數擁有人或任何少數份數擁有人是該地段的購買者的情況下；並
- (b) 在——
- (i) 任何影響該地段的產權負擔是歸因於該購買者的；及
- (ii) 該購買者以書面同意無須解除該產權負擔，的範圍內，
- 無須遵從第 (2)(b) 款。
- (4) 凡根據第 8(3) 條須向屬某項售賣令標之地段上某物業的租客付予賠償，根據該命令委任的受託人在信納該租客已向該地段的購買者交回該物業在空置情況下的管有之前，不得將該賠償中半數以上的款額付予該租客。
- (5) 根據售賣令委任的受託人須將以下款項付予審裁處——
- (a) (如受託人在開始履行其第 (2)(c) 款下就屬該項售賣令標之地段的售賣收益所須履行的責任之前，第 4(6)(a)(iii)(A) 及 (B) 條提述的情況仍未發生) 依據審裁處憑藉第 4(6)(a)(iii)(A) 及 (B) 條作出的指示而由受託人持有的款額；及
- (b) 在第 (2)(c) 款所提述的餘數中，因屬多數份數擁有人或少數份數擁有人無法尋獲而剩下的餘數。
- (6) 根據第 (5) 款付予審裁處的任何款額或餘數——
- (a) (在第 (5)(a) 款適用的情況下) 在審裁處所指明的情況發生時，須付予審裁處根據第 4(6)(a)(iii)(A) 及 (B) 條作出的有關指示中所指明的人；
- (b) 在第 (5)(b) 款適用的情況下——
- (i) 在尋獲有關的多數份數擁有人或少數份數擁有人時 (視屬何情況而定)，須付予該名擁有人；
- (ii) 如有關擁有人在自有關餘數付予審裁處當日起計的 3 年內仍無法尋獲，須付予政府的一般收入內。
- (7) 現宣布——
- (a) 在將售賣收益用以解除第 (2)(a) 或 (b) 款提述的法律責任或產權負擔時，多數份數擁有人或少數份數擁有人只須在該等法律責任或產權負擔 (視屬何情況而定) 是歸因於他的範圍內，為該項解除付款；
- (b) 第 (6)(b)(ii) 款並不阻止就以下餘數或由以下人士向政府提出的申索——

- (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) 該款提述的餘數；及
- (ii) 在有關餘數倘若仍由審裁處持有的情況下本會有權獲付該餘數的人，或看似在有關餘數倘若仍由審裁處持有的情況下本會有權獲付該餘數的人；
- (c) 如任何人聲稱在依據任何售賣令而售賣的地段中有任何權益，則本條及第 8(1)(a) 條並不阻止該人就該權益關乎的地段部分所產生的售賣收益而採取任何行動或提起任何法律程序。
- (8) 在不影響第 (3) 款的施行的原則下並除非在指示中另有指明，在本條中，“產權負擔”(incumbrance) 就某地段而言，並不包括——
 - (a) (如《新界條例》(第 97 章) 第 II 部適用於該地段) 在任何影響土地的中國習俗或傳統權益下的權利；
 - (b) 任何地役權、通道權或水道權；或
 - (c) 隨土地轉移的契諾。

12. 規例

- (1) 規劃環境地政局局長可訂立規例——
 - (a) 為施行第 4(2)(a)(ii) 條而指明有關理由；
 - (b) 指明為施行第 4(2)(b) 條而須考慮的事項；
 - (c) 指明在提名或委任受託人以履行本條例就屬某項售賣令標的之地段而賦予受託人的責任時須考慮的事項；及
 - (d) 概括而言，為更佳地施行本條例的條文和實現本條例的目的而訂定條文。
- (2) 根據第 (1)(a) 或 (b) 款訂立的規例並不適用於任何在該規例生效前已根據第 3(1) 條提出的申請所引致的法律程序。

13. 附表的修訂

行政長官會同行政會議可藉憲報公告修訂附表 1、2、3 或 4。

- (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.

12. Regulations

- (1) The Secretary for Planning, Environment and Lands may make regulations—
 - (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.

13. Amendment of Schedules

The Chief Executive in Council may, by notice in the Gazette, amend Schedule 1, 2, 3 or 4.

相應修訂

《土地審裁處條例》

14. 加入條文

《土地審裁處條例》(第 17 章) 現予修訂，加入——

**“10A. 關於在《土地 (為重新發展而強制售賣) 條例》
下的司法管轄權的規則**

(1) 終審法院首席法官在諮詢庭長後，可就由《土地 (為重新發展而強制售賣) 條例》(1998 年第 30 號) 引致的一切實務及程序的事項訂立一般的規則。

(2) 在任何為裁定某項根據《土地 (為重新發展而強制售賣) 條例》(1998 年第 30 號) 提出的售賣令的申請而進行的法律程序中，審裁處成員在信納不會引致有不公正的情況下，有權命令將該申請中所出現的任何問題或爭論點，交由其他的審裁處成員聆訊以作出裁定或進行查訊，而在不影響第 (1) 款的一般性的原則下，根據該款訂立的規則可規管本款賦予的權力的行使。

(3) 在第 (2) 款中，“審裁處成員”(member of the Tribunal) 指正在行使審裁處的司法管轄權的審裁處成員。”。

15. 將有關事宜呈交審裁處裁定所根據的條例

附表現予修訂，加入——

“1998 年第 30 號 《土地 (為重新發展而強制售賣) 條例》。”。

Consequential Amendments

Lands Tribunal Ordinance

14. Section added

The Lands Tribunal Ordinance (Cap. 17) is amended by adding—

**“10A. Rules in relation to jurisdiction under Land
(Compulsory Sale for Redevelopment)
Ordinance**

(1) The Chief Justice after consultation with the President may make rules dealing generally with all matters of practice and procedure arising out of the Land (Compulsory Sale for Redevelopment) Ordinance (30 of 1998).

(2) In any proceedings for determining an application for an order for sale under the Land (Compulsory Sale for Redevelopment) Ordinance (30 of 1998), a member of the Tribunal shall have power to order, where he is satisfied that no injustice would be caused, that any question or issue arising from the application be heard before another member of the Tribunal for determination or inquiry, and without prejudice to the generality of subsection (1), the rules made under that subsection may regulate the exercise of the power conferred by this subsection.

(3) In subsection (2), “member of the Tribunal” (審裁處成員) means a member or members of the Tribunal exercising the jurisdiction of the Tribunal.”.

15. Ordinances under which matters may be submitted to the Tribunal for determination

The Schedule is amended by adding—

“30 of 1998 Land (Compulsory Sale for Redevelopment) Ordinance.”.

附表1 [第2(2)、3、10及13條]

SCHEDULE 1 [ss. 2(2), 3, 10 & 13]

估值報告、已提出申請的通知及
售賣收益的分攤VALUATION REPORT, NOTICE THAT APPLICATION HAS BEEN
MADE AND APPORTIONMENT OF PROCEEDS

第1部

PART 1

估值報告

VALUATION REPORT

在提出本條例第3(1)條所指的申請當日之前的3個月內擬備並列明有關地段上各物業的評估市值的估值報告，而該市值的評估是符合以下說明的——

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) 以該物業在空置的情況下作根據；
- (b) 在猶如該地段不會能夠作為某項售賣令的申請的標的之情況下作出；及
- (c) 並無顧及該物業或該地段的重新發展潛力。

- (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.

第2部

PART 2

已根據《土地(為重新發展而強制售賣)條例》(1998年第30號)申請售賣位於.....的地段的通告

NOTICE THAT APPLICATION HAS BEEN MADE UNDER THE LAND (COMPULSORY SALE FOR REDEVELOPMENT) ORDINANCE (30 OF 1998) FOR THE SALE OF LOT NO. / LOT NOS.* LOCATED AT.....

現通知佔用上述地段任何部分的人士，已有一項根據《土地(為重新發展而強制售賣)條例》(1998年第30號)第3(1)條而向土地審裁處提出的申請，請求土地審裁處作出命令飭令為重新發展而售賣上述地段。

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 (30 of 1998) to the Lands Tribunal for an order to sell the lot/lots* for the purposes of the redevelopment of the lot/lots*.

請注意：如土地審裁處作出該項售賣令，則土地審裁處可——

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

- (a) 在上述地段上任何物業的租客(包括分租租客)的租賃是藉《土地(為重新發展而強制售賣)條例》(1998年第30號)的施行而終止的情況下，飭令向該租客付予賠償；及
- (b) 考慮該租客就應否向其付予賠償及(如付賠償的話)賠償款額而作出的申述(如有的話)。

- (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 (30 of 1998); 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.

第3部

PART 3

將售賣地段所得收益分攤的基準

BASIS OF APPORTIONMENT OF PROCEEDS OF SALE OF LOT

- (a) 除(b)段另有規定外，按照在有關的第3(1)條所指申請中，對有關地段的每名多數份數擁有人及該地段的每名少數份數擁有人各自的在該地段上的物業所評估的價值而按比例分攤。

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) 在以下情況下——

- (i) 有本條例第 4(1)(a)(i) 條所提述的爭議而引致該等評估價值經更改；或
 - (ii) 如有根據第 4(1)(a)(ii) 條要求多數份數擁有人使審裁處信納該條提述的事項，並因而引致該等評估價值經更改；
- 則按照經如此更改的上述評估價值而按比例分攤。

附表 2

[第 5(1) 及 13 條]

規限地段拍賣的條件

1. 須以符合以下說明的廣告將有關拍賣通知公眾——

(a) 在——

- (i) 行銷於香港的中文報章 (以中文刊登) 及英文報章 (以英文刊登) 最少各一份刊登；及
- (ii) 緊接該項拍賣的日期前 3 個星期內的每個星期中至少刊登各一次；及

(b) 述明——

- (i) 屬該項拍賣標的之地段，是依據本條例所指的售賣令而售賣的；
- (ii) 該地段的購買者及其所有權繼承人會受附表 3 指明的條件及該售賣令指明的條件 (如有的話) 規限；
- (iii) 可在何處及何時取得或查閱該售賣令文本及該等指示的文本；及
- (iv) 該項拍賣的日期、時間及地點。

2. 屬拍賣標的之地段須設底價，而該底價須——

- (a) 顧及該地段本身或 (如屬上述拍賣標的之地段關乎 2 個或多於 2 個地段) 該等地段本身的重新發展潛力；並
- (b) 獲審裁處批准。

附表 3

[第 7、9 及 13 條
及附表 2]

規限地段購買者及其所有權繼承人的條件

1. 該地段須予重新發展，而該項重新發展——

- (a) 除 (b) 段另有規定外，須於審裁處在該地段的售賣令中指明、並在購買該地段的購買者成為該地段的擁有人當日之後 6 年內屆滿的限期內建成至適宜佔用；
- (b) 須於審裁處應該地段的購買者或其所有權繼承人的申請而批准的額外限期內建成至適宜佔用。

(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

[ss. 5(1) & 13]

CONDITIONS IN ACCORDANCE WITH WHICH
LOT SHALL BE SOLD BY AUCTION

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

[ss. 7, 9 & 13
& Sch. 2]CONDITIONS TO WHICH PURCHASER OF LOT
AND PURCHASER'S SUCCESSORS IN
TITLE SHALL BE SUBJECT

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.

附表 4

[第 8(2) 及 13 條]

SCHEDULE 4

[ss. 8(2) & 13]

地段上各物業的租賃已予
終止的通告

NOTICE THAT TENANCIES OF LOT HAVE
BEEN TERMINATED

現通知在 [填上地段
購買者成為地段擁有人的日期] 之前已訂立而關乎本地段上任何物業的租賃的租客 (包括分租租
客), 依據《土地 (為重新發展而強制售賣) 條例》(1998 年第 30 號) 第 8(1)(b) 條——

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 (30 of 1998)—

- (a) 所有上述租賃已於上述日期終止; 及
- (b) 在上述日期之後的 6 個月屆滿後, 該購買者有權取回所有上述物業在空置情況下的
管有, 而上述租客必須交回該等物業在空置情況下的管有。

- (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.