

CAP 17

LANDS TRIBUNAL ORDINANCE

Long title

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

[1 December 1974] *L.N. 246 of 1974*

(Originally 62 of 1974)

s 1 Short title

This Ordinance may be cited as the Lands Tribunal Ordinance.

s 2 Interpretation

In this Ordinance, unless the context otherwise requires-

"President" (庭長) means the president of the Lands Tribunal appointed under section 4; (Amended 25 of 1998 s. 2)

"presiding officer" (法官) means a presiding officer of the Lands Tribunal; (Replaced 5 of 1991 s. 2)

"qualified in law" (具有法律專業資格) means qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336);

"registrar" (司法常務官) means the Registrar of the District Court; (Added 21 of 1977 s. 2. Amended 49 of 1982 s. 2; 28 of 2000 s. 47)

"temporary member" (暫委成員) means a temporary member appointed under section 6A; (Added 21 of 1999 s. 4)

"Tribunal" (審裁處) means the Lands Tribunal established under section 3.

s 3 Establishment of Lands Tribunal

There shall be a tribunal to be known as the Lands Tribunal which shall be a court of record.

(Amended 49 of 1982 s. 3)

s 4 Constitution of Tribunal

(1) The Tribunal shall consist of the following members-

- (a) the President, who shall be one of the Judges of the High Court and shall be appointed by the Chief Executive;
- (b) the presiding officers referred to in subsection (2);
- (c) such members as may be appointed by the Chief Executive and who are eligible under subsection (3) or (4) for appointment; and
- (d) the temporary members.

(2) Every District Judge and deputy District Judge shall by virtue of his office be a presiding officer.

(3) A person shall be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if-

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years-

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been the registrar or a deputy registrar or assistant registrar of the District Court appointed in accordance with section 14 of the District Court Ordinance (Cap 336);
- (iii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap 227);
- (iv) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap 504);
- (v) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap 338);
- (vi) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap 25);
- (vii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap 87);
- (viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap 91);
- (ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap 6); or
- (x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap 412).

(4) Notwithstanding subsection (3), a person shall also be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if he is a Corporate Member in the General Practice Division of The Hong Kong Institute of Surveyors incorporated by The Hong Kong Institute of Surveyors Ordinance (Cap 1148), or a holder of an equivalent professional qualification, with at least 5 years' experience in the practice of land valuation.

(5) For the purposes of calculating the period of 5 years referred to in subsection (3)(b)-

- (a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;
- (b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap 100) may be taken into account notwithstanding the repeal of that Ordinance.

(Replaced 10 of 2005 s. 138)

s 5 Appointment of deputy of the President

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

(2) A presiding officer 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.

(Amended 49 of 1982 s. 5)

s 6 Acting appointments of President

(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 Chief Justice may appoint any presiding officer to act as the president of the Tribunal for such period as the Chief Justice may specify.

(Amended 49 of 1982 s. 6)

(2) (Repealed 49 of 1982 s. 6)

s 6A Appointment and powers of temporary members

(1) The Chief Justice may appoint a person who is eligible under section 4(3) or (4) to be appointed as a member of the Tribunal under section 4(1)(c) to be a temporary member of the Tribunal for such period and on such terms as he may think fit. (Replaced 10 of 2005 s. 139)

(2) Subject to the terms of appointment, a temporary member shall, during the period for which he is appointed, exercise all the jurisdiction and powers of the Tribunal, and perform all the duties of a member.

(3) Every appointment made in accordance with this section may be terminated by the Chief Justice at any time.

(4) Where the hearing of any proceedings before a temporary member is adjourned or where judgment is reserved therein or decision is subject to review, the temporary member shall have power to resume the hearing and determine the proceedings or to deliver as the judgment of the Tribunal the judgment which he has reserved or to review the decision which he has given, notwithstanding that before the hearing is resumed or judgment is delivered or the review is disposed of, his appointment has expired or has been terminated.

(5) For the purposes of subsection (4), the power of a temporary member to deliver judgment in a resumed hearing includes the power of awarding costs and the making of any order ancillary to or consequential upon the award of costs.

(Added 21 of 1999 s. 6)

s 7 (Repealed 49 of 1982 s. 7)

s 7A Officers of the Tribunal

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) There shall be attached to the Tribunal a registrar and such number of deputy registrars, assistant registrars, bailiffs, clerks, interpreters and other officers as the Chief Executive may consider necessary.

(2) In addition to the powers and duties conferred or imposed by or under this Ordinance or any other enactment, the registrar, any deputy registrar, assistant registrar, bailiff, clerk, interpreter and other officer attached to the Tribunal may exercise such powers and perform such duties, insofar as the same are applicable to the business of the Tribunal, as those respectively exercised or performed by the registrar, deputy registrar, assistant registrar, bailiff, clerk, interpreter or other officer attached to the High Court.

(3) Any act which by or under this Ordinance or any other enactment is required or authorized to be done by the registrar may be performed by a deputy registrar or assistant registrar of the Tribunal and any process of the Tribunal may be executed by any bailiff thereof notwithstanding that it may have been directed personally to some other bailiff.

(Added 21 of 1977 s. 3. Amended 25 of 1998 s. 2)

s 7B Protection of registrar

(1) No action shall be brought against the registrar for-

- (a) any act done or omitted to be done by any bailiff without directions from the registrar; or
- (b) any directions given to any bailiff with regard to the execution or non-execution of process if-
 - (i) such directions are in accordance with an order from the Tribunal under section 7C; and
 - (ii) no material fact is wilfully misrepresented or suppressed by the registrar.

(2) In this section and in section 7C-

"registrar" (司法常務官) includes a deputy registrar and assistant registrar. (Amended 28 of 2000 s. 47)

(Added 21 of 1977 s. 3)

s 7C Registrar may apply for order

The registrar may, in case of doubt or difficulty, apply summarily to the Tribunal for an order for the direction and guidance of a bailiff, and the Tribunal may make such order in the matter as may seem just and reasonable.

(Added 21 of 1977 s. 3)

s 8 Jurisdiction of the Tribunal

(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 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 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 Schedule.

(5) The Tribunal shall have such other jurisdiction as may be vested in it under any Ordinance including any Ordinance specified in the Schedule. (Amended 27 of 1993 s. 43)

(6) The Tribunal shall have jurisdiction to make an order for the recovery of possession of any premises or for the ejection of a tenant from those premises, whether under the Landlord and Tenant

(Consolidation) Ordinance (Cap 7) or otherwise. (Replaced 3 of 2008 s. 36)

(7) (Repealed 3 of 2008 s. 36)

(8) The Tribunal shall have jurisdiction, in any application for possession or for ejectment, under the Landlord and Tenant (Consolidation) Ordinance (Cap 7) or otherwise, and in any application for a new tenancy under Part IV of that Ordinance, whether or not it grants any such application, to make one or more of the following orders- (Amended 3 of 2008 s. 36)

(a) an order for the payment of rent and mesne profits (including interim payments of rent and mesne profits);

(b) an order for the payment of any other money which is due under the tenancy or sub-tenancy;

(c) an order for the disposal of any property left in the premises concerned by the tenant or sub-tenant; and

(d) an order for the payment of damages in respect of any breach of a condition of the tenancy or sub-tenancy. (Added 30 of 1983 s. 2.

Amended 32 of 2002 s. 40; 3 of 2008 s. 36)

(8A) The Tribunal shall have jurisdiction to determine any claim or counterclaim or set-off and counterclaim transferred to it under section 7 or 10 of the Small Claims Tribunal Ordinance (Cap 338). (Added 28 of 1999 s. 18)

(9) In the exercise of its jurisdiction, the Tribunal shall have the same jurisdiction to grant remedies and reliefs, equitable or legal, as the Court of First Instance. (Added 30 of 1983 s. 2. Amended 27 of 1993 s. 43; 25 of 1998 s. 2)

(10) The jurisdiction conferred by subsections (6) and (8) in respect of tenancies to which Part IV or V of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) applies is subject to the repeal of certain provisions of those Parts by the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 (16 of 2004). (Added 16 of 2004 s. 16. Amended 3 of 2008 s. 36)

(11) (Repealed 3 of 2008 s. 36)

(12) Except as provided by any other Ordinance, the Tribunal does not have jurisdiction to make an order for the costs of and incidental to a dispute in relation to which no proceedings have been commenced in the Tribunal. (Added 3 of 2008 s. 36)

s 8A Transfer of proceedings to the Court of First Instance or the District Court

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) The Tribunal may transfer to the Court of First Instance or the District Court any proceedings instituted before the Tribunal which are within the jurisdiction of the Court of First Instance or the District Court, but which-

(a) are not within the jurisdiction of the Tribunal; or

(b) the Tribunal considers should in the interests of justice be so transferred.

(2) Proceedings may be transferred under subsection (1) at any stage.

(3) Where the Tribunal transfers proceedings under subsection (1) the practice and procedure of the Court of First Instance or, as the case may be, the District Court shall thereafter apply.

(Added 32 of 1985 s. 27. Amended 25 of 1998 s. 2)

s 8B (Repealed 3 of 2008 s. 37)

s 9 Exercise of the Tribunal's jurisdiction

(1) Subject to the provisions of this section, the jurisdiction of the Tribunal shall be exercised by one or more of its members and in respect of any proceedings before a Tribunal consisting of more than one member, it shall be presided over by the senior sitting member, unless the President or failing him, a presiding officer, expressly designates another member to preside at the hearing. (Replaced 102 of 1995 s. 4)

(1A) For the purpose of achieving consistency in the application of the law by the Tribunal, the President shall endeavour, wherever practicable, to exercise the jurisdiction of the Tribunal in any case which, in his opinion, is likely to involve any new or difficult point of law or which, having regard to the nature or amount of the claim or any other factor, is of special importance. (Added 49 of 1982 s. 9)

(2) (Repealed 102 of 1995 s. 4)

(3) (Repealed 49 of 1982 s. 9)

(4) (a) A member may, subject to any directions given by the President under section 10(4), appoint any person who has specialized knowledge or experience of a particular subject to sit and assist him in any proceedings or part of any proceedings before the Tribunal; but the decision of the member shall be the decision of the Tribunal.

(b) Where the Tribunal receives advice from a person appointed under paragraph (a), the Tribunal shall advise the parties of the nature of that advice and allow them the opportunity, before the Tribunal's determination of the proceedings, to comment on that advice. (Replaced 49 of 1982 s. 9)

(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.

(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 Tribunal hearing those proceedings does not include a member qualified in law, (Replaced 80 of 1978 s. 2)

the point of law may be determined by the President or a presiding officer, who may for such purpose take part in such proceedings in such manner as he thinks fit. (Amended 49 of 1982 s. 9)

(7) (Repealed 49 of 1982 s. 9)

(8) It shall be sufficient if any document made or issued by the Tribunal is signed by the presiding member or registrar. (Amended 21 of 1977 s. 4)

(9) (Repealed 49 of 1982 s. 9)

s 10 Practice and procedure of Tribunal

(1) The Tribunal may, so far as it thinks fit, follow the practice and procedure of the Court of First Instance in the exercise of its civil jurisdiction, and for this purpose, has the same jurisdiction, powers and duties of the Court of First Instance in respect of such practice and procedure. (Replaced 3 of 2008 s. 38)

(1A) Without prejudice to the generality of subsection (1), the Tribunal has the same jurisdiction, powers and duties of the Court of First Instance in respect of the punishment of a person guilty of contempt. (Added 3 of 2008 s. 38)

(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;

(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; and (Amended 32 of 2002 s. 40; 16 of 2004 s. 16)

(d) for good cause, enlarge the time, whether or not that time has already expired, fixed by any Ordinance-

(i) for the giving of any notice (and whether or not the notice relates to any proceedings); (Replaced 32 of 2002 s. 40)

(ii) for the taking of any step in any proceedings; (Amended 32 of 2002 s. 40)

(iii) for the filing or lodging of any document in any proceedings. (Added 30 of 1983 s. 3. Amended 32 of 2002 s. 40; 16 of 2004 s. 16)

(e) (Repealed 16 of 2004 s. 16)

(3) The Chief Justice after consultation with the President may make rules prescribing- (Amended 49 of 1982 s. 10)

(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;

(ba) the practice and procedure to be followed for dealing with any action or proceedings transferred from the Court of First Instance or the District Court; (Added 3 of 2008 s. 38)

(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;

(d) the evidence which may be required or admitted in any proceedings before the Tribunal; (Added 80 of 1978 s. 3)

(e) the award, taxation and recovery of costs; and (Added 49 of 1982 s. 10)

(f) provisions generally for the better operation of this Ordinance. (Added 49 of 1982 s. 10)

(4) The President may-

(a) determine any form of document to be made or issued by the Tribunal;

(b) determine any matter of procedure and practice in so far as no provision therefor is made under this Ordinance; and

(c) give directions as to the distribution and disposal of the business of the Tribunal. (Replaced 49 of 1982 s. 10)

(5) (a) The proceedings of the Tribunal shall be conducted with as much informality as is consistent with attaining justice and, for this purpose, the President may give directions as to the manner and form in which proceedings shall be conducted.

(b) Directions by the President under paragraph (a) may be given in such manner as he thinks fit and need not be published in the Gazette. (Added 49 of 1982 s. 10)

(6) The Tribunal may admit in evidence any statement, document, information or matter, whether or not it would otherwise be admissible in evidence and attach such weight to it as may be appropriate in the circumstances. (Added 49 of 1982 s. 10)

s 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 (Cap 545).

(2) In any proceedings for determining an application for an order for sale under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap 545), 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.

(Added 30 of 1998 s. 14)

s 11 Decisions of Tribunal final

(1) Subject to and subsection (2) and section 11A, the decision of the Tribunal in determining— (Amended 49 of 1982 s. 11)

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

shall be the final determination thereof.

(2) Subject to section 11AA and the provisions of any Ordinance relating to appeals from the Tribunal, any party to proceedings before the Tribunal may appeal to the Court of Appeal against a judgment, order or decision of the Tribunal on the ground that such judgment, order or decision is erroneous in point of law. (Amended 3 of 2008 s. 39)

(3) Subject to subsection (4), any appeal under subsection (2) shall be brought in such manner and shall be subject to such conditions as are prescribed by the Rules of the High Court (Cap 4 sub. leg. A) (Amended 25 of 1998 s. 2)

(4) The time within which a notice of appeal must be served shall be calculated from the date on which leave to appeal is granted under section 11AA. (Amended 3 of 2008 s. 39)

(Amended 80 of 1978 s. 4; 30 of 1983 s. 4)

s 11AA Leave to appeal

(1) Subject to subsection (2), no appeal may be made under section 11(2) unless leave to appeal has been granted by the Tribunal or the Court of Appeal.

(2) Subject to subsection (4), an appeal lies as of right to a presiding officer from a judgment, order or decision of a registrar.

(3) An appeal under subsection (2) is subject to rules made under section 10(3).

(4) Where rules made under section 10(3) provide that an appeal from a specified judgment, order or decision of a registrar lies to the Court of Appeal, the appeal may be made to the Court of Appeal with leave of a registrar or the Court of Appeal.

(5) Leave to appeal may be granted—

- (a) in respect of a particular issue arising out of the judgment, order or decision; and
- (b) subject to such conditions as the Tribunal, the Court of Appeal or the

registrar hearing the application for leave considers necessary in order to secure the just, expeditious and economical disposal of the appeal.

(6) Leave to appeal shall not be granted unless the Tribunal, the Court of Appeal or the registrar hearing the application for leave is satisfied that—

- (a) the appeal has a reasonable prospect of success; or
- (b) there is some other reason in the interests of justice why the appeal should be heard.

(7) This section does not apply in relation to a judgment, order or decision of the Tribunal or a registrar of the Tribunal made before the commencement* of this section.

(8) In this section, “registrar” (司法常務官) includes a deputy registrar or assistant registrar of the Tribunal.

(Added 3 of 2008 s. 40)

Note:

* **Commencement date: 2 April 2009.**

s 11AB Decision on leave to appeal final

No appeal lies from a decision of the Court of Appeal as to whether or not leave to appeal to it should be granted.

(Added 3 of 2008 s. 40)

s 11A Review of decision

(1) The Tribunal may, within 1 month from the date of any decision by it, decide to review that decision and, on such grounds as it may think sufficient, may set aside, reverse, vary or confirm it.

(Replaced 30 of 1983 s. 5)

(2) The Tribunal may act under subsection (1)-

- (a) on the application of any party; or
- (b) on its own motion,

and on notice to all other parties to the proceedings. (Replaced 49 of 1982 s. 12)

(3) If the Tribunal shall have decided, within 1 month from the date of any decision, to exercise its power of review in respect thereof, such power may be exercised at any time thereafter whether within such period of 1 month or otherwise.

(4) The Tribunal may, in any review, hear and receive any evidence it thinks fit for the purpose of determining the issue between the parties. (Added 41 of 1984 s. 2)

(5) The Tribunal shall not exercise its power of review in respect of a decision-

- (a) subject to subsection (6), if the decision has already been the subject of a review or the decision is a decision setting aside, reversing, varying or confirming under this section another decision of the Tribunal; or
- (b) subsequent to the commencement of proceedings by any party with a view to questioning the decision, by way of appeal or otherwise, unless such proceedings have been abandoned. (Added 32 of 2002 s. 40)

(6) Subsection (5)(a) shall not apply in the case of a decision of the Tribunal under the former section 4(7)(a) or 53A(2) of the Landlord and Tenant (Consolidation) Ordinance (Cap 7). (Added 32 of 2002 s. 40. Amended 16 of 2004 s. 16)

(Added 80 of 1978 s. 5)

s 12 Costs

- (1) The costs of and incidental to all proceedings in the Tribunal are in the discretion of the Tribunal, and the Tribunal has full power to determine by whom and to what extent the costs are to be paid.
- (2) Without prejudice to the generality of subsection (1), the Tribunal may make an order awarding costs against a person who is not a party to the relevant proceedings, if the Tribunal is satisfied that it is in the interests of justice to do so.
- (3) In any proceedings before it, the Tribunal may by order disallow, or order the legal representative concerned to meet, the whole or any part of any wasted costs.
- (4) When determining whether or not to make an order under subsection (3), the Tribunal shall, in addition to all other relevant circumstances, take into account the interest that there be fearless advocacy under the adversarial system of justice.
- (5) Where the Tribunal has made an award of costs under subsection (1), (2) or (3), it may order that those costs be taxed in accordance with—

- (a) the First Schedule and the Second Schedule to Order 62 of the Rules of the High Court (Cap 4 sub. leg. A); or

- (b) Schedule 1 and Schedule 2 to Order 62 of the Rules of the District Court (Cap 336 sub. leg. H).

- (6) The Registrar or a Master of the High Court, or the registrar or a deputy registrar or assistant registrar of the Tribunal may tax the costs ordered to be taxed under subsection (5).
- (7) Notwithstanding subsection (1) and section 12C but subject to subsection (5) and any rules made by the Chief Justice under section 10(3), Order 62 of the Rules of the High Court (Cap 4 sub. leg. A) applies, with the necessary modifications, to the award, taxation and recovery of costs in the Tribunal.
- (8) In this section—

“legal representative” (法律代表), in relation to a party to any proceedings, means a counsel or solicitor conducting litigation on behalf of the party;

“Master” (聆案官) has the meaning given to it by sections 37, 37AC, 37A and 37B of the High Court Ordinance (Cap 4);

“wasted costs” (虛耗訟費) means any costs incurred by a party as a result of—

- (a) any improper or unreasonable act or omission; or

- (b) any undue delay or any other misconduct or default,

on the part of any legal representative, whether personally or through an employee or agent of the legal representative.

(Replaced 3 of 2008 s. 41)

s 12A Costs in transferred cases, etc.

- (1) This section applies to an action or proceedings transferred—

- (a) from the Court of First Instance or the District Court to the Tribunal;

or

- (b) from the Tribunal to the Court of First Instance or the District Court.

- (2) The court or the Tribunal that orders the transfer may make an order for costs prior to the transfer and of the transfer.

- (3) The costs of the whole action or proceedings both before and after the transfer are in the discretion of the court or the Tribunal to which the action or proceedings are transferred subject to any order made by the Tribunal or the court which ordered the transfer.

- (4) The court or the Tribunal to which the action or proceedings are transferred may make—

- (a) an order for costs; and

- (b) an order as to the scales on which the costs of the action or proceedings are to be taxed,

as if the action or proceedings were originally commenced in the court or the Tribunal.

- (5) Subject to section 12(6), the costs of the whole action or proceedings are to be taxed in the court or the Tribunal to which the action or proceedings are transferred.

s 12B Interest on claims for debt and damages

(1) In proceedings (whenever instituted) before the Tribunal for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the Tribunal thinks fit or as rules made under section 10(3) may provide, on all or any part of the debt or damages in respect of which—

- (a) judgment is given; or
- (b) payment is made before judgment.

(2) Interest under subsection (1) may be awarded for all or any part of the period between the date when the cause of action arose and—

- (a) in the case of any sum paid before judgment, the date of the payment; and
- (b) in the case of the sum for which judgment is given, the date of the judgment.

(3) Where—

- (a) there are proceedings (whenever instituted) before the Tribunal for the recovery of a debt; and
- (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),

the defendant is liable to pay the plaintiff interest, at such rate as the Tribunal thinks fit or as rules made under section 10(3) may provide, on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.

(4) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.

(5) Interest under this section may be calculated at different rates in respect of different periods.

(6) Subsections (1) and (3) are subject to rules made under section 10(3).

(7) In this section—

“defendant” (被告人) means the person from whom the plaintiff seeks the debt or damages;

“plaintiff” (原告人) means the person seeking the debt or damages.

s 12C Interest on judgments

(1) Subject to any other Ordinance, judgment debts carry simple interest on the aggregate amount of the debts, or on such part of the debts as for the time being remains unsatisfied, from the date of the judgment until satisfaction.

(2) Interest under this section is—

- (a) at such rate as the Tribunal may order; or
- (b) in the absence of such order, at such rate as may be determined from time to time by the Chief Justice by order.

(3) Interest under this section may be calculated at different rates in respect of different periods.

s 13 Compensation, etc. determined by Tribunal payable out of general revenue

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 registrar as remuneration to, or emoluments or expenses of, any person appointed by a member to assist the Tribunal in the hearing of any proceedings before the Tribunal;
(Amended 49 of 1982 s. 14)

(c) (Repealed 49 of 1982 s. 14)

(d) any costs awarded by the Tribunal against the Government in any proceedings before the Tribunal,

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

s 14 Saving in respect of other Ordinance

(1) In exercising its jurisdiction under this Ordinance, 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.
(Amended 49 of 1982 s. 15)

(2) (Repealed 49 of 1982 s. 15)

s 15 Chief Executive's power to amend Schedule

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

The Chief Executive may, by order published in the Gazette, amend the Schedule.

(Amended 25 of 1998 s. 2)

SCHEDULE

[sections 8 & 15]

ORDINANCES UNDER WHICH MATTERS MAY BE SUBMITTED TO THE TRIBUNAL FOR DETERMINATION

Chapter Short title

7. Landlord and Tenant (Consolidation) Ordinance. (Added 49 of 1982 s. 16)

116. Rating Ordinance.

124. Lands Resumption Ordinance. (Amended 29 of 1998 s. 8)

127. Foreshore and Sea-bed (Reclamations) Ordinance. (Replaced 63 of 1985 s. 21)

130. Land Acquisition (Possessory Title) Ordinance. (Added 41 of 1983 s. 14)

208. Country Parks Ordinance. (Added 41 of 1984 s. 3)

276. Mass Transit Railway (Land Resumption and Related Provisions) Ordinance. (Added 80 of 1978 s. 6)

283. Housing Ordinance. (Added L.N. 18 of 1993)

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

311. Air Pollution Control Ordinance. (Added 23 of 1987 s. 19)

337. Demolished Buildings (Re-development of Sites) Ordinance.

344. Building Management Ordinance. (Added 27 of 1993 s. 44)

357. Electricity Networks (Statutory Easements) Ordinance. (Added 27 of 1993 s. 44)

358. Water Pollution Control Ordinance. (Added 42 of 1985 s. 6)

370. Roads (Works, Use and Compensation) Ordinance. (Added 49 of 1982 s. 16)

- 438. Sewage Tunnels (Statutory Easements) Ordinance. (Added 74 of 1993 s. 15)
- 446. Land Drainage Ordinance. (Added 20 of 1994 s. 50)
- 488. Block Crown Lease (Cheung Chau) Ordinance. (Added 97 of 1995 s. 11)
- 515. Government Rent (Assessment and Collection) Ordinance. (Added 53 of 1997 s. 48)
- 519. Railways Ordinance. (Added 59 of 1997 s. 46)
- 545. Land (Compulsory Sale for Redevelopment) Ordinance. (Added 30 of 1998 s. 15)
- 577. Tung Chung Cable Car Ordinance. (Added 20 of 2003 s. 39)