

《土地審裁處條例》
(第 17 章)
Lands Tribunal Ordinance
(Cap. 17)

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經核證文本
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(《法例發布條例》(第 614 章) 第 5 條)
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尚未實施的條文 / 修訂 ——

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制定史

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《土地審裁處條例》

(第 17 章)

目錄

Lands Tribunal Ordinance

(Cap. 17)

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本條例旨在設立土地審裁處，並就相關事宜訂定條文。

[1974 年 12 月 1 日] 1974 年第 246 號法律公告

(格式變更——2018 年第 5 號編輯修訂紀錄)

1. 簡稱

本條例可引稱為《土地審裁處條例》。

2. 釋義

在本條例中，除文意另有所指外——

司法常務官 (registrar) 指區域法院的司法常務官；(由 1977 年第 21 號第 2 條增補。由 1982 年第 49 號第 2 條修訂；由 1998 年第 25 號第 2 條修訂；由 2000 年第 28 號第 47 條修訂)

具有法律專業資格 (qualified in law) 指具有可根據《區域法院條例》(第 336 章) 第 5 條獲委任為區域法院法官的資格；(由 1998 年第 25 號第 2 條修訂)

法官 (presiding officer) 指土地審裁處的法官；(由 1991 年第 5 號第 2 條代替)

庭長 (President) 指根據第 4 條委任的土地審裁處庭長；(由 1998 年第 25 號第 2 條修訂)

審裁處 (Tribunal) 指根據第 3 條設立的土地審裁處；(編輯修訂——2018 年第 5 號編輯修訂紀錄)

暫委成員 (temporary member) 指根據第 6A 條委任的暫委成員。(由 1999 年第 21 號第 4 條增補。編輯修訂——2018 年第 5 號編輯修訂紀錄)

(編輯修訂——2018 年第 5 號編輯修訂紀錄)

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

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

(Format changes—E.R. 5 of 2018)

1. Short title

This Ordinance may be cited as the Lands Tribunal Ordinance.

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.

3. 土地審裁處的設立

現設立一個名為土地審裁處的審裁處，該審裁處是一所紀錄法庭。

(由 1982 年第 49 號第 3 條修訂)

4. 審裁處的組成

- (1) 審裁處由以下的成員組成——
 - (a) 一名庭長，他須由其中一名高等法院法官出任，並須由行政長官委任；
 - (b) 第 (2) 款提述的各法官；
 - (c) 行政長官委任的其他成員，而該等成員是有資格根據第 (3) 或 (4) 款獲委任的；及
 - (d) 暫委成員。
- (2) 各區域法院法官及區域法院暫委法官，均憑藉其所任職位出任法官。
- (3) 任何人如符合以下條件，即有資格根據第 (1)(c) 款獲委任為審裁處成員——
 - (a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及
 - (b) 自具有上述資格後，該人已在一不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是——
 - (i) 在任何上述法院執業為大律師、律師或訟辯人；
 - (ii) 按照《區域法院條例》(第 336 章) 第 14 條委任的司法常務官、區域法院副司法常務官或區域法院助理司法常務官；
 - (iii) 按照《裁判官條例》(第 227 章) 第 5 條委任的常任裁判官；

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)

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

- (iv) 按照《死因裁判官條例》(第 504 章)第 3 條委任的死因裁判官；
 - (v) 按照《小額錢債審裁處條例》(第 338 章)第 4 條委任的審裁官；
 - (vi) 按照《勞資審裁處條例》(第 25 章)第 4 條委任的審裁官；
 - (vii) 《律政人員條例》(第 87 章)第 2 條所界定的律政人員；
 - (viii) 按照《法律援助條例》(第 91 章)第 3 條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；
 - (ix) 按照《破產條例》(第 6 章)第 75 條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或
 - (x) 按照《知識產權署署長(設立)條例》(第 412 章)第 3 條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、助理首席律師、高級律師或律師。(由 2012 年第 26 號第 36 條修訂)
- (4) 儘管有第 (3) 款的規定，任何人如為根據《香港測量師學會條例》(第 1148 章)成立為法團的香港測量師學會的產業測量組的學會正式會員，或具有同等專業資格，並在從事土地估價方面具備最少 5 年經驗，亦有資格根據第 (1)(c) 款獲委任為審裁處成員。
- (5) 為計算第 (3)(b) 款提述的 5 年期間——
- (a) 在該款任何節範圍以內各段不足 5 年的期間可合併計算；
 - (b) 儘管《註冊總署署長(人事編制)條例》(第 100 章)已被廢除，擔任該已被廢除條例附表 1 第 I 部所指明的職位的期間仍可計算在內。
- (由 2005 年第 10 號第 138 條代替)

- 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, Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412). (Amended 26 of 2012 s. 36)

5. 代理庭長的委任

- (1) 如庭長暫時不能行使其作為審裁處庭長的職能，終審法院首席法官可委任審裁處任何法官以代理庭長身分行事，任期按終審法院首席法官所指明者而定。
 - (2) 根據第 (1) 款獲委任以代理庭長身分行事的審裁處法官，在任期內可行使庭長的任何權力並執行庭長的任何職責。
- (由 1982 年第 49 號第 5 條修訂；由 1998 年第 25 號第 2 條修訂)

6. 署理庭長的委任

- (1) 如庭長因患病、不在香港或任何其他因由而不能行使其作為審裁處庭長的職能，終審法院首席法官可委任任

- (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)

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)

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

何法官以審裁處庭長身分行事，任期按終審法院首席法官所指明者而定。(由 1982 年第 49 號第 6 條修訂；由 1998 年第 25 號第 2 條修訂)

- (2) (由 1982 年第 49 號第 6 條廢除)

6A. 暫委成員的委任及權力

- (1) 終審法院首席法官可委任任何根據第 4(3) 或 (4) 條有資格根據第 4(1)(c) 條獲委任為審裁處成員的人為審裁處暫委成員，任期及委任條款按終審法院首席法官認為合適者而定。(由 2005 年第 10 號第 139 條代替)
- (2) 在有關的委任條款的規限下，暫委成員在其任期內須行使審裁處所具有的一切司法管轄權及權力，並須行使成員的一切權力和執行成員的一切職責。(由 2014 年第 18 號第 44 條修訂)
- (3) 終審法院首席法官可隨時終止任何按照本條作出的委任。
- (4) 如在任何暫委成員席前進行的法律程序的聆訊被押後，或上述聆訊的判決經予保留，或任何決定須予覆核，而在該聆訊恢復前或上述判決宣告前或上述覆核已獲處理前，該暫委成員的委任已屆滿或已被終止，則該暫委成員仍具有權力恢復聆訊該法律程序並就其作出裁定，或將他所保留的判決作為審裁處的判決而宣告，或覆核他所作出的決定。
- (5) 就第 (4) 款而言，暫委成員在恢復進行的聆訊中宣告判決的權力，包括判給訟費以及就判給訟費而作出附帶或相應命令的權力。

(由 1999 年第 21 號第 6 條增補)

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)

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 exercise all the powers and perform all the duties of a member. (Amended 18 of 2014 s. 44)
- (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)

7. (由 1982 年第 49 號第 7 條廢除)

7A. 審裁處人員

- (1) 審裁處須獲派駐一名司法常務官，以及行政長官認為所需數目的副司法常務官、助理司法常務官、執達主任、書記、傳譯人員及其他人員。
- (2) 除本條例或任何其他成文法則所授予或施加，或根據本條例或任何其他成文法則而授予或施加的權力及職責外，派駐審裁處的司法常務官、任何副司法常務官、助理司法常務官、執達主任、書記、傳譯人員及其他人員，可同樣行使並執行派駐高等法院的司法常務官、副司法常務官、助理司法常務官、執達主任、書記、傳譯人員或其他人員所各別行使的權力或執行的職責，但以該等權力或職責適用於審裁處事務者為限。
- (3) 本條例或任何其他成文法則規定或授權，或根據本條例或任何其他成文法則規定或授權司法常務官作出的作為，可由審裁處的副司法常務官或助理司法常務官作出；而審裁處的任何法律程序，即使已指派某名執達主任親身執行，仍可由審裁處的其他執達主任執行。

(由 1977 年第 21 號第 3 條增補。由 1998 年第 25 號第 2 條修訂；由 2000 年第 28 號第 47 條修訂)

7B. 司法常務官所受的保障

- (1) 任何人不得因以下事項而針對司法常務官提出訴訟——
(由 2000 年第 28 號第 47 條修訂)
 - (a) 任何執達主任在並無司法常務官的指示下作出或不作出的任何作為；或

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

7A. Officers of the Tribunal

- (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, in so far 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. *(Amended E.R. 5 of 2018)*
- (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)

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—

- (b) 在下列情況下就執行或不執行法律程序文件而向任何執達主任作出的任何指示——
- (i) 該等指示是按照審裁處根據第 7C 條所作出的命令而作出的；並且
 - (ii) 司法常務官並無故意就任何具關鍵性的事實作出失實陳述或加以隱瞞。

(2) 在本條及第 7C 條中——

司法常務官 (registrar) 包括副司法常務官及助理司法常務官。

(由 1977 年第 21 號第 3 條增補。由 2000 年第 28 號第 47 條修訂)

7C. 司法常務官可申請作出命令

司法常務官在有疑問或有困難時，可循簡易程序向審裁處申請作出命令，給予執達主任指示及指引，而審裁處則可就有關事宜作出看來公正合理的命令。

(由 1977 年第 21 號第 3 條增補。由 2000 年第 28 號第 47 條修訂)

8. 審裁處的司法管轄權

- (1) 審裁處具有司法管轄權，可就根據附表內指明的任何條例而呈交審裁處的任何申索，釐定政府所須支付的補償額 (如有的話)。
- (2) 如屬以下情況，審裁處具有司法管轄權，可就根據附表內指明的條例以外的任何條例而呈交審裁處的任何申索，釐定政府所須支付的補償額 (如有的話)——
 - (a) 有關申索是政府或有人代表政府就以下事項採取行動而引致的——
 - (i) 土地或任何土地權益的強制性徵用；
 - (ii) 附屬於土地的任何權利的終絕或更改；
 - (iii) 任何土地的地役權或其上或其下的地役權的設立；或

- (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)

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)

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;

- (iv) 對影響任何土地或任何土地的權益的業務予以批准；及
- (b) 有關申索是在政府及申索人雙方達成協議或有人代表政府及申索人雙方達成協議的情況下，呈交審裁處裁定者。
- (3) 即使任何該等條例有就任何該等申索的裁定訂立其他條文，第 (2) 款仍適用。
- (4) 審裁處具有司法管轄權，可就根據附表內指明的任何條例而呈交審裁處裁定的上訴作出裁定。
- (5) 審裁處具有根據任何條例 (包括附表內指明的任何條例) 而歸於審裁處的其他司法管轄權。(由 1993 年第 27 號第 43 條修訂)
- (6) 審裁處具有司法管轄權，可根據《業主與租客 (綜合) 條例》(第 7 章) 或在其他情況下，作出收回任何處所的管有的命令或強迫租客離開該處所的命令。(由 2008 年第 3 號第 36 條代替)
- (7) (由 2008 年第 3 號第 36 條廢除)
- (8) 對任何收回管有或強迫離開的申請，不論該申請是否根據《業主與租客 (綜合) 條例》(第 7 章) 而提出，及對根據該條例第 IV 部而提出的新租賃申請，審裁處不論是否批准該等申請，均具有司法管轄權，可作出以下一項或多於一項命令——(由 2008 年第 3 號第 36 條修訂)
- (a) 繳付租金及中間收益 (包括租金及中間收益的中期付款) 的命令；
- (b) 繳付根據租賃或分租租賃到期應繳的任何其他款項的命令；
- (c) 處置租客或分租租客遺留在有關處所的任何財物的命令；及
- (d) 就違反租賃或分租租賃的條件繳付損害賠償的命令。(由 1983 年第 30 號第 2 條增補。由 2002 年第 32 號第 40 條修訂；由 2008 年第 3 號第 36 條修訂)

- (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 ejection, 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*)

- (8A) 審裁處具有司法管轄權，可就根據《小額錢債審裁處條例》(第 338 章) 第 7 或 10 條而移交審裁處的任何申索、反申索或債務抵銷兼反申索，作出裁定。(由 1999 年第 28 號第 18 條增補)
- (9) 在行使其司法管轄權時，審裁處在授予衡平法或普通法的補救及濟助方面所具有的司法管轄權，與原訟法庭所具有者相同。(由 1983 年第 30 號第 2 條增補。由 1993 年第 27 號第 43 條修訂；由 1998 年第 25 號第 2 條修訂)
- (10) 第 (6) 及 (8) 款就《業主與租客(綜合)條例》(第 7 章) 第 IV 或 V 部所適用的租賃而賦予的司法管轄權，須受《2004 年業主與租客(綜合)(修訂)條例》(2004 年第 16 號) 對該兩部的若干條文作出的廢除所規限。(由 2004 年第 16 號第 16 條增補。由 2008 年第 3 號第 36 條修訂)
- (11) (由 2008 年第 3 號第 36 條廢除)
- (12) 除在任何其他條例所規定的情況外，凡沒有法律程序就某項爭議而在審裁處展開，審裁處並不具有就該項爭議的訟費及附帶訟費作出命令的司法管轄權。(由 2008 年第 3 號第 36 條增補)

- (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)

8A. 將法律程序移交原訟法庭或區域法院

- (1) 在審裁處席前提起的任何法律程序，如屬原訟法庭或區域法院的司法管轄權範圍內而又有以下情況，審裁處可將其移交原訟法庭或區域法院——
 - (a) 該法律程序非屬審裁處的司法管轄權範圍內；或
 - (b) 審裁處認為為公正起見，應將其移交原訟法庭或區域法院。
- (2) 法律程序可在任何階段根據第 (1) 款移交。
- (3) 凡審裁處根據第 (1) 款將法律程序移交，原訟法庭或區域法院（視屬何情況而定）的常規及程序即於移交後適用。
(由 1985 年第 32 號第 27 條增補。由 1998 年第 25 號第 2 條修訂)

8B. (由 2008 年第 3 號第 37 條廢除)

9. 審裁處司法管轄權的行使

- (1) 除本條條文另有規定外，審裁處的司法管轄權須由一名或多於一名審裁處成員行使，而就在多於一名成員組成的審裁處席前進行的法律程序而言，審裁處須由出席的成員中資歷較高的成員主持聆訊，但如庭長或（在庭長沒有出席的情況下）法官明確指定另一名成員主持聆訊，則屬例外。（由 1995 年第 102 號第 4 條代替。由 1998 年第 25 號第 2 條修訂）
- (1A) 為使審裁處在法律施行方面前後一致，如庭長認為任何案件相當可能會涉及任何嶄新或困難的法律論點，或在顧及申索的性質或款額或任何其他因素後是具有特別重要性的，庭長須在切實可行範圍內，盡力就該案件行使

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

- (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)

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

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

審裁處的司法管轄權。(由 1982 年第 49 號第 9 條增補。由 1998 年第 25 號第 2 條修訂)

- (2) (由 1995 年第 102 號第 4 條廢除)
- (3) (由 1982 年第 49 號第 9 條廢除)
- (4) (a) 在符合庭長根據第 10(4) 條作出的指示下，任何成員可委任對某一科目有專門知識或經驗的人，出席在審裁處席前進行的法律程序或部分法律程序，並在該等程序中向該名成員提供協助；但該成員的決定即為審裁處的決定。(由 1998 年第 25 號第 2 條修訂)
- (b) 審裁處凡接獲根據 (a) 段獲委任的人的意見，須將該項意見的性質告知法律程序的各方，並須在審裁處就有關法律程序作出裁定前，容許法律程序的各方有機會評論該項意見。(由 1982 年第 49 號第 9 條代替)
- (5) 除第 (6) 款另有規定外，行使審裁處司法管轄權的成員之間意見有分歧時，須以過半數票取決；如票數均等，則主持聆訊的成員有權投第二票或決定票。
- (6) 如在審裁處席前進行任何法律程序時——
 - (a) 有法律論點出現，而該等法律程序的任何一方對其有所爭議；及
 - (b) 聆訊該等法律程序的審裁處成員並不包括任何具有法律專業資格的成員，(由 1978 年第 80 號第 2 條代替)

該法律論點可由庭長或任何法官裁定，而庭長或該名法官可為此目的而以其認為合適的方式參與該等法律程序。(由 1982 年第 49 號第 9 條修訂；由 1998 年第 25 號第 2 條修訂)
- (7) (由 1982 年第 49 號第 9 條廢除)
- (8) 審裁處所擬備或發出的文件，如由主持聆訊的成員或司法常務官簽署，即已足夠。(由 1977 年第 21 號第 4 條修訂；由 2000 年第 28 號第 47 條修訂)

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)

(9) (由 1982 年第 49 號第 9 條廢除)

10. 審裁處的常規及程序

- (1) 審裁處可在它認為合適的範圍內，沿用原訟法庭在行使其民事司法管轄權時所採用的常規及程序，而為此目的，審裁處就該等常規及程序，具有與原訟法庭相同的司法管轄權、權力及責任。(由 2008 年第 3 號第 38 條代替)
- (1A) 在不損害第 (1) 款的一般性的原則下，審裁處在對犯藐視罪者施加處罰方面，具有與原訟法庭相同的司法管轄權、權力及責任。(由 2008 年第 3 號第 38 條增補)
- (2) 在以不損害根據第 (1) 款歸於審裁處的權力的概括性為原則下，審裁處可——
 - (a) 應在其席前進行的法律程序的任何一方的申請或主動下令法律程序的任何一方向審裁處披露以下文件的存在，即該一方有能力交出而審裁處又認為對其正在聆訊的事宜的裁定具關鍵性或可能具關鍵性的文件的存在；
 - (b) 下令在其席前進行的法律程序的任何一方——
 - (i) 向審裁處交出審裁處所要求而該一方又有能力交出的文件；及
 - (ii) 給予該等法律程序的任何其他各方機會查閱該等文件或其副本，並複製該等文件或其副本的副本；
 - (c) 聯同在其席前進行的法律程序的各方及任何一方的專家證人，進入並視察與在其席前進行的法律程序有關的土地、處所或地方，或進入並視察與該等土地、處所或地方相連或毗鄰的土地、處所或地方；

- (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)

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;

- 及 (由 2002 年第 32 號第 40 條修訂；由 2004 年第 16 號第 16 條修訂)
- (d) 基於好的因由而將任何條例就以下事項所定的期限延長，不論該期限是否已經屆滿——
- (i) 任何通知的發出 (不論該通知是否與任何法律程序有關)；(由 2002 年第 32 號第 40 條代替)
 - (ii) 在任何法律程序中採取任何步驟；(由 2002 年第 32 號第 40 條修訂)
 - (iii) 在任何法律程序中提交或遞交任何文件。(由 1983 年第 30 號第 3 條增補。由 2002 年第 32 號第 40 條修訂；由 2004 年第 16 號第 16 條修訂)
- (e) (由 2004 年第 16 號第 16 條廢除)
- (3) 終審法院首席法官在諮詢庭長後，可訂立規則，就以下事項訂明條文——(由 1982 年第 49 號第 10 條修訂；由 1998 年第 25 號第 2 條修訂)
- (a) 任何一方或擬成為一方的人為在審裁處席前進行的任何法律程序而擬備或發出的文件的格式；
 - (b) 就在審裁處席前進行的任何法律程序而須繳付的費用；
 - (ba) 處理自原訟法庭或區域法院移交的任何訴訟或法律程序所採用的常規及程序；(由 2008 年第 3 號第 38 條增補)
 - (c) 在本條例並無訂定有關條文的情況下，在審裁處席前進行的任何法律程序中或在就審裁處的決定而提出的任何上訴中所採用的常規及程序；
 - (d) 在審裁處席前進行的任何法律程序所需或可予接納的證據；(由 1978 年第 80 號第 3 條增補)
 - (e) 訟費的判給、評定及追討；及 (由 1982 年第 49 號第 10 號增補)

- (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

- (f) 概括而言，令本條例的施行更為有效的條文。(由 1982 年第 49 號第 10 條增補)
- (4) 庭長可——(由 1998 年第 25 號第 2 條修訂)
- (a) 決定審裁處所擬備或發出的文件的格式；
- (b) 在本條例並無訂定有關條文的情況下，決定任何關於程序及常規的事宜；及
- (c) 就審裁處事務的分配及處理作出指示。(由 1982 年第 49 號第 10 條代替)
- (5) (a) 審裁處的法律程序須在符合秉行公正的原則下，盡量不拘形式進行，而為此目的，庭長可就法律程序的進行方式及形式作出指示。
- (b) 庭長根據 (a) 段作出的指示，可以庭長認為合適的方式作出而無須在憲報公布。(由 1982 年第 49 號第 10 條增補。由 1998 年第 25 號第 2 條修訂)
- (6) 審裁處可接納任何陳述、文件、資料或事宜為證據，不論該等陳述、文件、資料或事宜在其他情況下會否被接納為證據，並可按情況而權衡其作為證據的分量。(由 1982 年第 49 號第 10 條增補)

10AA. 訴訟人儲存金規則

- (1) 終審法院首席法官在諮詢庭長後，可訂立規則規管以下

- 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*)

10AA. Suitors' Funds Rules

- (1) The Chief Justice may, after consulting the President, make

事項 ——

- (a) 訴訟人的款項、證券及動產在審裁處的存放、繳存、支出、交付、轉撥、轉入及轉出；
 - (b) 上述存放、繳存、支出、交付、轉撥、轉入或轉出的證據，以及將存於審裁處的款項、證券及動產作投資或作其他方式處理；
 - (c) 審裁處命令的執行；及
 - (d) 司法常務官就該等款項、證券及動產而具有的權力及職責。
- (2) 在不局限第 (1) 款的原則下，根據該款訂立的規則可就以下事宜作出規定 ——
- (a) 規管存放於審裁處的款項的存入及提取，以及存放的款項的利息的支付或記入貸方事宜；
 - (b) 決定存款額須最少達到甚麼數額，才須將利息記入存放的款項所屬帳戶的貸方；
 - (c) 決定存放的款項何時開始和停止孳生利息，以及利息的計算方法；
 - (d) 決定存放的款項在何種情況下開始和停止孳生利息，以及利息的計算方法；
 - (e) 決定在何種情況下，存放的款項的利息及存於司法常務官名下的證券的派息，須作為存放的款項；及
 - (f) 處置存於審裁處的無人申索的款項。
- (3) 在本條中 ——

證券 (securities) 包括股份。

(由 2014 年第 20 號第 24 條增補)

rules for regulating the following matters—

- (a) the deposit, payment, delivery, and transfer in, into, and out of the Tribunal of money, securities and movable property of suitors;
 - (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money, securities and movable property in the Tribunal;
 - (c) the execution of the orders of the Tribunal; and
 - (d) the powers and duties of the registrar with reference to such money, securities and movable property.
- (2) Without limiting subsection (1), rules made under that subsection may provide for—
- (a) regulating the placing on and withdrawal from deposit of money in the Tribunal, and the payment or crediting of interest on money placed on deposit;
 - (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
 - (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
 - (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
 - (e) determining the cases in which interest on money placed on deposit is, and the dividends on any securities standing in the name of the registrar are, to be placed on deposit; and
 - (f) disposing of money remaining unclaimed in the Tribunal.

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》（第 545 章）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》（第 545 章）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。

(由 1998 年第 30 號第 14 條增補)

11. 審裁處的決定是最終決定

- (1) 除第 (2) 款及第 11A 條另有規定外，審裁處就以下事項作出的決定，即為該等事項的最終裁定 —— (由 1982 年第 49 號第 11 條修訂)
 - (a) 釐定政府在根據第 8(1) 或 (2) 條呈交審裁處的任何申索中所須支付的補償額；或

- (3) In this section—
securities (證券) includes shares.

(Added 20 of 2014 s. 24)

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)

11. Decisions of Tribunal final

- (1) Subject to 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) 裁定根據第 8(4) 條向審裁處呈交的任何上訴。
- (2) 除第 11AA 條及任何條例中關於就審裁處的決定而提出上訴的條文另有規定外，在審裁處席前進行的法律程序的任何一方，均可以審裁處的判決、命令或決定在法律論點上有錯誤為理由，而針對該項判決、命令或決定向上訴法庭提出上訴。*(由 1998 年第 25 號第 2 條修訂；由 2008 年第 3 號第 39 條修訂)*
- (3) 除第 (4) 款另有規定外，根據第 (2) 款提出的上訴須以《高等法院規則》(第 4 章，附屬法例 A) 所訂明的方式提出，並須受該規則所訂明的條件規限。*(由 1998 年第 25 號第 2 條修訂)*
- (4) 送達上訴通知書的期限，由根據第 11AA 條批予上訴許可的日期起計算。*(由 2008 年第 3 號第 39 條修訂)*
(由 1978 年第 80 號第 4 條修訂；由 1983 年第 30 號第 4 條修訂)

11AA. 上訴許可

- (1) 除第 (2) 款另有規定外，除非審裁處或上訴法庭已批予上訴許可，否則任何人不得根據第 11(2) 條提出上訴。
- (2) 在符合第 (4) 款的規定下，針對司法常務官的判決、命令或決定而向法官提出上訴，屬當然權利。
- (3) 第 (2) 款所指的上訴，受根據第 10(3) 條訂立的規則所規限。
- (4) 凡根據第 10(3) 條訂立的規則規定可針對司法常務官作出的指明判決、命令或決定向上訴法庭提出上訴，則在獲得司法常務官或上訴法庭的許可下，該上訴可向上訴法庭提出。
- (5) 上訴許可——
- (a) 可就在有關判決、命令或決定中出現的某特定爭論點而批予；及

- (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)

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—

- (b) 的批予，可受聆訊該許可申請的審裁處、上訴法庭或司法常務官認為為使上訴得到公正、迅速及合乎經濟原則的處置而需要的條件所規限。
- (6) 除非聆訊有關許可申請的審裁處、上訴法庭或司法常務官信納——
- (a) 有關上訴有合理機會得直；或
- (b) 有其他有利於秉行公正的理由，因而該上訴應進行聆訊，
- 否則不得批予上訴許可。
- (7) 本條並不就在本條生效 * 之前作出的審裁處或審裁處司法常務官的判決、命令或決定而適用。
- (8) 在本條中，**司法常務官** (registrar) 包括審裁處副司法常務官或助理司法常務官。

(由 2008 年第 3 號第 40 條增補)

編輯附註：

* 生效日期：2009 年 4 月 2 日。

11AB. 就上訴許可所作的決定為最終的決定

就上訴法庭對應否批予向它提出上訴的上訴許可的決定，任何人不得提出上訴。

(由 2008 年第 3 號第 40 條增補)

11A. 決定的覆核

- (1) 審裁處可在其作出任何決定的日期起計 1 個月內，決定覆核該項決定，並可按其認為足夠的理由，將該項決定

- (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)

Editorial Note:

* Commencement date: 2 April 2009.

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)

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

- 作廢，或推翻、更改或維持該項決定。(由 1983 年第 30 號第 5 條代替)
- (2) 審裁處可——
- (a) 應法律程序的任何一方的申請；或
- (b) 主動，
- 根據第 (1) 款行事，但須先向法律程序的所有其他各方發出通知。(由 1982 年第 49 號第 12 條代替)
- (3) 審裁處如在作出任何決定的日期起計 1 個月內，決定行使覆核該項決定的權力，則可在其後的任何時間，不論是否在該 1 個月期限之內，行使該項權力。
- (4) 在任何覆核中，為裁定各方之間的爭論點，審裁處可聆聽並收取任何其認為合適的證據。(由 1984 年第 41 號第 2 條增補)
- (5) 凡——
- (a) (除第 (6) 款另有規定外) 某項決定是另一宗覆核的標的，或該項決定是根據本條將審裁處另一項決定作廢或推翻或是根據本條更改或確認審裁處另一項決定的，審裁處不得就該項決定行使其覆核決定的權力；或
- (b) 任何一方已藉上訴或其他方式展開法律程序以質疑某項決定，則除非該等法律程序已遭放棄，否則審裁處不得就該項決定行使其覆核決定的權力。(由 2002 年第 32 號第 40 條增補)
- (6) 第 (5)(a) 款不適用於審裁處根據《業主與租客 (綜合) 條例》(第 7 章) 先前的第 4(7)(a) 或 53A(2) 條作出的決定。(由 2002 年第 32 號第 40 條增補。由 2004 年第 16 號第 16 條修訂)
- (由 1978 年第 80 號第 5 條增補)

12. 訟費

- 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)

12. Costs

- (1) 在審裁處進行的所有法律程序的訟費及附帶訟費均由審裁處酌情決定，審裁處並有一切權力決定誰人須支付該等訟費以及須支付的範圍。
- (2) 在不損害第 (1) 款的一般性的原則下，如審裁處信納作出命令，判並非有關法律程序一方的人支付訟費屬秉行公正，則審裁處可如此作出命令。
- (3) 在審裁處席前進行的任何法律程序中，審裁處可藉命令否決任何虛耗訟費的全部或部分，或命令有關的法律代表支付任何虛耗訟費的全部或部分。
- (4) 在決定是否根據第 (3) 款作出命令時，審裁處除須考慮所有其他有關情況外，亦須考慮在辯論式訴訟的司法制度下進行無顧忌訟辯的利益。
- (5) 凡審裁處根據第 (1)、(2) 或 (3) 款就訟費作出裁斷，審裁處可命令該等訟費按照下述規則評定——
 - (a) 《高等法院規則》(第 4 章，附屬法例 A) 第 62 號命令附表 1 及附表 2；或
 - (b) 《區域法院規則》(第 336 章，附屬法例 H) 第 62 號命令附表 1 及附表 2。
- (6) 高等法院的司法常務官或聆案官、或審裁處的司法常務官或副司法常務官或助理司法常務官可評定根據第 (5) 款被命令須予評定的訟費。
- (7) 儘管有第 (1) 款及第 12C 條的規定，《高等法院規則》(第 4 章，附屬法例 A) 第 62 號命令在作出必要的變通後，適用於審裁處的訟費的判給、評定及追討；但如第 (5) 款及終審法院首席法官根據第 10(3) 條訂立的規則另有規定，則屬例外。
- (8) 在本條中——

法律代表 (legal representative) 就任何法律程序的一方而言，指代表該方進行訴訟的大律師或律師；

聆案官 (Master) 具有《高等法院條例》(第 4 章) 第 37、37AC、37A 及 37B 條給予該詞的涵義；

- (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.

虛耗訟費 (wasted costs) 指法律程序的一方因任何法律代表個人作出或透過其僱員或代理人作出的下述行為而招致的任何訟費——

- (a) 任何不恰當或不合理的作為或不作為；或
- (b) 任何不當的延誤或任何其他不當行為或過失。

(由 2008 年第 3 號第 41 條代替)

12A. 移交的案件等的訟費

- (1) 本條適用於——
 - (a) 自原訟法庭或區域法院移交審裁處的訴訟或法律程序；或
 - (b) 自審裁處移交原訟法庭或區域法院的訴訟或法律程序。
- (2) 作出移交命令的法庭、法院或審裁處可就移交前的訟費及移交的訟費作出命令。
- (3) 除作出移交命令的審裁處、法庭或法院所作出的命令另有規定外，整項訴訟或法律程序在移交前及移交後的訟費，均由接收被移交的該訴訟或該等法律程序的法庭、法院或審裁處酌情決定。
- (4) 接收被移交的訴訟或法律程序的法庭、法院或審裁處可——
 - (a) 就訟費作出命令；及

(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)

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) 就評定該訴訟或該等法律程序的訟費時採用的收費表，作出命令，
- 猶如該訴訟或該等法律程序原先是在該法庭、法院或審裁處展開一樣。
- (5) 除第 12(6) 條另有規定外，整項訴訟或法律程序的訟費，須在接收被移交的該訴訟或該等法律程序的法庭、法院或審裁處評定。

(由 2008 年第 3 號第 42 條增補)

12B. 債項及損害賠償申索的利息

- (1) 在審裁處席前進行的追討債項或損害賠償的法律程序(不論在何時提起)中，在判令獲得的任何款項中，可加入按審裁處認為合適或根據第 10(3) 條訂立的規則訂定的利率計算的單利，該筆單利須就——
- (a) 判令獲得的全部或部分債項或損害賠償計算；或
- (b) 在判決作出前已繳付的全部或部分債項或損害賠償計算。
- (2) 第 (1) 款所指的利息，可就自訴訟因由產生的日期與以下日期之間的全部或部分期間判給——
- (a) (就任何在判決作出前已繳付的款項而言) 繳付該筆款項的日期；及
- (b) (就判令獲得的款項而言) 判決的日期。
- (3) 凡——
- (a) 有追討債項的法律程序(不論在何時提起)在審裁處席前進行；及
- (b) 被告人向原告人償付全部債項(並非依據在有關法律程序中作出的判決而償付者)，

被告人有法律責任就全部或部分債項，向原告人繳付按審裁處認為合適或根據第 10(3) 條訂立的規則訂定的利率

- (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.

(Added 3 of 2008 s. 42)

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

計算的利息，該等利息須就自訴訟因由產生的日期與債項償付的日期之間的全部或部分期間繳付。

- (4) 如一筆債項的利息已在某段期間孳生（不論原因為何），則不得根據本條判給該筆債項在該段期間的利息。
- (5) 本條所指的利息，可就不同期間按不同利率計算。
- (6) 第 (1) 及 (3) 款受根據第 10(3) 條訂立的規則所規限。
- (7) 在本條中——

原告人 (plaintiff) 指索求債項或損害賠償的人；

被告人 (defendant) 指被原告人索求債項或損害賠償的人。

(由 2008 年第 3 號第 42 條增補)

12C. 判決的利息

- (1) 除任何其他條例另有規定外，判定債項的總額或判定債項當其時尚未清償的部分須孳生單利，由有關判決的日期起計，直至清償為止。
- (2) 本條所指的利息的利率——
 - (a) 為審裁處所命令者；或
 - (b) 在沒有上述命令的情況下，為終審法院首席法官不時藉命令所決定者。
- (3) 本條所指的利息，可就不同期間按不同利率計算。

- (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.

(Added 3 of 2008 s. 42)

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

(由 2008 年第 3 號第 42 條增補)

13. 經審裁處裁定的補償等須由政府一般收入撥付

除任何其他條例另有規定外——

- (a) 審裁處在任何根據第 8 條向其呈交的案件中，裁定須由政府支付作為補償的款項及就該款項而須支付的利息；
- (b) 經司法常務官裁定的款項，作為由任何成員委任協助審裁處聆訊在其席前進行的法律程序的人的薪酬、報酬或開支；(由 1982 年第 49 號第 14 條修訂；由 2000 年第 28 號第 47 條修訂)
- (c) (由 1982 年第 49 號第 14 條廢除)
- (d) 審裁處在其席前進行的任何法律程序中判須由政府支付的訟費，

須由政府一般收入撥付。

14. 有關其他條例的保留條文

- (1) 審裁處在根據本條例行使其司法管轄權時，須按照有關事宜呈交審裁處裁定所根據的條例的條文，以及按照根據該條例訂立的附屬法例的條文而作出裁定。(由 1982 年第 49 號第 15 條修訂)
- (2) (由 1982 年第 49 號第 15 條廢除)

- (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.

(Added 3 of 2008 s. 42)

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.

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)

15. 行政長官修訂附表的權力

行政長官可藉在憲報刊登命令而修訂附表。

(由 1998 年第 25 號第 2 條修訂)

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

15. Chief Executive's power to amend Schedule

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

(Amended 25 of 1998 s. 2)

附表

[第 8 及 15 條]

將有關事宜呈交審裁處裁定所根據的條例

章	簡稱
7.	《業主與租客(綜合)條例》(由 1982 年第 49 號第 16 條增補)
116.	《差餉條例》
124.	《收回土地條例》(由 1998 年第 29 號第 8 條修訂)
127.	《前濱及海床(填海工程)條例》(由 1985 年第 63 號第 21 條代替。由 2007 年第 7 號法律公告修訂)
130.	《土地徵用(管有業權)條例》(由 1983 年第 41 號第 14 條增補。由 1996 年第 481 號法律公告修訂)
208.	《郊野公園條例》(由 1984 年第 41 號第 3 條增補)
265.	《山頂纜車條例》(由 2015 年第 16 號第 23 條增補)
276.	《地下鐵路(收回土地及有關規定)條例》(由 1978 年第 80 號第 6 增補)
283.	《房屋條例》(由 1993 年第 18 號法律公告增補)
301.	《香港機場(障礙管制)條例》(由 1996 年第 559 號法律公告修訂)

Schedule

[ss. 8 & 15]

Ordinances under which Matters may be Submitted to the Tribunal for Determination

Chapter	Short title
7.	Landlord and Tenant (Consolidation) Ordinance (<i>Added 49 of 1982 s. 16</i>)
116.	Rating Ordinance
124.	Lands Resumption Ordinance (<i>Amended 29 of 1998 s. 8</i>)
127.	Foreshore and Sea-bed (Reclamations) Ordinance (<i>Replaced 63 of 1985 s. 21</i>)
130.	Land Acquisition (Possessory Title) Ordinance (<i>Added 41 of 1983 s. 14</i>)
208.	Country Parks Ordinance (<i>Added 41 of 1984 s. 3</i>)
265.	Peak Tramway Ordinance (<i>Added 16 of 2015 s. 23</i>)
276.	Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (<i>Added 80 of 1978 s. 6</i>)
283.	Housing Ordinance (<i>Added L.N. 18 of 1993</i>)
301.	Hong Kong Airport (Control of Obstructions) Ordinance

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附表

第 17 章

Schedule

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章	簡稱	Chapter	Short title
311.	《空氣污染管制條例》(由 1987 年第 23 號第 19 條增補)	311.	Air Pollution Control Ordinance (<i>Added 23 of 1987 s. 19</i>)
337.	《已拆卸建築物(原址重新發展)條例》	337.	Demolished Buildings (Re-development of Sites) Ordinance
344.	《建築物管理條例》(由 1993 年第 27 號第 44 條增補)	344.	Building Management Ordinance (<i>Added 27 of 1993 s. 44</i>)
357.	《供電網絡(法定地役權)條例》(由 1993 年第 27 號第 44 條增補。由 2007 年第 7 號法律公告修訂)	357.	Electricity Networks (Statutory Easements) Ordinance (<i>Added 27 of 1993 s. 44</i>)
358.	《水污染管制條例》(由 1985 年第 42 號第 6 條增補)	358.	Water Pollution Control Ordinance (<i>Added 42 of 1985 s. 6</i>)
370.	《道路(工程、使用及補償)條例》(由 1982 年第 49 號第 16 條增補)	370.	Roads (Works, Use and Compensation) Ordinance (<i>Added 49 of 1982 s. 16</i>)
438.	《污水隧道(法定地役權)條例》(由 1993 年第 74 號第 15 條增補)	438.	Sewage Tunnels (Statutory Easements) Ordinance (<i>Added 74 of 1993 s. 15</i>)
446.	《土地排水條例》(由 1994 年第 20 號第 50 條增補)	446.	Land Drainage Ordinance (<i>Added 20 of 1994 s. 50</i>)
488.	《集體官契(長洲)條例》(由 1995 年第 97 號第 11 條增補)	488.	Block Crown Lease (Cheung Chau) Ordinance (<i>Added 97 of 1995 s. 11</i>)
515.	《地租(評估及徵收)條例》(由 1997 年第 53 號第 48 條增補)	515.	Government Rent (Assessment and Collection) Ordinance (<i>Added 53 of 1997 s. 48</i>)
519.	《鐵路條例》(由 1997 年第 59 號第 46 條增補)	519.	Railways Ordinance (<i>Added 59 of 1997 s. 46</i>)
545.	《土地(為重新發展而強制售賣)條例》(由 1998 年第 30 號第 15 條增補)	545.	Land (Compulsory Sale for Redevelopment) Ordinance (<i>Added 30 of 1998 s. 15</i>)
577.	《東涌吊車條例》(由 2003 年第 20 號第 39 條增補)	577.	Tung Chung Cable Car Ordinance (<i>Added 20 of 2003 s. 39</i>)

(編輯修訂——2018 年第 5 號編輯修訂紀錄)

(Amended E.R. 5 of 2018)