

**HOW TO RECEIVE COMPENSATION
FOR PRIVATE LAND RESUMED
IN THE NEW TERRITORIES BY THE GOVERNMENT**

如何領取
政府收回新界私人土地的補償

Acquisition Section

Lands Department

地政總署

土地徵用組

1. Purpose

This pamphlet briefly explains the relevant procedures involved in processing compensation matters for private land resumed in the New Territories.

2. Land Resumption

From time to time, the Government may have to resume private land for public purposes such as highways projects, drainage works, public housing developments or any item in the Public Works Programme. Private land can be resumed by the Government under a number of ordinances, including but not limited to:-

- (a) Lands Resumption Ordinance (Cap. 124);
- (b) Roads (Works, Use and Compensation) Ordinance (Cap. 370); and
- (c) Railways Ordinance (Cap. 519).

3. Notice of Resumption

When an order for resumption of land has been made, a Resumption Notice will be affixed on or near every lot affected and published in the Gazette. Under normal circumstances, the Government will give a notice period of THREE MONTHS from the date upon which the notice was affixed on or near the land. Upon the expiry of the period specified in the notice, the ownership of the land will revert to the Government. The notice period may be shorter if there is an urgency to resume the land. Upon reversion, the land becomes Government land and all prior interest in the land will be extinguished. Henceforth, the former owner will no longer be entitled to collect rents or fees of any kind from his tenant or occupant.

4. Ex-gratia Compensation Offer

When land is resumed under relevant ordinance(s), the ordinance(s) under which the legal interest is extinguished or affected provides for the payment of compensation (i.e. statutory

compensation). However, it is the general practice of the Government to first make compensation offers based upon the administrative ex-gratia compensation arrangement, which, if accepted, would be full and final settlement of all claims arising from the relevant ordinance(s) (except professional fees, if any).

The Ex-gratia Zonal Compensation System governs the ex-gratia rates to be provided under the administrative ex-gratia compensation arrangement for the resumption of private land in the New Territories. Under the System, there are two sets of ex-gratia rates (applicable to agricultural land and building land respectively) under each of the two compensation zones (namely Tier One zone and Tier Two zone). “Tier One zone” is applicable to land resumed for development uses, including New Development Areas (NDAs) and other development uses covering residential/economic developments (including their ancillary purposes) or provision of public facilities which go beyond rural improvements of local villages. “Tier Two zone” is applicable to land resumed for non-development uses, including uses related to rural improvement and conservation. The Government will determine the compensation zone to be applied to a resumption exercise having regard to the aforementioned definition of the two tiers and the intended uses of the land after resumption.

Under the ex-gratia compensation arrangement, agricultural land will in general be offered compensation according to the ex-gratia rate of the applicable compensation zone; building land will in general be offered compensation based on professional valuation plus ex-gratia rate of the applicable compensation zone. Building land for the purpose of ex-gratia compensation would generally depend on whether structures are permitted on the land under lease. The ex-gratia compensation rates are reviewed half-yearly on 1 April and 1 October, and the rates prevailing as at the date of reversion would generally be used as a basis for calculating the compensation.

5. Acceptance of the Government's Ex-gratia Compensation Offer

For agricultural land, after affixing of the Resumption Notice mentioned in part 3 above, a standard offer letter for compensation will be sent to you as the registered owner of the land, which states the ex-gratia compensation offer as an alternative arrangement to the statutory compensation payable by the Government under the relevant ordinance(s). The letter states the offer by way of a monetary compensation for the land resumed, subject to the conditions contained therein, one of which is the proof of title to the satisfaction of the Government. If you accept the offer, you should complete the acceptance letter or the reply slip attached to the offer letter, and return it together with the offer letter as early as possible to the Issuing Officer who is usually the relevant District Lands Officer (DLO) or Chief Estate Surveyor of Special Section (CES), to avoid any delay.

For building land, after land reversion, you as a registered owner of the land will either receive an offer of compensation based on professional valuation plus ex-gratia rate of the applicable compensation zone, or for certain cases a letter which invites you to submit a claim based on professional valuation before the aforementioned offer of compensation is made to you. The payment of compensation will be subject to the conditions contained in the offer being fulfilled. If you accept the offer, you should complete the acceptance letter or the reply slip and return it together with the offer letter in the same manner as that mentioned in the previous paragraph.

6. If you do not Accept the Government's Ex-gratia Compensation Offer

If you do not accept the amount of ex-gratia compensation offered, you may submit a statutory claim for compensation with supporting evidence for the claim to the DLO or CES. In particular, you would have to state in the statutory claim the nature of your estate or interest in the land and the amount you seek to recover. In the event that your statutory claim is not agreed, it may be referred to the Lands Tribunal by you or by the Government for final determination.

The amount awarded will then be binding on both you and the Government. In the event of a statutory claim being referred to the Lands Tribunal, the offer of ex-gratia compensation will be immediately withdrawn and a re-assessment for the statutory claim will be made on a market value basis. Once an award is made by the Lands Tribunal, irrespective of whether it is higher or lower than the original ex-gratia offer, it will be the maximum compensation payable and will be binding on both you and the Government.

7. Professional Fees

Should you wish to make a statutory claim, you are strongly advised to seek independent professional advice. Costs or remuneration reasonably incurred in employing persons acting in a professional capacity in connection with offers or claims for compensation are reimbursable in appropriate circumstances. However, it should be noted that professional fee is not paid as a matter of course. A genuine need for the professional service must first be established. Besides, there are three requirements for fees to be claimable:-

- (a) the fees must have been reasonably incurred;
- (b) a formal claim as required by the relevant Ordinance for professional fess must be made; and
- (c) the professional advisor must have recognized professional qualifications.

No interest is payable for any professional fee to be reimbursed. The Lands Department will assess the amount involved according to established mechanism.

8. Residual Portion of a Lot Rendered Incapable of Reasonable Beneficial Use after Resumption

According to existing policy, the Government is obliged to resume the minimum land required for a public project. As a result, there may be situations where after a portion of a private lot has been resumed by the Government, the remaining portion of such lot will be rendered incapable of reasonable beneficial use, for example by reason of its small size or irregular shape. If you consider the above situation applicable to your case, you may apply to the DLO or CES

requesting for the residual area to be resumed by the Government. Application of this kind will be considered on individual merits.

9. Proof of Title

Before compensation for the resumption of land is released to you, you are required to prove that you have a good title to the land being resumed, and submit all the title deeds and documents listed in the schedule attached to the offer letter to the District Legal Advisory and Conveyancing Office. At the same time, you should also produce a copy of your Hong Kong Identity Card or other proof of identity, such as passport.

10. Documents not Available

If you are not able to produce any of the documents mentioned in the schedule attached to the offer letter, you may be required to make a statutory declaration to explain the circumstances of any loss or non-production of the title deeds or documents. If assistance is required, you may approach the District Legal Advisory and Conveyancing Office for further guidance on the relevant procedures and details.

11. Signing of “Agreement as to Compensation and Indemnity”

After the title documents have been checked and title to the lot is found to be in order and the statutory declaration, if required, is acceptable to the Government, you will be required to go to the relevant District Lands Office or Special Section in person according to the appointment made (usually after the date of reversion) to sign the “Agreement as to Compensation and Indemnity” and other necessary documents, and at the same time collect the cheque. You should bring with you your Hong Kong Identity Card or other applicable identity proof, such as passport.

In case you are unable to attend in person, you may authorise a person to act on your behalf by

way of a valid power of attorney. You are advised to inform the Issuing Officer as soon as possible for arrangement. Longer processing time is expected for such cases.

12. Landowner who may have Moved Out

In case you are aware of any landowner who has not received the relevant notifications because he has moved out, please advise such landowner or the Issuing Officer so that appropriate follow up can be made.

13. Enquiries

If you have any questions concerning the procedures in obtaining the compensation, you are welcome to seek further advice and assistance from the relevant District Lands Office or Special Section.

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