

TABLE OF CONTENTS

<i>Preface to the Fourth Edition</i>	v
<i>Preface to the Third Edition</i>	ix
<i>Table of Cases</i>	xxxix
<i>Table of Legislation</i>	lxxxi
<i>Table of Subsidiary Legislation</i>	ciii
<i>Table of International Legislation</i>	cix

CHAPTER 1 INTRODUCTION

Historical Background.....	1
Land Grants After 1840.....	3
Hong Kong Island.....	3
Kowloon.....	4
New Territories.....	4
New Territories Land Court and Block Leases.....	5
Land Tenure.....	7
Government freehold and leased land.....	7
<i>Contractual</i>	7
<i>1973: Statutory renewal of 75 years leases</i>	10
<i>1997: Resumption of sovereignty by China and Government lease durations</i>	10
Other grants of Government leases.....	12
Deeds of Mutual Covenant for joint ownership of multi-storey buildings.....	14
Government policy.....	14
Government Licences and Other Occupational Rights.....	15
Government unleased land.....	15
Columbaria.....	16
Resumption for Public Purposes.....	16
Resumptions for Special Purposes and Related Compensation.....	21
The Environment.....	25
Rates and Government Rent.....	26
Rates.....	26
Government rent.....	27
Rent payable to Government lessees by their own lessees or tenants.....	28
Other Government land revenue.....	29
Land Values.....	29
Sources of Law.....	30

CHAPTER 2 ANTIQUITIES AND MONUMENTS

General	33
Heritage Conservation	34
General	34
Heritage Impact Assessments	35
Revitalisation schemes for heritage sites	35
Classification of Monuments	36
Declaration of Monuments	38
Duration of declaration of a proposed monument	38
<i>Withdrawal of declaration</i>	39
<i>Objections</i>	39
<i>Declarations</i>	40
Monuments	40
Objections	40
Inspection	40
Prohibited actions	40
Historic Buildings	41
Compensation	42
Limited provision for compensation	42
Approval	42
Grounds for compensation	43
Assessment of compensation	43

CHAPTER 3 BUILDINGS

General	45
Statutory definitions	46
Applicable continuing provisions of Buildings Ordinance 1935	48
Authorised Persons, Contractor Registration and Controls	49
Disciplinary Board	49
Contractors Registration Committee	49
Appeals from registration	50
Building Approval, Consent and Controls	50
General	50
Appeal Board	51
Compensation	51
Statutory Control of Building Construction	51
General	51
Approval and rejection of plans	52
<i>Contravention of the Town Planning Ordinance</i>	52
<i>Safety of access way to street</i>	53
<i>Further particulars required</i>	54
<i>Contravention of regulations by proposed user</i>	54
<i>Occupation permit and modification</i>	55

Demolition orders	56
Dangerous hillsides	57
Regulations	57
Regulations 5 and 6: access to a street and width of roads and streets	58
Regulations 7 and 10: eaves, balconies, canopies and other projections over streets	58
Regulation 18A: site classification	58
Regulations 19, 20, 21 and 22: site coverage and plot ratio	59
Regulations 23, 23A, 24 and 25: height of storeys, site area, domestic premises and open spaces	62
Regulation 26: street set back for new buildings	64
Regulation 28: service lanes	64
Regulations 40A, 41, 41A, 41B, 41C and 41D: means of escape in case of emergency	64
Powers Relating to Buildings and Related Safety	64
Urgent work	64
Occupation of new building	65
Order to cease building works	65
Order for demolition, removal, or alteration of building, building or street works	65
Order to cease or remedy dangerous works	66
Priority demolition	66
Notice for demolition or alteration of building or building works	66
Change in use of buildings	67
Dangerous buildings	67
Defective buildings	68
Closure order	68
Dangerous hillsides	68
Danger to land and buildings caused by drainage and water related matters	69
Authorization to carry out relevant works	69
<i>Objections and lack of agreement</i>	69
<i>Magistrate's warrant</i>	70
<i>Compensation</i>	70
Streets	70
Powers to enter premises and land	71
Exemptions	71
<i>Statutory exemptions</i>	71
<i>Building Authority exemptions</i>	72
Power to recover costs and related matters	72

Service of notices and orders	72
Admissibility in evidence of certified copies of documents	73
Offences	73
Shoring Applications.....	73
Consent demolition and new buildings.....	73
Building owner authority to erect shoring on adjacent land.....	74
Shoring compensation	74
<i>General</i>	74
<i>Lands Tribunal</i>	74
<i>Limitation period</i>	75
<i>Jurisdiction</i>	75
<i>Owners and occupiers</i>	75
<i>Assessment of compensation</i>	76
<i>Costs for shoring compensation applications</i>	78
Other Rights to Enter Adjacent Property	78
Appeals from Building Authority to Appeal Tribunal (Buildings)	79
General.....	79
Appeal Tribunal	80
<i>Procedure</i>	80
<i>Lodging of an appeal operates as a stay except for emergency powers</i>	81
<i>Notice of Appeal</i>	81
<i>Representation</i>	81
<i>Preliminary hearing</i>	82
<i>Inspection</i>	82
<i>Determination of appeal</i>	82
<i>Costs before the Appeal Tribunal</i>	82
Reference to Courts.....	82
General	82
Originating summons.....	83
Judicial review	83

CHAPTER 4 COMPULSORY RESUMPTION OF LAND FOR PUBLIC PURPOSES

Introduction.....	87
Land Which May Be Resumed	89
The resumption order.....	89
The contents of the resumption notice	89
Persons Who May Claim Compensation	94
Owners.....	94
Other claimants.....	96
<i>Establishment of claimant's title</i>	97
T'so or t'ong land.....	98

Authority to Whom Claim is to Be Made.....	101
Preliminary steps	101
Power of entry before resumption	102
Agreement before resumption	102
Claims for compensation by owners and others with registered interests	102
Compensation claims by others with unregistered interests in the resumed land.....	104
Limitation periods.....	104
Statutory compensation the sole remedy	105
Surrender before compensation	105
Inverse condemnation	107
Determination of Compensation	108
Compensation for Land	109
Relevant date.....	109
Market value	110
Special value	112
Government Lease Covenants	114
Statutory compensation restrictions.....	115
<i>Non-compliance</i>	121
<i>Acquiescence</i>	123
<i>Where section 12(c) restrictions limit compensation</i>	124
<i>Where compensation is not limited by the section 12(c) restrictions</i>	126
<i>Government lease user rights</i>	126
<i>Other development rights</i>	127
Leasehold Duration and Compensation for Land	129
Government long term leases.....	129
Shorter term leases.....	130
Periodic tenancies	130
Leasehold Duration and Compensation for Disturbance	130
Government long term leases.....	130
Shorter tenancies.....	131
Periodic tenancies	131
Common Law Compensation Principles	131
General.....	131
Increased value wholly due to the scheme underlying the resumption is disregarded	131
Decreased value wholly due to the Scheme is disregarded	134
Number of willing buyers	136
<i>More than one buyer</i>	136
<i>Only one buyer</i>	137

Best use.....	138
Common law development value.....	140
<i>General principles</i>	140
<i>Assessment of development value in Hong Kong</i>	143
Development properties controlled by common parties	144
Equivalent Reinstatement.....	145
Leasehold Interests.....	146
Government leases	146
Short term leases.....	149
Fixed term short leases	149
Periodic short term leases	149
Separate Valuation of Interests	151
General.....	151
Multiplicity of interests.....	152
Separate valuation of an interest in land may exceed aggregate value of all interests.....	153
Where the separate compensation of multiple interests may be less than the aggregate value	153
Compensation for Easements.....	154
Compensation for Severance	155
Statutory basis.....	155
General.....	155
Compensation	156
Injurious affection.....	158
Compensation for Disturbance	160
Statutory basis.....	160
Relevant date.....	162
Losses and costs incurred before the date of resumption	162
Shadow period	163
Types of businesses.....	165
Alternatives of extinguishment or the removal of a business	166
Optional disturbance.....	170
Valuation of Goodwill.....	171
Goodwill and loss of profits.....	171
Goodwill classification	171
Methodology	172
Owner's remuneration.....	178
Capitalisation rate	179
Chattels	180
Fixtures	181
Removal expenses for business and domestic premises	182
Disturbance and leasehold interests	183

<i>Government leases</i>	183
<i>Shorter term leases</i>	183
Disturbance for resumption not dispossession	184
Remoteness	185
Lifting the Corporate Veil	187
Mitigation.....	189
Interest.....	192
Interest on provisional payment of compensation.....	192
Costs.....	193
CHAPTER 5 COMPULSORY RESUMPTION OF LAND FOR URBAN RENEWAL	
General.....	195
Urban Renewal Authority	196
Constitution.....	196
Purposes.....	196
Corporate plan	198
Business plan	198
Urban Renewal Strategy	199
Main objectives.....	200
Key principles	200
Financial arrangements	200
Role of the URA	201
<i>Redevelopment</i>	201
<i>Rehabilitation</i>	202
<i>Heritage preservation</i>	202
Redevelopment schemes and redevelopment projects.....	203
<i>Redevelopment schemes</i>	203
<i>Redevelopment projects</i>	203
<i>Freezing surveys</i>	203
<i>Social impact assessments</i>	204
Urban Trust Fund.....	204
Financial objective	204
Projects.....	204
Types of development	204
Publication	205
<i>Development projects</i>	205
<i>Development schemes</i>	205
Objections of Scheme Decisions to Town Planning Board.....	206
Compensation	206
Resumption compensation.....	206
Ex-gratia payments	207

Domestic properties	208
Demand-led development schemes.....	208
Specific forms of Flat for Flat Scheme	209
<i>Rates of compensation</i>	209
<i>Flat-for-flat in same location</i>	210
<i>Flat-for-flat in different locations</i>	210
<i>Elderly Domestic Owner-Landlords Compassionate Allowance Pilot Scheme</i>	211
Appeals	211
Acquisition of Land by Agreement.....	211
Domestic properties	212
Re-housing domestic tenants	213
Non-domestic properties and non-industrial properties.....	215
Rooftops.....	215
Buildings in single ownership.....	215
Vacant sites	216
Industrial properties	216
Surveyors fees.....	217
General compensation rules.....	217
Acquisition of Land by Resumption	218
Application to the Secretary	218
Resumption criteria.....	219
Inspection powers	220
Resumption process where properties resumed for URA developments	220
Costs.....	220
CHAPTER 6 COMPULSORY ACQUISITION OF POSSESSORY TITLE LAND FOR PUBLIC PURPOSES	
General	221
Introduction.....	221
Statutory rights.....	222
Basic Law of Hong Kong.....	223
Adverse Possession.....	223
General principles	223
Adverse possession claimed against a Government lessee.....	225
Adverse possession claimed against Incorporated Owners	226
Adverse possession claimed for a wall shop	227
Adverse possession claimed for a right of way and the doctrine of lost modern grant.....	228
Adverse possession against a religious trust.....	230
Adverse possession against the Government	230

Statutory Extension of Leases Expiring Before Resumption of Sovereignty	231
Bona Vacantia.....	233
Compulsory Acquisition Procedure	234
Acquisition order	234
Notice.....	234
Date of vesting.....	235
Claims of ownership	235
Limitation on Government liability	235
Determination of claim	235
Determination by Director of Lands.....	235
Determination by the court	236
Claim for Compensation	236
Claim to Director of Lands	236
Reference of claim to the Lands Tribunal.....	237
Assessment of Compensation	237
General.....	237
Primary rules.....	238
Factors to be ignored.....	238
Discretionary adjustments to open market value	239
Mandatory adjustments to open market value	239
Compensation Payments	240
Payment	240
Provisional payment	240
Person entitled to payment cannot be found.....	240
Interest	241
Action or Suits Against the Government	241
Costs.....	241
CHAPTER 7 COMPULSORY SALE OF LAND FOR PRIVATE REDEVELOPMENT	
General	243
Rights of private ownership	245
<i>Domestic law</i>	245
<i>Basic Law of Hong Kong</i>	247
The Scheme of the Ordinance.....	248
General.....	248
Definitions.....	248
Compulsory Sale by the Owner	250
Application	250
Determination of compensation.....	251

Modes of sale	252
<i>Public auction</i>	252
<i>Agreement</i>	252
Majority owners	252
Minority owners	252
Tenants	253
<i>Termination of tenancies</i>	253
<i>Compensation for tenants</i>	253
Composite Sites and Other Developments	254
Application by a majority owner limited to the sale of minority owned properties	254
Application by a majority owner for two or more lots connected by a common use staircase	255
Justification of Redevelopment	256
The age or state of repair of the existing development	256
The majority owner has taken reasonable steps to acquire all the undivided shares in the lot by negotiating on terms that are fair and reasonable	259
Valuation for Sale Price	259
Assessment of value where sale price disputed	260
Assessment of value where minority owner cannot be found	260
Redevelopment value	261
Reserve Price For Public Auction	262
Valuation for the sale	262
Fixing the auction reserve price	262
Re-opening of the reserve price	265
<i>Whether and if so under what circumstances, an agreement between the parties on the reserve price for the Lands Tribunal to approve can be re-opened at the instance of one party and despite the objection of the other party</i>	266
<i>Whether an appellate court can accord the objecting party a remedy if such an agreement is wrongly re-opened and the property is sold at a price less favourable to that party than the reserve price originally agreed</i>	266
Appointment of trustees for sale	267
Registration of order for sale	267
Other Lands Tribunal directions	267
Stay of Execution of Sale Order Pending Auction	268
Application of Sale Proceeds	269
Apportionment of sale proceeds and expenses	269
Development Agreements	270
Deeds of Mutual Covenant	270
Procedure	271

General	271
Mediation	272
Review and Appeals	273
<i>Review</i>	273
<i>Appeals</i>	273
Costs	273

CHAPTER 8 COUNTRY AND MARINE PARKS

General	277
Country Parks	278
Statutory powers	278
Country Park approval	278
Objections	279
<i>Objection to a draft map</i>	279
<i>Objection to the use of other land substantially affecting country park land</i>	279
Special Areas	280
Land Within a Country Park Leased to Private Owners	281
Compensation	283
Compensation prohibition	283
Limited compensation	283
Compensation for refusal to carry out new development or modifying or discontinuing existing use	283
Claim procedure	284
Payment of compensation	284
Interest	284
Resumption	285
Offences	285
Costs	286
Marine Parks	286
General	286
Designation of Marine Parks and Marine Reserves	287
Development	287
Application for approval for new development	287
Appeal	287
Prohibition of new development	288
Losses not compensatable	288
Extinguishment of private rights	288
Exclusions	288
Resumption	289
Offences	289
Costs	290

CHAPTER 9 ELECTRICITY NETWORK EASEMENTS

General.....	291
Creation of Statutory Easements.....	292
Procedure.....	293
Rights of power company.....	294
Notice to affected owners.....	295
Compensation.....	295
Affected land.....	295
Statutory easements.....	296
Inverse condemnation.....	297
Lump sum compensation or annual rent.....	297
Limitation periods.....	298
Measure of compensation.....	299
<i>Relevant date</i>	299
<i>General principles</i>	299
Valuation.....	304
Evidence.....	304
Electromagnetic fields.....	306
Government lease rights.....	309
Interest.....	310
Statutory Right to Damages.....	312
Common Law Remedies.....	312
Offences.....	313
Costs.....	313

CHAPTER 10 ELECTRICITY NETWORK EASEMENTS

Introduction.....	315
Air Pollution Control Ordinance.....	315
General.....	315
Air Control Zones and Air Quality Objectives.....	316
Control of air pollution.....	316
Abatement Notices.....	317
Licences.....	317
Enforcement powers and penalties.....	317
Appeals.....	318
Compensation.....	318
<i>Jurisdiction</i>	318
<i>Cancellation or variation of licences</i>	318
<i>Compensation where exemption cancelled or varied</i>	319
<i>Procedure for claiming compensation</i>	319
Assessment of compensation.....	320
Costs.....	321
Offences.....	321
Regulations under the Air Pollution Control Ordinance.....	322

Water Pollution Control Ordinance.....	322
General.....	322
Compensation.....	323
<i>Jurisdiction</i>	323
<i>Variation</i>	323
<i>Cancellation</i>	323
<i>Cancellation or variation of an exemption</i>	324
<i>Procedure</i>	324
<i>Assessment of compensation</i>	324
Offences.....	324
Regulations under the Water Pollution Control Ordinance.....	324
Costs.....	325
Noise Control Ordinance.....	325
General.....	325
Noise from domestic premises and public places.....	326
Noise from construction sites.....	326
Technical Memorandum.....	326
Noise Abatement Notice.....	327
Audibility tests and uncertainty.....	328
Reasonable requirements.....	330
Compensation.....	330
Environmental Impact Assessment.....	331
General.....	331
Designated projects.....	331
Application for an Environmental Permit.....	331
Environmental Impact Assessment Report.....	332
Public and Advisory Council comments.....	332
Environmental Report approval.....	333
Prohibition of carrying out a designated project without approval.....	333
Exemptions.....	333
Application for Environmental Permit or Decommissioning Permit.....	333
Change in Responsible Person.....	334
Variation of an Environment Permit.....	334
Cancellation or variation of Environment Permit.....	335
Appeals.....	335
<i>Appeal Board</i>	335
<i>Appeal Board and Appeal Board Panel</i>	335
<i>Appeal Board hearings</i>	336
<i>Appeal to Court of Appeal</i>	336
Enforcement Officers.....	336
<i>Powers of entry and inspection</i>	337
Cessation Orders.....	337
Recovery of Costs.....	338

Offences	338
<i>Environmental permit contraventions</i>	338
<i>Enforcement offences</i>	338
<i>Disclosure of confidential information offences</i>	339
<i>Director and partner offences</i>	339
<i>Exemption offences</i>	339
Protection of Government and Public Officers	340
Forms and Notices	340
Regulations	340
Schedules	340
Case Law Relating to Environmental Impact Assessment	340
<i>Shui Wing Steel Ltd v Director of Environmental Protection</i>	341
<i>Facts</i>	341
<i>Environmental Permit approval</i>	342
<i>Compliance</i>	343
<i>Technical Memorandum and the Study Brief requirements</i>	344
<i>Characteristics of a QRA</i>	345
<i>Chu Yee Wah v Director of Environmental Protection</i>	346
Sewage Tunnels (Statutory Easements) Ordinance	347
General	347
Objections	347
Compensation	347
<i>Procedure</i>	347
<i>Liability for compensation</i>	347
<i>Compensation or damages</i>	348
Land Drainage Ordinance	349
Drainage authority areas	349
Powers of the drainage authority	350
Appeals	350
Compensation	350
<i>Procedure</i>	350
<i>Referral to the Lands Tribunal</i>	351
<i>Liability</i>	351
<i>Unlawful building or development works</i>	351
Application by owner for resumption	352
Regulations	353
Schedules	353

CHAPTER 11 GOVERNMENT RENT

Introduction	355
Statutory Definitions	356
Exemptions	358

Relationship of Government Rent to Government Rates	359
Differences between the Government Rent Ordinance and the Rating Ordinance	359
Differences between identical leases and applicable leases	360
Identical leases	361
Applicable leases	361
Development and redevelopment sites	362
Liability for Government Rent	364
Ascertainment of Rateable Value for Government Rent	365
Rateable value	365
Valuation	366
Government Rent (Assessment and Collection) Regulation	367
Basic Law	369
Government Rent Roll	370
Preparation	370
Government Rent Roll coming into force, notification and inspection	370
Inspection of the Government Rent Roll	371
Collection of Government Rent and surcharges for late payment ...	371
Proposals, Alterations, Objections and Appeals	372
Proposal to increase or reduce rateable value	372
Alteration of the rateable value for an identical tenement	373
Alterations to the Government Rent Roll by agreement	373
Alterations to the Government Rent Roll other than by agreement	373
Corrections	374
Deletions	374
Payment of Government rent under interim valuations	375
Objections to proposed corrections, deletions and interim valuations ...	375
Appeals	376
<i>General</i>	376
<i>Government rent remains payable</i>	377
<i>Commissioner cancelling prior withholding order</i>	377
Settlement offers	378
Powers of the Commissioner	379
General powers	379
Mode of service of notices	380
Validity of signature on notices	380
Inadvertent misnomer	380
Re-entry powers	380
Leases and Deeds Of Mutual Covenants Overridden	380
Offences	381
Complaint limitation period	381

False or incorrect statements.....	381
Refusal to give information	381
Additional penalty for loss of revenue.....	381
Interim valuation after conviction.....	382
District Court jurisdiction	382
Interest.....	382
Costs.....	383

CHAPTER 12 HOME OWNERSHIP SCHEME

Introduction.....	385
Creation of the Scheme.....	385
Suspension and later recommencement of the Scheme	386
Resale Power of Owner.....	388
General powers	388
Restrictions on resale.....	389
Right to resell.....	389
<i>Where a period of 5 years ownership has elapsed</i>	390
<i>Where a period of 2 years to 5 years has elapsed</i>	390
<i>Where a period of less than 2 years has elapsed</i>	390
Amounts Payable on Resale by Owner for 5 Years or more.....	391
Date of payment of premium.....	391
Amounts Payable on Resale by Owner for Less Than 2 Years	393
Unlawful Alienation.....	394
Mortgages and Agreements For Sale and Purchase	396
Appeal on Amount of Premium to Lands Tribunal.....	396
Jurisdiction.....	396
Relevant dates for determining prevailing market value	397
Lands Tribunal Appeal Determinations	398
Assessment	398
Re-assessment of prevailing market rent	400
Transfer to the Court Of First Instance	401
Costs.....	401

CHAPTER 13 HONG KONG AIRPORT – CONTROL OF OBSTRUCTIONS

General.....	403
Environmental issues	405
Right to Compensation	406
Procedure	407
Determination of Compensation.....	407
Open market value.....	408
Interest	408
Case law	408

CHAPTER 14 LANDLORD AND TENANT

Introduction.....	411
Tenancies.....	412
Types of tenancies.....	413
Rent reviews.....	414
Distress for rent.....	415
Licences	415
Compensation rights of tenants on compulsory resumption or compulsory sale of premises.....	415
Liability of tenants for rates and Government rent.....	416
Statutory Licences, Permits and Memoranda of Appropriation.....	416
Unleased land.....	416
Clearance notice.....	418
Columbaria.....	418
Jurisdiction.....	422
Landlord and tenant	422
Licences	422
Columbaria	422
Costs.....	422

CHAPTER 15 MINES AND QUARRIES

General.....	425
Royalties	426
Prospecting, Mining Licences and Leases	426
Grant of mining leases	427
Renewal of mining leases	427
Discretion whether to grant a renewal	427
Closure of mines and cancellation	428
Compensation Payable by the Government.....	429
The Mining Compensation Board	429
Recovery of compensation.....	429
<i>Compensation for licensees and lessees on closure</i>	429
<i>Compensation to lessees on the resumption of land within the mining area</i>	430
Compensation for licence and lease holders.....	430
<i>Right to compensation</i>	430
<i>Measure of compensation</i>	431
Compensation Payable by Mining Licensees and Lessees to Owners and Occupiers of Land.....	431
General.....	431
<i>Compensation for owner or lawful occupier for the use of the surface of private land, disturbance of surface and other damage to their private property</i>	431

<i>Right to compensation</i>	432
<i>The measure of compensation</i>	432
<i>Procedure for compensation</i>	432
Other remedies	432
Recovery of compensation	433

CHAPTER 16 RAILWAYS

Introduction	435
Mass Transit Railway Ordinances	438
Railways Ordinance	440
The Statutory Scheme	442
Plans and public notice	442
Objections	442
Resumption of Land	443
General	443
Easements and other rights	444
Application by owner for resumption	444
<i>Refusal of building works on ground of incompatibility</i>	444
<i>Resumption of contiguous or adjacent land</i>	445
Compensation	445
Compensatable interest	445
Claims procedure	446
Amendments and further particulars	446
Admission or rejection of claim	447
Application to Lands Tribunal	447
Settlements after reference to the Lands Tribunal	447
Retrospectivity	448
The Schedule	449
Incidental Statutory Matters	474
Mortgages	474
Disposal of unrequired land	474
Procedure: admissibility, service of notices	474
Interest	475
Costs	475

CHAPTER 17 RATING

Introduction	477
Rates and Government Rent	478
Rating Liability	479
The tenement	479
The statutory definition	480
<i>First statutory requirement</i>	480
<i>Second statutory requirement</i>	481

Chattels enjoyed with land	482
Machinery	483
Plant	484
Advertising rights	485
<i>Where advertising rights constitute a separate tenement</i>	485
<i>Where advertising rights do not constitute a separate tenement</i>	485
Seabed	486
Moorings	487
Floating vessels	487
Construction sites	489
Illegal structures	490
Exemptions	491
Persons Liable to Pay Rates	500
Owner and occupier	500
Occupation	500
Possessory title	501
Rateable Value	502
The twofold basis for valuation	502
State of the tenement including changes of physical and tangible characteristics	503
Step 1: The Hypothetical Tenancy	504
General	504
Duration	505
Tenant's expenses	507
Landlord's responsibility for repairs	507
Nuisance	511
Vacant and let	511
Restrictive covenants	512
Restrictions in Government grants	512
Step 2: The Actual Mode or Character of Occupation	515
Subsisting use	515
Rebus sic stantibus	516
Statutory restrictions	519
<i>General statutory restrictions</i>	520
<i>Specific statutory restrictions</i>	520
Environmental disadvantages	520
Individual assessment	521
Ascertainment of Rateable Value	522
The relevant date	522
Tone of the list	523
<i>Historical</i>	523
Hindsight	525

Interim Valuations	526
General.....	526
Notification of interim valuations, effective dates and payment of rates.....	527
Alterations to the Valuation List	527
Corrections by Commissioner	527
Deletions by Commissioner.....	528
Proposals by owners and occupiers	530
Objections	531
Methods of Valuation	531
General.....	531
Comparative method.....	532
Receipts and payments method	534
Cinema valuations.....	544
<i>Normal method</i>	544
<i>Alternative method</i>	544
Contractor's method.....	546
Refunds	553
Refunds for overpayments	553
Refunds for other purposes including in respect of unoccupied land.....	553
Refunds by the Chief Executive	554
Interest.....	554
Review by the Lands Tribunal	554
Appeals	555
Appeals to the Lands Tribunal	555
Court of Appeal.....	557
<i>Reservation of a question of law</i>	557
<i>Appeals by the parties</i>	557
Rates remain payable pending the appeal judgment.....	557
Settlement offers	559
Costs.....	559

CHAPTER 18 RECLAMATIONS, FORESHORES, SEA-BED AND VICTORIA HARBOUR

General.....	561
Reclamations, foreshores and sea-bed.....	561
Victoria Harbour	563
Foreshore and Sea-bed (Reclamations) Ordinance (Cap 127)	563
Plans.....	563
Notice.....	564

Objections	564
Right to object.....	564
Objection procedure.....	565
Powers of Determination and Authorization.....	565
Exercise of powers	565
Extinguishment of marine rights	566
No claim for money except under the Ordinance	566
Compensation	566
Claims procedure	567
Time limitations	567
Notice of claim	567
Settlement procedure	569
<i>Admitted claims</i>	569
<i>Rejected claims</i>	569
Determination of Compensation by the Lands Tribunal.....	570
Reference to the Lands Tribunal	570
Compensation claim to the Lands Tribunal	570
Preliminary issues	571
Compensation	572
<i>Injurious affection</i>	573
<i>Relevant date</i>	575
<i>Assessment</i>	576
Prospective loss.....	580
Betterment.....	581
Provisional payment of compensation.....	582
Interest	582
Expert witnesses	583
Costs	583
Appeals	583
Protection of the Harbour Ordinance (Cap 531).....	584
General.....	584
Protection of the Harbour (Amendment) Ordinance 1999	585
The overriding public need test – Town Planning	
Board v Society for the Protection of the Harbour Ltd	587
<i>The facts</i>	587
<i>Court of First Instance</i>	588
<i>Court of Final Appeal</i>	588
<i>Reasonable alternatives</i>	590
<i>Substantive issue</i>	590
<i>Decision</i>	591
Temporary reclamations	591
<i>Judicial review on temporary reclamation</i>	592
Costs	594

CHAPTER 19 REVENUE LAW

Introduction.....	597
Inland Revenue Ordinance.....	597
Property tax.....	597
Profits tax.....	598
Inland Revenue Board Appeals.....	599
Procedure.....	599
Appeal powers.....	599
<i>Court of first instance</i>	599
<i>Court of appeal</i>	599
Stamp Duty Ordinance.....	601
General.....	601
Assessment of stamp duty.....	603
Appeals.....	603
Judicial review.....	607
Declaration.....	607

CHAPTER 20 ROADS

Introduction.....	609
Road Works.....	610
Minor works.....	610
Major works.....	611
The Plan and the Scheme.....	611
Entry for inspection and right to compensation.....	611
Notice of the plan and scheme.....	612
Objections.....	612
<i>Procedure</i>	612
<i>Differences between Part II objection powers and absence of objection under Part III</i>	613
Closure of Roads.....	615
Resumption of Land.....	615
Notice of resumption.....	615
Relevant date.....	616
Easements and other rights.....	616
Application by adversely affected persons for resumption of land outside the works area.....	616
Government right to sell no longer required resumed land and related rights.....	617
Compensation.....	618
General.....	618
Claims.....	618
Limitation periods.....	619
Claims procedure.....	620

Amended claims.....	620
Further particulars.....	621
Admission or rejection of claims.....	621
Options where a claim is rejected.....	621
Other compensation references to the Lands Tribunal.....	621
Jurisdiction of the Lands Tribunal.....	622
General.....	622
Offers pending hearing by the Lands Tribunal.....	622
Assessment of Compensation.....	623
Part I of the Schedule to the Roads (Works, Use and Compensation) Ordinance.....	623
Disturbance.....	626
Open market value.....	626
Part II of the Schedule to the Roads (Works, Use and Compensation) Ordinance.....	627
<i>Item 1</i>	631
<i>Item 2</i>	632
<i>Item 4</i>	634
<i>Item 6</i>	634
Payment of Compensation.....	635
Interest.....	635
Payment to Mortgagees.....	636
Costs.....	636
Scales.....	636
Civil Justice Reform.....	636
Offences.....	637
Current Major Road Infrastructure Projects.....	637
Hong Kong–Zhuhai–Macau Bridge.....	637

CHAPTER 21 TOWN PLANNING

History.....	639
The Authority.....	648
Town Planning Board.....	648
Public meetings.....	649
Non-public meetings.....	649
Functions of the Town Planning Board.....	650
Chief Executive in Council.....	650
Approval and related powers.....	650
Revocation, replacement and amendment of approved plans.....	651
Draft Layout Plans.....	651
Contents.....	651
Comprehensive development areas.....	653

Draft Plans	654
Representations	654
Comments	655
Consideration of representations	655
Objections	655
Board response to objections	656
<i>Amendment</i>	656
<i>Non-amendment</i>	656
<i>Public inspection of proposed amendments</i>	656
<i>Further representations on proposed amendments</i>	656
<i>Withdrawal of representation and further comment</i>	657
<i>Consideration of further representations</i>	657
<i>Effect of amendments</i>	657
<i>Board amendment of draft plans</i>	658
<i>Board submission of Draft Plan to Chief Executive in Council</i>	658
Judicial Review of Board Objection Decisions	658
Waiver	661
Stay of Execution	662
Approved Plans	663
Application to the Board for amendment of approved plans	663
Permissions	664
Outline Zoning Plans	665
General	665
Amendments to permissions	665
Temporary permissions	665
Short Term Waiver	666
Where the Government lease is within an OZP or DPA	666
Where the Government lease is not within an OZP or DPA	667
Amendment of Planning Documents	668
Compensation	668
Resumptions	669
Review	670
Appeals	671
Appeal Board Panel	671
Procedure	671
Appeal decision	672
Power to Inspect and Require Information	672
Offences	673
Undertaking or continuing development in contravention of a statutory plan	673
Failure to allow access or inspection of suspected unauthorized development	673
Failure to discontinue unauthorized development	673

Failure to comply with Appeal Board requirements	674
Removal, retention and disposal of property	674
Availability of Documents and Materials	674
Evidence	674
Regulations	675
Costs	675
Current Planning for Major Developments	675
Kwun Tong	675
Hong Kong–Zhuhai–Macau Bridge	675
Guangzhou–Shenzhen–Hong Kong Express Rail Link	676

CHAPTER 22 EX-GRATIA AND PREMIUM PAYMENTS

Introduction	679
Ex-gratia Payments	679
General	679
Public disclosure of ex-gratia procedure and compensation rates	681
Agricultural and building land ex-gratia payments	684
Ex-gratia payments for lesser interests	685
Parallel Compensation Systems	685
Letters ‘A’ And ‘B’	688
General	688
New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap 495)	690
<i>General</i>	690
<i>Payment of redemption money</i>	691
Nature of land exchange entitlements	692
<i>Offences</i>	692
Premium Payments to Government by Lessees	692
General	692
Conditions of exchange	694

CHAPTER 23 VALUATION

Introduction	695
Market value	698
Comparative Method	698
The ‘best’ method	698
Comparable transactions	699
<i>Inspection</i>	700
<i>Nature of the transaction</i>	700
<i>Sales</i>	701
<i>Auctions</i>	702
<i>Resumption settlements</i>	703
New Territories transactions	704

Adjustments to comparable properties	705
<i>Types of adjustments</i>	705
<i>Quality and nature of adjustments including aggregate and sequential</i>	706
<i>Sales subject to tenancies</i>	708
<i>Comparable areas</i>	710
<i>Hindsight</i>	710
<i>Proof of comparables</i>	712
Investment Method	713
Residual Method	717
Receipts and Expenditure Method	724
Contractor's Method	724
Valuation Techniques	724
Discount tables.....	725
Zoning.....	725
Regression analysis.....	728
Discounted cash flow	728
Capitalization rates	729
Return on equity	730
Real value	731
Spot value	732
Averaging.....	733
Expert Witnesses.....	734
General.....	734
Common law, statutory and contractual regimes.....	736
Code of conduct for expert witnesses	737
Practice and Procedure.....	739
Valuation Reports.....	740
CHAPTER 24 CONSTITUTIONAL LAW	
Introduction.....	743
Sino-British Joint Declaration.....	743
Sino-British Land Commission	746
Basic Law of Hong Kong.....	747
General.....	747
Interpretation of the Basic Law	748
Articles of the Basic Law.....	750
Domestic Legislation	758
Land Compensation	760
Real value	760
Doctrine of inverse condemnation	764

Comparative Law of Other Countries	765
United States of America	765
United Kingdom	767
Europe.....	768
The Future	770
Constitutional compensation remedies	770
Post-2047	771
Appendix	773
Index.....	791