

**Ref. : WB(PA) 1/77**  
**Group : 12**

**4 May 2001**

**Works Bureau Technical Circular (WBTC) No. 9/2001**

**Procedures for Gazetting under the  
Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127)**

**Scope**

This Circular sets out the updated procedures for gazetting proposed works under the Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127).

**Effective Date**

2. This Circular takes immediate effect.

**Effect on Existing Circulars**

3. This Circular supersedes the Works Branch Technical Circular No. 10/90 with immediate effect.
4. This Circular shall be read in conjunction with the WBTC No. 13/97 which promulgates the revised administrative arrangements for reclamation works that require both gazetting (or re-gazetting) under the Foreshore and Sea-bed (Reclamations) Ordinance (FS(R)O) and preparation of a new or amended outline zoning plan under the Town Planning Ordinance (Chapter 131).

## **Introduction**

5. The FS(R)O applies to all reclamation works<sup>1</sup> within the HKSAR including those to be undertaken by Government or its agents, unless the works are gazetted under the Railways Ordinance or the Roads (Works, Use and Compensation) Ordinance.

6. The term "reclamation" has a wide meaning. In general, it refers to all works of permanent nature over or upon the shore and bed of the sea and of any tidal water within Hong Kong below the line of the high water mark. For example, dredging with a view to reclaiming land or construction of a permanent structure is covered by the Ordinance but routine maintenance dredging is excluded. In case of doubt as to whether a particular kind of works falls within the ambit of the Ordinance, legal advice from the Department of Justice should be sought.

7. Before reclamation is started, gazetting and other actions under the FS(R)O must be taken by the Director of Lands (D of L). In the event of queries, the contact officer in the Lands Department (Lands D) is the Executive Officer/Lands Administration Office (EO/LAO).

8. The Secretary for Planning and Lands, and D of L have agreed on the actions to be taken by Lands D as outlined in this Circular.

## **Actions Prior to Gazetting**

9. When a reclamation is proposed in relation to any foreshore and/or sea-bed, the project department is responsible for initiating the gazette notice of the proposal (the Notice). The Notice should follow the standard format as shown in Appendix A. It must describe the location of the foreshore and sea-bed affected, the manner in which it will be affected, the purpose of the undertaking and the area involved. The Notice must also state where and at what times the gazette plan may be inspected, and must specify the time for the making of objections (the Objection Period). Under the FS(R)O, the public must be given a period of not less than two months, from the date when the Notice is first published, to lodge with D of L any written objections to the proposed undertaking.

10. For marine borrow areas and marine disposal areas, since these proposals are for general purposes and not for specific projects, the Marine Fill Committee (MFC) will be the agency for initiating the Notice and paragraph 11(b) below does not apply.

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<sup>1</sup> For reclamation works by private sector, their applications under the FS(R)O will be processed by the Director of Lands through the DLO for the area.

11. When a department initiates a Notice under section 5 of the FS(R)O, it should, before submitting a request to D of L for gazetting, ensure that –

- (a) the project is in accordance with approved policies.
- (b) the project has been upgraded to Category B or above in the Public Works Programme (PWP) with funds earmarked in the Capital Works Reserve Fund RAE. In cases where the project is –
  - (i) included in other works programmes, e.g. the Public Housing Development Programme, the initiating department should confirm that funds will be available for the project.
  - (ii) to be included in Category D of PWP, the initiating department should ensure that the item is either a pre-identified item, or a non pre-identified item<sup>2</sup> but with expenditure adequately met from the provisions made in the Annual Estimates.
- (c) the reclamation limit and scope of works are well defined.
- (d) the relevant District Council(s) has been consulted about the reclamation proposal.
- (e) unless otherwise agreed by the Secretary for the Environment and Food, the approval of the Environmental Impact Assessment report or the permission to apply directly for environmental permit has been obtained from the Director of Environmental Protection under the Environmental Impact Assessment Ordinance (Chapter 499) if the proposed reclamation is a designated project under the said Ordinance<sup>3</sup>.
- (f) the principle stated in the Protection of the Harbour Ordinance (Chapter 531) is observed.
- (g) relevant government departments/parties have been consulted and no objection has been received. The consultation shall be made by sending each of them a background note on the proposal, a sufficiently detailed plan showing the location of the reclamation, a draft Notice and a draft press release (in the standard format as shown in Appendix B). These departments/parties shall include, but not be limited to, the following –

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<sup>2</sup> Pre-identified and non pre-identified items are two classes of expenditure under the PWP block allocations as defined in Financial Circular No. 8/96.

<sup>3</sup> The relevant requirements are set out in WBTC No. 18/98.

(i) in every case

- Agriculture, Fisheries and Conservation Department<sup>4</sup> (AFCD)
- Civil Engineering Department<sup>5</sup> (CED)
- Drainage Services Department
- District Lands Office (DLO) of the Lands Department for the area
- District Office (DO) of the Home Affairs Department for the area
  - seeking specific agreement to the draft press release
- District Planning Office of the Planning Department for the area
- Environmental Protection Department
- Marine Department
- Marine Fill Committee<sup>6</sup>
- Public Fill Committee<sup>7</sup>
- Water Supplies Department

(ii) where appropriate

- Development Office of the Territory Development Department for the area
- Highways Department
  - where roads are involved
- Hong Kong Police Force
  - where traffic flows or law and order may be affected
- Housing Department
  - where relocation and payment of ex-gratia allowance to boat dwellers, squatters, boatyards, factories or other

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<sup>4</sup> In the consultation with AFCD, the initiating department should also take the opportunity to seek their advice on the estimated ex-gratia allowance payable to fishermen and/or mariculturists, where appropriate, affected by gazettal under the FS(R)O. Any such claims for ex-gratia allowance will be processed by the Lands D in collaboration with other relevant bureaux/departments.

<sup>5</sup> Two copies of the documents should be sent to CED for the attention of Chief Engineer/Technical Services.

<sup>6</sup> The documents should be sent to the Chief Geotechnical Engineer/Fill Management of CED, who is the secretary of the Committee.

<sup>7</sup> The documents should be sent to the Chief Engineer/Port Works of CED, who is the secretary of the Committee.

people are required

- Transport Department
  - where road access, ferry services or transport implications are involved

12. When the requirements mentioned in paragraph 11 above have been met, the initiating department should request the DLO for the area to prepare 3 copies of the draft gazette plan and a draft location plan. The DLO should be asked to send the completed plans direct to EO/LAO of the Lands D, with copies to the initiating department for facilitating subsequent communications on the details of the plans. The draft gazette plan should be in A3 or A4 size depending on the details to be included while the draft location plan should be at reduced scale for incorporation in the Notice. DLO will normally take 3 weeks to complete the first draft of the plans.

13. The initiating department should also send a request to D of L (for the attention of EO/LAO) for gazetting the reclamation scheme and copy the same to the relevant government departments/parties for information. The request must be accompanied by –

- (a) a copy of the draft Notice (in both English and Chinese),
- (b) a copy of the draft press release (in both English and Chinese),
- (c) a background note on the proposal, giving brief information on the scope of the project or undertaking and possible related works in the area and any likely implications,
- (d) a sufficiently detailed plan showing the location of the proposed reclamation,
- (e) confirmation of no objection received from all government departments/parties that have been consulted,
- (f) a copy of the agreement to the draft press release from the DO for the area,
- (g) confirmation that the scope of works and reclamation limit are well-defined,
- (h) except for Notices initiated by the MFC for marine borrow areas and marine disposal areas, confirmation of the funding position of the project as outlined in paragraph 11(b), and
- (i) where applicable, confirmation that the statutory requirements in paragraphs 11(e) and (f) are fulfilled.

14. Upon receipt of the documents mentioned in paragraphs 12 and 13 above, D of L will arrange for their clearance with the Department of Justice. If everything is in order, the initiating department should request the DLO for the area to submit to D of L 26 copies of the finalised gazette plan and a copy of tracing paper/bromide of the location plan. D of L will then arrange publication and display of the Notice and plan, and publication of the press release.

15. Provided that the documents listed in paragraphs 12 and 13 above are fully provided and reference to the initiating department or other interested government departments/parties is not necessary, D of L will require about four weeks to arrange for the publication of the Notice in the Government Gazette.

### **Actions following Gazetting<sup>8</sup>**

16. If no objection is received during the Objection Period, D of L will consult the interested parties on the timing for gazetting the Notice of Authorization under section 9 of the FS(R)O. Unless advised otherwise, D of L will arrange gazetting of the Notice of Authorization in about four weeks.

17. If objections are received during the Objection Period, D of L will refer the objections to the initiating department. The latter should, in consultation with the concerned government departments including the Department of Justice where necessary, formulate means of overcoming the objections, which may include modification of the scheme. Each objector should be contacted in order to clarify any misunderstandings that may exist over the proposed scheme and to ascertain whether the objector is willing to withdraw his objection, either conditionally or unconditionally.

18. If an objection is withdrawn unconditionally, it shall be treated as not having been made for the purpose of proceeding with the authorization procedure under the FS(R)O.

19. Where an objector is not willing to withdraw his objection or is only willing to withdraw it with conditions, then the objection remains unresolved and must be submitted to the Chief Executive in Council (CE in C) for consideration and decision. In such circumstances, it is important that the Administration presents fairly the objector's case to CE in C. For this reason, the following procedures should be followed in handling unresolved objections –

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<sup>8</sup> If the proposed reclamation is a marine borrow area or a marine disposal area, MFC should request SEF through DEP when the Objection Period lapses to include the affected foreshore and sea-bed in the Schedule 2 of the Dumping at Sea (Exemption) Order.

- (a) the initiating department should ensure that each objector is fully informed in writing that it intends to make a submission to CE in C for consideration of the proposed reclamation and the objection. Specifically, the objector should be advised that correspondence relating to his objection, together with the records of any related meetings, will be submitted to CE in C for consideration;
- (b) if an objector requests any relevant information that was available to the Administration in the formulation of its own proposals, the initiating department should, as far as possible, make this same information available to the objector to assist him to formulate his objection;
- (c) if an objector submits any revised proposal, even if it is only a minor variation to the original proposal, it must be annexed to the ExCo Memorandum so that CE in C have a complete dossier of all objections and the Administration's comments thereon. The objector must always be given the opportunity to have the last word; and
- (d) where a project is urgent, and it appears that an objector is attempting to delay the matter by producing further alternatives, or is attempting to enter into protracted negotiations on a particular issue, the initiating department should advise the objector of a reasonable cut-off date for him to finalize his submission. The submission will then be presented to CE in C in the normal way in order that account may be taken of it in the final decision process.

20. It is the responsibility of the initiating department to prepare a draft ExCo Memorandum with a full set of the Annexes and pass it to D of L when objections remain unresolved. D of L will circulate the draft Memorandum to all concerned government departments/parties and coordinate the preparation of the finalised Memorandum. D of L will submit the Memorandum to CE in C for consideration within a period of 9 months after the expiry of the Objection Period. The 9-month time limit may be extended by the Chief Executive for a period of not more than 6 months upon application of D of L.

### **Action after Authorization**

21. When a proposed project is authorized to proceed, D of L will arrange gazetting and display of the Notice of Authorization, and reply to objectors should there be any.

22. If the initiating department considers it necessary, it may request D of L to arrange for a press release of the authorized reclamation.

## **Claims for Compensation**

23. D of L will process all claims for compensation made under the FS(R)O and funding will be from votes under his control.

**( W S Chan )**  
**Deputy Secretary (Works Policy)**



**Draft Gazette Notice**

LANDS DEPARTMENT

FORESHORE AND SEA-BED (RECLAMATIONS) ORDINANCE (Chapter 127)

(Notification under section 5)

**PUBLIC WORKS PROGRAMME ITEM NO. [ *insert the PWP No.* ]**  
**[ *insert the title of the proposed undertaking* ]**

Notice is hereby given that the undertaking described in the Schedule below is proposed. A copy of the plan delineating and describing the proposed undertaking and the foreshore and sea-bed to be affected thereby has been prepared and may be inspected by the public free of charge at the Lands Department Survey and Mapping Office, 23<sup>rd</sup> Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong (where copies can be purchased on order) and at the [ *insert the name and address of the District Office for the area* ] during the following hours :-

Monday to Friday	9 a.m. to 4:30 p.m.
Saturday	9 a.m. to 12 noon
Sundays and Public Holidays	closed

Further queries regarding the proposed works can be addressed to [ *insert the name, address and enquiry telephone number of the initiating department* ].

Any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed so described may, by notice in writing delivered to the Director of Lands, 20<sup>th</sup> Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong before the expiration of two months\* from the date of this notice, object to the proposed undertaking. The notice of objection shall describe the interest, right or easement of the objector and the manner in which he alleges he will be affected.

**SCHEDULE**

<i>Foreshore and sea-bed affected</i>	<i>Description of the undertaking and the manner in which the foreshore and sea-bed will be affected by the proposed undertaking</i>
Approximately [ <i>insert the area in hectares or square metres</i> ] of foreshore and sea-bed situated at [ <i>insert the location</i> ] as delineated and shown edged black on a plan deposited in the Land Registry and numbered [ <i>insert the plan no.</i> ].	[ <i>insert the required details</i> ]

The area of foreshore and sea-bed affected is shown on the plan on the next page for identification purposes only. The area is more particularly shown on the plan numbered [ *insert the plan no.* ] above referred to.

[ Date ]

*Deputy Director/Specialist, Lands Department*

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\* If the initiating department would like to provide an objection period of more than two months, it should raise the special request to D of L when the request for gazetting is submitted.

## 憲報公告草擬本

第 號公告 地政總署

前濱及海床(填海工程)條例(第 127 章)  
(根據第 5 條所發的公告)

工務計劃項目第 [ 加插工務計劃項目編號 ] 號  
[ 加插擬建工程的名稱 ]

現公布政府擬進行下面附表所描述的工程，並已製備圖則，劃定及描述該項工程的範圍和受工程影響的前濱及海床。該圖則現存於香港北角渣華道 333 號北角政府合署 23 樓地政總署測繪處及 [ 加插有關分區民政事務處的名稱及地址 ]，供公眾人士在下列時間免費查閱：

星期一至星期五	上午 9 時至下午 4 時 30 分
星期六	上午 9 時至中午 12 時
星期日及公眾假期	休息

北角政府合署地政總署測繪處並同時接受訂購上述圖則。

如欲進一步查詢建議工程的詳情，請與 [ 加插負責部門的名稱、地址及查詢電話號碼 ] 聯絡。

任何人如認為他擁有在該前濱及海床或其上的權益、權利或地役權，可在本公告的日期起計兩個月內<sup>\*</sup>，向地政總署署長交付書面通知，反對該項建議工程。地政總署署長的地址為香港北角渣華道 333 號北角政府合署 20 樓。反對通知書須描述反對人的權益、權利或地役權，以及他聲稱他會受到影響的方式。

## 附表

受影響的前濱及海床	工程說明及該項工程對有關前濱及海床的影響
位於 [ 加插地點 ] 約 [ 加插以公頃或平方米計算的面積 ] 的前濱及海床，範圍在第 [ 加插圖則編號 ] 號圖則上以黑邊線標明。該圖則現存於土地註冊處。	[ 加插必需的詳情 ]

下一頁的圖則示明受影響的前濱及海床。該圖則只作識別用，欲知較詳細資料，請參閱上述第 [ 加插圖則編號 ] 號圖則。

<sup>\*</sup> 倘負責部門擬給予超過兩個月的反對期，應在要求刊憲時，向地政總署署長提出此特別要求。

[ 日期 ]

地政總署副署長(專業事務)

**Draft Press Release**

Foreshore and Sea-bed (Reclamations) Ordinance (Chapter 127)  
[ *insert the title of the proposed undertaking* ]

Government intends to [ *state the activity* ] within an area of approximately [ *insert the area in hectares or square metres* ] of foreshore and sea-bed at [ *insert the location* ]. This is to provide land/for the purposes of [ *state the end use of the formed land or the undertaking* ].

The work is scheduled to commence in [ *insert the date of commencement* ] and to be completed by [ *insert the date of completion* ].

The extent of the area affected is described in a notice published in the Government Gazette on [ *insert the date of first gazetting* ]. Any person who considers that he has an interest, right or easement in or over the foreshore and sea-bed involved may submit a written objection to the Director of Lands, 20<sup>th</sup> Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong within two months\* from that date, i.e. on or before [ *insert the date of expiry of the period for the making of objections* ]. The notice of such objection shall describe the interest, right or easement of the objector and the manner in which he alleges he will be affected.

The notice (in both English and Chinese) together with its related plan No. [ *insert the plan no.* ] can be seen on notice boards posted near the site. The plan can also be seen at the Lands Department Survey and Mapping Office, 23<sup>rd</sup> Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong (where copies can be purchased on order) and at the [ *insert the name and address of the District Office for the area* ].

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\* If the initiating department would like to provide an objection period of more than two months, it should raise the special request to D of L when the request for gazetting is submitted.

## 新聞擬稿

### 前濱及海床(填海工程)條例(第 127 章) [ 加插擬建工程的名稱 ]

政府擬於 [ 加插地點 ] 約 [ 加插以公頃或平方米計算的面積 ] 的前濱及海床範圍內，[ 說明有關活動 ]。有關工程旨在 [ 說明經平整土地或工程的最終用途 ]。

工程定於 [ 加插開始施工日期 ] 展開，約於 [ 加插完工日期 ] 完成。

受工程影響的範圍在 [ 加插首次刊憲日期 ] 憲報發布的政府公告中已載明。任何人如認為他擁有在該前濱及海床或其上的權益、權利或地役權，可在上述日期起計兩個月<sup>\*</sup>內，即 [ 加插提出反對期的屆滿日期 ] 或該日前，向地政總署署長遞交書面反對。反對通知書必須描述反對人的權益、權利或地役權，以及他聲稱他會受到影響的方式。

該公告的中英文版及有關的第 [ 加插圖則編號 ] 號圖則已張貼在該處附近的告示板。查閱有關圖則亦可到香港北角渣華道 333 號北角政府合署 23 樓地政總署測繪處及 [ 加插有關分區民政事務處的名稱及地址 ]。北角政府合署地政總署測繪處並同時接受訂購該圖則。

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<sup>\*</sup> 倘負責部門擬給予超過兩個月的反對期，應在要求刊憲時，向地政總署署長提出此特別要求。

**Flowchart Showing the Procedures for Gazetting under the FS(R)O**

