

ITEM FOR FINANCE COMMITTEE

CAPITAL WORKS RESERVE FUND

HEAD 701 – LAND ACQUISITION

- (a) Ex-gratia Allowance for Permitted Occupiers of Licensed Domestic Structures and Surveyed Domestic Squatter Structures Affected by Clearance
- (b) Domestic Removal Allowance
- (c) Ex-gratia Allowance for Shops, Workshops, Godowns, Slipways, Schools, Churches and Ornamental Fish Breeding Undertakings
- (d) Ex-gratia Allowance for Open-air/Outdoor Business Undertakings

HEAD 701 – LAND ACQUISITION

Civil Engineering – Land acquisition

37CA – Special Ex-gratia Cash Allowance for the Kwu Tung North and Fanling North New Development Areas Project

38CA – Special Ex-gratia Cash Allowance for the Hung Shui Kiu New Development Area Project

Members are invited to approve –

In respect of domestic households in squatter structures affected by all government development clearance exercises

- (a) enhancements to two existing types of ex-gratia allowances for eligible clearerees by relaxing the current eligibility criteria and revising the basis of assessment;
- (b) the application of a reduced amount of the Ex-gratia Allowance for Permitted Occupiers of Licensed Structures and Surveyed Squatters affected by Clearance to eligible clearerees who opt for subsidised sale flat units at Dedicated Rehousing Estates under the non-means tested rehousing arrangements;

/(c)

- (c) payment of Domestic Removal Allowance for a second time to eligible clearerees who opt for relocating from one-off transitional units to the Dedicated Rehousing Estates under the non-means tested rehousing arrangements when the latter are ready for population intake;

In respect of business undertakings operating in the open air or from squatter structures affected by all government development clearance exercises

- (d) a new ex-gratia allowance for eligible open-air/outdoor business undertakings;
- (e) delegation to the Secretary for Financial Services and the Treasury the authority to approve future changes to the rates of the new ex-gratia allowance in (d) above in accordance with the established practice as set out in paragraph 9 of Enclosure 1;
- (f) relaxations to the current eligibility criteria for the existing Ex-gratia Allowance for Shops, Workshops, Godowns, Slipways, Schools, Churches and Ornamental Fish Breeding Undertakings; and

In respect of domestic households in squatter structures affected by government development clearance exercises under the Kwu Tung North and Fanling North New Development Areas and Hung Shui Kiu New Development Area Projects

- (g) creation of new subheads **37CA** and **38CA** under **Head 701 – Land Acquisition** for the payment of Special Ex-gratia Cash Allowance,

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at an estimated total cost to be determined nearer the time of actual clearance to eligible domestic households affected by land resumption and clearance required under the Kwu Tung North and Fanling North New Development Areas and Hung Shui Kiu New Development Area Projects respectively.

PROBLEM

Encl. 1 We need to enhance the general ex-gratia compensation and rehousing (C&R) arrangements to be offered to eligible domestic occupants in squatters and to business undertakings affected by government development clearance exercises¹ to better address their needs. To this end, the Development Bureau announced a revised ex-gratia C&R package on 10 May 2018. Details of the package are set out in Enclosure 1. That part of the package relating to various existing and new ex-gratia allowances (EGAs) requires the approval of the Finance Committee (FC) of the Legislative Council (LegCo).

PROPOSAL

2. The Secretary for Development proposes –

in respect of domestic households in squatter structures affected by all government development clearance exercises

- (a) to enhance the following two existing EGAs by relaxing the current eligibility criteria and revising the basis of assessment –
 - (i) EGA for Permitted Occupiers of Licensed Domestic Structures and Surveyed Domestic Squatters Affected by Clearance (EGAPO); and
 - (ii) Domestic Removal Allowance (DRA);

/(b)

¹ Government development clearance exercises include clearances required for public works projects, clearances related to statutory land resumption and clearances of government land to make way for Government's land disposal and other development purposes, but do not include enforcement-related clearances or emergency clearances.

- (b) to offer a reduced amount of EGAPO to eligible clearerees who opt for subsidised sale flat (SSF) units at Dedicated Rehousing Estates (Dedicated Estates) under the non-means tested rehousing arrangements;
- (c) to offer DRA for a second time to eligible clearerees who opt for relocating from one-off transitional units to the Dedicated Estates under the non-means tested rehousing arrangements when the latter are ready for population intake;

in respect of business undertakings operating in the open air or from squatter structures affected by all government development clearance exercises

- (d) to offer a new type of EGA for eligible open-air/outdoor business undertakings;
- (e) to delegate to the Secretary for Financial Services and the Treasury the authority to approve future changes to the rates of the new ex-gratia allowance in (d) above in accordance with the established practice as set out in paragraph 9 of Enclosure 1;
- (f) to relax the current eligibility criteria for the existing EGA for Shops, Workshops, Godowns, Slipways, Schools, Churches and Ornamental Fish Breeding Undertakings; and

in respect of domestic households in squatter structures affected by government development clearances under the Kwu Tung North and Fanling North (KTN/FLN) New Development Areas (NDAs) and Hung Shui Kiu (HSK) NDA Projects

- (g) to offer Special Ex-gratia Cash Allowance (SEGCA) up to a maximum level of \$600,000 and reduced SEGCA up to a maximum level of \$500,000 exclusively for eligible domestic households of surveyed/licensed structures affected by the KTN/FLN NDAs and HSK NDA Projects.

JUSTIFICATION

3. In line with the ‘people-oriented’ philosophy of the current-term Government, we have proposed enhancements to the existing ex-gratia C&R arrangements for eligible domestic households in squatters and for business undertakings affected by government development clearance exercises. In so doing, we hope to address the concerns of those affected, and to

/facilitate

facilitate land resumption and clearance with a view to securing timely delivery of land for housing, commercial and other community needs. We are also mindful of the need for striking the reasonable balance between addressing the expectations of those being affected and accounting for the prudent use of public money and public housing resources.

Need for Enhancements for Eligible Domestic Occupants in Squatters

4. The prevailing rehousing arrangements for domestic cleartees in squatters mainly target those who fulfil the required comprehensive means test (CMT) requirement. They may not cater for the rehousing needs of squatter domestic occupants rooted in a locality, irrespective of their financial means. Domestic occupants of squatters being affected are aggrieved by the existing arrangements, in particular the CMT requirement. They have called for the provision of non-means tested rehousing to domestic cleartees affected by government development clearance exercises, which was the policy before the introduction of CMT for subsidised housing in 1998². In order to address their genuine rehousing needs, we will offer a non-means tested rehousing option for eligible households, in the form of rental and SSF units in Dedicated Estates to be developed and managed by the Hong Kong Housing Society (HKHS), in addition to the current means-tested rehousing option offered by the Hong Kong Housing Authority (HKHA)³. We intend to implement the arrangements for Dedicated Estates through land grants to HKHS, and with the support of HKHS and HKHA in the provision of one-off transitional units before the Dedicated Estates are completed.

5. In terms of EGA, currently only domestic occupants residing in surveyed/licensed domestic structures continuously for ten years or more immediately preceding the date of a Pre-clearance Survey (PCS)⁴ and fulfilling other miscellaneous criteria including the ‘no-domestic-property’ requirement

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² Before 1998, squatter cleartees may be eligible for rehousing to public rental housing (PRH) only if they fulfil, amongst others, the criteria that they must be genuine residents in a surveyed/licensed domestic structure at the time of the PCS and must have been covered by the 1984/85 Squatter Occupancy Survey.

³ The current rehousing option to HKHA’s PRH is available to those having minimum two years’ continuous residence immediately preceding the date of PCS in surveyed/licensed domestic structures and meeting HKHA’s CMT and other requirements.

⁴ The conduct of a PCS before commencement of land resumption and clearance is a standard process in Government’s planning for all development projects requiring land resumption and clearance. Its purpose is to capture the current occupation and status of existing structures within the development areas. The information obtained will serve as a basis for assessment of eligibility for rehousing and/or EGAs, where applicable, in the event that any structures and occupiers therein are required to be cleared by Government in future for the proposed developments.

and related requirements⁵ may be eligible for EGAPo. Furthermore, households residing in surveyed/licensed non-domestic structures which turned into domestic use are not eligible for EGAPo. We see a case for relaxing the 'ten-years-or-more' continuous residence requirement immediately preceding the date of PCS, when currently the continuous residence requirement for means-tested rehousing is set at a lower threshold of 'two years or more immediately preceding the date of PCS' and when those not eligible for means-tested or non-means tested rehousing may be in need of some form of assistance in terms of finding alternative accommodation. We also see a case for relaxing the eligibility criteria to cover a finite number of households residing in surveyed/licensed non-domestic structures, noting that the prevailing Squatter Control Policy tolerates both surveyed/licensed domestic and non-domestic structures in general. As those surveyed/licensed non-domestic structures are not supposed to be used for domestic purposes and such a change in use should not be encouraged, the relaxation is proposed as an exceptional arrangement confined to a finite number of households having registered in and fulfilling the requirements of a one-off voluntary registration exercise to be implemented by the Lands Department. We also propose enhancements to the rates of the existing EGAPo such that domestic households in different sizes of surveyed/licensed structures and with different years of continuous residence immediately preceding the date of PCS would in general receive higher rates than those payable under the current EGAPo regime. Details of the proposal are set out at paragraph 5(a) of Enclosure 1.

6. To complement the non-means tested rehousing arrangements as stated in paragraph 4 above, we consider it appropriate to assist eligible households that will purchase SSF units at Dedicated Estates by offering them a reduced amount of EGAPo. Details of the proposal are at paragraph 6(a) of Enclosure 1.

7. Currently, an EGA in the form of DRA is payable only to eligible households occupying surveyed/licensed domestic and non-domestic structures. Recipients are also subject to the prescribed requirement on minimum years of continuous residence immediately preceding the date of PCS and the 'no-domestic-property' requirement and related requirements. Given the nature of DRA as a modest cash assistance for those requiring removal, we see a case for

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⁵ Under the prevailing 'no-domestic-property' requirement applicable to the payment of EGAPo, during the period from the date of PCS applicable to the affected structure up to the date of granting EGAPo, the applicant and his/her family member(s) listed in the application form should not own or co-own or have an interest in any domestic property in Hong Kong; or have entered into an agreement (including provisional agreement) to purchase any domestic property in Hong Kong; or hold more than 50% of shares in a company which owns, directly or through its subsidiaries, any domestic property in Hong Kong. Moreover, the applicant and his/her family member(s) listed in the application form should not be enjoying any form of subsidised housing or related benefits, or subject to debarment as a result of previous enjoyment of subsidised housing or related benefits.

extending the allowance to all households residing in squatters affected by government development clearances and covered in PCS, i.e., including those whose squatters are non-surveyed/non-licensed (hence totally unauthorised) structures, as well as those residing in surveyed/licensed structures but not eligible for any form of rehousing or EGAPO by virtue of their having domestic properties in Hong Kong and/or less than two years of continuous residence immediately preceding the date of PCS in the case of surveyed/licensed non-domestic structures. Details of the proposal are set out in paragraph 5(b) of Enclosure 1.

8. Before Dedicated Estates to be developed by HKHS are ready for population intake, eligible households will be offered one-off transitional units and an option to relocate to the Dedicated Estates when available. For households which opt to relocate for a second time from the one-off transitional units to the Dedicated Estates, it is appropriate to provide financial assistance by offering them DRA a second time. Details of the proposal are at paragraph 6(b) of Enclosure 1.

Need for Enhancements for Eligible Business Undertakings

9. For business undertakings operating from surveyed/licensed non-domestic structures affected by government development clearance exercises, an EGA is currently payable to prescribed categories of business uses with the categories largely based on those generally covered by the territory-wide 1982 Squatter Control Survey (SCS) or licences issued before 1982, i.e. shops, workshops, godowns, slipways, schools, churches and ornamental fish breeding undertakings. We note that some of the surveyed/licensed non-domestic structures may have been used to support business undertakings different from those as originally surveyed/licensed. We also note the possibility of some business undertakings being operated from surveyed/licensed domestic structures. To cater for such cases, we propose some flexibility in the implementation of the said EGA, as set out in paragraph 7 of Enclosure 1.

10. As regards business undertakings which are not operating from surveyed/licensed structures or are largely operating in the open air, we note an anomaly in terms of coherence of the EGA arrangements in government development clearance exercises in that these outdoor/open-air business operations that are not disallowed under the leases are ineligible for any EGAs, vis-à-vis business undertakings with operations in unauthorised but tolerated structures in breach of the lease conditions are eligible (paragraph 9 above). Although these outdoor/open-air business operations affected by government development clearances have the avenue of submitting statutory claims for business losses for so long as they are legitimate businesses permissible under the leases, the process of making statutory claims could be cumbersome. We see a

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case for introducing an EGA for these outdoor/open-air business operations as an alternative to the submission of statutory claims. Details of the proposal are at paragraphs 8 to 9 of Enclosure 1.

Interface with Special Ex-gratia C&R Arrangements

11. To introduce a unified as well as enhanced general ex-gratia C&R package for all clearance projects, we have reviewed the necessity of the special ex-gratia C&R arrangements for the KTN/FLN NDAs and HSK NDA Projects that were announced respectively. While the offer of non-means tested rehousing and improved EGAPO under the unified ex-gratia C&R package should also address the needs of those affected by these NDA projects, we propose to retain the announced SEGCA and reduced SEGCA⁶ offer up to a maximum level of \$600,000 and \$500,000 respectively for eligible households in the KTN/FLN NDAs and HSK NDA Projects, as it is possible that the SEGCA or reduced SEGCA amount which individual households are entitled to receive (which takes into account the year of continuous residence in the surveyed/licensed structures immediately preceding the date of PCS but not the size of the structures) may be higher than the enhanced EGAPO or reduced EGAPO (the payment of which has taken and will continue to take into account the years of continuous residence in the surveyed/licensed structures immediately preceding the date of PCS as well as the size of the structures). In other words, eligible households in the KTN/FLN NDAs and HSK NDA Projects may opt for either SEGCA or enhanced EGAPO. Details of the proposal are at paragraphs 10 to 14 of Enclosure 1.

Flexibility in Implementation Arrangements

12. Having considered stakeholders' feedback and with the 'people-oriented' philosophy as well as the principle of fairness and reasonableness in mind, we will exercise some flexibility in the implementation of the unified ex-gratia C&R package, without prejudice to the overall policy directions. Specifically, we will exercise flexibility as set out below –

- (a) consecutive continuous occupation of different surveyed/licensed structures or lots (for open-air/outdoor business undertakings) by households or business undertakings in the same affected area, i.e. within the boundary of the area to be cleared for development, may also be counted towards the minimum continuous occupation period immediately preceding the date of PCS, instead of insisting on occupation of the same structure or lot throughout the minimum continuous occupation period;

/(b)

⁶ Similar to the reduced EGAPO offer, eligible households of surveyed/licensed structures affected by the KTN/FLN NDAs and HSK NDA Projects that will purchase SSF units at Dedicated Estates may be offered a reduced amount of SEGCA.

- (b) for households registered in PCS but subsequently evicted from surveyed/licensed structures by lot owners (or those who claimed to be owners) before Government's actual clearance, we will introduce a discretionary mechanism allowing them to apply to the Director of Lands for ex-gratia C&R arrangements on compassionate grounds. The concerned households have to fulfil the same eligibility criteria for ex-gratia C&R arrangements applicable to other households residing in surveyed/licensed structures and have to demonstrate to the satisfaction of the Director of Lands that their eviction was due to circumstances beyond their control and that they have not received other forms of compensation/rehousing as a result of the eviction;
- (c) for NDAs or other large-scale development projects to be implemented by phases over an extended period of time, we will work out a mechanism allowing eligible households affected by clearances in the later phases of those projects to voluntarily apply for early surrender of and departure from their squatter structures and in turn early application for the ex-gratia C&R package. This arrangement takes into account the concerns expressed by households to be affected by later phases about their having to stay in the vicinity of works areas once the earlier phases of construction have commenced, and about the breaking up of a coherent community. For practical considerations, whether and if yes how the applications would be entertained will be subject to capacity (e.g. whether rehousing units are available ahead of the original due date) and prioritisation of claims (e.g. those closer to the first phase should be given priority);
- (d) for the KTN/FLN NDAs, HSK NDA, Wang Chau development Phase 1 and other development projects for which PCS had already been completed before the announcement of the enhanced ex-gratia C&R package on 10 May 2018, we will exercise flexibility in assessing the continuous residence/occupation duration of clearances (e.g. households, business undertakings) for determining the eligibility for EGAs and/or rehousing arrangements by counting not only the length of continuous residence/occupation immediately preceding the date of PCS but also that after the date of PCS but before 10 May 2018 (i.e. the announcement date of the proposed enhanced ex-gratia C&R package). This is an exceptional implementation arrangement confined to the above mentioned projects, on the ground that the detailed assessment work which should have commenced soon after the PCS has been delayed for some time due to the review of the ex-gratia C&R package.

13. We will further work out the logistics for some of the above arrangements for flexibility (e.g. the arrangements for inviting applications, applicable dates for assessing EGAs⁷, etc.). As the actual situation on the ground varies, we may make further modifications to the implementation arrangements where these may help address the needs of those rooted in the community/area and facilitate clearances, while not compromising the key features of the EGA regime as approved by the FC.

FINANCIAL IMPLICATIONS

14. The number of domestic occupants of squatters and business undertakings affected by government development clearance exercises, as well as the types of structures in which households reside and from which business undertakings operate, varies amongst projects and cannot be ascertained until after completion of a PCS. Also, the relevant information in relation to assessment of eligibility for ex-gratia C&R arrangements for households and business undertakings (such as the length of residence and occupation by households and business undertakings respectively, the number of independent households within a surveyed/licensed structure and the fulfilment or otherwise of the 'no-domestic-property' requirement and related requirements for each independent household) cannot be ascertained until after completion of detailed eligibility screening. It is therefore not possible to provide an accurate quantitative assessment of the financial implications of the proposal at this stage.

15. Subject to Members' approval of the proposal in this submission, the estimated cashflow requirements for the approved EGAs attributable to individual public works projects will be included in the relevant subheads of the Capital Works Reserve Fund Estimates for approval by the FC. Furthermore, when a bureau/department presents to the Public Works Subcommittee and the FC a funding proposal of an individual project that involves land resumption and clearance, it will provide an assessment of the financial implications in terms of the amount of EGAs to be offered at that juncture, taking into account more precise information regarding the eligibility of clearerees for the relevant EGAs.

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⁷ For example, the FC previously approved that calculation of the amount of the eligible EGAPOs be based on prevailing rates on the date of posting of the resumption notice for that project if land resumption is involved; or the date which is six months before the first scheduled clearance date for that project if only government land is involved. Where eligible households apply for voluntarily vacating and surrendering their squatter structures early before actual clearance of the respective phases of the projects, the date of resumption notice for that particular phase may not exist. We will consider other reference time points as the basis.

16. As a broad brush estimate, the additional financial implication arising from the enhancement proposal for those EGAs payable to domestic households in squatters is estimated to be in the order of \$240 million, on top of the estimated expenditure of some \$320 million if the arrangements remain unchanged. This broad brush estimate is worked out on the assumption that some 8 000 domestic households in squatters would be affected by development projects being planned for the short-to-long term and that the pattern of their eligibility for the various EGAs would be similar to that for recent development clearance exercises.

EFFECTIVE DATE

17. Subject to Members' approval, we will –

in respect of all on-going and future land resumptions and clearances

- (a) apply the proposed enhancements to EGAs (as set out in paragraph 2(a)-(c) above) and rehousing as a package for **eligible domestic households in surveyed/licensed structures** who have not yet received Government's EGAs or rehousing as of 10 May 2018 (the day on which Government announced the unified ex-gratia C&R package);
- (b) apply the relaxation in eligibility criteria for the specified EGA (as set out in paragraph 2(f) above) in respect of **eligible business undertakings operating from surveyed/licensed structures** which have not yet received Government's compensation or EGAs as of 10 May 2018 (the day on which Government announced the relaxation as part of the unified ex-gratia C&R package);
- (c) apply the new EGA (as set out in paragraph 2(d) above) for **eligible open-air/outdoor business operations** to those operations which have not yet received Government's compensation or EGAs as of 11 April 2017 (the day on which Government proposed the new EGA); and

in respect of government development clearances under the KTN/FLN NDAs and HSK NDA Projects

/(d)

- (d) apply SEGCA and reduced SEGCA (as set out in paragraph 2(g) above) for **eligible domestic households of surveyed/licensed structures** who have not yet received Government's EGAs or rehousing as of 10 May 2018 (the day on which Government announced the unified ex-gratia C&R package).

PUBLIC CONSULTATION

18. Following the announcement of the proposals on 10 May 2018 at a press conference, we briefed the LegCo Panel on Development on the proposals on 29 May 2018. We also briefed local stakeholders (such as relevant District Councils, Rural Committees, clearerees (including residents' groups and concern groups) affected by key development clearance exercises in the pipeline) intensively on various occasions in May to July 2018 after Government's announcement of the proposals. Furthermore, we listened to deputations' views expressed at the joint meetings of the LegCo Panel on Development and Panel on Housing held on 26 and 29 June 2018. That part of the package relating to the introduction of a new EGA for open-air/outdoor business undertakings was first proposed on 11 April 2017, followed by a briefing for the LegCo Panel on Development on 23 May 2017 and a special meeting on 29 June 2017 for deputations.

19. The overall direction of enhancing the existing ex-gratia C&R arrangements for government development clearance exercises is generally welcomed as an attempt to positively address the concerns previously raised by local stakeholders over their need for non-means tested rehousing with rental and for-sale options, as well as relaxed eligibility criteria for ex-gratia C&R arrangements. Members have called for greater flexibility in the implementation of the new package with a view to addressing the concerns of those affected. The implementation arrangements set out in paragraph 12 above have responded positively to such calls.

BACKGROUND

20. Under the prevailing squatter control policy, squatter structures surveyed during the 1982 SCS ('surveyed structures') were allocated squatter survey numbers, but they remain unauthorised in nature and are only 'tolerated' on a temporary basis, provided that the location, dimensions, building materials and use are the same as the record in the 1982 SCS, until the surveyed structure has to be cleared for development, environmental improvement or safety reasons, or until the surveyed structure is phased out through natural wastage. Moreover, Government has issued different licenses permitting erection of temporary

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structures on government land and private agricultural land. The structures covered by those licences issued before 1982, or those after 1 June 1982 provided that they are derived from pre-1982 licences in respect of the structures to be cleared and without substantial changes to the conditions of the pre-1982 licences are referred to as 'licensed structures'. Such licensed structures are also tolerated on a temporary basis. While such 'tolerance' for surveyed/licensed structures does not create any legal rights or interests or obligations, and does not confer on any person the right of occupation of land, Government has been offering ex-gratia C&R arrangements to eligible domestic households residing in surveyed/licensed domestic structures and EGAs to eligible business undertakings operating from surveyed/licensed non-domestic structures. A brief background of the current ex-gratia C&R arrangements that the proposals seek to enhance is at Enclosure 2.

Encl. 2

Development Bureau
July 2018

Revised Ex-gratia Compensation and Rehousing Package

The Development Bureau announced on 10 May 2018 certain revisions to the ex-gratia compensation and rehousing (C&R) arrangements for domestic occupants of squatters and business undertakings operating from surveyed/licensed structures or in the open air affected by government development clearance exercises. This note sets out the proposals.

Key Features

2. Our proposals comprise the following key features –
- (a) replacing ‘project-specific’ packages with a unified as well as enhanced general ex-gratia C&R package applicable to all future government development clearance exercises;
 - (b) offering to eligible households non-means tested rehousing in dedicated rehousing estates (Dedicated Estates) to be built and operated by the Hong Kong Housing Society (HKHS);
 - (c) relaxing the eligibility criteria and increasing the amount of cash ex-gratia allowances (EGAs) for eligible households residing in surveyed/licensed structures¹;
 - (d) suitably extending the arrangements on non-means tested rehousing and enhanced cash EGAs to eligible households currently residing in surveyed/licensed non-domestic structures, subject to appropriate measures being taken to confine such households to a finite number; and
 - /(e)

¹ Government conducted in 1982 a territory-wide Squatter Control Survey (SCS) to register the location, dimension and use of squatter structures. The survey results are used as a baseline for squatter control whereby the existence of squatters covered by the 1982 SCS (i.e. ‘surveyed structures’) is tolerated for domestic or non-domestic uses, whichever was recorded in the 1982 SCS. Moreover, Government has issued different licences permitting erection of temporary structures on government land and private agricultural land, and these include Short Term Tenancies (STTs), Government Land Licences, Modification of Tenancy (MOT) Permits, Short Term Waivers and Letters of Approval (Ls of A). The structures covered by those licences issued before 1982, or those after 1 June 1982 provided that they are derived from pre-1982 licences in respect of the structures to be cleared and without substantial changes to the conditions of the pre-1982 licences are referred to as ‘licensed structures’. Such licensed structures are tolerated and could be for domestic or non-domestic uses, whichever was stated in the relevant licences.

- (e) relaxing the eligibility criteria of applicable EGAs for business undertakings on brownfields and in squatters.

Unified Ex-gratia C&R Package

3. We recommend rationalising the ex-gratia C&R arrangements by offering a unified as well as enhanced standard general package applicable to all government development clearance exercises, including clearances for the Kwu Tung North and Fanling North (KTN/FLN) New Development Areas (NDAs) and Hung Shui Kiu (HSK) NDA Projects for which the applicability of special packages has been announced and clearances for other projects like Wang Chau development Phase 1.

Enhanced Rehousing Element for Domestic Occupants in Squatters

4. We recommend enhancing the rehousing arrangements for eligible domestic occupants in squatters as follows –

- (a) **in addition to** the current means-tested rehousing option offered by the Hong Kong Housing Authority (HKHA)², **offering non-means tested rehousing** as an option to eligible households to be cleared in government development clearance exercises, in the form of **rental and subsidised sale flat (SSF) units** in Dedicated Estates to be built and operated by HKHS;
- (b) the **non-means tested rehousing** in (a) above will be offered not only to domestic occupants of **surveyed/licensed domestic structures** but also to those occupying **surveyed/licensed non-domestic structures** for domestic use affected by government development clearance exercises, subject to their meeting the prescribed eligibility criteria including –
 - (i) **at least seven years'** continuous residence³ immediately preceding the date of Pre-clearance Survey (PCS);

/(ii)

² The current rehousing option to HKHA's public rental housing (PRH) is available to those having minimum two years' continuous residence immediately preceding the date of PCS in surveyed/licensed domestic structures and meeting HKHA's comprehensive means test and other requirements.

³ There is currently no non-means tested rehousing element under the general ex-gratia C&R arrangements. Under special ex-gratia C&R arrangements announced for the KTN/FLN NDAs Project, the minimum continuous residence requirement immediately preceding the date of PCS for rehousing to subsidised rental units subject to a relaxed means test requirement and to SSF units subject to no means test requirement is ten years.

- (ii) registering in and fulfilling the requisite requirements of the one-off voluntary registration exercise for domestic occupants in surveyed/licensed non-domestic structures;
 - (iii) the prevailing ‘no-domestic-property’ requirement and related requirements⁴; and
 - (iv) other eligibility criteria set by HKHS⁵; and
- (c) making use of vacant units of HKHS’s rental and HKHA’s PRH estates to provide **transitional arrangements** to eligible households opting for the rehousing proposal in (a) above before HKHS’s Dedicated Estates are ready for population intake (estimated to be in around 2023/2024 for the Dedicated Estates at Pak Wo Road, Fanling and at HSK NDA and around 2027/2028 for the Dedicated Estate at KTN Area 24 at the earliest). Concerned households would be given the option (instead of being mandated) to relocate to the Dedicated Estates when the latter are ready for population intake.

Enhanced EGA Element for Domestic Occupants in Squatters

5. We recommend relaxing the eligibility of and improving the following two types of EGAs for domestic occupants in squatters –

/(a)

⁴ Same as the prevailing ‘no-domestic-property’ requirement applicable to means-tested rehousing and the payment of EGA for Permitted Occupiers of Licensed Domestic Structures and Surveyed Domestic Squatters Affected by Clearance (EGAPO), the ‘no-domestic-property’ requirement for non-means tested rehousing requires that during the period from the date of PCS applicable to the affected structure up to the date of granting rehousing, the applicant and his/her family member(s) listed in the application form should not own or co-own or have an interest in any domestic property in Hong Kong; or have entered into an agreement (including provisional agreement) to purchase any domestic property in Hong Kong; or hold more than 50% of shares in a company which owns, directly or through its subsidiaries, any domestic property in Hong Kong. Moreover, the applicant and his/her family member(s) listed in the application form should not be enjoying any form of subsidised housing or related benefits, or subject to debarment as a result of previous enjoyment of subsidised housing or related benefits.

⁵ HKHS also has in place some other eligibility criteria, for example, the applicant and his/her family member(s) must be permanently residing in Hong Kong, and the applicant and all family members included in the application must not be/have been an owner of any property purchased under any of the home purchase assistance schemes operated by HKHA or HKHS.

(a) EGAPO⁶

(i) **shortening the minimum continuous residence requirement** for EGAPO from ten to two years immediately preceding the date of PCS;

(ii) **enhancing** the calculation of EGAPO amounts⁷ payable to eligible households by (see Annex I to Enclosure 1) –

(1) removing the existing \$600,000 cap on the amount of EGAPO payable and introducing a size cap at 100m² for the calculation of EGAPO amount payable in relation to the size of the eligible structure;

(2) introducing a size floor of 10m² for the calculation of EGAPO amount payable in relation to the size of the eligible structure attributable to each household, i.e. if a household occupies only one structure and the structure is less than 10m² in size, EGAPO will be assessed on the basis of 10m²; however, if a household occupies multiple structures, the total size attributable to the household will be counted, but where the total is less than 10m² EGAPO will be assessed on the basis of 10m²; and

/(3)

Annex I

⁶ EGAPO will be renamed as ‘EGA for Permitted Occupiers of Licensed Structures and Surveyed Squatters affected by Clearance’ upon implementation of the enhancement proposal. The restriction imposed on EGAPO recipients, i.e. they are to be barred from applying for any form of subsidised housing or related benefits, including but not limited to PRH, for a period of two years counting from the date of receipt of EGAPO, remains unchanged.

⁷ There are three different EGAPO basic rates depending on the location of eligible structures, including Urban, Extended Urban and New Territories. The prevailing basic rates for the three locations are at \$18,216, \$13,680 and \$12,096 per square metre (m²) respectively. As there is currently no EGAPO amount floor, the minimum EGAPO amount in the New Territories would be \$48,384 (\$12,096 x 10m² x 40%) if using households residing in eligible structures with size of 10m² or more as an example and calculating using the basic rate in the New Territories (i.e. \$12,096), with adjustment by residence length (i.e. households with residence length between 10 and 15 years may receive 40% of the basic rate). The maximum EGAPO amount cap is \$600,000. Under the proposed enhancement measures, there is an EGAPO amount floor whereby the eligible area of structures resided by households is still counted as 10m² even if it is less than 10m². Hence, the minimum EGAPO amount in the New Territories is \$60,480 (\$12,096 x 10m² x 50%) after adjustment by residence length (i.e. households with residence length between two and six years may receive 50% of the basic rate). Under the proposed enhancement measures, there is a size cap of 100m² for EGAPO amount, so the maximum EGAPO amount in the New Territories is \$1,209,600 (\$12,096 x 100m² x 100%).

- (3) revising the banding system (expressed in terms of different proportions to the EGAPPO rate) for assessing the quantum of EGAPPO payable to eligible clearerees having regard to their length of continuous occupation; and
- (iii) **relaxing the eligibility** for EGAPPO to cover also domestic occupants of surveyed/licensed **non-domestic structures** affected by government development clearance exercises, in addition to domestic occupants of surveyed/licensed domestic structures who are already covered, subject to their registering in and fulfilling the requisite requirements of the one-off voluntary registration exercise for domestic occupants in surveyed/licensed non-domestic structures and meeting the prescribed eligibility criteria including (i) above and other prevailing requirements for EGAPPO including the ‘no-domestic-property’ requirement and related requirements⁸.
- (b) Domestic Removal Allowance (DRA)
 - (i) **enhancing** the calculation of DRA amounts⁹ payable to eligible households by –
 - (1) introducing a new element of ‘rental for the period required for fitting-out (one-month rental)’ into the existing methodology for calculating DRA which makes reference to the basic fitting-out cost, removal cost and telephone (domestic line) removal cost; and
 - (2) rounding up the DRA amounts so computed under the revised methodology to the nearest \$10; and
 - /(ii)

⁸ Under the prevailing ‘no-domestic-property’ requirement applicable to the payment of EGAPPO, during the period from the date of PCS applicable to the affected structure up to the date of granting EGAPPO, the applicant and his/her family member(s) listed in the application form should not own or co-own or have an interest in any domestic property in Hong Kong; or have entered into an agreement (including provisional agreement) to purchase any domestic property in Hong Kong; or hold more than 50% of shares in a company which owns, directly or through its subsidiaries, any domestic property in Hong Kong. Moreover, the applicant and his/her family member(s) listed in the application form should not be enjoying any form of subsidised housing or related benefits, or subject to debarment as a result of previous enjoyment of subsidised housing or related benefits.

⁹ The prevailing DRA rates for one-person households, two-to-three-person households, four-to-five-person households and six-or-more-person households are \$5,365, \$12,005, \$15,756 and \$20,251 respectively. The DRA rates (at the prevailing level) upon implementation of the enhancement measures for one-person households, two-to-three-person households, four-to-five-person households and six-or-more-person households will be \$9,410, \$16,050, \$22,110 and \$28,840 respectively.

- (ii) **relaxing the eligibility** for DRA to cover **all households covered by PCS and cleared by Government**, as a result of which the prevailing ‘no-domestic-property’ requirement and related arrangements, as well as minimum residence requirement, will no longer apply to this DRA, and households residing in totally unauthorised structures (i.e. structures without the 1982 SCS/licence status) will also be eligible.

6. To complement the non-means tested rehousing arrangements as stated in paragraph 4 above, we further recommend that –

- (a) a **reduced EGAP0**¹⁰ be offered to eligible households who will purchase SSF units in Dedicated Estates in paragraph 4(a) above for the purpose of assisting their home purchase, payable at five-sixth (i.e. about 83%) of the EGAP0 amount to which they would have been entitled had they not opted for purchasing SSF units at Dedicated Estates; and
- (b) given that it takes time for HKHS to develop Dedicated Estates (earliest population intake estimated to be in around 2023/2024), a **second-round DRA**¹¹ be offered to eligible households opting to relocate from transitional units offered by HKHA/HKHS to the Dedicated Estates when they are ready for population intake.

Enhanced EGA Element for Business Undertakings in Squatters

7. We recommend relaxing the eligibility of the EGA for shops, workshops, godowns, slipways, schools, churches and ornamental fish breeding undertakings to cover the following scenarios whereby –

- (a) the business undertaking is operating from a surveyed/licensed domestic structure and the non-domestic use concerned is among those generally covered in the 1982 SCS/licences; and

/(b)

¹⁰ We recommend that the sum of reduced EGAP0 to be disbursed to eligible households which would purchase SSF units at the Dedicated Estates be calculated based on the prevailing rates on the date of one-off pre-sale exercise of SSF units at the Dedicated Estates. The size and location of squatters to be cleared remain to be the basis of calculating the sum of reduced EGAP0.

¹¹ We recommend that the second-round DRA to be disbursed to eligible households relocating to the Dedicated Estates be calculated based on the prevailing rates on the expiry date before which households must make a decision of whether to stay in transitional units or relocate to Dedicated Estates.

- (b) the business undertaking is operating from a surveyed/licensed non-domestic structure, but where the use has changed from one specified in the 1982 SCS/licence (e.g. godowns) to other non-domestic uses (e.g. workshops) falling within the categories of uses generally covered in the 1982 SCS/licences, subject to no C&R claims for domestic occupants being made in respect of those structures;

subject to no C&R claims for domestic occupants being made in respect of those structures.

Enhanced EGA Element for Open-air/Outdoor Business Undertakings

8. We recommend a new type of EGA be offered to the following categories of business undertakings affected by government development clearance exercises –

- (a) outdoor/open-air business undertakings on private agricultural land not in breach of the lease and operating for at least seven years immediately preceding the date of PCS; and
- (b) business undertakings on private agricultural land permitted by short-term land instruments issued by the Lands Department (i.e. Waivers, MOT Permits, Ls of A) at least seven years immediately preceding the date of PCS and not in breach of the conditions of the short-term land instruments, as well as business operations on government land under STTs (excluding those sites let under Abbreviated Tender System¹²) first granted at least seven years immediately preceding the date of PCS and not in breach of the STT conditions, subject to no other claims for the EGA for shops, workshops, godowns, slipways, schools, churches and ornamental fish breeding undertakings being made in respect of the same business operation;

subject to no other claims for the EGA for shops, workshops, godowns, slipways, schools, churches and ornamental fish breeding undertakings being made in respect of the same business operation.

/9.

¹² Abbreviated Tender System cases are granted through formal tender procedure with express terms on termination and renewal arrangement made known to all bidders. These cases are excluded from the proposal.

9. For the purpose of administering the new EGA referred to in paragraph 8 above, we recommend adopting the following key parameters –

- (a) Calculation of the amount of the eligible EGA is based on prevailing rates on the date of posting of the resumption notice for that project if resumption of private land is involved, or the date which is six months before the first scheduled clearance date for that project if only government land is involved;
- (b) The prevailing EGA rate for open area of workshops¹³ (set with reference to the average rental per m² of flatted factories in the private sector as advised by the Rating and Valuation Department capitalised over fifteen months, and multiplied by one-sixth to reflect the outdoor/open-air nature of the undertakings) will be adopted for the open areas of eligible business undertakings, subject to a minimum qualifying area of 20m² and a maximum payment ceiling of 5 000m² per business undertaking. Where the eligible business undertakings also occupy eligible structures (including any surveyed/licensed structures as set out in footnote 1 above or structures permitted under the relevant land instruments of business undertakings referred to in paragraph 8(b) above), the rate for covered area of workshops under the arrangement for the EGA for workshops¹⁴ will be adopted for the covered areas occupied by those structures, subject to a minimum qualifying area of 5m²;
- (c) As far as open area is concerned, the occupied area at the time of PCS is adopted as the basis for computation of the EGA. As far as covered area is concerned, the area as surveyed/licensed or permitted under the relevant land instruments of the structure or the occupied area at the time of PCS, whichever is the least, is adopted as the basis for computation of the EGA;
- (d) Some business undertakings operating in the outdoor/open air may also carry out some of its activities indoors in ineligible structures (i.e. structures other than any surveyed/licensed structures as set out in footnote 1 above or structures permitted under the relevant land instruments of business undertakings referred to in paragraph 8(b) above) on site. The existence of those ineligible structures on site should not in themselves render the undertakings ineligible for the new EGA applicable to the outdoor/open-air portion. Where such ineligible structures are subsequently demolished after the date of PCS, the areas so freed up and becoming part of the outdoor/open-air portion of the business

/undertakings

¹³ The prevailing rate is at \$390 per m².

¹⁴ The prevailing rate is at \$116,500 for the first 5 to 25m² and \$2,330 per m² thereafter.

undertakings would also be counted for the purpose of the new EGA, subject to the same seven-year minimum operational period and no C&R claims for domestic occupants being made in respect of those structures; and

- (e) The EGA rate will be adjusted annually in accordance with the same established practice of reviewing the rates for the EGA for workshops. Following current practice, we propose that the authority to approve future changes to the rate for the new EGA should also be delegated to the Secretary for Financial Services and the Treasury.

Special Ex-gratia Cash Allowance (SEGCA) for the KTN/FLN NDAs and HSK NDA Projects

Annex II

10. We recommend that ‘Qualified Households’ affected by government clearance exercises for the KTN/FLN NDAs and HSK NDA Projects be offered SEGCA, subject to their satisfying the eligibility criteria set out in Annex II to Enclosure 1. In gist, a ‘Qualified Household’ eligible for SEGCA should meet the following conditions –

- (a) the household should reside in an affected structure at the date of the PCS;
- (b) the affected structure should be a surveyed/licensed domestic structure not built on building land;
- (c) the household should be covered by the 1984/85 Squatter Occupancy Survey or can produce evidence proving that it has resided in the affected structure for at least the same duration; and
- (d) the household should fulfil the same ‘no-domestic-property’ requirement and related requirements applicable to EGAPO (see footnote 8).

11. A ‘Qualified Household’ will be offered one of the following SEGCA options in the form of a lump-sum cash allowance regardless of the area occupied by the relevant structure –

- (a) a full SEGCA pitched at \$600,000; or
- (b) a reduced SEGCA pitched at \$500,000 if the household is purchasing a SSF unit at Dedicated Estates.

/The

The SEGCA offered will be on a structure or household basis, whichever is smaller. That is, if a household occupies more than one structure, the SEGCA will only be paid once for the household; if more than one household occupies one structure, the SEGCA will only be paid once for the structure, and the households will have to agree amongst themselves on the sharing arrangement.

12. To address the special needs of households that do not fully comply with the eligibility criteria listed in paragraph 10 above, it is proposed that the Secretary for Development (SDEV) be authorised to determine whether such households may still be offered SEGCA, at his discretion upon receipt of an application and on a case-by-case basis. Specifically, he will decide –

- (a) whether the household should be eligible to receive SEGCA notwithstanding that it does not fully meet the requirements to be a ‘Qualified Household’; and
- (b) if such a household is so eligible, whether and to what extent the amount of SEGCA to be offered to the household should be adjusted.

13. We will set up an Inter-departmental Advisory Panel to advise the SDEV on exercising the above discretion. The households will be given the opportunity to make written representations. The decision of the SDEV shall be final. Details of the discretion of the SDEV and mechanism for him to exercise the discretion are set out in Annex II to Enclosure 1. In exercising the discretion, the SDEV may consider, but is not bound by, such factors.

14. Recipients of SEGCA would have to give up their entitlement to other forms of rehousing (either means-tested or non-means tested) and receipt of other forms of EGA except DRA under the prevailing ex-gratia C&R policies. They will be barred from applying for any form of subsidised housing or related benefits for three years from the date of receipt of SEGCA.

**Computation of the Amount for
Ex-gratia Allowance for Permitted Occupiers of Licensed Structures and
Surveyed Squatters affected by Clearance (EGAPO)**

EGAPO rates are assessed having regard to 72-month rental value for comparable but lawful structures of the same size in the same area. The approved basis for calculating EGAPO rates is as follows –

- (a) the whole of Hong Kong is divided into three broad regions – Urban, Extended Urban and the New Territories for the purpose of calculating the applicable EGAPO rates (current basic rates are \$18,216, \$13,680 and \$12,096 per square metre (m²) respectively);
- (b) EGAPO rates are determined by reference to the latest rental data available to the Rating and Valuation Department on the average unit rental of village type houses and/or tenement buildings; and
- (c) EGAPO rates would be updated every six months in accordance with (b) above.

2. Under the prevailing arrangement, the EGAPO amount received by households will be adjusted according to a banding system (in terms of different proportions to the EGAPO rate) having regard to the length of continuous occupation for domestic use (see table below) and subject to a cap of \$600,000.

Banding	Types of Households in Surveyed/Licensed Domestic Structures	Proportion of EGAPO Rate
Band 1	Occupation covered by the 1984/85 Squatter Occupancy Survey (SOS), or permitted occupiers of licensed domestic structures	Full EGAPO rate
Band 2	Occupation of 26 years or more immediately before Pre-clearance Survey (PCS), but not covered by the 1984/85 SOS	85% EGAPO rate
Band 3	Occupation between 21 and 25 years immediately before PCS	70% EGAPO rate
Band 4	Occupation between 16 and 20 years immediately before PCS	55% EGAPO rate
Band 5	Occupation between 10 and 15 years immediately before PCS	40% EGAPO rate

3. Under the enhancement measures, the banding system will be revised as follows –

Banding	Types of Households in Surveyed/Licensed Domestic or Non-domestic Structures	Proportion of EGAPo Rate
Band 1	Occupation covered by the 1984/85 SOS, or permitted occupiers of licensed domestic structures	Full EGAPo rate
Band 2 ⁽¹⁾	Occupation of 31 years or more immediately before PCS, but not covered by the 1984/85 SOS	Full EGAPo rate
Band 3 ⁽¹⁾	Occupation between 26 and 30 years immediately before PCS	90% EGAPo rate
Band 4	Occupation between 21 and 25 years immediately before PCS	80% EGAPo rate
Band 5	Occupation between 16 and 20 years immediately before PCS	70% EGAPo rate
Band 6	Occupation between 7 and 15 years immediately before PCS ⁽²⁾	60% EGAPo rate
Band 7	Occupation between 2 and 6 years immediately before PCS ⁽²⁾	50% EGAPo rate

Note:

- (1) Households with occupation of 26 years or more immediately before PCS but not covered by 1984/85 SOS are now further separated into two bands.
- (2) Households with occupation between 2 and 9 years immediately before PCS are not eligible for EGAPo under the current arrangement.

4. Before the proposed enhancement, the prevailing EGAPo amount in the New Territories ranges from a minimum of \$48,384 to a maximum of \$600,000, being the cap, by using households residing in eligible structures with size of 10m² or more as an example. Under the proposed enhancement measures, the range will be increased from a minimum of \$60,480 to a maximum of \$1,209,600.

**Special Ex-gratia Cash Allowance (SEGCA) Exclusively for
Eligible Households affected by Government Clearance Exercises of the
Kwu Tung North and Fanling North (KTN/FLN)
New Development Areas (NDAs) and
Hung Shui Kiu (HSK) NDA Projects**

SEGCA is offered exclusively to eligible households affected by government clearance exercises of the KTN/FLN NDAs and HSK NDA Projects. This is a special arrangement to assist such households in meeting their rehousing needs and facilitate clearance of sites required for the two projects as soon as possible for the timely implementation of the projects.

Eligibility Criteria and Basic Rates for SEGCA

2. The basic eligibility criteria for SEGCA are modelled largely on those for Ex-gratia Allowance for Permitted Occupiers of Licensed Structures and Surveyed Squatters affected by Clearance (EGAPO), viz. a household must be covered in the Pre-clearance Survey (PCS) and fulfill the prevailing ‘no-domestic-property’ requirement and related requirements^{Note}. In terms of the status of squatter structure and length of continuous residence immediately preceding the date of PCS, a household is regarded as a ‘Qualified Household’ to receive SEGCA if the affected structure, in which the household is residing, is a surveyed/licensed domestic structure and the household is covered by the 1984/85 Squatter Occupancy Survey or can produce evidence proving that it has resided in the affected structure for at least the same duration continuously immediately preceding to the date of PCS.

3. Each ‘Qualified Household’ may receive one of the following SEGCA options in the form of a lump-sum cash allowance **regardless of the area occupied by the relevant structure** –

(a) a full SEGCA pitched at \$600,000; or

/(b)

^{Note} The prevailing ‘no-domestic-property’ requirement and related requirements for SEGCA are modelled on those for EGAPO such that from the date of PCS applicable to the affected structure up to the date of granting of SEGCA, the applicant and his/her family member(s) listed in the application form should not own or co-own or have an interest in any domestic property in Hong Kong, or have entered into an agreement (including provisional agreement) to purchase any domestic property in Hong Kong; or hold more than 50% of shares in a company which owns, directly or through its subsidiaries, any domestic property in Hong Kong. Moreover, the applicant and his/her family member(s) listed in the application form should not be enjoying any form of subsidised housing or related benefits, or subject to debarment as a result of previous enjoyment of subsidised housing or related benefits.

- (b) a reduced SEGCA pitched at \$500,000 if the household is purchasing a subsidised sale flat unit at Dedicated Estates.

4. The SEGCA offered will be on a structure or household basis, whichever is smaller. That is, if a household occupies more than one structure, the SEGCA will only be paid once for the household; if more than one household occupies one structure, the SEGCA will only be paid once for the structure, and the households will have to agree amongst themselves on the sharing arrangement.

Discretionary Arrangements

5. Where a household does not meet the prescribed criteria about the status of squatter structure and length of continuous residence immediately preceding the date of PCS referred to in paragraph 2 above, it may still apply to the Secretary for Development (SDEV) for the latter to decide at his discretion whether it may be eligible for SEGCA. As a guiding reference, a household continuously occupying a surveyed/licensed non-domestic structure, or residing in eligible surveyed/licensed structures for less than the requisite duration but for ten years or more immediately preceding the date of PCS, may be eligible for this discretionary arrangement.

6. Where the SDEV exercises his discretion to favourably consider the case of a household which does not meet the requirements of a 'Qualified Household' in paragraph 2 above, he will decide the extent to which the amount of SEGCA to be offered to the household should be adjusted, taking into account factors including but not necessarily limited to those set out below. The SDEV's decision shall be final. As a broad brush indication, depending on the circumstances of the households concerned, the amount of SEGCA granted to households would range from \$300,000 to \$600,000 while the amount of reduced SEGCA would range from \$250,000 to \$500,000.

7. Each application received shall be considered by the SDEV taking into account the supporting materials provided by the household and the advice given by an Inter-departmental Advisory Panel comprising officers of appropriate rank from the Development Bureau and other concerned departments. The SDEV and the Inter-departmental Advisory Panel may take into consideration the following factors –

/(a)

- (a) the duration for which the household has been living in the eligible structure – in general, a longer duration may suggest that the household has stronger connection or attachment to the site. More favourable consideration should be given;
- (b) status of the structure in which the household is residing – in general, the case of a household residing in a structure converted from a surveyed/licensed non-domestic structure may be exceptionally considered, but its claim will be smaller than that of a household residing in a surveyed/licensed domestic structure. Applications from households residing in non-surveyed/non-licensed structures will not be considered;
- (c) the size of the household – while the basic rate of SEGCA is a lump-sum regardless of the area occupied by the relevant structure, in general, the adjustment of SEGCA amount for a household whose case is to be favourably considered under the discretionary arrangement may have regard to the household size;
- (d) the age profile of the household members – in general, elderly members may find it more difficult to adapt to a new environment. More favourable consideration should be given to such household;
- (e) the household's existing living conditions;
- (f) the circumstances that may deserve compassion (if any); and
- (g) any other factors that the SDEV and the Inter-departmental Advisory Panel may consider relevant.

Restrictions of SEGCA

8. A household granted SEGCA must give up its entitlement to other forms of rehousing (either means-tested or non-means tested) and receipt of other forms of ex-gratia allowances except Domestic Removal Allowance (DRA) under the prevailing ex-gratia C&R policies. It is also barred from applying for any form of subsidised housing or related benefits, including but not limited to public rental housing, for a period of three years counting from the date of receipt of SEGCA.

Background of Current Ex-gratia Compensation and Rehousing Elements Covered by the Proposal

Ex-gratia Allowance for Permitted Occupiers of Licensed Domestic Structures and Surveyed Domestic Squatter Structures Affected by Clearance (EGAPO)

Background

The Finance Committee (FC) of the Legislative Council endorsed on 15 July 2002 (FCR(2002-03)34) payment of EGAPO as an alternative to Interim Housing (IH) for eligible persons affected by government clearances. The authority to approve changes to EGAPO in accordance with the approved formula was delegated to the Secretary for Financial Services and the Treasury. On 6 December 2013 (FCR(2013-14)33), the FC approved enhancements on the eligibility for and basis of calculation of EGAPO.

2. The following groups of occupiers affected are eligible for EGAPO –

- (a) permitted occupiers of a licensed domestic structure¹ on private agricultural land or unleased government land affected by clearance who are not provided with or do not opt for Public Rental Housing (PRH) of the Hong Kong Housing Authority (HKHA);

/(b)

¹ Over the years, there have been different licences issued by Government permitting erection of temporary structures on government land and private agricultural land, including Short Term Tenancies (STT), Government Land Licences, Modification of Tenancy Permits, Short Term Waivers (STW) and Letters of Approval. The structures covered by these licences are referred to as 'licensed structures'. 'Permitted occupiers of licensed domestic structures' under the EGAPO context means licences of licensed domestic structures.

- (b) permitted occupiers of a domestic squatter structure i.e. where the structure was covered by the 1982 Squatter Control Survey (SCS) by the Housing Department (HD) and the occupiers were registered in the 1984/85 Squatter Occupancy Survey (SOS)² by HD, but who are not eligible for or do not opt for PRH; and
- (c) domestic occupiers of licensed domestic structures who are not licensees nor domestic occupiers of surveyed domestic structures as registered in the 1984/85 SOS, provided that they are covered in the Pre-clearance Survey (PCS) with a minimum of ten-year continuous occupation for domestic use immediately preceding the date of PCS.

Basis of Assessment

3. EGAPO rates are assessed having regard to 72-month rental value for comparable but lawful structures of the same size in the same area. The approved basis for calculating EGAPO rates is as follows –

- (a) the whole of Hong Kong is divided into three broad regions – Urban, Extended Urban and the New Territories for the purpose of calculating the applicable EGAPO rates;
- (b) EGAPO rates are determined by reference to the latest rental data available to the Rating and Valuation Department (RVD) on the average unit rental of village type houses and/or tenement buildings; and
- (c) EGAPO rates would be updated every six months in accordance with (b) above.

/4.

² In 1982, Government conducted a territory-wide SCS to register the location, dimension and use of squatter structures. The survey results are used as a baseline for squatter control whereby the existence of squatters covered by the 1982 SCS (i.e. 'surveyed structures') is tolerated. These surveyed structures could be for domestic or non-domestic uses. The 1982 SCS, together with the 1984/85 SOS in which the particulars of occupiers of these surveyed structures were registered, have become the cornerstone of Government's prevailing squatter control policy as well as the basis for processing rehousing of clearerees and payment of applicable EGAs during clearance exercises. 'Permitted occupiers of surveyed domestic structures' under the EGAPO context means occupiers of surveyed domestic structures registered in the 1984/85 SOS.

4. A five-band system (see paragraph 2 in Annex I to Enclosure 1) was approved by the FC on 6 December 2013 (FCR(2013-14)33), under which the EGAPO amount offered would be at a proportion of the EGAPO rate according to the length of occupation for domestic use, subject to a ceiling of \$600,000. The prevailing rates (effective from 15 January 2018) are as follows.

Urban:	\$18,216/m ²
Extended Urban:	\$13,680/m ²
New Territories:	\$12,096/m ²

Domestic Removal Allowance (DRA)

Background

5. Since 1976, Ex-gratia Rehousing Allowance and Ex-gratia Building Allowance had been paid by HD to needy families in clearances when they moved into permanent public and temporary housing respectively. In 1977, these two types of EGAs were combined and renamed as DRA. Under this revised arrangement, DRA was payable to families compulsorily cleared into permanent or temporary housing to help them meet the initial cost of moving. At that time, payment of DRA was also subject to income limit which was later abolished in 1978.

6. On 30 November 1988, the FC approved a new basis to revise the DRA based on the following three cost components: (i) basic fitting-out costs; (ii) removal costs and (iii) telephone (domestic line) removal cost.

7. The FC approved on 19 July 1996 (FCR(96-97)51) that the basic fitting out cost component be calculated with reference to the changes in Tender Price Index (TPI) applicable to HD's building projects in the corresponding period. The authority to approve future revisions to the DRA rates in accordance with the new formulae was delegated to the Secretary for the Treasury.

8. With effect from 1 December 1999, the rates applicable to temporary housing were no longer adopted by HD because there had been no admission of family into this type of public housing.

9. The FC approved on 6 December 2013 (FCR(2013-14)33) enhancements on the eligibility for DRA.

Eligibility

10. Eligible occupiers of surveyed or licensed structures affected by government clearance exercises are eligible for DRA to help them meet the initial cost of moving. Details of eligibility criteria are set out as follows –

- (a) To be eligible for DRA, occupiers affected by government clearances must be living in a domestic structure covered by the 1982 SCS or 1986 surveyed rear-lane domestic structure and are eligible for rehousing, or in a surveyed/licensed non-domestic structure, subject to a minimum of two-year continuous occupation for domestic use immediately preceding the date of PCS. Eligible occupiers who opt for various Subsidised Home Ownership Schemes by HD or those who relinquish their rehousing rights are eligible for DRA.
- (b) Occupiers eligible for rehousing in every respect but fail the Comprehensive Means Test (CMT) alone who either opt to move to IH for one year of restricted stay and pay licence fees at market level or choose to move out voluntarily without accepting any rehousing arrangements are eligible for DRA.
- (c) Occupiers who opt for HD's singleton/doubleton allowance in lieu of rehousing are also eligible for DRA.

11. Domestic property owners who are ineligible for any form of rehousing are not eligible for DRA. The policy that EGAPO recipients would not be eligible for DRA in respect of the same structure affected by clearance was removed per the FC's approval on 6 December 2013 (FCR(2013-14)33).

Basis of Assessment

12. As explained above, the basis of DRA is composed of (i) basic fitting-out costs; (ii) removal costs and (iii) telephone (domestic line) removal cost and the basic fitting out cost component is calculated with reference to the changes in TPI applicable to HD's building projects in the corresponding period. As for the removal cost component, it is based on the averages of prices quoted by transportation contractors whereas the telephone removal cost component adopts the current charges by the telephone company for removing and installing telephone line. The rates are reviewed annually.

13. The rates are calculated with reference to the family size. The prevailing rates (effective from 1 December 2017) are –

1-person:	\$5,365
2 to 3-person:	\$12,005
4 to 5-person:	\$15,756
6-person and above:	\$20,251

Ex-gratia Allowance for Shops, Workshops, Godowns, Slipways, Schools, Churches and Ornamental Fish Breeding Undertakings

Background

14. Prior to January 1988, EGA for shops and workshops affected by clearances were based on the rents payable for HKHA estate shops and flatted factories capitalised over six months and twelve months respectively. The rates for schools, godowns, slipways and ornamental fish breeding undertakings were set at a proportion of those rates applicable to shops and workshops.

15. Following approval of the FC in January 1988 (FCC(87-88)29), EGAs for shops and workshops have been linked to the rents payable for premises in the private sector, capitalized over four months for shops and twelve months for workshops. It was stated that the rationale was to allow the operators a suitable period of time to re-establish their business and to provide them with a measure of compensation for any loss of business and any other costs incurred through removal. The initial area of a shop (10m²) or workshop (5 to 20m²) continued to attract an allowance at a higher rate. This was to provide an incentive for operators of small business undertakings to move voluntarily.

16. In July 1988, the FC approved vide paper FCC(88-89)10 that the first tier of workshop area which attracted a higher rate be extended from 5 to 20m² to 5 to 25m². The FC further approved that the amount to be paid in respect of the first 5 to 25m² should be twice the standard rate in order to tally with the factor applied to shops. It was further approved that the authority to approve future changes in the allowances in accordance with the approved formulae was delegated to the Deputy Financial Secretary.

/17.

17. As regards the rates of other different EGA items, the ratio among them have remained unchanged as follows –

EGA Items	Ratio Between EGA Items
Open area : Covered area	1 : 6
School : Shop	2 : 3
Slipway/Godown : Workshop	1 : 2
Ornamental fish breeding undertaking : Workshop	1 : 1

18. In August 1988, the FC considered vide paper FCC(88-89)13 that churches involved in clearance, like commercial undertakings and schools/kindergartens of a commercial nature, would have to incur expenditure for their re-establishment. It was therefore agreed that churches should also be eligible for EGA at rates applicable to school and kindergarten.

19. In July 1999, the FC approved vide paper FCR(1999-2000)34 that the calculation of EGA for slipways should be based on the total area of slipways including the underwater portion because the underwater portion formed an integral part of slipways.

20. In December 2013, the FC approved vide paper FCR(2013-14)33 that the eligibility for EGA be extended and the EGA rates for shops and workshops be increased.

Eligibility

21. The EGA is applicable upon clearance of the affected undertakings operating at the time of the PCS and their uses are covered by the 1982 SCS. Undertakings operating in structures held under STT/STW issued before 1982 or after 1 June 1982, provided that the licences are derived from pre-1982 licences in respect of the structures to be cleared and without substantial changes to the conditions of the pre-1982 licences, may be eligible.

/Basis

Basis of Assessment

22. The rates for this EGA for shops and workshops are linked to the average rental of shops and flatted factories respectively in the private sector as advised by RVD capitalized over seven months for shops and fifteen months for workshops. The applicable rates prevailing on the date of posting of the resumption notice for that project if land resumption is involved, or the date which is six months before the first scheduled clearance date for that project if only government land is involved are adopted in calculating the amount of EGA. The surveyed or licensed area of the structure or the occupied area at the time of PCS, whichever is the least, is adopted as the basis for computation of the EGA.

23. The prevailing EGA rates (effective from 1 September 2017) for shops and workshops are as follows –

- | | | |
|--------------------|--------------------|---|
| (a) For shops: | (i) covered area – | \$19,000 per m ² for the first 10m ² and \$9,500 per m ² thereafter without maximum payment |
| | (ii) open area – | \$1,580 per m ² subject to a minimum qualifying area of 10m ² and a maximum payment of \$790,000 (i.e. 500m ²) |
| (b) For workshops: | (i) covered area – | \$116,500 for the first 5 to 25m ² and \$2,330 per m ² thereafter without maximum payment and subject to a minimum qualifying area of 5m ² |
| | (ii) open area – | \$390 per m ² subject to a minimum qualifying area of 20m ² and a maximum payment of \$390,000 (i.e. 1 000m ²) |

Rehousing of Occupants of Squatter Structures Affected by Government Clearance Operations

Background

24. According to the prevailing policy, the general eligibility criteria for means-tested rehousing are summarised as follows –

/PRH

PRH

- (a) Affected persons must be genuine residents of a licensed domestic structure or a surveyed domestic structure and have been covered by PCS;
- (b)
 - (i) Affected persons must be covered by the 1984/85 SOS and having satisfied other eligibility criteria of PRH application; or
 - (ii) For affected persons with proof of two-year residence in a licensed or surveyed domestic structure immediately preceding the date of PCS, subject to their fulfilling the eligibility criteria for PRH, they will be allotted a notional PRH application number. If their application is to be due for allocation within twelve months, advance action will be taken to handle the application;
- (c) At least half of the family members must have lived in Hong Kong without any conditions of stay for seven years and are still living in Hong Kong. Children under the age of 18 who are residing in Hong Kong with established Hong Kong birth status regardless of their length of residence in Hong Kong and their parents' residence status, or those under the age of 18 who are residing in Hong Kong regardless of their place of birth if one of their parents has lived in Hong Kong without any conditions of stay for seven years, are deemed to have satisfied the seven-year residence rule;
- (d) During the period from the date of PCS up to the date of intake, the applicant or his/her family members must not –
 - (i) own or co-own or have an interest in any domestic property in Hong Kong; or
 - (ii) have entered into any agreement (including provisional agreement) to purchase any domestic property in Hong Kong; or
 - (iii) hold more than 50% of shares in a company which owns, directly or through its subsidiaries, any domestic property in Hong Kong.

/Domestic

Domestic property includes any domestic property, uncompleted private domestic property, rooftop structure approved by the Buildings Authority, domestic building lots and Small House Grants approved by the LandsD in the Hong Kong; and

- (e) Persons affected by clearance operations are subject to an income and asset test under which their total family monthly income and total net assets value must not exceed the income and net asset limits laid down by HKHA.

IH

25. For those affected persons who fail to meet criteria (b) and/or (c) of the above eligibility for PRH, subject to fulfilling criterion (a) above and other eligibility criteria of PRH, they will be rehoused to IH while awaiting PRH through PRH application.

26. Families failing CMT are ineligible for PRH or IH. Those having a temporary need for housing will be offered IH, plus 80% of eligible EGAPO, but their stay there will be restricted to one year, during which they are required to pay licence fee at market level ('market licence fee').
