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| Chapter: | 447 | Bedspace Apartments Ordinance | Gazette Number | Version Date |
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| | | Long title | E.R. 1 of 2012 | 09/02/2012 |
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An Ordinance to provide for the regulation, supervision and safety of bedspace apartments and for connected purposes.

(Enacted 1994)

[8 July 1994] *L.N. 417 of 1994*

(Enacting provision omitted—E.R. 1 of 2012)

(Originally 24 of 1994)

(*Format changes—E.R. 1 of 2012)

Note:

***The format of the Ordinance has been updated to the current legislative styles.**

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| Part: | 1 | Preliminary | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 1 | Short title | E.R. 1 of 2012 | 09/02/2012 |
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(1) This Ordinance may be cited as the Bedspace Apartments Ordinance.

(2) (Omitted as spent—E.R. 1 of 2012)

(Enacted 1994)

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| Section: | 2 | Interpretation | E.R. 1 of 2012 | 09/02/2012 |
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In this Ordinance, unless the context otherwise requires-

Appeal Board (上訴委員會) means the Appeal Board constituted under section 27;

approved plans (批准圖則) means plans approved by the Building Authority under the Buildings Ordinance (Cap 123);

Authority (監督) means the Bedspace Apartments Authority constituted under section 4;

bedspace (床位) means any floor space, bed, bunk or sleeping facility of any other type, or any part thereof, used or intended to be used as sleeping accommodation for one person;

bedspace apartment (床位寓所) means-

(a) any flat; or

(b) where the partitioning wall or walls between 2 or more adjoining flats in a building has or have been demolished, such 2 or more adjoining flats,

in which there are 12 or more bedspaces used or intended to be used as sleeping accommodation under rental agreements, and for the purpose of determining whether any flat constitutes a bedspace apartment, the existence of partitions in the flat shall be disregarded;

Building Authority (建築事務監督) has the meaning assigned to it in the Buildings Ordinance (Cap 123);

certificate of exemption (豁免證明書) means a certificate of exemption issued under section 8 or renewed under section 9;

Chairman (主席) means the person appointed as Chairman of the Appeal Board under section 27;

code of practice (經營守則) means a code of practice issued and from time to time revised under section 19;

flat (居住單位) means any premises which-

(a) (i) in the approved plans of the building of which such premises form part, are demarcated as a unit that is self-contained in respect of ablution, toilet and cooking facilities; or

(ii) in the absence of any approved plans, are self-contained in respect of ablution, toilet and cooking facilities; and

(b) are used wholly or primarily for human habitation;

holder (持有人) in relation to a certificate of exemption means a person to whom the certificate of exemption has been issued, and includes any person to whom the certificate has been transferred pursuant to section 11(2);

licence (牌照、牌) means a licence issued under section 12 or renewed under section 13;

licensed bedspace apartment (持牌床位寓所) means a bedspace apartment in respect of which a licence has been issued and is for the time being in force;

licensee (持牌人) means a person to whom a licence has been issued, and includes any person to whom a licence has been transferred pursuant to section 17(2);

owner (業主) in relation to any premises means-

(a) any person holding premises direct from the Government whether under lease, licence or otherwise;

(b) any mortgagee or chargee in possession of the premises; and

(c) any person receiving the rent of the premises, whether solely or with another, or who would receive the same if the premises were let to a tenant,

and where such owner as above defined cannot be found or ascertained, or is absent from Hong Kong or under disability, the agent of such owner; (Amended 29 of 1998 s. 105)

rental agreement (租用協議) means any agreement, whether oral or in writing, and whether express or implied, by virtue of which a person is given the right to use one bedspace as sleeping accommodation on payment of such rent or other consideration as is provided for in the agreement;

Secretary means the Secretary for Home Affairs;

tenancy (租賃) includes a sub-tenancy, **tenant** (租客) includes a sub-tenant, and **lessee** (承租人) includes a sub-lessee.

(Enacted 1994)

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| Section: | 3 | Application | E.R. 1 of 2012 | 09/02/2012 |
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) This Ordinance shall not apply to-

(a) any premises to which the provisions of the Hotel and Guesthouse Accommodation Ordinance (Cap 349) apply;

(b) any premises to which the provisions of the Child Care Services Ordinance (Cap 243) apply; (Amended 32 of 2000 s. 38)

(c) any dormitory, hostel or similar accommodation which is managed by a school registered under the Education Ordinance (Cap 279), or which is maintained by any university or any institution that provides post secondary education within the meaning of section 3 of the Education Ordinance (Cap 279);

(d) any premises used for the provision of sleeping accommodation by any employer to his employees and their families, whether or not any monetary consideration is received by the employer therefor; or

(e) any hospital or nursing home, or any home for convalescents or for elderly persons or for persons with disabilities, or any other premises used for the provision of sleeping accommodation to any class of persons under authority given by or with the recognition of the Secretary for Labour and Welfare. (Amended L.N. 106 of 2002; L.N. 130 of 2007; 12 of 2011 s. 32)

(2) The Authority may-

(a) for reasons connected with the means of ingress or egress, design, construction, structure or size of, or the equipment, installations or facilities in, any bedspace apartment or the location of any bedspace apartment in the building in which it is situated; or

(b) for reasons connected with the type or description of any premises, by order exclude any such bedspace apartment or any such type or description of premises from the application of this Ordinance.

(3) Any order made under subsection (2)-

- (a) shall be published in the Gazette;
- (b) may be made subject to such conditions or take effect for such period of time as the Authority considers fit; and
- (c) shall specify the conditions (if any) and the period (if any) mentioned in paragraph (b).

(4) In this section-

home for elderly persons (安老院) means a residential care home as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap 459);

home for persons with disabilities (殘疾人士院舍) means a residential care home for PWDs as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap 613). (Added 12 of 2011 s. 32)
(Enacted 1994)

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| Section: | 4 | Constitution of Bedspace Apartments Authority | E.R. 1 of 2012 | 09/02/2012 |
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- (1) The Secretary shall be the Bedspace Apartments Authority for the purposes of this Ordinance.
- (2) The Authority may authorize any public officer to perform or exercise all or any of the powers or functions of the Authority under this Ordinance.
(Enacted 1994)

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| Part: | 2 | Restriction on Operation of Bedspace Apartments | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 5 | Prohibition on operation of bedspace apartment unless exempted or licensed | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Any person who operates, keeps, manages or otherwise controls a bedspace apartment in respect of which neither of the conditions specified in subsection (2) has been satisfied commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years and to a further fine of \$20000 for each day or part of a day during which the offence has continued.
- (2) The conditions referred to in subsection (1) are-
 - (a) that a certificate of exemption has been issued in respect of the bedspace apartment and is for the time being in force; or
 - (b) that a licence has been issued in respect of the bedspace apartment and is for the time being in force.
(Amended E.R. 1 of 2012)
(Enacted 1994)

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| Section: | 6 | Responsibility of owners, tenants, etc. of premises | E.R. 1 of 2012 | 09/02/2012 |
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Any person who-

- (a) being the owner, tenant, lessee or person in charge of any premises or part of any premises (other than a bedspace for one person), uses or permits or suffers the use of such premises or (as the case may be) such part of such premises in such manner as, by such use alone or in conjunction with the use or intended use of any other part or parts of such premises, constitutes such premises a bedspace apartment in respect of which neither of the conditions specified in section 5(2) has to his knowledge been satisfied; or
- (b) lets or sublets, or agrees to let or sublet, whether as principal or agent, any premises or part of any premises with the knowledge that such premises or such part of such premises are or is used, or are or is intended to be used, in such manner as, by such use alone or in conjunction with the use or intended use of any other part or parts of such premises, constitutes such premises a bedspace apartment in respect of which neither of the conditions specified in section 5(2) has been satisfied,
commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years and to a further fine of \$20000 for each day or part of a day during which the offence has continued.

(Amended E.R. 1 of 2012)
(Enacted 1994)

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| Section: | 7 | Closure of unexempted and unlicensed bedspace apartments | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Where the Authority is of the opinion that a bedspace apartment in respect of which neither of the conditions specified in section 5(2) has been satisfied is in operation, the Authority may apply to the District Court for an order under subsection (3).
- (2) Subject to section 30(1), notice in writing of an application under subsection (1) shall be served by the Authority on-
 - (a) the owner of the premises used as the bedspace apartment; and
 - (b) where the bedspace apartment is operated, kept, managed or otherwise controlled by a person other than the owner of the premises, and the name and address of such person is known to the Authority, such person, and a copy of such notice shall be posted in a conspicuous place upon the premises on the date of service of such notice.
- (3) Upon the application of the Authority under subsection (1) the District Court may, on being satisfied-
 - (a) that a bedspace apartment in respect of which neither of the conditions specified in section 5(2) has been satisfied is in operation; and
 - (b) that notice of the application has been served in accordance with subsection (2) and section 30(1), and after considering any representation of a person who has applied to be heard under section 30(3), if any, make an order directing that the bedspace apartment in question shall close and cease operation with effect from the date specified in the order until the condition specified in section 5(2)(a) or (b) has been satisfied in respect thereof.
- (4) An order under subsection (3) shall-
 - (a) order the closure of the bedspace apartment under the direction and supervision of a police officer or a public officer authorized by the Authority in writing for the purposes of this section; and
 - (b) reproduce in English and Chinese section 30(5), so far as it applies to an order under subsection (3).
- (5) A copy of an order under subsection (3) or, where the District Court refuses to make an order under that subsection, a notice in writing in both English and Chinese of such refusal-
 - (a) shall be posted by the Authority in a conspicuous place upon the premises used as the bedspace apartment; and
 - (b) shall be served on each of the persons mentioned in subsection (2)(a) and (b).
- (6) Where the Authority is satisfied that a bedspace apartment has been closed and has ceased operation pursuant to an order under subsection (3), the Authority shall serve on the owner of the premises formerly used as the bedspace apartment a notice in writing stating that the premises may, with effect from the date specified in the notice, be re-occupied for purposes other than the operation of a bedspace apartment in respect of which neither of the conditions specified in section 5(2) has been satisfied, and a copy of such notice shall be posted in a conspicuous place upon the premises.
- (7) If at any time after the making of an order under subsection (3), the condition specified in section 5(2)(a) or (b) is satisfied in respect of the bedspace apartment the subject of the order-
 - (a) the owner of the premises at which the bedspace apartment is to resume operation, being such owner both as at the date of the order under subsection (3) and as at the date of resumption of operation of the bedspace apartment; or
 - (b) the holder of the certificate of exemption in respect of the bedspace apartment or, as the case may be, the licensee thereof,
 shall, not later than 30 days before the date on which the bedspace apartment resumes operation, serve on all the former occupiers of the bedspace apartment, so far as their addresses are known to him, notice in writing stating the proposed date of resumption of its operation.

(Enacted 1994)

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| Part: | 3 | Certificates of Exemption | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 8 | Application for and issue of certificate of exemption | E.R. 1 of 2012 | 09/02/2012 |
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- (1) An application for a certificate of exemption in respect of a bedspace apartment shall be made to the Authority

in such form and manner as the Authority may determine.

- (2) On receipt of an application under subsection (1), the Authority may-
 - (a) on being satisfied that the applicant operates, keeps, manages or otherwise controls, by himself or by another on his behalf, the bedspace apartment in respect of which the application is made, and on payment of the prescribed fee, issue to and in the name of the applicant a certificate of exemption subject to such conditions as he considers necessary or expedient for the regulation, supervision and control of the bedspace apartment; or
 - (b) refuse to issue a certificate of exemption by notice in writing served on the applicant and stating the ground for the refusal.
- (3) A certificate of exemption shall-
 - (a) be in such form as the Authority may determine;
 - (b) be endorsed with the conditions, if any, imposed under subsection (2)(a);
 - (c) unless revoked under section 10, be valid for a period of 12 months or such shorter period as the Authority may determine and as may be indicated in the certificate; and
 - (d) authorize the person in whose name it is issued to operate, keep, manage or otherwise control, by himself or by another on his behalf, a bedspace apartment without a licence at the premises specified in the certificate of exemption for the period mentioned in paragraph (c).
- (4) Subject to sections 16 and 26(2) the Authority may at any time by notice in writing served on the holder of a certificate of exemption revoke, vary or add to the conditions imposed by the Authority under subsection (2)(a) in such manner as the Authority considers necessary or expedient for the better regulation, supervision and control of the bedspace apartment.
- (5) A certificate of exemption or a copy thereof purporting to be certified by or for the Authority shall be evidence of the facts stated therein and shall be admissible in evidence without further proof.
- (6) A certificate purporting to be issued by or for the Authority and stating that a certificate of exemption has or has not been issued in respect of a bedspace apartment shall be evidence of the facts stated therein and shall be admissible in evidence without further proof.

(Enacted 1994)

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| Section: | 9 | Renewal of certificate of exemption | E.R. 1 of 2012 | 09/02/2012 |
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- (1) The holder of a certificate of exemption may, not later than 3 months before the expiration of the certificate, apply for renewal of the certificate.
- (2) An application under subsection (1) shall be made to the Authority in such form and manner as the Authority may determine.
- (3) The Authority may determine an application under this section-
 - (a) by issuing to the applicant, on payment of the prescribed fee, a new certificate of exemption for a period not exceeding 12 months subject to such conditions (whether equivalent, additional or alternative to those imposed under section 8(2)(a)) as he considers necessary or expedient for the regulation, supervision and control of the bedspace apartment; or
 - (b) by refusing to renew the certificate of exemption on any ground specified in section 10 which would have entitled him to revoke the certificate.
- (4) Subject to sections 16 and 26(2), where the Authority refuses to renew a certificate of exemption, he shall serve on the holder of the certificate notice in writing stating the ground for the refusal.
- (5) A certificate of exemption in respect of which an application for renewal is made under this section and which expires prior to the determination of such application shall, unless such application is withdrawn, or the certificate is revoked under section 10, remain in effect until the determination by the Authority of such application.

(Enacted 1994)

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| Section: | 10 | Revocation of certificate of exemption | E.R. 1 of 2012 | 09/02/2012 |
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Subject to sections 16 and 26(2) the Authority may revoke a certificate of exemption by notice in writing served on the holder thereof and stating the ground for the revocation-

- (a) if a direction given in a notice served by the Authority under section 21(1) has not been complied with in whole or in part within the period of time specified in the notice;

- (b) if it appears to the Authority that the bedspace apartment has ceased operation; or
- (c) if it appears to the Authority that the holder of the certificate of exemption has ceased to operate, keep, manage or otherwise control, by himself or by another on his behalf, the bedspace apartment.

(Enacted 1994)

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| Section: | 11 | Transfer of certificate of exemption | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Except as provided in this section a certificate of exemption shall not be transferable.
- (2) The Authority may, upon application made to him in such form and manner as he may determine, and on being satisfied as to the proposed operation, keeping, management or other control of the bedspace apartment by the person to whom the transfer is to be made or by another on his behalf, permit the transfer to such person of the certificate of exemption in respect of the bedspace apartment until its expiration, and shall endorse a note of such transfer on the certificate of exemption.

(Enacted 1994)

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| Part: | 4 | Licences | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 12 | Application for and issue of licence | E.R. 1 of 2012 | 09/02/2012 |
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- (1) An application for a licence in respect of a bedspace apartment shall be made to the Authority in such form and manner as the Authority may determine.
- (2) On receipt of an application under subsection (1), the Authority may-
 - (a) on being satisfied as to the proposed operation, keeping, management or other control of the bedspace apartment by the applicant or by another on his behalf, and on payment of the prescribed fee, issue to and in the name of the applicant a licence subject to such conditions as the Authority considers necessary or expedient for the regulation, supervision and control of the bedspace apartment; or
 - (b) refuse to issue a licence by notice in writing served on the applicant and stating the ground for the refusal.
- (3) The Authority shall not determine an application under subsection (1) unless-
 - (a) a public officer authorized by the Authority in writing for the purpose has been permitted to enter and inspect the premises intended to be used as the bedspace apartment; and
 - (b) the applicant has, upon request made by the Authority in writing, furnished the Authority with a plan or diagram in such form as the Authority may think fit, showing the design and layout of the premises to be used as the bedspace apartment.
- (4) A licence issued under this section shall-
 - (a) be in such form as the Authority may determine;
 - (b) be endorsed with the conditions, if any, imposed under subsection (2)(a);
 - (c) unless revoked under section 15, be valid for a period of 12 months or such shorter period as the Authority may determine and as may be indicated in the licence; and
 - (d) authorize the person in whose name it is issued to operate, keep, manage or otherwise control, by himself or by another on his behalf, a bedspace apartment at the premises specified in the licence for the period mentioned in paragraph (c).
- (5) The Authority may refuse to issue a licence if it appears to him-
 - (a) that for reasons connected with the means of ingress or egress, design, construction, structure or size of, or the equipment, installations or facilities in, the premises to be used as the bedspace apartment, or the location of such premises in the building of which they form part or the type of such building, the premises that are to be used as the bedspace apartment are not fit to be so used;
 - (b) that such premises do not comply with any requirement of any code of practice or with any particular direction given by the Authority under section 19(1) in respect of such premises, or otherwise do not comply with any requirement under section 18; or
 - (c) that the operation, keeping, management or other control of the bedspace apartment would not be under the personal and continuous supervision of the applicant or of another on his behalf.
- (6) A licence or a copy thereof purporting to be certified by or for the Authority shall be evidence of the facts stated therein and shall be admissible in evidence without further proof.

- (7) A certificate purporting to be issued by or for the Authority and stating that a bedspace apartment is licensed or not licensed shall be evidence of the facts stated therein and shall be admissible in evidence without further proof.

(Enacted 1994)

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| Section: | 13 | Renewal of licence | E.R. 1 of 2012 | 09/02/2012 |
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- (1) A licensee may, not later than 3 months before the expiration of his licence, apply for the licence to be renewed.
- (2) An application under subsection (1) shall be made to the Authority in such form and manner as the Authority may determine.
- (3) The Authority may determine an application under this section-
- (a) by issuing to the applicant, on payment of the prescribed fee, a new licence for a period not exceeding 12 months subject to such conditions (whether equivalent, additional or alternative to those imposed under section 12(2)(a)) as he considers necessary or expedient for the regulation, supervision and control of the bedspace apartment; or
 - (b) by refusing to renew the licence on any ground specified in section 15 which would have entitled him to revoke the licence.
- (4) Subject to sections 16 and 26(2), where the Authority refuses to renew a licence, he shall serve on the licensee notice in writing stating the ground for such refusal.
- (5) A licence in respect of which an application for renewal is made under this section and which expires prior to the determination of such application shall, unless such application is withdrawn, or the licence is revoked under section 15, remain in effect until the determination by the Authority of such application.
- (6) A new licence issued under subsection (3)(a) shall take effect on the day following the day on which the licence in force at the time of the application for renewal expires or (in any case to which subsection (5) applies) would have expired but for subsection (5).

(Enacted 1994)

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| Section: | 14 | Variation of conditions of licence | E.R. 1 of 2012 | 09/02/2012 |
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Subject to sections 16 and 26(2), the Authority may, at any time by notice in writing served on a licensee, revoke, vary or add to the conditions imposed by the Authority under section 12(2)(a) or 13(3)(a) in such manner as he considers necessary or expedient for the better regulation, supervision and control of the licensed bedspace apartment.

(Enacted 1994)

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| Section: | 15 | Revocation of licence | E.R. 1 of 2012 | 09/02/2012 |
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Subject to sections 16 and 26(2), the Authority may at any time by notice in writing served on a licensee revoke his licence-

- (a) on any ground specified in section 12(5)(a) or (c) which would have entitled him to refuse to issue a licence in respect of the bedspace apartment;
- (b) on the ground that any requirement of section 18 has not been complied with;
- (c) on the ground that the licensee has been convicted of-
 - (i) an offence under this Ordinance in respect of the bedspace apartment; or
 - (ii) an indictable offence under any other enactment in connection with any matter relating to the bedspace apartment;
- (d) on the ground that in respect of the bedspace apartment, a direction given in a notice served under section 21(1) or any other order or direction made or given under this Ordinance has not been or is not being complied with in whole or in part;
- (e) if it appears to him that the bedspace apartment has ceased operation;
- (f) on the ground that any statement made or any information supplied to the Authority in or in connection with the application for the issue or renewal of the licence proves to be false in any material particular; or
- (g) on the ground that any information furnished under section 20(1)(b)(i) proves to be false in any material particular.

(Enacted 1994)

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| Section: | 16 | Notice of refusal of renewal, variation of conditions or revocation | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Subject to subsection (3), the Authority shall, before serving notice under section 8(4), 9(4), 10, 13(4), 14 or 15, serve on the holder of the certificate of exemption or (as the case may be) the licensee notice in writing of his intention to do so stating the ground on which he intends to serve such notice and indicating that any person may make written representations to him within 28 days after service of the notice.
 - (2) The Authority shall, at the time of service of any notice under subsection (1), cause a copy of such notice to be posted in a conspicuous place in or upon the premises used as the bedspace apartment.
 - (3) Where the Authority is of the opinion that there is imminent danger to the occupiers of the bedspace apartment in respect of which notice is served under section 10 or 15 or to the occupiers of any neighbouring premises or building or the public, the Authority may dispense with the service of a notice under subsection (1).
- (Enacted 1994)

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| Section: | 17 | Transfer of licence | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Except as provided in this section a licence shall not be transferable.
 - (2) The Authority may, upon application made to him in such form and manner as he may determine, and on being satisfied as to the proposed operation, keeping, management or other control of the bedspace apartment by the person to whom the transfer is to be made or by another on his behalf, permit the transfer to such person of a licence until its expiration, and shall endorse a note of such transfer on the licence.
- (Enacted 1994)

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| Part: | 5 | Safety and Sanitation | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 18 | Precautions for safety and sanitation | E.R. 1 of 2012 | 09/02/2012 |
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- (1) A licensed bedspace apartment shall comply with such standards and requirements relating to building and fire safety and sanitation as are provided for in this section.
 - (2) The design, structure, construction and the means of ingress and egress of the premises used or intended to be used as a licensed bedspace apartment and the properties of the materials of which such premises and any partitions therein are constructed shall be such, and such fire service installations and equipment, means of escape and sanitary and plumbing facilities shall be provided in such premises, as to provide safe and hygienic accommodation to the occupiers and to ensure their safe escape in the event of a fire or other emergency.
 - (3) Any premises used or intended to be used as a licensed bedspace apartment and all fixtures, fittings, equipment, facilities and installations in or on such premises and any exit routes and means of escape therefrom shall be properly maintained in good repair and a safe condition free from any risk of fire or injury to person, and any hazards to the safety of the occupiers occasioned by any dilapidation or lack of proper maintenance of any such fixtures, fittings, equipment, facilities or installations or any obstruction of any such exit routes or means of escape shall be repaired, remedied or removed as soon as practicable.
 - (4) All fire service installations and equipment and all electrical wiring and installations in any premises used or intended to be used as a licensed bedspace apartment shall be installed and maintained by contractors possessing such qualifications as may be required by any enactment applicable to the installation or maintenance thereof.
- (Enacted 1994)

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| Section: | 19 | Code of practice and directions | E.R. 1 of 2012 | 09/02/2012 |
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- (1) For the purpose of providing practical guidance in respect of the requirements of section 18, the Authority may from time to time give directions both generally in the form of codes of practice and particularly by notice in writing addressed to the licensee of a licensed bedspace apartment or, as the case may be, an applicant for a licence in respect of a bedspace apartment.
- (2) The Authority may from time to time revise the whole or any part of any code of practice or any particular

direction given under subsection (1) by revoking, varying or adding to its provisions or requirements.

- (3) A code of practice or any revision to a code of practice shall take effect upon its publication by the Authority by notice in the Gazette.
- (4) The Authority shall, on the issue of a code of practice or any revision to a code of practice, cause it to be printed and distributed to the holder of each certificate of exemption issued under this Ordinance and to each licensee and may make arrangements for its distribution to the public.
- (5) Failure on the part of any person to comply with the provisions of any code of practice or with any particular direction given under subsection (1) shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal and including proceedings for an offence under this Ordinance) be relied on by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

(Enacted 1994)

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| Part: | 6 | Supervision of Bedspace Apartments | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 20 | Inspection, production and seizure of documents, etc. | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Any public officer authorized by the Authority in writing for the purposes of this section may-
 - (a) without warrant and on production, if so required, of his written authorization and his identity card issued under the Registration of Persons Ordinance (Cap 177)-
 - (i) at all reasonable times enter and inspect a bedspace apartment in respect of which a certificate of exemption has been issued and is for the time being in force and-
 - (A) advise on the steps or works required to be taken or executed for the purpose of compliance with the requirements of this Ordinance; or
 - (B) make inquiries as to compliance with any conditions imposed under section 8(2)(a) or 9(3)(a) (as the case may be);
 - (ii) at all reasonable times enter and inspect a licensed bedspace apartment and make inquiries as to compliance with any conditions imposed under section 12(2)(a) or 13(3)(a) (as the case may be) or with any requirements under this Ordinance, and as to all such other matters and things as are relevant to the provision of safe and hygienic accommodation for the occupiers of the bedspace apartment; or
 - (iii) at all reasonable times enter and inspect any premises which he reasonably believes are being used as or for the purposes of a bedspace apartment; and
 - (b) upon entry in accordance with paragraph (a)-
 - (i) require any person taking part in the operation, keeping, management or other control of a bedspace apartment to produce any book or document (including any rental agreement, receipt for rent, rent-book or accounts) or other article or thing relating to the operation, keeping, management or other control of the bedspace apartment, or to furnish any information relating to such operation, keeping, management or other control, and the public officer may take copies of any such book or document;
 - (ii) seize, remove from any premises and detain any book, document or other article or thing which he reasonably believes to be or to contain, or likely to be or to contain, evidence of the commission of an offence under this Ordinance, or evidence of any ground for the revocation of or refusal to renew the certificate of exemption or the licence for the time being in force in respect of a bedspace apartment; and
 - (iii) do all such things as are necessary for all or any of the above purposes, or for the inspection or testing of any materials, apparatus, equipment, facilities, installations, works or system installed or used in or in connection with a bedspace apartment or the operation, keeping, management or other control thereof, or which are relevant to any requirements under this Ordinance.
- (2) A public officer authorized under subsection (1) may perform all or any of his functions under that subsection with the assistance of a police officer in the event that he is obstructed in the exercise of such functions.

(Enacted 1994)

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| Section: | 21 | Authority may direct remedial measures | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Where the Authority reasonably believes-
 - (a) that any condition of the certificate of exemption or the licence in respect of a bedspace apartment, or, in respect of a licensed bedspace apartment, any provision of this Ordinance or of any code of practice or any particular direction given under section 19(1)-
 - (i) is being contravened; or
 - (ii) has been contravened in circumstances that make it likely that the contravention will continue or be repeated; or
 - (b) that there is any danger or risk of any danger to life or property in or upon any premises used as a bedspace apartment,
 he may serve on the holder of the certificate of exemption or (as the case may be) the licensee a notice in writing stating that he is of such opinion and the ground for such opinion, and directing that the contravention or, as the case may be, the matter occasioning it be remedied, or (as the case may be) that the danger or risk of danger be removed, within the period of time specified in the notice.
- (2) Save where the Authority is of the opinion that there is imminent danger to life or property, the period specified in a notice under subsection (1) for remedy of the contravention or matter or, as the case may be, for removal of the danger or risk of danger to which the notice relates shall not expire earlier than the period within which an appeal against a direction given in the notice may be made under Part 7.
- (3) Subject to subsection (4), a direction given in a notice under subsection (1) shall take effect immediately upon service or on such later date, if any, as may be specified in the notice, notwithstanding that an appeal against such direction may be made under Part 7.
- (4) Where-
 - (a) an appeal is made under Part 7 against a direction given in a notice under subsection (1); and
 - (b) the Authority is satisfied that there is no imminent danger to life or property,
 the Authority shall suspend the operation of that part of the notice which contains such direction upon such terms as he thinks fit.

(Amended E.R. 1 of 2012)
(Enacted 1994)

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| Section: | 22 | Authority may execute remedial works | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Where a direction given in a notice served under section 21(1) has not been complied with in whole or in part within the period of time specified in the notice, the Authority may, subject to subsection (3) but without prejudice to the exercise of any other of his powers under this Ordinance, execute or cause to be executed such works as may appear to him to be necessary to give effect to such direction, and may employ contractors for such purpose, and the cost of such works shall be recoverable from the holder of the certificate of exemption or (as the case may be) the licensee of the bedspace apartment in respect of which the direction was given.
- (2)
 - (a) Any public officer authorized by the Authority in writing for the purposes of this section; and
 - (b) any contractor employed by the Authority under subsection (1) and his agents and employees,
 may, without warrant and on production, if so required, of the written authorization and the identity card, issued under the Registration of Persons Ordinance (Cap 177), of the public officer and evidence of the employment of the contractor (if any) by the Authority, at all reasonable times enter a bedspace apartment for the purpose of executing the works under subsection (1).
- (3) The Authority shall not execute or cause to be executed any works under subsection (1) unless he has served on the holder of the certificate of exemption or (as the case may be) the licensee not less than 24 hours' notice in writing of his intention to do so.
- (4) Notwithstanding subsection (3), where the Authority is of the opinion that non-compliance with any direction mentioned in subsection (1) constitutes an imminent danger to the occupiers of the bedspace apartment or of any neighbouring premises or building or to the public, the Authority may give such notice under subsection (3) as is practicable in the circumstances.

(Enacted 1994)

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| Section: | 23 | Closure in case of danger or default | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Where the Authority is of the opinion that-
 - (a) there is any danger or risk of any danger to life or property in or upon any premises used as a bedspace apartment; or
 - (b) a direction given in a notice served under section 21(1) has not been complied with in whole or in part within the period of time specified in the notice, and it is necessary for an order to be made under this section to enable the Authority to execute or cause to be executed any works required to give effect to such direction without danger to the occupiers of the bedspace apartment or of any neighbouring premises or building or to the public,

the Authority may apply to the District Court for an order under subsection (3).
- (2) Notice in writing of an application under subsection (1) shall be served by the Authority on-
 - (a) the holder of the certificate of exemption in respect of the bedspace apartment or (as the case may be) the licensee thereof; and
 - (b) the owner of the premises used as the bedspace apartment,

and a copy of such notice shall be posted in a conspicuous place in or upon the bedspace apartment on the date of service of such notice.
- (3) Upon the application of the Authority under subsection (1) the District Court may, on being satisfied-
 - (a) that the circumstance described in subsection (1)(a) or (b) exists; and
 - (b) that notice of the application has been served in accordance with subsection (2) and section 30(1), and after considering any representation of a person who has applied to be heard under section 30(3), if any, make an order directing that the bedspace apartment in question shall close and cease operation with effect from the date specified in the order until notice is served by the Authority under subsection (7).
- (4) An order under subsection (3) shall-
 - (a) order the closure of the bedspace apartment under the direction and supervision of a police officer or a public officer authorized by the Authority in writing for the purposes of this section; and
 - (b) reproduce in English and Chinese section 30(5), so far as it applies to an order under subsection (3).
- (5) A copy of an order under subsection (3) or, where the District Court refuses to make an order under that subsection, a notice in writing in both English and Chinese of such refusal-
 - (a) shall be posted by the Authority in a conspicuous place upon the premises used as the bedspace apartment; and
 - (b) shall be served on each of the persons mentioned in subsection (2)(a) and (b).
- (6) On or at any time after the date of closure specified in an order under subsection (3) in respect of a bedspace apartment-
 - (a) the Authority may cause to be sealed all or any of the entrances to or exits from the bedspace apartment; and
 - (b) the Authority may execute or cause to be executed such works as may appear to him to be necessary to remove the danger or risk of danger mentioned in subsection (1)(a) or, as the case may be, to give effect to the direction mentioned in subsection (1)(b), and may employ contractors for such purpose, and the cost of such works shall be recoverable from the holder of the certificate of exemption in respect of the bedspace apartment or (as the case may be) the licensee thereof.
- (7) Where the Authority is satisfied that-
 - (a) the danger or risk of danger mentioned in subsection (1)(a) has been removed; or
 - (b) (as the case may be) the works required to give effect to the direction mentioned in subsection (1)(b) have been completed,

the Authority shall serve on each of the persons mentioned in subsection (2)(a) and (b) a notice in writing stating that the bedspace apartment may be re-occupied as a bedspace apartment, and shall post a copy of such notice in a conspicuous place upon the premises.
- (8) Upon the service of a notice under subsection (7) the order under subsection (3) shall cease to have effect.
- (9) Any person being the holder of the certificate of exemption in respect of a bedspace apartment or (as the case may be) the licensee thereof as at the date on which an order under subsection (3) was made in respect thereof shall, forthwith upon receipt of a notice under subsection (7), cause copies of such notice to be served on all former occupiers of the bedspace apartment who have notified him of their addresses.

(Enacted 1994)

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| Section: | 24 | Execution of ancillary works | E.R. 1 of 2012 | 09/02/2012 |
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Where any works (in this section referred to as *the principal works*) are executed or caused to be executed by the Authority under section 22 or 23(6)(b), the Authority may also execute or cause to be executed such other works as he considers necessary for the carrying out of the principal works and may recover the cost of such other works from the holder of the certificate of exemption or (as the case may be) the licensee of the bedspace apartment in respect of which such cost was incurred.

(Enacted 1994)

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| Section: | 25 | Recovery of cost of works by Authority | E.R. 1 of 2012 | 09/02/2012 |
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- (1) In any case where the Authority is authorized under this Part to recover the cost of works executed or caused to be executed by him-
 - (a) he may certify under his hand the nature of the works executed, the amount of the cost due and the name of the person liable therefor; and
 - (b) the cost recoverable may include the cost of labour and materials supplied by or at the request of the Authority for the purpose of carrying out such works and supervision charges.
- (2) The Authority's certificate under subsection (1)(a) shall state that upon registration thereof in the Land Registry in the circumstance described in subsection (8), the cost due and interest thereon shall constitute a legal charge on the premises used as the bedspace apartment in respect of which the cost was incurred.
- (3) A copy of the Authority's certificate under subsection (1)(a) shall be served on the holder of the certificate of exemption or (as the case may be) the licensee of the bedspace apartment in respect of which the cost in question was incurred.
- (4) Interest at the rate of 10% per annum from the expiration of 1 month after the date of service of the Authority's certificate under subsection (1)(a) shall be recoverable as part of the cost due.
- (5) Without prejudice to any other remedy of the Authority for the recovery of the cost due, such cost may be recovered as a debt due to the Government. (Amended 34 of 1999 s. 3)
- (6) A writ of summons in connection with any proceedings taken for the recovery of the cost due shall be taken to have been duly served if the court is satisfied that the writ was left at, or sent by registered post addressed to, the defendant's address last known to the Authority, and a copy was left at the bedspace apartment in respect of which the claim arose.
- (7) In any proceedings a certificate purporting to be made under subsection (1)(a) under the hand of the Authority shall be evidence of the facts stated therein.
- (8) Where, in relation to the bedspace apartment in respect of which the cost in question was incurred, the holder of the certificate of exemption or (as the case may be) the licensee is the owner of the premises used as the bedspace apartment or the agent of such owner, then at any time before the cost due and interest accrued thereon have been recovered in full, the Authority's certificate under subsection (1)(a) may be registered in the Land Registry against the title of the premises used as the bedspace apartment, and upon such registration the cost due and any interest accrued or accruing after such registration shall constitute a legal charge on such premises, and such charge shall give the Authority the same powers and remedies in respect of such premises as if he were a mortgagee under a mortgage by deed in common form having powers of sale and lease and of appointing a receiver.
- (9) Notwithstanding subsection (8), a charge under that subsection shall, for the purposes of the Land Registration Ordinance (Cap 128), have priority from the commencement of the day following the date of its registration.
- (10) Upon the recovery in full of any sum in respect of which a certificate has been registered under subsection (8) the Authority shall lodge or cause to be lodged in the Land Registry an appropriate memorial of satisfaction against any certificate registered by him under that subsection.

(Enacted 1994)

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| Part: | 7 | Appeals | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 26 | Appeals against decisions of the Authority | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Any person aggrieved by any decision of the Authority relating to-
 - (a) the refusal of an application for a certificate of exemption under section 8(2)(b) or for a licence under section 12(2)(b), or for renewal of a certificate of exemption under section 9(3)(b) or of a licence under section 13(3)(b);
 - (b) the imposition of conditions under section 8(2)(a) or 12(2)(a) upon the issue of a certificate of exemption or a licence, or the imposition of conditions under section 9(3)(a) or 13(3)(a) upon the renewal of a certificate of exemption or a licence;
 - (c) the variation under section 8(4) or 14 of conditions imposed by the Authority;
 - (d) the revocation of a certificate of exemption under section 10 or of a licence under section 15; or
 - (e) a direction given in a notice served by the Authority under section 21(1),
 may appeal to the Appeal Board.
 - (2) Any decision of the Authority under section 8(4), 9(3)(b), 10, 13(3)(b), 14 or 15 that is appealed against shall be suspended in its operation as from the day on which the appeal is made until such appeal is determined or withdrawn unless such suspension would, in the opinion of the Authority, pose an imminent danger to life or property and the notice of the decision contains a statement to that effect.
 - (3) Any person who wishes to appeal under this section shall, within 28 days after receiving notice of the Authority's decision to which the appeal relates, lodge a notice of appeal in the prescribed form and manner.
- (Enacted 1994)

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| Section: | 27 | Constitution of Appeal Board | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Every appeal under section 26 shall be determined by the Appeal Board constituted under this section.
 - (2) The Appeal Board shall consist of the Chairman appointed under subsection (4) and such number of persons, being not less than 2, from the panel referred to in subsection (6) as the Chairman may, subject to subsection (3), appoint to be members of the Appeal Board to hear any appeal.
 - (3) The Appeal Board shall not at any time consist of a majority of persons who are public officers, and any public officer appointed under this section to be a member of the Appeal Board shall in exercising his functions as such member-
 - (a) act in his personal capacity only; and
 - (b) not be subject to any direction to which he might otherwise be subject in his capacity as a public officer.
 - (4) The Chief Executive shall appoint as Chairman of the Appeal Board a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336). (Amended 34 of 1999 s. 3)
 - (5) Subject to subsection (8), the Chairman shall hold office for a term of 2 years but may be reappointed.
 - (6) The Chief Executive shall appoint a panel of persons whom he considers suitable for appointment under this section as members of the Appeal Board and, subject to subsection (8), such persons shall hold office for such period as the Chief Executive may determine. (Amended 34 of 1999 s. 3)
 - (7) Notice of an appointment under subsection (4) or (6) shall be published in the Gazette.
 - (8) The Chairman and any person appointed under subsection (6) may at any time resign by notice in writing to the Chief Executive. (Amended 34 of 1999 s. 3)
 - (9) If the Chairman is precluded by illness, incapacity, absence from Hong Kong or any other cause from exercising his functions, the Chief Executive may appoint any person qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336) to act as Chairman and as such to exercise all the functions of the Chairman during the period of his appointment. (Amended 34 of 1999 s. 3)
 - (10) If a person appointed by the Chairman under subsection (2) to hear an appeal is precluded by illness, incapacity, absence from Hong Kong or any other cause from exercising his functions, the Chairman may appoint any other person from the panel referred to in subsection (6) to act in his place.
 - (11) The hearing of an appeal may be continued notwithstanding a change in the membership of the Appeal Board.
- (Enacted 1994)

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| Section: | 28 | Proceedings of Appeal Board | E.R. 1 of 2012 | 09/02/2012 |
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- (1) The Chairman shall preside at the hearing of an appeal under this Part.
- (2) In hearing an appeal the Appeal Board may, in relation to such appeal, give directions to the Authority with

respect to the exercise by the Authority of such of the functions of the Authority under this Ordinance as are relevant to the appeal and the Authority shall comply with any such direction.

- (3) In relation to the hearing of an appeal every question before the Appeal Board shall be determined by the opinion of the majority of the members hearing the appeal except that a question of law shall be determined by the Chairman; in the case of an equality of votes the Chairman shall have a casting as well as a deliberative vote.
- (4) In the hearing of an appeal-
 - (a) any party shall be entitled to be heard either in person or through a counsel or solicitor, and if any party is a company, through any of its directors or other officers, or if a partnership, through any of its partners;
 - (b) the Appeal Board may-
 - (i) receive and consider such evidence as it considers relevant, whether or not it would be admissible in a court of law, and require evidence to be given on oath and either orally or in writing;
 - (ii) require the production of, admit or take into account any record, statement or other document or any information or matter whether or not it would be admissible in a court of law;
 - (iii) by notice in writing signed by the Chairman and served on the person to whom it is addressed, require that person to attend and give evidence before it and to produce such record or other document in his custody or under his control relating to the subject-matter of the appeal as may be specified in the notice;
 - (iv) confirm, vary, reverse or revoke the decision appealed against or substitute therefor such other decision or make such other order as it thinks fit;
 - (v) award costs to any party to the appeal, which costs shall be recoverable as a civil debt; and
 - (vi) exercise such other powers as may be necessary or ancillary to the carrying out of its functions under this Part.
- (5) The Appeal Board shall have the powers which are vested in the Court of First Instance in the exercise of its powers under subsection (4). (Amended 25 of 1998 s. 2)
- (6) Every decision of the Appeal Board shall contain a statement of the reasons for its decision.
- (7) The Appeal Board may order any party to an appeal to pay the costs and expenses incurred by the Appeal Board in hearing and determining the appeal, and any sum so ordered to be paid by any party shall be recoverable by the person to whom they are payable as a civil debt.
- (8) Subject to section 29 the determination by the Appeal Board of an appeal under this Part or any award or order in respect of costs made by the Appeal Board shall be final and shall not be subject to appeal.
- (9) Any person who-
 - (a) refuses or fails-
 - (i) to attend and give evidence when required to do so by the Appeal Board; or
 - (ii) to take an oath when required by the Appeal Board to do so; or
 - (iii) to produce any record or other document in his custody or under his control and required by the Appeal Board to be produced by him; or
 - (iv) to answer truthfully and fully any question put to him by the Chairman or a member of the Appeal Board; or
 - (b) does any other thing which would, if the Appeal Board had been a court of law having power to commit for contempt, have been contempt of that court, commits an offence and is liable to a fine at level 2.
- (10) The Chairman, the Appeal Board and its members, any witness, counsel or solicitor before the Appeal Board, and any other person who is a party to or who otherwise has an interest in the proceedings relating to the hearing of an appeal under this Part shall have the same immunities and privileges as they would have in proceedings before the Court of First Instance. (Amended 25 of 1998 s. 2)
- (11) At the hearing of an appeal under this Part, the Chairman may administer an oath to any person.
- (12) The Chairman may determine any matter of practice or procedure relating to the hearing of appeals under this Part where no provision governing such matter is made in this Ordinance or regulations made under this Ordinance.

(Amended E.R. 1 of 2012)
(Enacted 1994)

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| Section: | 29 | Case may be stated for Court of Appeal | E.R. 1 of 2012 | 09/02/2012 |
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- (1) The Appeal Board may at any time before an appeal is determined refer, by way of case stated, any question of

law arising in the appeal to the Court of Appeal for its opinion thereon.

- (2) A case stated under this section shall be signed by the Chairman.
- (3) Where a case is stated under this section, the Appeal Board shall not determine the relevant appeal until the Court of Appeal has given its opinion on the case.
- (4) On the hearing of the case the Court of Appeal may amend the case or require the Appeal Board to amend the case in such manner as may be specified by the Court of Appeal.
- (5) Where the Court of Appeal gives its opinion on a case stated under this section, it shall cause a copy of the case, together with a copy of its opinion thereon, to be sent to the Chairman who shall as soon as practicable reconvene the Appeal Board to determine the relevant appeal having regard to the opinion of the Court of Appeal.

(Enacted 1994)

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| Part: | 8 | Miscellaneous | E.R. 1 of 2012 | 09/02/2012 |
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(Enacted 1994)

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| Section: | 30 | Procedure governing closure order | E.R. 1 of 2012 | 09/02/2012 |
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- (1) A notice under section 7(2) or 23(2) shall-
 - (a) subject to subsection (2), be served by the Authority at least 7 days before the day of hearing of the application the subject of the notice;
 - (b) be in both English and Chinese;
 - (c) state the time and place set for the hearing of the application and advise that any person affected by the application may apply under subsection (3) to be heard at the hearing; and
 - (d) specify the premises used as the bedspace apartment which it is sought to close.
- (2) Where the Authority is of the opinion that there is any imminent danger to life or property, the Authority may give such notice under section 7(2) or, as the case may be, section 23(2) as is practicable in the circumstances.
- (3) Subject to subsection (4), any person affected by an application mentioned in subsection (1)(a) may apply to be heard by filing an application in the District Court not later than 1 working day before the day of hearing of the application mentioned in subsection (1)(a) and shall serve a copy of his application on the Authority not later than 1 working day before the day of the hearing.
- (4) Where notice under section 7(2) or 23(2) has been served by the Authority pursuant to subsection (2), an application under subsection (3) may be filed and a copy thereof served as early as practicable before the hearing of the application the subject of the notice.
- (5) On or after the date specified in an order under section 7(3) or 23(3), and until notice is served by the Authority (in the case of an order under section 7(3)) under section 7(6) or (in the case of an order under section 23(3)) section 23(7), no person other than-
 - (a) a police officer in the course of his duty; or
 - (b) a public officer authorized by the Authority under section 7(4)(a) or, as the case may be, section 23(4)(a); or
 - (c) in the case of an order under section 23(3), a contractor employed by the Authority under section 23(6)(b) and his agents and employees,
 shall enter or be in the bedspace apartment the subject of the order, and any police officer or any public officer authorized by the Authority under section 7(4)(a) or, as the case may be, section 23(4)(a) may, with such assistance as may be necessary, remove from the bedspace apartment any person found therein in contravention of this subsection.
- (6) Notwithstanding subsection (5), the Authority may, where he thinks fit, in writing permit any person to enter and be in a bedspace apartment while an order under section 7(3) or 23(3) is in force in respect of a bedspace apartment.
- (7) Any permission under subsection (6) may be granted for such period and subject to such conditions as the Authority thinks fit, and the Authority may at any time revoke any such permission.

(Enacted 1994)

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| Section: | 31 | Termination of tenancies | E.R. 1 of 2012 | 09/02/2012 |
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Where any condition imposed by the Authority for the issue or renewal of a certificate of exemption or a licence, or

any particular direction given by the Authority under section 19(1), requires the cessation of use of such one or more of the bedspaces in a bedspace apartment as may be specified in writing by the Authority, the provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap 7) which prohibit or otherwise restrict the termination of tenancies (except those provisions governing termination by tenants) shall, upon such specification by the Authority, cease to apply to the tenancy or tenancies (if any) then subsisting in respect of the bedspace or bedspaces so specified.
(Enacted 1994)

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| Section: | 32 | Service of notices and orders | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Unless otherwise specifically provided, any notice or order required to be served or given by the Authority under this Ordinance may be served on the person to whom such notice or order is addressed by serving a copy-
 - (a) personally on such person; or
 - (b) by registered post addressed to such person at his address last known to the Authority; or
 - (c) by posting the same in a conspicuous place upon or in the premises used as the bedspace apartment to which the notice or order relates.
- (2) Notwithstanding subsection (1) where it is impossible or impracticable to serve any notice or order by any of the means prescribed in subsection (1), the publication in the Gazette of such notice or order together with the available particulars of the person to whom it is addressed shall be deemed to be good service.
(Enacted 1994)

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| Section: | 33 | Offences in relation to certificates of exemption and licences | E.R. 1 of 2012 | 09/02/2012 |
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- (1) Where a certificate of exemption has been issued and is in force in respect of a bedspace apartment, and any condition of such certificate of exemption is contravened, the holder of the certificate of exemption commits an offence unless he proves that-
 - (a) he did not know and had no reason to suspect the existence of the circumstances giving rise to the contravention; and
 - (b) he could not, by the exercise of reasonable supervision and reasonable diligence, have prevented those circumstances arising.
- (2) Where a licence has been issued in respect of a bedspace apartment, and any requirement under section 18 is contravened or any condition of the licence is contravened, the licensee of the bedspace apartment commits an offence unless he proves that-
 - (a) he did not know and had no reason to suspect the existence of the circumstances giving rise to the contravention; and
 - (b) he could not, by the exercise of reasonable supervision and reasonable diligence, have prevented those circumstances arising.
- (3) Any person who-
 - (a) in or in connection with any application under this Ordinance-
 - (i) makes any statement, whether oral or written; or
 - (ii) furnishes any information, which is false in any material particular and which he knows or reasonably ought to know is false in such particular; or
 - (b) obstructs the Authority or any public officer in the exercise or performance of any of his powers or functions under this Ordinance; or
 - (c) fails to serve any notice under and in manner prescribed by section 7(7); or
 - (d) refuses to produce any book, document or other article or thing or to furnish any information upon being required to do so under section 20(1)(b)(i); or
 - (e) upon being required under section 20(1)(b)(i), furnishes any book, document or information which is false in a material particular and which he knows or reasonably ought to know is false in such particular; or
 - (f) fails to comply with the requirements of a direction given under section 21(1) within the period of time specified in the notice served under that section; or
 - (g) fails to serve any notice under and in manner prescribed by section 23(9); or
 - (h) not being a person described in section 30(5)(a) or (b), enters or is in a bedspace apartment while an order under section 7(3) is for the time being in force; or

- (i) not being a person described in section 30(5)(a), (b) or (c), enters or is in a bedspace apartment while an order under section 23(3) is for the time being in force, commits an offence.
- (4) Any person who commits an offence under subsection (1), (2) or (3) is liable on conviction to a fine at level 5 and to imprisonment for 1 year and to a further fine of \$10000 for each day or part of a day during which the offence has continued.

(Amended E.R. 1 of 2012)
(Enacted 1994)

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| Section: | 34 | Time limit for prosecution of offences | E.R. 1 of 2012 | 09/02/2012 |
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Any prosecution under the provisions of this Ordinance shall be commenced within 6 months of the commission of the offence or within 6 months of the same being discovered by or coming to the notice of the Authority.

(Enacted 1994)

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| Section: | 35 | Regulations | E.R. 2 of 2014 | 10/04/2014 |
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- (1) The Secretary may by regulation provide for-
 - (a) reports and information to be supplied to the Authority in respect of bedspace apartments;
 - (b) the lodging of appeals under section 26 and the practice and procedure of the Appeal Board;
 - (c) fees to be charged for any matter under this Ordinance;
 - (d) any other matter or thing required or permitted to be prescribed under this Ordinance; and
 - (e) generally, the better carrying into effect of the provisions of this Ordinance.
- (2) Any regulation made under this section may-
 - (a) prohibit the performance of particular acts without the consent of the Authority;
 - (b) authorize the Authority to require or prohibit the performance of particular acts; and
 - (c) require particular acts to be performed to the satisfaction of the Authority.
- (3) Where the Authority is of the opinion that in respect of a bedspace apartment, compliance with any requirement of any regulation would cause hardship or injustice, or that it would be impracticable or unreasonable to require such compliance, the Authority may, by notice in writing to the person being the holder of the certificate of exemption in respect of the bedspace apartment or (as the case may be) the licensee thereof, waive wholly, partly or conditionally such requirement in respect of that bedspace apartment.
- (4) The Authority may by notice in writing to the person mentioned in subsection (3)-
 - (a) amend any notice given under that subsection as the Authority thinks fit; or
 - (b) withdraw any such notice where it appears to the Authority that the circumstances by reason of which such notice was given have ceased to exist.
- (5) Regulations made under this section may provide that a contravention of any specified provision thereof shall be an offence punishable on conviction by a fine not exceeding level 5 and a term of imprisonment not exceeding 1 year and a further fine not exceeding \$5000 for each day or part of a day during which the offence has continued.
- (6) Any regulation made under subsection (1)(c) may provide for-
 - (a) a different fee to be payable having regard to-
 - (i) the area of the premises used as a bedspace apartment;
 - (ii) the number of occupiers that a bedspace apartment is reasonably capable of accommodating; or
 - (iii) the period for which a certificate of exemption or a licence is issued; and
 - (b) the waiver, remission, reduction or refund of any fee.

(Amended E.R. 2 of 2014)
(Enacted 1994)

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| Section: | 36 | (Omitted as spent—E.R. 1 of 2012) | E.R. 1 of 2012 | 09/02/2012 |
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