

URBAN PLANNING AND  
**ENVIRONMENTAL  
 LAW REPORT**

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This is the inaugural issue of *Urban Planning and Environmental Law Report* published bimonthly by Fred Kan and Co. As well as documenting current developments in Hong Kong's planning and environmental policy, legislation and practice, the *Report* will keep you abreast of key events regionally and internationally. Permanent features will include digests of new Hong Kong legislation and caselaw, an update on Hong Kong planning and environmental news, PADS as well as reports from our U.K. and Canadian associates.

This issue features a review of the controversial *Report of the Special Committee on Compensation and Betterment* which was released on 21 April. The Report makes over 50 proposals for compensating landowners for loss or diminution of land use and development rights as well as for recovering betterment through development schemes. In its report the Committee recognises that compensation is a political issue: the extent to which public interest should prevail over private property rights.

Also in this issue are briefings on several controversial development projects which have been testing grounds for public opinion and the environmental lobby in Hong Kong. We will keep you informed of further developments as they occur.

The Editors.

## CONTENTS

	<i>Page</i>
FEATURE: Compensation and Betterment Report	1
LEGISLATION DIGEST	3
CASELAW UPDATE	4
HONG KONG BRIEFING	5
Drive for golf courses in the rough	5
Columbarium rejected	5
TST Monorail	5
PADS UPDATE	
Chek Lap Kok Airport	6
REGIONAL AND INTERNATIONAL	7
Canada	7
Europe and Japan	7
NEW PUBLICATIONS	8
DIARY	8
ABBREVIATIONS	8
Contributors	8

### Report of the Special Committee on Compensation and Betterment

The *Comprehensive Review of the Town Planning Ordinance* was ordered by ExCo in September 1987. The *Town Planning Ordinance* (1939) was considered no longer adequate because of the changes in Hong Kong's social, economic and political conditions. Interim changes have already been made to the law but major changes in the form of a new Planning Ordinance are still to follow. As part of a consultative exercise in 1991, the Special Committee was created to receive submissions and expert opinion on the particularly complex area of compensation for the detri-

mental effects of planning and the collection of 'betterment' for its enhancing effects. The Report of the Special Committee was submitted in March. The results of the general consultation exercise are expected soon.

In its Report the Committee recognises that there is a broad consensus which stresses the value of private property but also a growing concern for the public interest to be taken into account. This balance caused the Committee to focus upon fairness to the individual (by, for example, providing new avenues of appeal for compensation and more explicit and predictable procedures), whilst also taking account of the general public interest (by, for example, limiting the circum-

stances under which compensation may be claimed). The Committee stressed the need for a system which has easily ascertainable procedures and principles and which, unlike the present informal process, does not unduly benefit developers and professionals in the field. The Report is long and contains over 50 specific proposals to supplement and extend those included in the Consultation Document.

The Report addresses three main aspects of compensation. The most controversial area of the Report is compensation for diminution of development rights granted in a lease as a result of government action. Presently, no compensation is payable unless there is a resumption of land or the legislation affecting development rights specifically provides for it. The Committee concluded that there should be no compensation for diminution of development rights, provided the planning system meets certain criteria, which in practice may prove impossible to attain. A package of proposals includes extending rights of appeal for objections to Outline Zoning Plans (OZP) and extending the planning applications system; periodic reviews of OZP and provision of compensation for unscheduled changes; the provision of compensation where planning permissions are revoked and where a legal use is discontinued on environmental grounds; and the extension of Resumption Request Notices (*see below*) to cover diminution of development rights. This package is pragmatic but also reflects a necessary compromise between fairness to the individual and practicability.

Second, there is compensation for 'taking', *ie.* for loss of

rights under a lease arises when the government resumes land following a declaration by ExCo that the land is required for a public purpose. The general approach is, as in most jurisdictions, one of compensation reflecting open market value. In addition to this legal basis for compensation there is an established administrative practice of the government making *ex gratia* payments based upon more simple criteria and usually more generous than the legal entitlement, and this has allowed the government to acquire land quickly and with little difficulty. The Committee endorsed this dual system of compensation for taking and considered that the legal and *ex gratia* payments should continue side by side, with the landowner having the choice. Strangely they conclude that as few appeals are made to the Lands Tribunal on the assessment of compensation the system as it stands must work well. What the Committee does do is recommend an overhaul of the Crown Lands Resumption Ordinance to produce a more comprehensive and modern piece of legislation which reflects the common law interpretation of its terms.

Third, there is now an administrative mechanism but no statutory procedure to deal with blight, *ie.* the situation where the government, by issuing an OZP makes it impossible for a landowner to redevelop the land or put it to 'reasonably beneficial use.' In many other jurisdictions, such as the UK, there is a statutory procedure whereby the owner can simply request the government to acquire the land. The Committee proposed that two forms of statutory Resumption Request Notices should be established, one for land required for a public purpose

(Reserved Land) and one for land the development of which is restricted for environmental reasons (Restricted Land). This procedure is to provide relief when the owner is unable either to redevelop the land or sell it other than at a substantially reduced price.

The Committee further recommends that a definition of 'reasonably beneficial use' should be contained in the legislation. The meaning of this phrase has been extensively litigated in the UK and it is proposed that the Hong Kong definition should be based upon UK administrative and judicial interpretations, taking account of local circumstances.

Other proposals in the Report cover other depreciatory action, such as the physical nuisance aspects of public works, lease reform, a more generous approach to compensation for monuments and a more formalised approach to the provision of public facilities in development schemes. The Committee also considered betterment ('any increase in the value of property other than that attributable to improvements made by the owner or due to inflation'). This is in itself a complex area and the Committee made an effort to look at the imposition of levies in other jurisdictions, and the problems encountered. The Report does not rule out the possibility of imposing a levy in Hong Kong but whether it is justified depends upon the need for a new source of revenue as a result of the proposed extended compensation system.

Overall the Report is comprehensive, well written and well thought out and is underlined by considerations of fairness, openness and practicability.

## Digest of LEGISLATION

(For the convenience of readers this digest includes relevant legislation for the period January to April 1992 inclusive.)

### LAND USE PLANNING

**Antiquities and Monuments (Declaration of Historical Building) Notice 1992** (L.S. No.2 to GAZETTE No.9/28 Feb. 1992 p.B278). The Main Building of St. Stephen's Girls' College at No.2 Lyttleton Road, Hong Kong Island was declared to be a historical building on 17 February 1992.

**Building (Planning) (Amendment) Regulation 1992** (LS No.2 to GAZETTE No.13/27 Mar. 1992 p.B379). **Buildings (Amendment) Bill** (LS No.3 to GAZETTE No.13/27 Mar. 1992 p.C201) This regulation makes amendments to the **Building (Administration) Regulations** and the bill will amend the **Buildings Ordinance** so that balconies and verandahs and other structures are no longer permitted to project over streets. The regulation also revises specifications regarding architectural projections and canopies over streets. This was a response to the serious incidents of collapsed overhanging structures causing deaths and injuries in 1991. The amended ordinance will also further protect the MTR structures by requiring contractors to obtain permission prior to carrying out underground drainage works in scheduled areas in the vicinity of the MTR.

**Shipping and Port Control (Typhoon Shelters) Regulations (Amendment of Schedule) Order 1992** (LS No.2 to GAZETTE No.14/3 April 1992 p.B453). This order removes Aldrich Bay Typhoon

Shelter from the list of shelters because it will be reclaimed for development and replaces it with the new Shaukeiwan Typhoon Shelter.

### NOISE

**Noise Control Amendment Ordinance** (No. 6 of 1992; w.e.f. 31 January 1992. LS No.1 to GAZETTE No.5/31 Jan. 1992 p.A37). There are three important amendments. First, Hong Kong trams, the KCR 'North-west Railway' and motor vehicles have been specifically exempted from noise control provisions [s.5A]. (Aircraft noise and the MTR were previously exempt ss.36- &37 NCO). Secondly, the measurement of noise nuisance is made more scientific by defining the place the annoyance is received as 'a noise sensitive receiver' as defined in any issued Technical Memorandum [s.13(1)(a)]. Finally, a new power has been added to allow the authority to give written directions to reduce noise emitted from noisy products as defined and providing for a fine for failure to comply with such direction [s.17A].

**Noise Control Ordinance (Commencement) Notice 1992** (LS No.2 to GAZETTE No.-9/28 Feb. 1992 p.B281). This notice concerns the regulation of noisy products by ss. 14(1), (2), (4) and (5) and 15 to 17 of the NCO. It appoints 1 March 1992 as the day on which these provisions shall come into operation.

Readers should also refer to two sets of important regulations made or pursuant to the NCO in 1991 which provide standards and regulate the use of air compressors and hand held percussive breakers (*ie.* 'jackhammers' and 'pneumatic drills'). These are: **Noise Control (Air Compressors)**

**Regulations and Noise Control (Hand Held Percussive Breakers) Regulations** (LS No.2 to GAZETTE No.48/29 Nov. 1991 pp.B2657; B2683). These regulations also came into effect on 1 March 1992.

At the same time, amendments were made to the general regulations, concerning the testing of noisy products and to the appeal board regulations, concerning appeals against compulsory testing of noisy products. *See* **Noise Control (Appeal Board) (Amendment) Regulations 1991** and **Noise Control (General) (Amendment) Regulations 1991** (LS 2 to GAZETTE No.48/29 Nov. 1991 pp.B2673; B2677).

### PUBLIC HEALTH

**Smoking (Public Health) (Amendment) Regulation 1992** (LS No.2 to GAZETTE No.11/13 Mar. 1992 p.B335). This regulation revises the tar group classification of cigarettes based on their tar content.

### WASTE DISPOSAL

(N.B. The **Waste Disposal Ordinance (WDO)** was amended by the **Waste Disposal Amendment Ordinance** which came into effect on 23 November 1991.)

**Waste Disposal (Chemical Waste) (General) Regulation** (LS No.2 to GAZETTE No.-6/7 Feb. 1992 p. B181).

These are Hong Kong's first comprehensive and detailed regulations for the classification of chemical waste and for the control and regulation of the production, possession, storage and disposal of chemical waste. They are the legislative framework for the system of collection, treatment and disposal of chemical waste by the Government's Tsing Yi plant which will commence operation later this year. The

Regulations will come into effect at a date expected to be appointed later this year.

**Waste Disposal (Forms and Fees for Licences) Regulation** (LS No.2 to GAZETTE No.6/7 Feb. 1992 p.B207).

This Regulation prescribes in detail the forms in English and Chinese for making an application for or to renew a waste collection or waste disposal licence under the WDO. It also prescribes the fees payable in respect of such licences.

**Waste Disposal (Appeal Board) Regulation** (LS No.2 to GAZETTE No.6/7 Feb. 1992 p.B169).

This Regulation prescribes the procedure to be followed and the forms to be used in connection with appeals to the Board of Appeal (s.25 WDO) against decisions enforcing the WDO (s.24 WDO).

#### WATER POLLUTION CONTROL

**Water Pollution Control (North Western Water Control Zone) Order** (LS No.2 to GAZETTE No.9/28 Feb. 1992 p.B269).

Hong Kong's seventh water control zone was declared on 25 February 1992, encompassing the northern coast of Lantau Island, including Chek Lap Kok, and the southern coast of the New Territories by Tuen Mun.

**Water Pollution Control (North Western Water Control Zone) (Appointed Days) Order** (LS No.2 to GAZETTE No.9/28 Feb. 1992 p.B271).

The *First Appointed Day* for all discharges or deposits into the North Western Water Control Zone was 1 April 1992. From this day existing discharges enjoy deemed licences but new discharges must be licensed. The *Second Appointed Day* will

be 1 October 1992. From this day all existing discharges must also be licensed.

**Statement of Water Quality Objectives (North Western Water Control Zone)** (LS No.2 of GAZETTE No.9/28 Feb. 1992 p.B273).

This statement sets out the water quality objectives to be implemented in respect of the North Western Water Control Zone. Reference should also be made to the *Technical Memorandum on Standards for Effluents Discharged into Drainage and Sewerage Systems, Inland and Coastal Waters* (For details, see *NEW PUBLICATIONS*).

## CASELAW Update

### Judicial Review

*World Wide Fund for Nature et al. v. Attorney-General*

(The unreported judgment of Mayo, J. was not available at the time of going to press. A full report of this important case will appear in the July report, ed.) Six environmental interest groups sought judicial review of a decision of the Director of Agriculture and Fisheries to approve the development of a golf course in part of the country park at Shalotung.

On behalf of the Attorney-General, it was conceded that the Director had applied the wrong section of the **Country Parks Ordinance** and his decision was therefore *ultra vires*.

Quashing the decision, Mayo, J. did not consider the question of the applicants' *locus standi* to seek judicial review because of the A-G's concession.

*Rich Resources Enterprises Ltd. v. Attorney-General* (Mayo, J. MP3896/1992, 10 Apr. 1992 unreported.)

On an application to quash the decision of the Building Authority to refuse permission to redevelop land in Kennedy Town, Mayo J. upheld the decision as both lawful and reasonable.

The redevelopment application was rejected because of the project's density and lack of vehicular access. The applicant argued *inter alia* (1) that questions of density and fire safety were properly considered by the Director of Fire Services and the Town Planning Board and were irrelevant to the Building Authority and its decision was therefore unlawful, and (2) that height restrictions imposed by the Authority were 'irrational'.

Mayo, J. upheld the lawfulness of the Authority's decision on the grounds that s.16(i)(g) of the **Buildings Ordinance** expressly gives the Authority power to consider the height of a building and as height affects density, density is also a relevant consideration. Further, height restrictions on the applicant were imposed rationally as since 1974, 24 applications to build higher than current buildings had all been refused.

On the question of the correctness of seeking judicial review before exhausting appeal procedures, Mayo, J. quoted with approval Wade, *Administrative Law* (6th ed.) at p.714 *inter alia* 'When genuine grounds for judicial review are alleged, it is the refusal rather than the grant of review which is the exceptional course.' In allowing the proceedings, Mayo, J. said he was satisfied that 'little purpose would have been achieved' by pursuing an appeal to the Appeal Tribunal.

### Magistracy Appeals

*Attorney General v. Vibro (HK) Ltd.* (MA987/91; Sears, J. 23 Jan. 1992 unreported)

On an appeal by way of case stated the A-G against the magistrate's ruling that an air pollution abatement notice issued by EPD for one pile-driving machine could not apply to a different machine causing a nuisance at a later check, the appeal was allowed and the case remitted back to the magistrate for hearing.

Sears, J. said that the magistrate's ruling would frustrate APCO which object was to protect the public from air pollution. The object of s.9 was to allow EPD reasonable to monitor polluting machinery and it made no difference which piece of machinery caused the pollution. It would make a mockery of the law if the owner could simply substitute one offending machine with another to avoid prosecution. The magistrate's ruling would make it necessary to perform daily or even hourly checks and thus frustrate the object of the legislation.

*R. v. Shaw Bros. Studio* (The unreported judgment of Gall, J. was not available at the time of going to press. A full report of this important case will appear in the July report, ed.) On appeal against a fine of \$140,000 for the second of two convictions for discharging cyanide concentrations 550 times above permitted standards, the fine was halved because the magistrate had erred in treating the conviction arising out of the second of two summons on the same incident as a second conviction. (SCMP 29 Mar. 1992)

## HONG KONG Briefing

**TWO PROPOSED** golf course developments in NT country parks have been stymied. In March, the Town Planning Board (TPB) rejected the proposed course adjacent to the Pak Sin Leng Country Park because it was not consistent with zoning and would affect the preservation of the site's beauty and ecology. (SCMP 7 Mar. 1992) The more controversial project on part of Sha-  
lotung Country Park has been set back by a High Court ruling that the decision of the Director of Agriculture and Fisheries was *ultra vires* (see **CASELAW UPDATE** above) but may proceed if the Director chooses to use other powers, as has been suggested by his Department. (SCMP 14 Apr. 1992)

**AFTER** years of preparation by developers the TPB rejected their application for to construct a computerised columbarium to house the ashes of deceased of any religion. The villagers from Pat Heung district in the NT cited *bad fung shui* to substantiate their vigorous opposition to the development. The TPB is believed to have been concerned about traffic congestion. Although the site was designated as a graveyard TPB approval became necessary because of amendments to the **Town Planning Ordinance** in 1990, although it has been reported that the developers are preparing to challenge this assumption in court. (FEER 26 Mar. 1992; SCMP 29 Mar. 1992)

'**SKYRAIL**', the proposed \$3b. elevated railway for Tsim Sha Tsui (TST), was reported to be in its final planning

stages in February (SCMP 12 Feb. 1992) but strong opposition to its aesthetic and environmental impact from environmental groups and within the Urban Council appear to be placing the project in jeopardy. (SCMP 20 Apr. 1992). **SKYRAIL** is supposed to connect popular destinations in TST from Hung Hom to China Ferry Terminal and would carry up to 250,000 passengers a day by the year 2,000.

**WATER POLLUTION** remains the major concern in Hong Kong as reports indicate that water quality has deteriorated in some areas just as the public heads to the beaches. Only 14 out of Hong Kong's 45 graded beaches are considered 'good'. The remaining ones are either only 'fair' (12) or 'poor' (14) and three remain closed. An EPD spokesman said that unseasonal rain and cloud had exacerbated the situation. As temperatures rose at the end of April, widespread 'red tides' (*noctiluca scintillans*) have built up along Hong Kong's eastern coastline, killing fish and causing further beaches to be temporarily closed. (SCMP 17 & 30 Apr. 1992)

**THE EPD** has revealed that only \$82m. of the \$10.44b. needed for the sewerage system and other works to clean up Victoria Harbour will be released by the Government. Thus, the target date for the sewerage system has been postponed from 1994 to 1997 at the earliest. (SCMP 1 Apr. 1992)

**US SHIPPING** data cited by Greenpeace shows that one ship alone carried 19 tonnes of lead and 1,000 tonnes of mixed metals into Hong Kong in 1991. (SCMP 13 Apr. 1992) The EPD is preparing drafting

instruction for new regulations under the WDO to ensure that undocumented waste is not imported into Hong Kong and dumped into local waters. These regulations will be necessary to implement the **Basel Convention on Transboundary Movement of Hazardous Waste and Its Disposal** which comes into operation on 5 May 1992 for current signatories. China has signed the Convention and EC members are expected to do so later this year.

**AIR QUALITY** in Hong Kong remains controversial as the EPD admits that levels of suspended particulates rose to an 'unacceptable' level in March. This was not helped by the highest monthly average humidity in 14 years. (SCMP 14 Apr. 1992). Air polluters topped prosecution lists (*see below*).

**THE EPD** has announced a review of APCO, including the proposed increase of penalties with fines of up to \$200,000 (from \$20,000) and 6 months' imprisonment (from 3 months). (SCMP 29 Mar. 1992).

**HONG KONG OXYGEN** has installed Hong Kong's first CFC recycling plant and Friends of the Earth have called for legislation to prevent discharge of CFCs and encourage their recycling. (SCMP 17 Mar. 1992).

**NOISE ISSUES** were also in the news as EPCOM has recommended a \$120m. package of measures to mitigate the effects of noise on some 2,200 flats affected by the proposed Western Harbour Crossing. The package includes compensation for double-glazing and airconditioning but not electricity bills, as was recommended last year for 700 Ma Wan

Island residents affected by the Lantau Fixed Crossing. (SCMP 18 Feb. 1992).

**FO TAN** residents fear an increased noise nuisance from the KCR at Fo Tan station because of the proposed construction of maintenance sheds and other developments which have to be carried out at night to minimise disruption to rail services. The works are scheduled to commence in May but the KCRC has already obtained a permit to carry on works at night. (SCMP 23 Apr. 1992). At the same time, the KCRC has announced a package of \$500m. operational noise reduction measures although local representatives have criticised the measures because they did not apply throughout the line and are generally inadequate. (SCMP 14 April 1992).

**PROSECUTIONS** were up in March with 48 convictions compared to 29 in February. Air pollution offenders topped the prosecutions lists in February and March with a dyeing factory being convicted for air pollution offences for the twelfth time and fined \$18,000. (SCMP 18 Mar. 1992). A quarry operator was fined \$40,000 for its eighth and ninth air pollution offences. (SCMP 22 Apr. 1992). Fines between \$25,000 and \$50,000 were also imposed for noise pollution, water pollution and the unlawful importation of ozone-depleting CFCs without a licence. In a crackdown on barges, ten convictions were recorded in January for contraventions of the **Dumping at Sea Act**. The maximum fine under the Act is \$5,000 and cannot be increased until the British law is localised. (SCMP 24 Feb. 1992)

## 'PADS' UPDATE

**THE 2.6km** second phase of the North Lantau Expressway, from Kei Kau Kok to North Lantau, was gazetted on 6 March. (SCMP 7 Mar. 1992)

**EXCO** approves construction of \$5.6b. expressway to Lantau Fixed Crossing from West Kowloon to Northwest Tsing Yi. (SCMP 14 Mar. 1992)

**CORE PROJECT** cost estimates were raised 13.8 percent overall with a 78 percent increase in the rail project alone. (SCMP 2 Apr. 1992) The MTRC announced that taxpayers may have to contribute between \$3.7b. and \$16.2b. towards the cost of the railway link. (SCMP 3 Apr. 1992)

**ALL 17** consultancy contracts have gone to firms with British interests (SCMP 8 Apr. 1992) but the Government has responded to criticism by pointing out that the main consultants had been operating in Hong Kong on average for 32 years and should be regarded as local firms. (SCMP 9 Apr. 1992)

**LATE NEWS:** The race for the Tsing Ma Bridge connecting Lantau and Kowloon was won by the Anglo-Japanese consortium Mitsui and Trafalgar House. South Korean Hyundai Engineering and Construction were disqualified because the Government was not satisfied Hyundai has sufficient working capital. (SCMP 8 May 1992)

**THE PAA** has confirmed that reclamation work at Chek Lap Kok will be delayed but denies that this will set back the completion of the overall project.

## REGIONAL AND INTERNATIONAL

### *Canada*

#### *Defence of Due Diligence for Environmental Offences - Onus of Proof*

On October 24, 1991 the Supreme Court of Canada handed down its decision in *R. v. The Wholesale Travel Group Inc.* which has important implications for the defence of environmental prosecutions in Ontario. Offences under the Environmental Protection Act ('the EPA') have not required the Crown to prove both a guilty act and a guilty intention beyond a reasonable doubt. It has been sufficient to prove the prohibited act. Such proof shifts the onus to the accused to establish, on a balance of probabilities, that all reasonable care was taken in the circumstances. This is the way the defence of due diligence has operated, thus requiring an environmental defendant to adduce convincing evidence to persuade the court that due diligence was exercised. For example, where a party has been charged under s.13 of the EPA for the unlawful discharge of a contaminant, the Crown would prove the discharge and it would be up to the accused to establish that all reasonable steps were taken in an effort to prevent its occurrence.

Two decisions of the Ontario Court of Appeal, *R. v. The Wholesale Travel Group Inc.* and *R. v. Ellis Don Ltd.*, challenged this type of defence on the grounds that it violated the presumption of innocence and constituted a denial of due process in contravention of the Canadian Charter of Rights and Freedoms.

The Supreme Court of Canada has now ruled on *R. v. The*

*Wholesale Travel Group Inc.* Although this case concerned the Competition Act it is relevant to the defence of due diligence under environmental legislation. The Supreme Court held (5:4) that the reverse onus for the due diligence defence is a reasonable limit on the presumption of innocence in Section 1(d) of the Charter, and hence justified under Section 1.

On the basis of this judgment it appears that a statutory 'due diligence' defence in provincial legislation, such as Section 37(2) of the Occupational Health and Safety Act will be upheld. This decision suggests that statutory offences of a regulatory or public welfare nature which require an accused to establish a due diligence defence on a balance of probabilities do not violate one's Charter rights. The opportunity to clarify the precise implications of this judgment for provincial offences will have to await the outcome of the Court's decision in *Ellis Don*.

(Based on a report from Katherine van Rensburg, *Smith Lyons*.)

### *Europe*

The Town and Country Planning (Development Plan) Regulations (1991) came into force on 11 February 1992, as did the changes effected by the Planning and Legislation Act (1991) as to the development plans provisions of the Town and Country Planning Act (1990). The Regulations affect the form and content of structure plans, local plans, minerals local plans and unitary development plans made under the 1990 Act. An advisory Circular (No. 18/91) has been issued to cover the transitional period, together with a Planning Policy Guidance Note

(PPG 12) which includes a Code of Practice and extends to advice as to public local inquiries and examinations in public.

The new Regulations require Local Planning Authorities to have regard to environmental considerations and to state what they have in fact taken into account in this respect. They must consult such bodies as *English Nature* (formerly the Nature Conservancy Council), the *Countryside Commission*, *English Heritage* and the *National Rivers Authority*.

The new arrangements as to compulsory publicity for all planning applications were announced on 6 February 1992, and will ensure that interested parties are given opportunity to comment before decisions are made.

On 30 January 1992 in *South Lakeland District Council v. Secretary of State for the Environment et al.* the House of Lords interpreted s.72 of the Planning (Listed Buildings and Conservation Areas) Act (1990), previously s.277(8) of the Town and Country Planning Act (1971), as meaning in effect that "preserving the character or appearance of a conservation area" may be achieved by a positive contribution to preservation or by development which leaves the character or appearance unharmed. It is not to be interpreted as entirely preventing change.

(Based on a report from Alastair Bigham, Consultant to *Irwin Mitchell*.)

### *Japan*

Litigation continues in Japan over 'Minamata Disease' caused by mercury pollution

from the Chisso Corporation chemical factory in the 1950s, it was recently reported. The Minamata case was one of four 'Big Suits' commenced in the 1960s against industrial polluters in Japan for injuries caused by their mercury, cadmium and air pollution. The early Minamata suit led to a scheme for Chisso to compensate pollution victims but some parties took further action against the Japanese Government for its negligence in regulating the factory and handling the pollution after evidence of causation emerged in the early 1960s. The most recent decision of the Tokyo District Court cleared the Government of liability but ordered Chisso Corporation to pay some victims damages of YEN4m. (HK\$244,000). (See SCMP 15 Feb. 1992)

## NEW PUBLICATIONS

*Report of the Special Committee on Compensation and Betterment* (March 1992) (Hong Kong: Government Printer)  
Environmental Protection Department, *Water Pollution Control Ordinance: North Western-Control Zone Information Booklet* (April 1992) (English and Chinese)

Environmental Protection Department, *Technical Memorandum: Standards for Effluents Discharged into Drainage and Sewerage Systems, Inland and Coastal Waters* (January 1991) (English and Chinese)

## Diary

(See DIGEST OF LEGISLATION for details.)

1 March: Noisy products provisions of NCO and subsidiary legislation came into effect.

1 April: 'First Appointed Day'

for the North Western Water Control Zone.

5 May: **Basel Convention on Hazardous Waste** (see HONG KONG BRIEFING).

## ABBREVIATIONS

APCO	Air Pollution Control Ordinance
CFCs	Chlorofluorocarbons
EC	European Community
EPCOM	Environmental Pollution Advisory Committee
EPD	Environmental Protection Department
EXCO	Executive Council
FEER	Far Eastern Economic Review
LEGCO	Legislative Council
LS	Legal Supplement
NCO	Noise Control Ordinance
NT	New Territories
PAA	Provisional Airport Authority
PADS	Port and Airport Development Strategy
SCMP	South China Morning Post
SMP	Sunday Morning Post
WDO	Waste Disposal Ordinance
WPCO	Water Pollution Control Ordinance

This report does not constitute advice of a legal nature. Whilst all effort has been made to ensure completeness and accuracy at the time of publication, no responsibility is accepted for errors or omissions. Further information, inquiries and advice in respect of this report should be directed to:

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