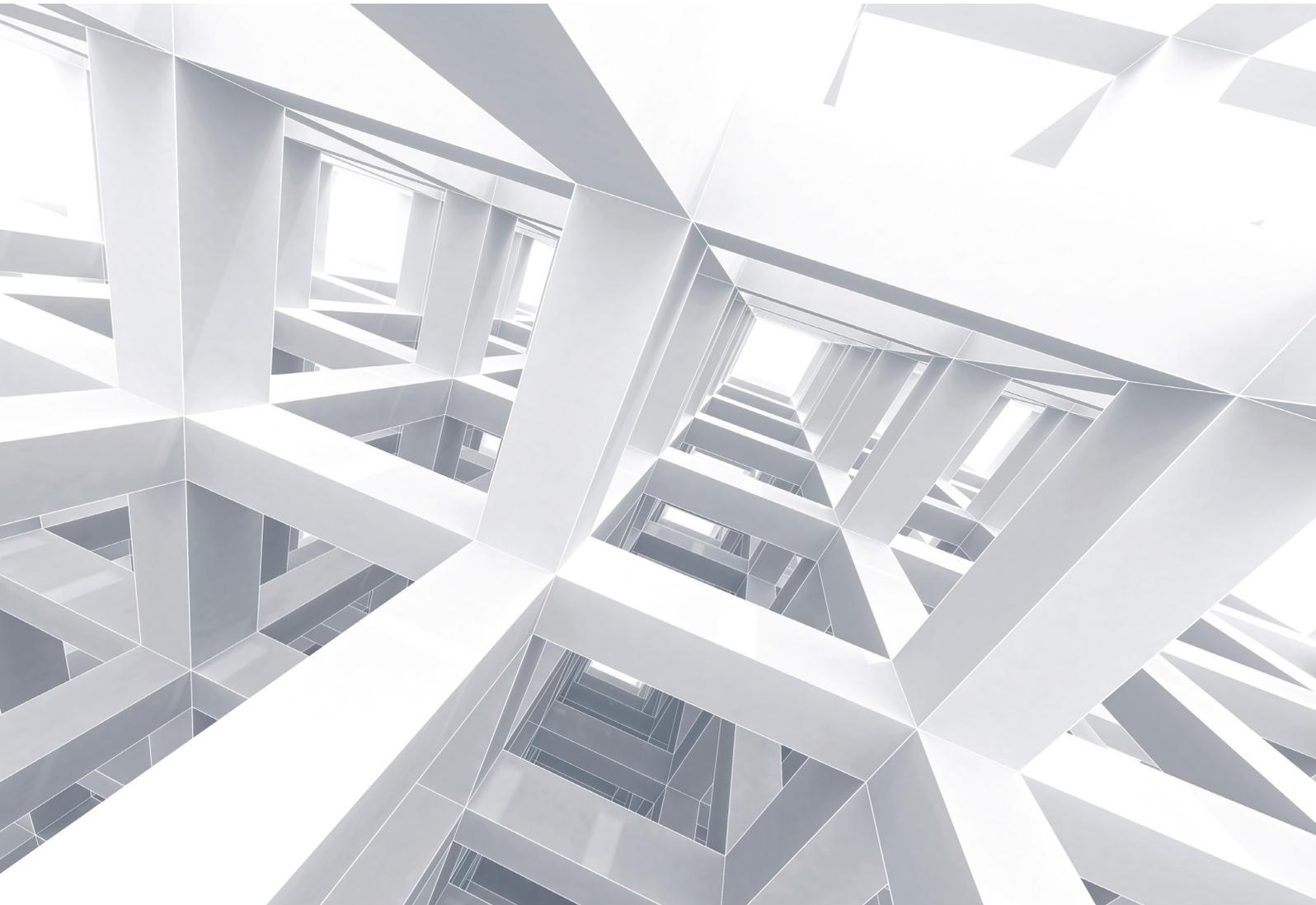




RICS professional standards and guidance, Hong Kong

**RICS Valuation – Global
Standards 2017 jurisdiction
guide: Hong Kong**

1st edition, May 2019



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RICS jurisdiction guide

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Author: Paul Batho FRICS

Professional Group Lead: Ben Elder FRICS

Project manager: Ellie Scott

Editor: Jo FitzLeverson

Published by the Royal Institution of Chartered Surveyors (RICS)

Parliament Square

London

SW1P 3AD

www.rics.org

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ISBN 978 1 78321 336 8

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RICS jurisdiction guides

Since its first publication in 1976, the *RICS Valuation – Global Standards 2017*, generally known as the ‘Red Book’, has set standards for property valuation that are designed to ensure consistency, objectivity and transparency in the valuation process. The primary aim of these standards has always been to sustain public confidence and trust in a valuation undertaken by an RICS member or a valuer working for an RICS regulated firm.

Over the past 40 years the Red Book has become global in its application, reflecting the growing internationalisation of the property market and its clients’ requirement for worldwide consistency of standards. A Red Book-compliant valuation is consistent with the International Valuation Standards (IVS) and it is augmented in a growing number of markets by national supplements, which provide guidance designed to ensure that a Red Book-compliant valuation also meets local legal requirements, regulations and practice.

The global Red Book and, where they apply, the national supplements are written primarily for valuers. By contrast, jurisdiction guides will be of use especially to property owners and professionals who are involved in the valuation process, either by commissioning a valuation or by providing advice in relation to its outcome. Owners and their advisers do not usually need to know the full detail of the valuation process and the regulations that govern it (which are set out in the Red Book), but their understanding of the outcome of the valuation is likely to benefit from a better understanding of the key factors that will influence a valuer, and thus the value of the property.

These factors include:

- legislation governing the holding and valuation of real estate
- ownership structures
- lease terms
- planning regulations and development control
- taxation affecting real estate and
- valuation regulations, standards and the application of the Red Book.

These factors will vary significantly between one country and another. Jurisdiction guides therefore aim to examine each factor in its local context and to highlight those that are likely to have a significant impact on the valuation of a property located in the country concerned.

It is important to emphasise that jurisdiction guides are designed to provide a short overview of what in many cases and countries is a complex situation. They have been prepared by RICS and based on information from a variety of sources. The content of this jurisdiction guide is for general guidance only, and the reader is advised not to act on it without consulting an appropriately qualified and experienced professional.

Document status defined

The following table shows the categories of RICS professional content and their definitions.

Publications status

Type of document	Definition
<i>RICS Rules of Conduct for Members and RICS Rules of Conduct for Firms</i>	These Rules set out the standards of professional conduct and practice expected of members and firms registered for regulation by RICS.
International standard	High-level standard developed in collaboration with other relevant bodies.
RICS professional statement [PS]	Mandatory requirements for RICS members and regulated firms.
RICS guidance note [GN]	A document that provides users with recommendations or an approach for accepted good practice as followed by competent and conscientious practitioners.
RICS code of practice [CoP]	A document developed in collaboration with other professional bodies and stakeholders that will have the status of a professional statement or guidance note.
RICS jurisdiction guide [JG]	This provides relevant local market information associated with an RICS international standard or RICS professional statement. This will include local legislation, associations and professional bodies, as well as any other useful information that will help a user understand the local requirements connected with the standard or statement. This is not guidance or best practice material, but rather information to support adoption and implementation of the standard or statement locally.

1 Background

Hong Kong is an autonomous Special Administrative Region (SAR) of the People's Republic of China, maintaining a separate legislature, executive and judiciary from the rest of the country. It is a long-established trading centre with a population of 7.3 million. It was ranked seventh in the MSCI Real Estate Market Size Survey 2017 with a total value of \$342bn.

Hong Kong was categorised in the second, 'transparent', category in the **JLL Global Real Estate Transparency Index 2018**, and in 2018 it was ranked first in the **Heritage Foundation's Index of Economic Freedom**.

2 Legislation

2.1 Principal laws governing real estate

The following laws govern real estate in Hong Kong:

- All land in Hong Kong (with the exception of that on which St John's Cathedral stands) is owned by the government of Hong Kong SAR.
- Leases to occupy and use land are granted by the SAR Chief Executive.
- Buildings in multiple occupation are subject to the terms of a Building Management Ordinance (BMO), which provides a legal framework for owners to form and run owners' corporations to manage their buildings. A Deed of Mutual Covenant (DMC) sets out the rules for the management and regulation of each building. The DMC cannot contravene the provisions of the BMO.
- The Landlord and Tenant (Consolidation) Ordinance 2004 codifies the rights and obligations of landlords and tenants.

2.2 Types of ownership

Ground leases: all land in Hong Kong is owned leasehold from SAR. Leases designate plots for either occupation or development. Development leases have been restricted to 50 years since 1997. All leases specify what can be built on the land and permitted land uses.

Government ground rent is levied on all properties. The rent for new leases is calculated at three per cent of the rateable value of the property currently. The basis of rent for leases granted before 1984 may differ; these leases will be subject to their original terms until they expire.

Occupational leases may be for sole or joint ownership. The most common forms of joint ownership are:

- a joint tenancy, whereby all joint tenants are treated legally as one owner or
- tenancy-in-common, whereby interests are held by shares.

There is no separate ownership of land and building assets in Hong Kong. Many buildings are in multiple ownership; in such cases, undivided shares are issued in the land and building asset, which are then allocated to the various owners (generally in proportion to the size of their portion of the whole building). Shareholders have an exclusive right to occupy their premises and have rights over elements of the building used in common by the occupiers. Sales are effected by transfer of the undivided shares attached to the unit or apartment.

2.3 Registration

Registration of title in Hong Kong is governed by the Land Titles Ordinance. The purchaser must register all documents relating to a transfer within one month of execution of the sale. A new system of title registration and title insurance is planned under the Land Titles Ordinance, but this has yet to become law.

2.4 Development control

Property development in Hong Kong is subject to tripartite controls, i.e. land, building and town planning.

The lease from the government will state the permitted uses and other development restrictions for the subject plot. It may be possible to change the terms of the lease by application to the Lands Department, subject to payment of a premium.

All buildings (except New Territories Exempted Houses, i.e. village houses) in Hong Kong require building plan approvals by the building authority prior to the commencement of building works. The Building (Planning) Regulations set out the maximum plot ratio and site coverage for sites under different classifications and building heights.

The Hong Kong Territorial Development Strategy sets the framework within which statutory and departmental plans operate at district or local level. The Hong Kong Town Planning Board (TPB) oversees the preparation of draft statutory plans and considers representations for amendments to these plans. Applications for change of use, new development, etc. are made to the TPB.

The statutory Outline Zoning Plans (OZP) show land-use zones, development parameters and roads for planning areas in Hong Kong. Rural areas in the New Territories are usually subject to the statutory Development Permission Area (DPA). The Planning Department has enforcement powers against any unauthorised developments in these rural areas.

2.5 Commercial leases

Most buildings in Hong Kong (subject to strata title) are subject to a Deed of Mutual Covenant (DMC) that sets out the rights, interests and obligations of owners, occupiers, tenants and management agents. Leases must not contravene any aspect of the DMC. Lease terms will vary according to circumstances and the requirements of the parties.

Common commercial lease terms usually include the following:

- **Term:** the standard term is three years, but larger tenants may agree to terms from six to nine years.
- **Rent:** this is payable monthly in advance, usually exclusive of management fees, service charges or additional costs.
- **Rent review:** rent is fixed during a standard three-year term. Longer leases will be subject to open market rent review at the end of every third year.
- **Payment for operating expenses:** a service charge to cover the cost of air conditioning, management, cleaning and maintenance of common areas, etc. will be based on the area of each building unit and will be payable monthly.
- **Costs of maintenance of structure and insurance:** routine costs can be recovered from tenants through the service charge. Major items will be paid for by the building owner.
- **Assignment and subletting:** these are allowable, subject to permission from the landlord.
- **Termination:** a tenant has no statutory right to renew the lease. An option to renew is negotiable, usually for a further three-year term.

2.6 Residential leases

- **Term:** a standard residential lease is for two years. Usually the tenant will have the right to break after one year, subject to two months' notice.
- **Rent:** this is payable monthly in advance.
- **Repair and maintenance:** the landlord is responsible for exterior, structure, facilities and common parts, and in many cases will also pay for repairs to the domestic equipment supplied.
- **Service charges:** quoted rent for residential property commonly includes management fees, property rates and government rent, but not the landlord's cost of supplying utilities.
- **Assignment and subletting:** not usually permitted.
- **Statutory control:** there is no control on rent or security of tenure for tenancies created after 9 July 2004. Special provisions apply for tenancies created before this date.
- **Termination:** this is in accordance with the terms of the lease.

2.7 Property measurement

International Property Measurement Standards (IPMS) for Office Buildings, Residential Buildings and Industrial Buildings were published in 2014, 2016 and 2018 respectively. RICS members must adopt IPMS in line with the RICS professional statement **RICS property measurement** (2nd edition). RICS members are expected to advise their client or employer on the benefits of using IPMS, unless there is a significant reason for departure. It is accepted that in some circumstances IPMS may not be suitable. If IPMS are not to be used, RICS members must document the reasons for departure.

IPMS for other asset types will be published in due course. In the interim all RICS members must follow *RICS property measurement* (2nd edition) Section 1 *Application of the professional statement*. In some instances other measurement standards can be used, such as the RICS guidance note **Code of measuring practice** (6th edition), providing the reason for departure is stated.

In Hong Kong, the main measurement standard (the *Code of measuring practice* 2014) is provided by the Hong Kong Institute of Surveyors (HKIS). A number of different bases of measurement are employed, according to purpose and property type:

- **Gross area:** is the total area measured to the outside of external walls, including elevator lobbies, washrooms, staircases, etc. Rarely used except for development valuations and industrial/warehousing.
- **Lettable area:** is the net area plus structural columns and a proportion of common areas, apportioned on a pro-rata basis.
- **Net area:** is the usable area of the premises.
- **Saleable area:** is the net area plus structural columns and thickness of walls. The saleable area is used for all sales and must be used in sales material for all new developments. The saleable area is clearly defined and codified in HKIS standards, and measurements on this basis will produce a result very close to the IPMS 2 standard.

Area measurements for valuation and agency are in square feet.

2.8 Compulsory sale for redevelopment

Under the Land (Compulsory Sale for Redevelopment) Ordinance, property owners holding a specified majority of the undivided shares in a lot can make an application to the Lands Tribunal for an order to sell the whole lot for redevelopment.

The Lands Tribunal will decide whether an order to sell should be made and determine the reserve price for the sale of the lot, which will usually be sold by means of public auction.

The apportionment of the sale proceeds will be on a pro-rata basis according to the value of each unit, as determined by the Lands Tribunal.

3 Taxation

3.1 Value added tax (VAT)

There is no VAT in Hong Kong.

3.2 Stamp duty

Stamp duty is payable on the transfer of real estate, based on the higher of price paid or market value. The purchaser usually pays the tax. In addition, Buyers Stamp Duty (BSD) has been charged since 2012 on residential property. Hong Kong permanent residents are usually exempt from BSD.

Special Stamp Duty (SSD) is payable on residential property being sold within 36 months of acquisition. Some exemptions are available.

3.3 Property taxes

The following property taxes may be payable:

- **Rates:** a local tax based on the estimated annual rateable value (rentable equivalent) of the property.
- **Property tax:** a tax payable on properties that are let and where rent is collected, based on a percentage of the net assessable value.
- **Profits tax:** this tax is chargeable on profits from a business carried out by a property owner. Repairs and maintenance costs, interest payments on acquisition, etc. may be offset against profits tax.

4 Regulation and standards

4.1 Regulation of valuation professionals

The **Surveyors Registration Board**, established under the Surveyors Registration Ordinance, maintains a register of professional surveyors, sets and reviews qualification standards for registration, advises the government on registration matters and deals with disciplinary offences.

To be registered, individuals must be a member of the HKIS and have appropriate experience. They must ordinarily be resident in Hong Kong.

Individuals who are registered are entitled to be described as a Registered Professional Surveyor (RPS).

4.2 Membership organisations

The **HKIS** (established in 1985) is the only local organisation regulating professional property valuation in Hong Kong. It has about 6,700 corporate members, of whom 1,900 are registered under 'general practice' and may be involved in valuation work.

RICS has been established in Hong Kong for many decades. RICS was established in 1868 in London and is now the largest international regulator of property professionals, with 125,000 members worldwide. RICS valuers must be registered and are subject to regulatory monitoring.

4.3 Hong Kong valuation standards

The **HKIS Valuation Standards** were first published in 2005. They were last updated in December 2017.

The standards provide HKIS members with directions and guidance to ensure reports and valuations achieve the highest standards of professionalism. The standards define:

- the criteria used to ensure that members are qualified and act independently and impartially
- the terms and conditions of engagement
- the bases of valuation, assumptions and material considerations
- the minimum report contents and
- the disclosures required if a report is to be relied upon by third parties.

Advisory guidance notes are also provided. With a very few exceptions, members are always required to abide by the standards.

Wherever possible, HKIS Valuation Standards 2017 are designed to comply with the International Valuation Standards (IVS).

4.4 International standards

- **International Valuation Standards (IVS)** – published by the International Valuation Standards Council (IVSC), which comprises about 100 member organisations

dedicated to setting generic global standards for valuation practice and valuation professionals. HKIS is a member of the IVSC, and its valuation standards comply with the IVS, subject to necessary local variations.

- **RICS Valuation – Global Standards 2017 (the Red Book)** – the Red Book sets out global valuation standards for valuations undertaken by RICS members and regulated firms. It adopts and applies the IVS and imposes certain additional requirements with particular reference to ethics, competency, objectivity and disclosures.

5 Application of the RICS Valuation – Global Standards 2017 in Hong Kong

5.1 User’s perspective

Global standards

- The Red Book is written to ensure that valuation assignments undertaken by RICS members and regulated firms (see PS 1 sections 1 and 2) are fully in accordance with the IVS. The Red Book complements the IVS by providing detailed guidance and specific requirements regarding the practical implementation of the IVS.
- All valuations provided in writing by RICS members and regulated firms must comply with the requirements of the Red Book. Valuers must be suitably trained and have appropriate qualifications and adequate experience for the task.
- Valuers must be independent, objective and transparent in their approach.
- The adoption of Red Book global standards ensures consistency of approach and aids understanding of the valuation process and the value reported.
- A Red Book-compliant valuation must provide clarity regarding terms of engagement, basis of value (including any assumptions or material considerations taken into account) and reporting.

National supplements

National supplements (also known as national chapters) to the Red Book are published by RICS in a growing number of countries to ensure compliance with local legal requirements, regulations and practice.

5.2 Red Book – implementation in Hong Kong

5.2.1 Red Book application in the Hong Kong context

The Red Book is written from an international perspective, in accordance with the IVS. It expressly recognises (in PS 1 section 4) that in individual jurisdictions, compliance with specific statutory, regulatory or other authoritative requirements is necessary, and doing so does not preclude a valuation from being declared as performed in accordance with the Red Book.

A Red Book-compliant valuation should therefore fully meet the requirements of almost all organisations and individuals who own property in Hong Kong.

5.2.2 Red Book national supplement for Hong Kong

RICS Valuation – Professional Standards Hong Kong (1st edition) is the national supplement of the Red Book for Hong Kong. It is a guidance note, providing guidance for RICS members on the application of the Red Book to valuations that have to be provided in compliance with the jurisdiction requirements in Hong Kong.

A summary of the content is set out below. For further details, reference can be made to the original document:

- a Date of publication** – October 2017 (effective from 1 February 2018).
- b International Valuation Standards** – the IVS (with which the Red Book complies) are acknowledged as internationally accepted high-level valuation principles and definitions.
- c Compliance with legislation** – the national supplement acknowledges that compliance with the HKIS Valuation Standards 2017 is mandatory for valuations prepared for certain purposes by valuers practicing in Hong Kong.
- d Compliance with Red Book Professional Standards and Valuation Technical and Performance Standards** – the national supplement provides guidance to RICS members (and other valuers working for firms regulated by RICS) on how to comply with specified Red Book professional and performance standards, while also complying with Hong Kong laws and regulations.



Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

Americas

Latin America

ricsamericalatina@rics.org

North America

ricsamericas@rics.org

Asia Pacific

Australasia

australasia@rics.org

Greater China (Hong Kong)

ricshk@rics.org

Greater China (Shanghai)

ricschina@rics.org

Japan

ricsjapan@rics.org

South Asia

ricsindia@rics.org

Southeast Asia

sea@rics.org

EMEA

Africa

ricsafrica@rics.org

Europe

ricseurope@rics.org

Ireland

ricsireland@rics.org

Middle East

ricsmiddleeast@rics.org

United Kingdom RICS HQ

contactrics@rics.org

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