

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 2560/01-02  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/14/00/2

**Bills Committee on  
Landlord and Tenant (Consolidation) (Amendment) Bill 2001**

**Minutes of ninth meeting held on  
Wednesday, 31 July 2002, at 8:30 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Hon HUI Cheung-ching, JP  
Hon CHAN Kam-lam, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Albert CHAN Wai-yip

**Members absent** : Hon James TO Kun-sun  
Hon LAU Ping-cheung

**Public officers attending** : Housing, Planning and Lands Bureau

Ms Ophelia TSANG Oi-lin  
Representative (Housing)

Miss Drew LAI Sai-ming  
Representative (Housing)

Department of Justice

Mr G A FOX  
Senior Assistant Law Draftsman

Ms Grace LEUNG  
Government Counsel

Rating and Valuation Department

Mr SIU Kuen-sang  
Acting Assistant Commissioner  
(Rent Control and Special Duties)

Mr LAM Kin-ha  
Principal Valuation Surveyor

Mr CHAN Kwok-fan  
Senior Rent Officer

**Clerk in attendance** : Miss Becky YU  
Chief Assistant Secretary (1)1

**Staff in attendance** : Mr Arthur CHEUNG  
Senior Assistant Legal Adviser 2

Mrs Mary TANG  
Senior Assistant Secretary (1)2

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**I Confirmation of minutes of previous meeting**

(LC Paper No. CB(1) 2370/01-02 — Minutes of the meeting held on  
16 July 2002)

The minutes of the meeting held on 16 July 2002 were confirmed.

**II Meeting with the Administration**

(LC Paper No. CB(1) 2371/01-02(01) — List of follow-up actions arising  
from the discussion on  
23 July 2002

LC Paper No. CB(1) 2371/01-02(02) — Administration's response to  
CB(1) 2371/01-02(01)

LC Paper No. CB(1) 2371/01-02(03) — 6<sup>th</sup> draft Committee Stage  
amendments to be moved by the  
Administration

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -
  - (a) seek advice from the Judiciary Administrator on the bailiff resources and procedure in the event of repossession of premises and disposal/valuation of left over property. Consideration should also be given to including in the Writ of Action or the Writ of Possession a claim for the disposal of properties left in premises;
  - (b) consider re-drafting the Committee Stage amendment (CSA) for proposed section 117(3)(d) with reference to the Buildings Ordinance (Cap. 123) regarding unauthorized alteration and to provide revised draft of clause 11 to the Clerk for onward submission to Hong Kong Bar Association and the Law Society of Hong Kong for comments.;
  - (c) introduce CSA to amend the hours of entry upon a warrant for possession of premises under section 131 (a) to “between 9 am and 7 pm”;
  - (d) ensure that tenants’ and sub-tenants’ compensation in the event of redevelopment of their premises would not be reduced as a result of the proposed change of the law;
  - (e) review the drafting of the English and Chinese versions of the Bill to ensure consistency;
  - (f) inform the Bills Committee of the progress of the review of the Police internal guidelines on handling of disputes between landlords and tenants; and
  - (g) arrange to notify the Housing Panel of the commencement of provisions of the Bill.
4. There being no other business, the meeting ended at 12:40 pm.

**Proceedings of the meeting of the  
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001  
Meeting on Wednesday, 31 July 2002, at 8:30 am.  
in Conference Room B of the Legislative Council Building**

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000257	Chairman	Confirmation of minutes of the meeting held on 16 July 2002 (LC Paper No. CB(1) 2370/01-02)	
000257 - 000615	Administration Chairman	Discussion on LC Paper No. CB(1) 2371/01-02. Item 1 - Background to increasing penalty for harassment and unlawful eviction	
000615 - 000719	Administration	Item 2 - New mechanism by which bailiff would be asked to provide valuation of properties left in repossessed premises by tenant	
000719 - 000727	Mr CHAN Kam-lam	Whether proposed mechanism would be included in the Bill	
000727 - 000753	Administration	The Administration would study the desirability and feasibility of the proposed mechanism and would report to the Bills Committee at its meeting on 25 September 2002	

000753 - 001102	Chairman Administration Mr Albert CHAN	Discussion on valuation mechanism. Need for revision of Form 22 such that a claim for disposal of properties left in premises could be submitted at the time of application of Writ of Possession	The Administration to seek advice from the Judiciary Administrator on the bailiff resources and procedure in the event of repossession of premises and disposal/valuation of left over property. Consideration should also be given to including in the Writ of Action or the Writ of Possession a claim for the disposal of properties left in premises
001102 - 001153	Mr Albert CHAN Chairman	Need for tenant to be notified of submission of claim for disposal of properties left in premises	
001153 - 001358	Administration, Chairman	Discussion on item 3 - Provision of false information by tenants	
001358 - 001451	Chairman	Discussion on item 4 - Proposed section 144 Discussion on item 5 - Review of internal guidelines on the handling of tenancy disputes by Police	The Administration to inform the Bills Committee of the progress of the review of the Police internal guidelines on handling of disputes between landlords and tenants
001451 - 001703	Administration Chairman	Discussion on item 6 - Clause 11 on the implied forfeiture clause	

001703 - 001728	Mr TAM Yiu-chung	Concerned whether the terms “alteration or addition” to premises under proposed section 117(3)(d) need to be more clearly defined	
001728 - 001757	Chairman	Scope of proposed section 117(3)(d) appeared to be much wider than the original intention of confining the application to unauthorized building works (UBWs)	
001757 - 001839	Administration	Difficulty in defining UBWs. Resorted to “alteration or addition without the consent of the landlord”	
001839 - 001950	Mr Albert CHAN	Concerned that the wider meaning would have implications on minor or necessary works made without consent of landlords	
001950 - 002026	Mr TAM Yiu-chung	Suggested confining application of implied forfeiture under proposed section 117(3)(d) to structural alteration which was not reverted to original condition upon expiry of tenancy agreement	
002026 - 002140	Administration	Reservations against narrowing the scope to structural changes as some non-structural changes could render premises unrentable	

002140 - 002316	Mr HUI Cheung-ching Mr TAM Yiu-chung	Requirement for tenants to revert to original conditions for changes made to premises	
002316 - 002413	Mr Albert CHAN	Not appropriate to confine application to structural changes as these were very rare. Minor changes should be excluded from application of the forfeiture clause	
002413 - 002814	Administration Chairman Mr Albert CHAN	Discussion on confining application of proposed section 117(3)(d) to UBWs	
002814 - 002833	Chairman	Concerned about wide scope of application of proposed section 117(3)(d)	
002833 - 003107	Mr Albert CHAN Chairman Administration	Discussion on proposed section 117(3)(d) regarding “suffer or permit the alteration or addition”	
003107 - 003210	Mr TAM Yiu-chung	Concerned that landlords might use alteration to premises without consent as an excuse to evict tenants	
003210 - 003304	Administration	Consideration be given to re-drafting proposed section 117(3)(d) such that it would only apply to material alteration or addition	

003304 - 003338	Chairman	Whether a change should be regarded as material was subject to interpretation	
003338 - 003451	Administration	Consideration could be given to re-drafting proposed section 117(3)(d) such that it would apply to changes that were unreasonable. Conditions for reverting to original state was commonly included in most tenancy agreements	
003451 - 004226	Chairman Administration Mr TAM Yiu-chung	Discussion on re-drafting of proposed section 117(3)(d) to reflect the original intention of confining application of implied forfeiture to UBWs	The Administration to consider re-drafting the Committee Stage amendment (CSA) for the proposed section 117(3)(d) with reference to the Buildings Ordinance (Cap. 123) regarding unauthorized alteration
004226 - 004506	Chairman Mr TAM Yiu-chung	Discussion on need for inclusion of landlords' rights of inspection of tenanted premises	
004506 - 004804	Administration	Express covenant was silent on the rights of landlords. Confusion would arise if too many details were included in the express covenants	
004804 - 004923	Mr CHAN Kam-lam	Whether proposed section 117(3)(d) should require tenants to revert premises to original conditions	



004923 - 005208	Chairman Administration	Landlords could recover costs for reversion from rental deposit	
005208 - 005344	SALA2	Chinese version of clause 11 “subject to subsection (4)” should be revised	The Administration to review drafting of the Chinese version of “subject to subsection (4)” under clause 11, proposed section 117(3)
005344 - 005413	Chairman	Discussion on the need for notice under section 58 of Conveyancing and Property Ordinance (Cap. 219) (CPO) for non-payment of rent within 15 days	
005413 - 005708	Administration Chairman SALA2	Notice under section 58 of CPO not applicable to non-payment of rent under section 117(3)(a) but applicable to sections 117(3)(b), (c) and (d)	
005737 - 005849	Administration	Difficulty in applying the implied forfeiture to UBWs	
005849 - 010453	Chairman Administration Mr CHAN Kam-lam	Need for publicity against UBWs. Photographs to be taken on premises prior to leasing	
010453 - 010530	SALA2	Discussion on need for transitional provisions under section 117(3) when such was provided under section 144	
010530 - 010542	Administration	Section 117(3) was a self-contained provision	

010542 - 011106	Chairman SALA2 Administration	Discussion on inclusion of provisions of tenancy renewal in sections 117(3) and 144	
011106 - 011338	Chairman SALA2 Administration	Clause-by-clause examination of the Bill. Clause 1 - Short title and commencement Clause 18 (b) on compensation payable to tenants and sub-tenants upon redevelopment would take effect on passage of Bill while other provisions would take effect on a date to be appointed. Housing Panel to be notified of commencement of provisions	The Administration to notify the Housing Panel of the commencement of provisions of the Bill
011338 - 011437	Mr Albert CHAN Administration	Discussion on the advantages and disadvantages of having an uniform implementation date	
011442 - 011500	Administration	CSAs to be made to amend references to the Secretary for Housing to Secretary for Housing, Planning and Lands	
011500 - 011509	Mr TAM Yiu-chung	Request to expedite implementation of provisions of the Bill	
011509 - 011900	Chairman Administration	Discussion on clause 3 - Certificate as to rateable value. Charging to be based on cost recovery principles	

011900 - 011924	SALA2	Whether the notice on fees made by the Financial Secretary under section 75A was subsidiary legislation	
011924 - 012033	Administration	Notice would not be subsidiary legislation. Revision of fees would normally be discussed by LegCo	
012033 - 012118	Chairman	Agreed that notice would not be subsidiary legislation	
012118 - 012200	Chairman	Discussion on clause 4 - Time for making distress	
012200 - 012435	Administration	CSA to amend time for making distress to "between 9 am and 7 pm" under section 86. Discussion on need to amend hours of entry under section 131(a) to "between 9 am and 7 pm"	
012435 - 012550	Mr TAM Yiu-chung	Concerned about the extension of working hours for bailiffs	
012550 - 012608	Administration	Judiciary Administrator consulted on the proposed amendments	
012608 - 012701	Mr James TIEN Administration Chairman	Discussion on need to extend working hours of bailiff for more effective operation	

012701 - 012802	Administration Chairman Mr James TIEN	Bailiff might break into premises when unable to reach tenant three times. Agreed to amend hours of entry under section 131(a) to “between 9 am and 7 pm”	The Administration to introduce CSAs to amend the hours of entry upon a warrant for possession of premises under section 131(a) to “between 9 am and 7 pm”
012802 - 013054	Chairman Administration	Discussion on clause 5 - Case of deserted premises, where no properties left	
013054 - 013132	Mr CHAN Kam-lam	Reference made to “uncultivated”	
013132 - 013322	Administration	“Uncultivated” would refer to agricultural land	
013322 - 013452	Administration Chairman	Discussion on the application of section 101 on recovery of deserted premises in the event of default in payment of rent. Existing rateable value of \$30,000 was set in 1986 and was considered too low. Proposed increase to \$100,000 would cover premises of rental value of \$8,000 per month. The Hong Kong Bar Association had reservations over the ease with which premises were recovered under section 101	

013452 - 014016	Mr James TIEN Chairman Administration Mr TAM Yiu-chung	Need for a review of the rateable value under section 101 after the amendments were in place for a certain period of time	
014016 - 014118	Chairman Administration	Discussion on clause 6 - Fraudulent removal of property by tenant	
014118 - 014140	Chairman	Discussion on clause 7 - Power to amend Schedules. CSA to be made to transfer the power to amend Schedules under section 114 from Secretary for Housing to Chief Justice	
014140 - 014305	Administration Chairman	Discussion on clause 8 - Forms	
014305 - 014900	Administration Chairman Mr James TIEN	Discussion on clause 9 - Determining the nature of a tenancy	
014900 - 015001	Chairman Administration Mr James TIEN	Discussion on clause 10 - Application of this part	
015001 - 015148	Chairman Administration	Discussion on clause 11 - Continuation of tenancies and grant of new tenancies	
015148 - 015306	Chairman Administration	Discussion on clause 12 - Termination of tenancy by landlord Discussion on clause 13 - Tenants' request for a new tenancy	

015306 - 015339	Chairman Administration	Discussion on clause 14 - Addition of section 119AA - Request to Commissioner for tenancy information	
015339 - 015712	Mr James TIEN Administration Chairman	Discussion on provision of tenancy information. The Hong Kong Institute of Surveyors were consulted on the proposed amendments	
015712 - 021311	Break		
021311 - 021542	Chairman Administration	Discussion on clause 15 - Renewal of tenancies by agreement	
021542 - 021924	Mr TAM Yiu-chung Administration Chairman	Discussion on the continuation of tenancies	
021924 - 022442	Mr TAM Yiu-chung Administration SALA2 Chairman	Difference between the English and Chinese versions of section 119C(2) (i)	The Administration to review the drafting of the English and Chinese version of section 119C(2) (i) and (ii) to ensure consistency
022442 - 022725	Chairman Mr TAM Yiu-chung Administration	Discussion on clause 16 - Order by Tribunal for grant of a new tenancy	
022725 - 023005	Chairman Administration Mr TAM Yiu-chung	Discussion on clause 17 - Opposition by landlord to application	
023005 - 023229	Chairman Administration	Discussion on clause 18 - Additional provisions regarding opposition on ground of intention to rebuild	

023229 - 023755	Chairman Administration	Chinese rendition of “and other accommodation” under section 119F(2)(a)	The Administration to review the Chinese rendition of “and other accommodation” in clause 118(a), section 119F(2)(a)
023755 - 024530	Chairman Administration Mr TAM Yiu-chung Mr Albert CHAN	Discussion on the compensation payable to tenants and sub-tenants upon redevelopment under clause 18, proposed section 119F(b). Compensation based on the rateable value of the actual portion of the flat which the tenant and sub-tenant occupied. Reference made to a table setting out a typical example of existing and proposed compensation for tenants and sub-tenants upon redevelopment tabled at the meeting and circulated under LC Paper No. CB(1) 2376/01-02(01)	
024530 - 024712	Mr Albert CHAN Administration	Need to ensure that tenants’ and sub-tenants’ compensation in the event of redevelopment of their premises would not be reduced as a result of the proposed change of the law	The Administration to ensure that tenants’ and sub-tenants’ compensation in the event of redevelopment of their premises would not be reduced as a result of the proposed change of the law
024712 - 025626	Chairman Administration SALA2	Discussion on amendments to section 119F(4)(c)	The Administration to ensure consistency of the English and Chinese versions of section 119F(4)(c)

025626 - 030003	Administration Chairman SALA2	Discussion on definition of “premises” under section 119F(4)(d)	The Administration to delete “matter” from the definition of “premises” under section 119F(4)(d)
030003 - 030403	Chairman Administration	Discussion on new section 119F(4)(g) regarding compensation for tenancies which were sublet or which consisted of two or more dwellings. Such compensation would be determined by the apportionment or aggregation of the rateable values concerned	
030403 - 030622	Chairman Administration	Discussion on new section 119(5)(ba)	
030622 - 031500	Chairman Administration	Discussion on clause 19 - Addition of section 119FB on certificate stating rateable value and compensation payable under section 119F(4) in respect of premises	
031500 - 031624	Chairman Administration	Discussion on clause 20 - Penalties	
031624 - 031711	Chairman Administration	Discussion on clause 21 - Endorsement of tenancy agreement	
031711 - 032116	Chairman, Administration	Discussion on clause 22 - Interim continuation of tenancies pending determination by Tribunal	
032116 - 032618	Mr TAM Yiu-chung Administration Chairman	Concerned about the clarity of section 119N(3)	



032618 - 032715	SALA2 Administration Chairman	Reference made to “a” prevailing market rent in section 119N(3)(b) as against “the” prevailing market rent in other sections	The Administration to amend “a” prevailing market rent in section 119N(3)(b) to “the” prevailing market rent in line with other provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)
032715 - 032733	Chairman	Discussion on clause 23 - Sub-tenancies	
032733 - 032919	Chairman, Administration	Discussion on clause 24 - Proceedings	
032919 - 033020	Chairman, Administration	Discussion on clause 25 - Exercise of powers of Commissioner	
033020 - 033106	Chairman Administration	Discussion on clause 26 - Addition of section 119TA on the use of returned requisition as evidence	
033106 - 033855	Chairman SALA2 Administration Mr TAM Yiu-chung Mr CHAN Kam-lam	Discussion on clause 27 - Section 119V on harassment. Concern about double penalty under section 119V(4)	
033855 - 034355	Chairman Administration	Discussion on clause 28 - Interpretation Discussion on clause 29 - Application Discussion on clause 30 - Minimum length of notice to determine tenancy Discussion on clause 31 - Section repealed Discussion on clause 32 - Tribunal may determine disputes	

		<p>Discussion on clause 33 - Interpretation</p> <p>Discussion on clause 34 - Certificate as to rateable value</p> <p>Discussion on clause 35 - Summoning of tenant of premises with a rateable value not exceeding \$100,000 unlawfully holding over</p> <p>Discussion on clause 36 - Recovery of land in case of illegal encroachment or inclosure with a rateable value not exceeding \$100,000</p> <p>Discussion on clause 37 - Section added on Forms</p>	
034355 - 034546	Chairman Administration	Discussion on clause 38 - Section 144 on provisions transitional	
034546 - 034807	Chairman Administration Mr TAM Yiu-chung	Discussion on clause 39 - Consequential amendments	
034807 - 035005	Chairman Administration	Consequential amendments to High Court Ordinance	
035005 - 035115	Chairman Administration	Consequential amendments to Lands Tribunal Ordinance	
035115 - 035215	Chairman Administration	Consequential amendments to Rating Ordinance	
035215 - 035310	Chairman Administration	Consequential amendments to District Court Ordinance	

035310 - 035510	Administration Chairman	Consequential amendments to Government Rent (Assessment and Collection) Ordinance	
035510 - 035615	Chairman Administration	Consequential amendments to Hop Yat Church of the Church of Christ in China Incorporation Ordinance	
035615 - 035647	Chairman Administration	Consequential amendments to The Methodist Church, Hong Kong, Incorporation Ordinance	
035647 - 030600	Chairman, Administration	Next meeting to be held on 25 September 2002. CSA to clause 11 to be provided to the Law Society of Hong Kong and Hong Kong Bar Association for comments	The Clerk to provide CSA to clause 11 to the Law Society of Hong Kong and the Hong Kong Bar Association for comments

**Note: The audio records of the above proceedings are kept at the LegCo Library**

Legislative Council Secretariat  
20 September 2002