

立法會
Legislative Council

LC Paper No. CB(1) 377/02-03
(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 eleventh meeting held on
Tuesday, 5 November 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 HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Hon TAM Yiu-chung, GBS, JP

Members absent : Hon James TIEN Pei-chun, GBS, JP
Hon James TO Kun-sun
Hon Albert CHAN Wai-yip
Hon LAU Ping-cheung

Public officers attending : Housing, Planning and Lands Bureau

Ms Ophelia TSANG Oi-lin
Assistant Director (Private Housing)

Ms Drew LAI Sai-ming
Administrative Officer (Private Housing)

Department of Justice

Mr G A FOX
Senior Assistant Law Draftsman

Ms Grace LEUNG
Government Counsel

Rating and Valuation Department

Mr WONG Chun-siu, JP
Deputy Commissioner

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

I. Confirmation of minutes

(LC Paper No. CB(1) 107/02-03 -- Minutes of meeting on
25 September 2002)

The minutes of the meeting held on 25 September 2002 were confirmed.

II. Meeting with the Administration

(LC Paper Nos. CB(1) 113/02-03(01) and (02) -- Submissions from the Law
Society of Hong Kong and the
Hong Kong Bar Association
respectively

LC Paper No. CB(1) 181/02-03(01) -- List of follow-up actions arising
from the discussion on
25 September 2002

LC Paper No. CB(1) 181/02-03(02) -- Administration's response to
CB(1) 113/02-03(01), (02) and
181/02-03(01))

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) review the drafting of proposed sections 117(3) and (4) to reflect the legislative intent of the implied forfeiture clauses, particularly in respect of non-payment of rent and structural alteration, in the event of absence of similar provisions in the tenancy;
 - (b) further update the English and Chinese versions of Committee Stage amendments;
 - (c) reinstate in the revised Notice of Application under Landlord and Tenant (Consolidation) Ordinance (Form 22) requirement for information on names, ages and relationship to applicant of persons for whom occupation of premises required; and
 - (d) refine the Chinese version of proposed section 21F(1A) of the High Court Ordinance (Cap. 4) and proposed section 69(1A) of the District Court Ordinance (Cap. 336) under sections 1 and 12 of the Schedule respectively.
4. There being no other business, the meeting ended at 10:50 am.

Council Business Division 1
Legislative Council Secretariat
26 November 2002

**Proceedings of the meeting of the
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2001
Meeting on Tuesday, 5 November 2002, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000415	Chairman	Confirmation of minutes of meeting on 25 September 2002 (LC Paper No. CB(1) 107/02-03)	
000416 - 001058	Administration Chairman Mr TAM Yiu-chung Mr CHAN Kam-lam	Item 1 of the Administration's response to the list of follow-up actions arising from the discussion on 25 September 2002 (LC Paper No. CB(1) 181/02-03(02))	
001059 - 002034	Chairman Administration	Items 2 to 5 of LC Paper No. CB(1) 181/02-03(02)	
002035 - 002834	Administration Chairman	Reply to the submission from the Hong Kong Bar Association	
002835 - 003159	Administration Chairman	Reply to the submission from the Law Society of Hong Kong	
003160 - 003403	Chairman Administration SALA2	Tenth draft Committee Stage amendments (CSAs)	
003404 - 003948	Administration Chairman Mr CHAN Kam-lam Mr TAM Yiu-chung	Choice between "structural" and "material" alteration under section 117(3)(d) of clause 11	
003949 - 003956	Mr CHAN Kam-lam Mr HUI Cheung-ching Mr TAM Yiu-chung	Support for confining forfeiture of tenancies to "structural" alteration	

Time marker	Speaker	Subject(s)	Action required
003957 - 004436	Chairman Administration Mr TAM Yiu-chung	Drafting of section 117(3)(d) of clause 11	The Administration to review drafting of section 117(3)(d) of clause 11 to confine the condition of forfeiture to structural alteration.
004437 - 010348	Chairman SALA2 Administration	Section 117(4) of clause 11 - Discussion on which, the terms of a tenancy or the implied covenant, should prevail in the case of conflict, difference, inconsistency and partial inconsistency between the two	
010349 - 011224	Administration Chairman SALA2 Mr TAM Yiu-chung Mr CHAN Kam-lam	Situations where the terms of tenancy were consistent with implied covenant but did not provide for forfeiture	
011225 - 011759	Administration	Implied covenant meant for less sophisticated end of property market where the terms of tenancy might not be clearly stated	
011760 - 012129	Mr TAM Yiu-chung Chairman	Implications of enforcing forfeiture clause upon tenancies. Terms of tenancies to prevail over implied covenant if in conflict	
012130 -012501	Chairman Administration	Drafting of section 117(4)	
012502 - 012839	SALA2 Mr TAM Yiu-chung Chairman Administration	Need to consider different scenarios, eg, if it was clearly stated in the terms of tenancy that non-payment of rent was allowed for a period other than 15 days, whether this would constitute an inconsistency and would	

Time marker	Speaker	Subject(s)	Action required
		therefore prevail over the implied covenant	
012840 - 013355	Mr CHAN Kam-lam Chairman SALA2	Legislative intent to provide implied forfeiture for non-payment of rent	
013356 - 014417	SALA2 Chairman Mr TAM Yiu-chung Administration	Sections 117(3) and (4) to clearly provide for situations where the period of non-payment of rent was or was not stated in the tenancy; and where condition of forfeiture was or was not provided in tenancy	The Administration to review the drafting of proposed sections 117(3) and (4) to reflect the legislative intent of the implied forfeiture clauses, particularly in respect of non-payment of rent and structural alteration, in the event of absence of similar provisions in the tenancy
014418 - 020337	Chairman SALA2 Administration Mr TAM Yiu-chung	Implied forfeiture should apply where conditions of forfeiture under sections 117(b) to (d) were not clearly set out in tenancy	
020338 - 020410	Chairman SALA2	CSAs to section 117(5) of clause 11, clause 18 and the Schedule	
020411 - 020734	Chairman Administration SALA2	Form 22	The Administration to reinstate in the revised Notice of Application under Landlord and Tenant (Consolidation) Ordinance (Form 22) requirement for information on names, ages and relationship to applicant of persons for whom occupation of premises required

Time marker	Speaker	Subject(s)	Action required
020735- 021355	Administration Chairman SALA2 Mr CHAN Kam-lam	Chinese version of CSAs	The Administration further update the English and Chinese versions of CSAs and to refine the Chinese version of proposed section 21F(1A) of the High Court Ordinance (Cap. 4) and proposed section 69(1A) of the District Court Ordinance (Cap. 336) under sections 1 and 12 of the Schedule respectively.
021356 - 021555	Chairman	Legislative time table	

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

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