

立法會
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**Paper for the House Committee Meeting
of the Legislative Council
on 22 June 2001**

**Legal Service Division Report on
Landlord and Tenant (Consolidation)
(Amendment) Bill 2001**

Object of the Bill

To improve and update the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (the Ordinance).

LegCo Brief Reference

2. HB(CR)7/5/1 issued by the Housing Bureau in June 2001.

Date of First Reading

3. 20 June 2001.

Comments

4. The majority of the proposals made in the Bill is the follow-up to a review of the Ordinance by the Administration and was originally introduced into LegCo as the Landlord and Tenant (Consolidation) (Amendment) Bill 1999. As LegCo did not have time for its scrutiny before the 1999/2000 session ended, it was allowed to lapse. The proposals which are re-introduced relate to 5 main areas -

- (a) *Tenancy renewal procedures*

Notice of termination of tenancy on the tenant is shortened. Notice to the tenant requiring the tenant to make an application to the Lands Tribunal (the Tribunal) for granting a new tenancy is

removed. New provisions to allow the landlord and the tenant to apply to the Commissioner of Rating and Valuation (the Commissioner) for rental information of comparable premises are made. The landlord is allowed to change or add grounds of opposition to a tenancy renewal application. The Tribunal is empowered to hear cases in which the landlord or tenant fails to observe statutory time limits of various notices;

(b) *Compensation for tenant and sub-tenant upon redevelopment*

The method of calculating compensation will be improved in favour of tenants and sub-tenants by making reference to the rateable value of the actual portion of the flat occupied by each. For the purpose of private settlement in redevelopment cases, the Commissioner may issue upon application a certificate of the rateable value of the premises affected and the amount of statutory compensation payable;

(c) *Compliance with human rights provisions*

An avenue of appeal is provided against the determination of the Commissioner on whether a fixed term tenancy not exceeding one year should be excluded from Part V. The deeming provisions whereby under Part III a person is deemed to be guilty of fraudulently removing movable properties under distraint or liable for distress for rent and under Part IV, a landlord is deemed to be restricted from letting or assigning premises repossessed on the grounds of self-occupation or redevelopment even if the tenant does not proceed with the application for new tenancy and agrees to give up possession are removed;

(d) *Penalties for harassment and unlawful eviction*

Penalties for harassment of the tenant and unlawful eviction are increased from a fine of \$500,000 on first conviction and on subsequent conviction 12 months imprisonment in addition to the fine to a fine of \$500,000 and 12 months imprisonment on first conviction and \$1 million and 3 years imprisonment on subsequent conviction; and

(e) *Miscellaneous*

Some minor amendments are also included to repeal some obsolete transitional provisions, empower the Financial Secretary to determine various fees, increase the level of rateable value for determining the applicability of Parts III and VI etc.

5. Following the introduction of the 1999 bill, the Government Working Group on the Review of Statutory Procedures for Repossession of Domestic Premises and Recovery of Rent submitted its recommendations in August 2000. Those of its recommendation endorsed by the Government and requiring legislative amendments are included in the present bill and relate to 2 proposals -

(a) *Mandatory relief period following order of possession*

The present mandatory relief period of a minimum of 28 days following the granting of an order of possession to allow the tenant a final opportunity to settle arrears in rent is to be shortened to a minimum of 7 days; and

(b) *'Orders in default' procedure in Lands Tribunal*

To simplify procedures in the Lands Tribunal in line with High Court and District Court procedures, an order of possession, ejectment, rent, mesne profits or any other liquidated demand may be granted in default without the need to file affidavits.

Public Consultation

6. According to the LegCo Brief, professional organisations including the Hong Kong Bar Association, the Law Society of Hong Kong and the Hong Kong Institute of Surveyors were consulted in January 2001. Their views have been considered and incorporated into the Bill, where appropriate.

Consultation with LegCo Panel

7. The Panel on Housing was consulted in early November 1999 and again in November 2000 on the majority of the proposals.

Recommendation

8. In view of the substantial amendments proposed in the Bill, it is recommended that a Bills Committee should be formed to study its proposals in detail.

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