

**The Administration's Responses to Members' Requests
Raised at the Meetings of the Bills Committee on
Housing (Amendment) Bill 2007
on 17 April 2007, 4 May 2007, 10 May 2007 and 17 May 2007**

COMMITTEE STAGE AMENDMENTS (CSAs)

Having considered views and suggestions made by Members at the meeting of 17 May 2007 in connection with the CSAs proposed by the Administration, we propose further refinements to the Bill which are set out in the following sections. A set of revised CSAs is at **Appendix A**. A marked up version of the Bill reflecting these CSAs is at **Appendix B**.

Clause 2 – Commencement

2. As explained at the meeting of 17 May 2007, we intend to specify the commencement date in the Bill through amendments to clause 2. On the assumption that the Bill would be passed in the 2006/07 legislative session, commencement will take place on 1 January 2008. The proposed section 16A(1), 16A(5) and 16A(9) will also be revised consequentially.

Clause 4 - Proposed Section 16A(1)

3. We accept some Members' suggestion to further revise the proposed section 16A(1) to delete the proposed new subsection 16A(1)(b). The proposed section 16A(1) has been amended and renumbered as subsection 16A(1)(a) and (b) accordingly.

Clause 4 - Proposed Section 16A(4) to (6)

4. Some Members suggested setting out the definition of insignificant amount of variation under the proposed section 16A(6). In this connection, our analysis shows that for individual households, a rent adjustment of 0.1% to the mean rent of the PRH stock after 11.6% rent reduction would entail an adjustment of \$1.31, which in effect would result in a change of \$1 since the HA may round down the amount of change to the nearest dollar under the proposed section 16A(7) of the Bill. For the Housing Authority (HA), assuming

an annual rental income of about \$10 billion after a rent reduction of 11.6%, a 0.1% change in rent means an annual revenue of about \$10 million. Having considered the proportion of the variation to individual households' rental payments and the impact on the HA's rental receipts, we intend to adopt a rate of change of the income index of 0.1% or below as "insignificant". Amendments have been made to section 16A(4) and 16A(6) so that the HA is not required to vary the rent if the rate of change of the income index is 0.1% or below. This rate of change would be carried forward to the next rent review cycle.

5. Some Members also suggested that in order to cater for sudden changes in circumstances e.g. a sudden economic downturn, flexibility should be built into section 16A(4) and 16A(5) so that the HA would have discretion to increase or decrease rent by less than the change in the income index, and to vary rent more frequently than every two years. We do not intend to take on board this suggestion since under the new rent adjustment mechanism, the rate of rent adjustment shall be determined by the rate of change in income index which should have reflected changes in tenants' household income as a result of changes in economic conditions. Besides, the shorter two-year rent review cycle also enables the HA to react more quickly to changes in socio-economic circumstances. In cases of sudden and drastic changes in socio-economic conditions after rent variation, the HA may remit the payment of rent under section 17 of the Ordinance.

6. As regards the determination of rent for "well-off" tenants, we will take into account some Members' suggestion that the Administration should state during the resumption of the Second Reading debate of the Bill that the level of additional rent payable by these tenants would be calculated with reference to the relevant rent payable by other public rental housing (PRH) tenants under the HA's existing Housing Subsidy Policy and Policy on Safeguarding Rational Allocation of Public Housing Resources.

Clause 4 - Proposed Section 16A(8)

7. Some Members suggested that the proposed section 16A(8)(b) should be further revised to specify that the HA should appoint an independent agent to compute the income index. We take on board this suggestion. The proposed section 16A(8)(b) has been further amended to specify that the income index shall be computed by the Commissioner for Census and Statistics.

OPERATION OF THE NEW RENT ADJUSTMENT MECHANISM

8. A number of Members requested at previous Bills Committee meetings that in addition to the proposed income index linked rent adjustment mechanism, there should be a statutory rent to income ratio cap or a rent increase cap. We have carefully considered Members' proposals and consulted the HA in this regard. Members' proposals and our responses are detailed in **Appendix C**.

9. As we have repeatedly explained, the methodology for the compilation of the income index would ensure that the index is representative of PRH tenants' income change. The new rent adjustment mechanism would match closely changes in tenants' affordability. Nonetheless, we appreciate concerns that the index reflects the mean income change and households with income falling below the mean change would need special assistance. In this regard, a relaxation in the RAS eligibility criteria upon the introduction of rent variation under the new adjustment framework would help ease to some extent tenants' anxieties with the change-over to the new framework.

PROPOSED REVISIONS TO THE RAS

10. The HA's RAS aims to assist PRH tenants facing temporary financial difficulties. It makes use of different affordability indicators, including a household's rent-to-income (RIR) ratio and income level as compared to the respective Waiting List Income Limit (WLIL) to determine whether rent assistance is warranted. After assessing carefully various suggestions for relaxing the eligibility criteria, we intend to revise some criteria as outlined in the following paragraphs. A comparison between the existing and proposed changes to the criteria concerned is at **Appendix D**.

RIR/Income Level

11. The existing criteria provide that households with RIRs exceeding 20% or income levels below 60% of the respective WLILs will get assistance. Having regard to the existing median rent-to-income ratio (MRIR) benchmark of 18.5% for new PRH estates, we would revise the 20% RIR to 18.5% RIR. We would also increase the income threshold from 60% to 70% of the respective WLILs to address the concerns that some low income households currently fall marginally outside the scheme. These would increase the RAS qualifying income level for 3-person and 4-person families irrespective of their RIR to \$8,470 and \$10,220 respectively. With the proposed relaxation, we estimate that the number of household eligible under RAS would increase by 40,400 to a total of about 184,900.

Residence Requirement

12. As regards the concern about the affordability of tenants in newly completed estates, we would reduce the residence requirement for households living in newer blocks, i.e. Harmony block and blocks built in or after 1992 representing about 46% of the PRH stock, from three years to two years. The requirement could be lifted, on a case by case basis, if there are drastic family changes resulting in adverse effect on the tenants' household income during the two-year period.

Transfer to Cheaper Accommodation

13. Another area of concern is the requirement for non-elderly RAS recipients to move to cheaper accommodation if they wish to continue to receive rent assistance after a continuous period of three years. The HA decided in the context of the Report on the Review of Domestic Rent Policy in November 2006 that while the requirement should be retained, more detailed guidelines should be prepared on when and how the requirement should be applied.

14. In this connection, we propose that non-elderly RAS beneficiaries would be required to move to cheaper accommodation after receiving rent assistance for a continuous period of three years if there are suitable flats available. Suitable flats refer to those in the same district council district with monthly rent at least 20% less than the full monthly rent (i.e. the rent payable if rent assistance is not available) of units occupied by RAS recipients. The 20% threshold has been worked out on the consideration that tenants receiving 50% rent reduction would continue to be eligible for rent assistance of 25% reduction after moving to the new accommodation. For those receiving 25% rent reduction, the rent of the new flats would be comparable to the reduced rent they have been paying. Non-elderly RAS beneficiaries living in older block types¹ which are already at relatively low rent levels, would be exempt from the requirement of moving to a cheaper accommodation except for under-occupation cases.

Implementation

15. The proposed revisions to the RAS aim to address the concerns that assistance should be more readily available to PRH tenants facing affordability problems after a rent variation. In principle, implementation of the new criteria

¹ Older block types cover those completed before 1992 and exclude all Harmony blocks and those converted from Home Ownership Scheme/Private Sector Participation Scheme/Buy-or-Rent Scheme representing about 54% of the PRH stock.

concerned should tie in with the day of introducing the first rent variation under the new rent adjustment mechanism. However, we recognize that tenants would prefer an earlier implementation date. Hence, as a goodwill gesture, we would implement the revisions together with the implementation of the rent reduction proposal after the passage of the Bill. Upon the implementation of the revisions to the RAS, the current MRIR benchmarks of 18.5% for an allocation standard of 7 m² internal floor area (IFA) per person and 15% for an allocation standard of 5.5 m² IFA per person will no longer be required for they have already been incorporated into the RAS criteria.

16. Some Members requested that the RAS be prescribed in law to provide statutory protection for PRH tenants. We do not intend to take on board this suggestion as prescribing the RAS in law would limit the flexibility of the HA to further improve the scheme as and when circumstances warrant. Since its introduction in 1992, the eligibility criteria of the RAS were reviewed four times respectively in 1992, 1995, 2002 and 2005. All of these reviews resulted in a relaxation to the eligibility criteria and requirements. These improvements to the RAS could not have been made so responsively if the scheme were stipulated in law and not operated as a policy of the HA.

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Housing, Planning and Lands Bureau
May 2007

Appendix A

HOUSING (AMENDMENT) BILL 2007

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Housing, Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting everything after "on" and substituting "[1 January 2008].".
4	(a) By deleting the proposed section 16A(1) and substituting - "(1) The Authority shall review the relevant rent - (a) as soon as practicable after [1 January 2010]; and

(b) as soon as practicable
after the second
anniversary of the
expiry date of the
second period for the
last review under this
subsection."

(b) In the proposed section 16A(3)(a)(i)
and (ii) and (b)(i) and (ii), by adding
"or a combination of that income and
that value," after "assets,".

(c) In the proposed section 16A(4), by
deleting "subsections (5) and (6)" and
substituting "subsection (5)".

(d) In the proposed section 16A(4)(a) and
(b), by adding "by more than [0.1]%"
after "first period".

(e) By deleting the proposed section 16A(5)
and substituting -

"(5) The Authority shall not vary
the relevant rent -

(a) on or before [1 January
2010]; or

(b) where the relevant rent
is varied under
subsection (4), before
the second anniversary
of the date of the last
variation."

(f) By deleting the proposed section
16A(6).

(g) In the proposed section 16A(8), by
deleting ", the Authority".

(h) In the proposed section 16A(8)(a), by
deleting "may determine that" and

substituting "the Authority may
compile".

(i) In the proposed section 16A(8)(a)(i)
and (ii), by deleting "is to be
compiled to reflect" and substituting
"that reflects".

(j) In the proposed section 16A(8)(a)(ii),
by adding "and" after the semicolon.

(k) By deleting the proposed section
16A(8)(b) and substituting -

"(b) the Commissioner for Census and
Statistics shall, in relation to
the compilation of such an index,
compute the index.".

(l) By deleting the proposed section
16A(8)(c).

- (m) In the proposed section 16A(9), by deleting the definition of "commencement date".
- (n) In the proposed section 16A(9), in the definition of "first period", by deleting paragraph (a) and substituting -
- "(a) in relation to the first review of the relevant rent after [1 January 2010], means a period of 12 months expiring on [31 December 2007];".
- (o) In the proposed section 16A(9), in the definition of "first period", in paragraph (b)(ii), by deleting "the first period for the first review of the relevant rent after the commencement date" and substituting "a

period of 12 months expiring on [31
December 2007]".

- (p) In the proposed section 16A(9), by
deleting the definition of "income
index" and substituting -

"income index" () means an index
computed under subsection
(8)(b);".

- (q) In the proposed section 16A(9), in the
definition of "second period", by
deleting paragraph (a) and
substituting -

"(a) in relation to the first review of
the relevant rent after [1 January
2010], means a period of 12 months
expiring on [31 December 2009];".

A BILL

To

Amend the Housing Ordinance to replace section 16(1A), (1B), (1C), (1D) and (1E) of the Ordinance with –

- (a) provisions relating to review of the rent of certain residential units;
- (b) provisions requiring the Housing Authority to vary the rent of those units with reference to the change in an index reflecting the level of household income of certain tenants of residential units;
- (c) provisions specifying when the Housing Authority shall not, or is not required to, make such a variation; and
- (d) provisions empowering the Housing Authority to round down the amount of the rent in such a variation and to make determinations in relation to the compilation of such an index.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Housing (Amendment) Ordinance 2007.

2. Commencement

This Ordinance shall come into operation on [1 January 2008].~~a day to be appointed by the Secretary for Housing, Planning and Lands by notice published in the Gazette.~~

3. Leases of land in estates

Section 16(1A), (1B), (1C), (1D) and (1E) of the Housing Ordinance (Cap. 283) is repealed.

4. Section added

The following is added –

“16A. Variation of rent for residential estates

~~(1) The Authority shall review the relevant rent as soon as practicable after the second anniversary of the commencement date, and as soon as practicable after the second anniversary of the date of the last review under this subsection, but not otherwise.~~

(1) The Authority shall review the relevant rent –

(a) as soon as practicable after [1 January 2010]; and

(b) as soon as practicable after the second anniversary of the expiry date of the second period for the last review under this subsection.

(2) Despite section 16, the Authority shall not vary the relevant rent unless the variation is carried out under subsection (4).

(3) This section –

(a) does not apply to –

- (i) an adjustment in the rent of a residential tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is greater than a threshold established by the Authority for the purposes of an increase in the rent; and
 - (ii) a re-adjustment in the rent of that tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is less than that threshold; and
- (b) does not apply to –
 - (i) an adjustment in the rent of a residential tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is less than a threshold established by the Authority for the purposes of a reduction in the rent; and
 - (ii) a re-adjustment in the rent of that tenant where the total household income or total

value of the household assets, or a combination of that income and that value, as determined by the Authority, is greater than that threshold.

(4) Subject to ~~subsections (5) and (6)~~subsection (5), the Authority –

- (a) if satisfied on a review of the relevant rent that the income index for the second period is higher than the income index for the first period by more than [0.1]%, shall as soon as practicable after the review increase the relevant rent by the rate of the increase of the income index; and
- (b) if satisfied on a review of the relevant rent that the income index for the second period is lower than the income index for the first period by more than [0.1]%, shall as soon as practicable after the review reduce the relevant rent by the rate of the reduction of the income index.

~~(5) The Authority shall not vary the relevant rent –~~

- ~~(a) within 2 years after the commencement date; or~~
- ~~(b) where the relevant rent is varied under subsection (4), within 2 years after the date of the last variation.~~

(5) The Authority shall not vary the relevant rent -

- (a) on or before [1 January 2010]; or

(b) where the relevant rent is varied under subsection (4), before the second anniversary of the date of the last variation.

~~_(6) The Authority is not required to vary the relevant rent if, in the Authority's opinion, the amount of the variation required under subsection (4) is insignificant.~~

(7) In varying the relevant rent, the Authority may round down the amount of the relevant rent to the nearest dollar.

(8) For the purpose of a review of the relevant rent, ~~the Authority~~ –

(a) ~~may determine that the Authority may compile~~ –

(i) an index ~~is to be compiled to reflect that~~ reflects the level of the mean monthly household income of any class of residential tenant over the first period; and

(ii) an index ~~is to be compiled to reflect that~~ reflects the level of the adjusted mean monthly household income of that class of residential tenant over the second period; and

~~(b) may determine whether such an index is to be compiled by the Authority itself or by a tertiary~~

~~institution in Hong Kong, or public body,
appointed by the Authority for the purpose; and~~

(b) the Commissioner for Census and Statistics shall,
in relation to the compilation of such an index,
compute the index.

~~(c) may determine how such an index is to be
compiled by the Authority or the appointed
institution or body.~~

(9) In this section –

“adjusted mean monthly household income” (經調整後的家庭每月平均

收入), in relation to any class of residential tenant identified for
the purpose of a review of the relevant rent, means the mean
monthly household income of that class of residential tenant
assessed on the basis of the distribution of the household size of
that class of residential tenant over the first period for that review;

~~“commencement date” (生效日期) means the date on which the Housing
(Amendment) Ordinance 2007 (— of 2007) comes into operation;~~

“first period” (第一期間) –

~~(a) in relation to the first review of the relevant rent
after the commencement date, means a period of
12 months expiring on the day immediately before
the commencement date;~~

(a) in relation to the first review of the relevant rent after [1 January 2010], means a period of 12 months expiring on [31 December 2007];

(b) in relation to a subsequent review of the relevant rent, means –

(i) the second period for the last review of the relevant rent in consequence of which the relevant rent was varied; or

(ii) in the absence of a review in consequence of which the relevant rent was varied, ~~the first period for the first review of the relevant rent after the commencement date~~ a period of 12 months expiring on [31 December 2007];

~~“income index” (收入指數) means the index referred to in subsection (8)(a) and compiled in the manner determined under subsection (8)(e);~~

“income index” (收入指數) means an index computed under subsection (8)(b);

“land” (土地) does not include land in respect of which the Authority has granted to a person a licence, or a permit, to occupy;

“relevant rent” (有關租金) means the rent subject to the payment of which any land in an estate is let for residential purposes under section 16(1) but does not include the rent of a residential tenant who is required to pay a higher rent after an adjustment under subsection (3)(a)(i) or is permitted to pay a lower rent after an adjustment under subsection (3)(b)(i);

“residential tenant” (住宅租戶) means a tenant of the land in an estate let for residential purposes under section 16(1);

“second period” (第二期間) –

~~(a) in relation to the first review of the relevant rent after the commencement date, means a period of 12 months expiring on the second anniversary of the expiry date of the first period for the review; or~~

(a) in relation to the first review of the relevant rent after [1 January 2010], means a period of 12 months expiring on [31 December 2009];

(b) in relation to a subsequent review of the relevant rent, means a period of 12 months expiring on the second anniversary of the expiry date of the second period for the last review.”.

Explanatory Memorandum

The object of this Bill is to amend the Housing Ordinance (Cap. 283) (“the principal Ordinance”). The main purpose is to replace section 16(1A), (1B), (1C), (1D) and (1E) of the principal Ordinance with provisions requiring the Housing Authority (“the Authority”) to vary the rent of certain residential units with reference to the change in an index reflecting the level of household income of certain tenants of residential units.

2. Clause 3 repeals section 16(1A), (1B), (1C), (1D) and (1E) of the principal Ordinance.

3. Clause 4 adds a new section 16A to the principal Ordinance. The new section 16A –

- (a) relates to review of the rent of certain residential units;
- (b) requires the Authority to vary the rent of those units with reference to the change in an index reflecting the level of household income of certain tenants of residential units;
- (c) specifies when the Authority shall not, or is not required to, make such a variation; and
- (d) empowers the Authority to round down the amount of the rent in such a variation and to make determinations in relation to the compilation of such an index.

Housing (Amendment) Bill 2007
Rent Level / Increase Caps Proposed by Members of the Bills Committee

Proposal	The Administration's Responses
(a) To impose a rent-to-income ratio (RIR) cap (say 15%) at individual household level so that the Housing Authority (HA) could not increase rents for households with RIR exceeding the cap	The HA would require information on the RIR of each and every public rental housing (PRH) household. The amount of work and administrative costs required for collecting such information from some 650,000 PRH households or about two million PRH tenants for the purposes of conducting a rent review every two years are enormous. Such an arrangement would also create considerable disturbance to all PRH tenants.
(b) To set a rent level cap with reference to the "weighted average" of rent to income ratios of each household size group	<p>Any form of global rent to income ratio (RIR) (mean or median ratio) would be affected by a number of extraneous factors other than the income of PRH households and the rent they pay. These extraneous factors include household size distribution, number of CSSA recipients, living space standards, etc. Even if the global RIR is broken down to different household size groups, thereby discounting the household size distribution effect, the impact of other extraneous factors cannot be discounted.</p> <p>For the purpose of getting an overall mean/median RIR from the mean/median RIR of each household size group, it has been suggested that a weighting should be applied to the latter. However, we find it</p>

Proposal	The Administration's Responses
	difficult to interpret the exact meaning of a "weighted average" figure of mean/median RIRs of each household size group and justify the use of such figures to set a rent level cap.
(c) To deduct a certain percentage of productivity gain from the change in the income index to arrive at the rate of rent increase	An allowance for productivity gain would be relevant only in a cost based adjustment mechanism. We are proposing a rent adjustment mechanism based purely on PRH tenants' household income. The costs of HA do not constitute a factor in determining the rate of rental change.
(d) To introduce a rent increase cap of certain percentage for each rent review	Section 16A(4) proposed by the Housing (Amendment) Bill 2007 already imposes a statutory obligation on the HA to adjust PRH rent strictly in accordance with the rate of increase or decrease in the income index which reflect changes in PRH tenants' household income. This would provide a de facto cap on rent increase and statutory safeguard for PRH tenants. Under the RAS, there are also different eligibility criteria to cater for PRH tenants who face financial hardship. Introducing a fixed cap on the level of rent increase is difficult to justify since any percentage chosen would be arbitrary and is at variance with the basic tenet of the proposed rent adjustment mechanism which is to provide a transparent, equitable and rational basis for allowing PRH rents to go up or down.
(e) To reduce the 20% RIR cap under the Rent Assistance Scheme (RAS) to 15% RIR	Details are set out in the main reply.

Proposal	The Administration's Responses
(f) To improve the RAS by relaxing the eligibility criteria and requirements (such as the requirement for tenants to move to PRH flats with lower rents)	Details are set out in the main reply.
(g) To prescribe the RIR cap of the RAS in law to provide statutory safeguard for PRH tenants	Details are set out in the main reply.

Comparison on the Existing and Proposed RAS Eligibility Criteria

Waiting List Income Limits (WLILs) and Rent-to-Income Ratios (RIRs)				
	Existing criteria		Proposed criteria (amended criteria are in bold and italic fonts)	
	25% rent reduction	50% rent reduction	25% rent reduction	50% rent reduction
Elderly household	---	<ul style="list-style-type: none"> Household income falls below 60% of respective WLIL; or RIR exceeds 20% 	---	<ul style="list-style-type: none"> Household income falls below 70% of respective WLIL; or RIR exceeds 18.5%
Non-elderly household	<ul style="list-style-type: none"> Household income falls below 60% but not lower than 50% of respective WLIL; or RIR exceeds 20% but not 25% 	<ul style="list-style-type: none"> Household income falls below 50% of respective WLIL; or RIR exceeds 25%; or Household income lies between 50% and 60% of respective WLIL and RIR exceeds 15% 	<ul style="list-style-type: none"> Household income falls below 70% but not lower than 50% of respective WLIL; or RIR exceeds 18.5% but not 25% 	<ul style="list-style-type: none"> Household income falls below 50% of respective WLIL; or RIR exceeds 25%; or Household income lies between 50% and 70% of respective WLIL and RIR exceeds 15%

Residence Requirement		
	Existing requirement	Proposed requirement
	<ul style="list-style-type: none"> Household living in newer block types (Harmony blocks and blocks built in or after 1992) must fulfill the three-year residence requirement before they can apply for rent assistance. 	<ul style="list-style-type: none"> Households living in newer blocks types (Harmony blocks and blocks built in or after 1992) must fulfill <i>the two-year residence requirement</i> before they can apply for rent assistance.
Transfer Requirement		
	Existing requirement	Proposed requirement
	<ul style="list-style-type: none"> After receiving rent assistance for three consecutive years, RAS beneficiaries (except elderly households and households with disabled members) are required to move to cheaper accommodation in older block types 	<ul style="list-style-type: none"> After receiving rent assistance for three consecutive years, RAS beneficiaries (except elderly households and households with disabled members) <i>are required to move to cheaper accommodation if there are suitable flats available. Suitable flats refer to those in the same district council with monthly rent at least 20% less than the full monthly rent (i.e. the rent payable if the rent assistance is unavailable) of units occupied by the RAS beneficiaries. RAS households living in older block types is exempted from the removal requirement except for under-occupation cases.</i>