

**REPORT ON THE ASSESSMENT OF
THE FULL IMPLICATIONS OF
THE HOUSING (AMENDMENT) ORDINANCE 1997**

September 1997

Hong Kong Housing Authority

**Report on the Assessment of
the Full Implications of
the Housing (Amendment) Ordinance 1997**

CONTENT

	<u>Paragraph(s)</u>
PURPOSE	1
BACKGROUND	2 - 4
HOUSING (AMENDMENT) ORDINANCE 1997	5 - 9
DOMESTIC RENT POLICY	
- Principle of Affordability	10 - 18
- Housing Subsidy Policy	19 - 20
- Safeguarding Rational Allocation of Public Housing Resources	21 - 25
FINANCIAL IMPLICATIONS	
- Rent Review Cycle of Three Years	26
- Median Rent-To-Income Ratio Capping of 10%	27
- Cumulative Impact	28
- Effects of Rates Payment	29
- Section 4(4) of the Housing Ordinance	30 - 32
LEGAL IMPLICATIONS	
- Median Rent-To-Income Ratio	33 - 34
- Licence Fees	35
OPERATIONAL IMPLICATIONS	
- Current Practice of Biennial Rent Review	36
- Triennial Rent Review	37
- Rent Assistance Scheme	38 - 39
- Median Rent- To-Income Ratio Calculation	40 - 44
THE WAY FORWARD	
- Available Options	45
- Internal Discussion Session	46 - 49
RECOMMENDATIONS	50
CONCLUSION	51 - 54

**Report on the Assessment of
the Full Implications of
the Housing (Amendment) Ordinance 1997**

PURPOSE

This report summaries the full implications of the Housing (Amendment) Ordinance 1997 and to recommend a way forward for consideration by the Secretary for Housing.

BACKGROUND

2. The Housing (Amendment) (No. 3) Bill 1996 was passed by the former Legislative Council (former LegCo) on 28 June 1997 and the Housing (Amendment) Ordinance 1997 (referred to hereinafter as the Amendment Ordinance) was subsequently published in the Gazette on 30 June 1997. During the Second Reading Debate, Members of the Council expressed concern that the level of public housing rental would exceed the general affordability of tenants, and argued for statutory restrictions on the power vested with the Housing Authority (HA) as a means to safeguard the interest of low-income families in the community.

3. Section 1(2) of the Amendment Ordinance provides that it will come into operation on a day to be appointed by the Secretary for Housing by notice in the Gazette. The Secretary has in turn asked the Housing Department to assess the implications of the Ordinance in co-ordination with HA, and to submit a report to him before 30 September 1997.

4. At an internal discussion session held on 10 September 1997, Members of HA considered the implications of the Amendment Ordinance and gave their comments and views thereon. This report summaries the implications noted by Members and the agreed way forward.

HOUSING (AMENDMENT) ORDINANCE 1997

5. The powers of HA to determine the rents of its public rental housing estates come from section 16(1) of the Housing Ordinance. The section does not prescribe a statutory limit on the frequency of rent review. There is also no statutory limit on the rate of any rent increase. A copy of section 16(1) of the Housing Ordinance is at **Annex A**.

6. The Amendment Ordinance serves to restrict the powers of HA to vary rents of public rental housing estates. According to the Amendment Ordinance, HA will not be able to enforce any rent review of residential units in its public housing estates within three years from the date of its previous rent review or determination of rent of the same estates. The rate of any rent review exercise will also be subject to a limit such that the median rent to income ratio applicable to all public housing estates is not to exceed 10% after a rent review. A copy of the Amendment Ordinance is at **Annex B**.

7. Notably, the Amendment Ordinance refers to “any class (whether determined by the nature of the land or status of the lessee) of land in an estate for residential purposes” and “all classes of land in all estates let for residential purposes”. As a matter of practice, all households residing in public housing estates, Temporary Housing Areas (THAs), Cottage Areas (CAs) and Interim Housing (IH), regardless of whether they are paying additional/market rent, or

receiving housing subsidies under the Rent Assistance Scheme (RAS), are subject to application of the Amendment Ordinance.

8. Because of its limits on the powers of HA to review rents of its public housing estates, the Amendment Ordinance will affect the application of the well established policy of determining rent according to the affordability of public housing tenants. It will also affect the implementation of the policy to safeguard the rational allocation of public housing resources, the housing subsidy policy and the rental assistance scheme.

9. The limits on rent increase will have substantial financial implication on HA and will affect HA's ability to meet the statutory obligation to ensure that its income is sufficient to meet expenditure. There are ambiguities and inflexibilities in the Amendment Ordinance which will create legal problems and operational difficulties.

DOMESTIC RENT POLICY

Principle of Affordability

10. HA is committed to the principle that public housing is a public asset and should therefore be accorded to those in genuine need of public housing. It is therefore necessary to ensure that public housing subsidy is allocated in relation to need.

11. The current domestic rent policy follows the recommendation of the Ad Hoc Committee to Review Domestic Rent Policy and Allocation Standards (the committee) adopted by HA in 1991 after a three-month public consultation exercise. The principal criterion in determining rents is tenants'

affordability, and the rent-to-income ratio (RIR) of household is used as a general indicator of affordability. The existing levels of rent range from \$182 to \$3,111 with the median value at \$1,201. About 77% of the public housing tenants are paying a monthly rent not exceeding \$1,500 which includes rates and management expenses. A table showing the monthly rents of public rental housing estates as at 30 June 1997 is at **Annex C**.

12. The RIR of a household is derived by expressing the rent it pays as a percentage of its income. The RIR thus measures the proportion of income spent on rent for this household. Given a fixed rent, a household with low income will have a high RIR and conversely, a household with high income will have a low RIR. The idea of imposing a 10% median rent-to-income ratio (MRIR) ceiling will therefore have the unintended effect of benefiting those with relatively high income, without conferring the same degree of relief for individual less well-off tenants.

13. In a group of rent-paying households, there are as many RIR's as the number of households. A representative measure is needed to gauge the "general" rent affordability of the households. There are several statistical measures which can be used for this purpose. The median is preferred to other measures because it is easy to understand and its value is not affected by extreme values. The MRIR is the RIR which divides the households under study into two halves. The values of the RIR's of half of the households are larger than the MRIR while the values of the other half are lower.

14. Currently, HA adopts two MRIR ceilings -

- (a) 15% for the minimum space allocation standard of 5.5 square metres internal floor area (IFA) per person; and

- (b) 18.5% for the higher space allocation standard of 7 square metres IFA per person.

15. The 15% MRIR ceiling was set in 1986, having regard to actual MRIRs of new public housing tenants in 1983-84 and 1984-85, which were 12.3% and 13.5% respectively.

16. The 18.5% MRIR ceiling was set in 1991, when there was growing aspirations among existing and prospective public housing tenants for more spacious accommodation at a higher level of rental. In response, the committee recommended that new applicants should be allowed to opt for a larger space allocation standard of seven square metres per person IFA subject to a new MRIR limit of 18.5%.

17. According to the results of Household Expenditure Surveys conducted by the Census and Statistics Department, a household living in private rented accommodation during the past decade spent some 23% to 40% of its expenditure on housing, which is significantly higher than that of 18.5% applicable to public housing tenants occupying units with the larger space allocation standard.

18. The 10% MRIR ceiling prescribed in the Amendment Ordinance is not supported by any studies and its application will force HA to depart from adhering to the affordability principle in determining rent. Although the current MRIR of public housing tenants is only at an average level of 9%, this situation will change as new public housing units with improved standards and facilities are being completed, and older units gradually being demolished for redevelopment. At present, the MRIR for new public rental estates completed in 1997 is already pitched at 16.5%.

Housing Subsidy Policy

19. Under the housing subsidy policy, which was first implemented in 1987, public rental housing tenants who have lived in public housing estates for ten years or more and whose income exceeds the subsidy income limit are required to pay additional rent. Tenants with household incomes between two and three times the waiting list income limits are required to pay 1.5 times net rent plus rates. Those with incomes above three times the waiting list income limits are required to pay double net rent plus rates. If their incomes should fall below the subsidy income limit, they may apply for reversion to normal rent.

20. Given a rigid definition of “variation of rent” in the Amendment Ordinance, it will hinder HA’s application of the housing subsidy policy. HA will not be able to require the better-off tenants to pay additional rent under the policy before the three-year period expires. This will mean that public housing resources are unnecessarily expended on people who do not have a genuine need for such resources. Similarly, HA cannot allow tenants to revert to normal rent even if their incomes have dropped below the subsidy income limit until the three-year period of rent review restriction has expired.

Safeguarding Rational Allocation of Public Housing Resources

21. In 1996, the Ad Hoc Committee of HA on Private Domestic Property Ownership by Public Rental Housing Tenants, after much deliberations and public consultation, recommended that better-off tenants should cease to receive public rental housing subsidy. They should either move out or, if they wish to remain in public rental housing, would be required to pay market rent.

22. Following the recommendation of the Ad Hoc Committee, HA has established the practice to require households paying double rent under the current housing subsidy policy (i.e. tenants whose household income exceeds three times the waiting list income limit) to declare assets if they wish to continue to live in public rental housing estates. Those whose household income and net asset value both exceed the prescribed limits, or who choose not to make a declaration, will have to pay market rent. The practice also allows market rent paying tenants to revert to paying a lower rent or normal rent if either their household income or net asset value falls below the prescribed limits for a continuous period of three months.

23. If the powers of HA to review rent is restricted as the Amendment Ordinance provides, the implementation of the recommendation of the Ad Hoc Committee will be severely restricted. HA will not be able to require well-off tenants to pay market rent without having to wait for the three-year period stipulated in the Amendment Ordinance to expire. Public rental subsidy will continue to be spent on these well-off tenants during the period in contravention of the principle of safeguarding the rational allocation of public housing resources.

24. HA will also not be able to reduce the rents of market rent payers if their income or net asset value drops below the prescribed limits within the three-year period set in the Amendment Ordinance. This will cause hardship to these market rent payers and upset the equitable application of the recommendation of the Ad Hoc Committee.

25. Although Members of the former LegCo stated clearly at the Bills Committee stage that there was no intention for the Amendment Ordinance to affect application of established policies governing the rational allocation of public housing resources, such side-effects will be unavoidable since all public

rental flats are caught within the meaning of “estate” as defined in the Ordinance and thus subject to the three-year restriction on rent review cycle. The Amendment Ordinance has not included any exemption provisions to allow flexibility for the continued application of the established policies.

FINANCIAL IMPLICATIONS

Rent Review Cycle of Three Years

26. Rent adjustment is currently conducted every two years to reflect rising costs while keeping in line with the affordability of tenants. A change from the biennial to triennial rent review cycle is expected to result in reduced rental income in the intervening years between each cycle: for every six-year period, there will be only two instead of three rent reviews. Taking the case from 1997/98 to 2005/06, a financial loss of around \$5.2 billion ^{Note 1} is calculated as a result of such change.

Median Rent-To-Income Ratio Capping of 10%

27. Despite adherence to the broad principle that rent adjustments should be kept in line with general affordability, the overall MRIR of public rental estates is likely to rise due to the increasing stock of new housing blocks with higher rents and the diminishing number of old estates with lower rents. According to present financial projections, the aggregated increase of new rent setting and rent adjustment will reach the 10% MRIR ceiling by 2000,

^{Note 1} Assuming a biennial rent increase of 18% versus a triennial rent increase of 28.1% throughout the period, i.e. annual rate of 8.6% per annum.

thereafter the income growth rate of HA will be restrained. The resulting income foregone up to 2005/06 is estimated to be \$1.7 billion^{Note 2}.

Cumulative Impact

28. Taking into account the loss of \$5.2 billion arising from the change in rent review cycle highlighted above, HA will face a total reduction of \$6.9 billion in rental income over the period from 1997/98 to 2005/06 as compared with approved budgets and forecasts. A table showing the cumulative impact is at **Annex D**.

Effects of Rates Payment

29. The rent payable by HA's tenants is inclusive of rates. Rates of the premises under control and management of HA are paid by HA to Government. There is no indication that the rates, which are calculated according to the open market rental level, will not rise in the future. Where the inclusive rent payable to HA is limited by the MRIR 10% cap, the net rental income of HA could be reduced further as the level of rates are raised in line with prevailing market conditions.

Section 4(4) of the Housing Ordinance

30. Section 4(4) of the Housing Ordinance requires HA to direct its policy to ensure that the revenue accruing to it from its estates are sufficient to meet its recurrent expenditure on its estates. A copy of the provision is at **Annex E**.

^{Note 2} Assuming the biennial income growth for domestic rental properties is 18% for 1997/98 to 2000/01 and 16.6% for 2001/02 to 2005/06 (i.e. annual growth rate of 8%) inclusive of new rent setting and rent adjustment.

31. The domestic operating account of HA, which applies to estates let for residential purposes, is showing a forecast deficit of \$6.3 billion for the five-year period from 1997/98 to 2001/02. However, the situation is expected to improve gradually as the older estates attracting lower rents but incurring high maintenance costs are demolished and redeveloped. The imposition of a 10% MRIR ceiling will disrupt this process of adjustment and could therefore be inconsistent with the spirit of section 4(4).

32. Over the years, HA has implemented a number of measures, and is continuing to consider new drives, to improve the standard of facilities and management of public housing estates. Increased expenditure is necessary to pay for substantial improvement works in order to meet the rising aspirations of tenants. In view of the application of section 4(4) and the increasing deficit shown in the domestic operating account resulting from the Amendment Ordinance, the legitimacy of proposed improvement measures or the proposed rates of implementing such measures may be called into question.

LEGAL IMPLICATIONS

Median Rent-To-Income Ratio

33. The Amendment Ordinance places upon HA an obligation to determine the MRIR of all classes of land in all estates let for residential purposes without giving a clear definition of MRIR and a methodology as to its determination. In strict compliance of the Amendment Ordinance, HA will have to conduct comprehensive income survey of all households residing in its estates. MRIR assessed using the current statistical sample survey, which merely gives a figure for reference and which is not intended to be definitive, will not be able to meet the statutory requirement. It is also a concern that the

accuracy of any assessment will depend on the data provided by the households which HA cannot warrant. Therefore, the chance of a successful legal challenge against MRIR determined by HA using the current method of assessment or other sampling method will be high.

34. There are currently more than 637,000 households living in public rental housing, including those in CAs, THAs and IH. To process such a large number of declarations will create a time lag between data collection and the review exercise. The income data so collected may be outdated. This will have an adverse implication on accuracy of a MRIR determined by HA.

Licence Fee

35. Since CAs, THAs and IH are located on land vested in HA or the control and management of which has been vested in HA, these developments will fall within the meaning of “estate” as defined in the Housing Ordinance. As the legal relation between HA and the occupants of these areas are the same as that between HA and public rental housing tenants, it would follow that licence fees charged should be included for the purpose of assessing MRIR, which deviates from the existing practice. Although the inclusion of these households will help to suppress the MRIR, it will create the same inflexibility for any future variation of licence fees.

OPERATIONAL IMPLICATIONS

Current Practice of Biennial Rent Review

36. Under current practice, public rental housing estates are grouped into batches for the purpose of rent review. The rent of each batch is in general reviewed every two years. This practice of biennial rent review of public rental estates has been applied for more than 20 years. It is well established and accepted by the majority of HA's tenants. So far, each rent revision endorsed by the Management and Operations Committee of HA has been smoothly implemented. A summary of rent reviews for the past ten years is at **Annex F**. Biennial rent review is also the common practice adopted by landlords and tenants in the private sector.

Triennial Rent Review

37. Under the Amendment Ordinance, HA will review domestic rents at triennial intervals. This would mean steeper increases for each exercise, thus creating greater resistance and hardship. To illustrate this, the biennial rent adjustment of a six-year period of 22.2% in April 1993, 20.6% in April 1995 and 22.7% in April 1997 for six Former HA Estates would translate into a triennial rent adjustment of 34.2% in April 1994 and 34.7% in April 1997.

Rent Assistance Scheme

38. Since the Amendment Ordinance does not provide any flexibility on what constitutes "determination of variation of rent", the three-year limitation period will remove all discretion for HA to vary the rents of individual public housing tenants regardless the conditions of individual tenants. The inflexibility will prohibit HA from applying the RAS.

39. Under the RAS, public rental housing tenants whose income meets either one of the following criteria are granted one-half rent reduction,

- (a) income below 50% of the waiting list income limit,
- (b) RIR exceeds 25%, or
- (c) income between 50% and 60% of the waiting list income limit and RIR exceeds 15%.

The lack of such discretion will hamper the implementation of the scheme and creates hardship unnecessarily. The number of approved cases under the rent assistance scheme is 2,721 as at 30 June 1997.

Median Rent-to-Income Ratio Calculation

40. A brief note on the MRIR compilation adopted for rent review exercises is at **Annex G**.

41. In order to ensure that the MRIR of all estates let for residential purposes does not exceed 10%, HA will have to carry out a general income survey of all the households in public rental housing, CAs, THAs and IH before each rent review exercise. At present, HA adopts a two-year rent review cycle and conducts the reviewing process in seven batches of estates as set out at **Annex H**. According to this pattern, two to three surveys will have to be conducted by HA each year corresponding to a triennial and biennial rent review cycle respectively.

42. With more than 637,000 households involved, a general income survey will have to be well planned and effectively conducted in order to yield data that are credible and accurate. An exercise of the nature and scale will require substantial resources. It is estimated that it will cost HA \$32 million for one survey. A summary showing the conceptual plan of such survey, cost for implementation of the survey, and staffing requirement is at **Annex I**.

43. Some households may resist the attempt of HA to obtain data of their income. They will consider an income survey intrusive, and may argue that it is an interference with their privacy. The legality of a survey may be queried and challenged. Therefore, in addition to efforts in the actual carrying out of the survey, HA has to be prepared to defend the survey and to have a policy on those who refuse to co-operate or who provide inaccurate data. HA will have to face a number of difficult and sensitive issues.

44. If HA decides to strictly enforce its powers to obtain income data from the households and refer cases of those who refuse to provide data or provide inaccurate data for prosecution, a strong public resentment against HA may be generated, followed by high profile legal actions and political debates. If HA does not take action on those who refuse to co-operate and those who provide inaccurate data, the survey exercise may lose credibility. Such survey exercises will cost HA dearly in terms of resources and its goodwill and image. Other exercises and initiatives to enhance and improve relation with the tenants may also be adversely affected.

THE WAY FORWARD

Available Options

45. In considering the way forward, there are three possible options in dealing with the Amendment Ordinance -

- (a) to repeal the Amendment Ordinance in its entirety;
- (b) to bring the Amendment Ordinance into operation immediately in its present form; and
- (c) to bring the Amendment Ordinance into operation immediately, subject to additional provisions which will minimise the legal problems, operational difficulties and financial loss to HA.

Internal Discussion Session

46. When these options were discussed at HA's internal session held on 10 September 1997, Members in general endorsed the assessment made by the Department and were concerned about the potential impact brought about by the Amendment Ordinance, particularly in relation to the change in rent review cycle. All Members with the exception of one ruled out option (a) as a viable alternative in recognition of the cardinal principle in our administrative system that all laws passed by the legislature should be brought into effect unless justified by overriding circumstances. Nevertheless, all Members with the exception of two felt that option (b) should not be implemented without addressing the inherent legal/financial problems and operational difficulties. The final decision was therefore to work out a pragmatic way of taking forward the Ordinance. With this in mind, Members agreed to proceed with option (c)

which would respect the legislative spirit, minimise the adverse impact and go some way towards meeting the former LegCo's concern.

47. On the 10% MRIR ceiling, Members respected the Amendment Ordinance as passed by the former LegCo but emphasised that there must be a clear definition of MRIR and the methodology involved in its determination. The majority of Members agreed to retain the current sample survey adopted by the Department in calculating MRIR and to include relevant provisions in the Amendment Ordinance to avoid future legal challenges.

48. Furthermore, the majority of Members expressed concern about the inflexibility to vary rents and the adverse effect of such inflexibility on HA's established policies governing the rational allocation of public housing resources. They generally agreed that tenants paying additional/market rent or receiving rental subsidies under RAS should not be subject to the restriction stipulated in the Amendment Ordinance. They also considered that the Amendment Ordinance should not be applied to CAs, THAs and IH.

49. As regards the rent review cycle, most Members were in support of retaining the current biennial cycle which had been an established practice proven acceptable to public housing tenants. With the 10% MRIR ceiling in place, a new triennial cycle borne no direct relationship with the affordability of tenants and would lead to hefty rent increases in future, thereby making it difficult for tenants to adjust and aggravating public resistance. Many of them were also concerned about the financial loss to HA arising from changing the rent review cycle from two to three years.

RECOMMENDATIONS

50. In accordance with the views and comments expressed by the majority of HA Members and against the background of arguments cited in paragraphs 46-49 above, we would like to recommend that the Amendment Ordinance be put into operation as soon as practicable subject to the following amendments -

- (a) to provide for a clear definition of MRIR and a practical methodology of its assessment such that HA may rely on MRIR figures computed by way of the sampling method currently adopted by the Department;
- (b) to replace the triennial rent review cycle prescribed by the Amendment Ordinance by the well-established and accepted biennial rent review cycle but to exclude from this restriction tenants who are required to pay additional/market rent and beneficiaries of RAS; and
- (c) to exclude CAs, THAs and IH from its application.

CONCLUSION

51. HA's rental policy is based on affordability. On the one hand, this ensures that rents are set at, and periodically revised to levels which are within the ability of the majority of tenants to pay. On the other hand, it ensures that public rental housing subsidy goes only to those in need. The effect of the Amendment Ordinance is to replace this policy with an inflexible, across the board formula for rent increases which makes no reference to affordability, the

rational allocation of public housing subsidy or the particular needs of individual tenants and their families with financial hardship.

52. Given its lack of clarity over definition and methodology for MRIR and its inflexibility in application, the Amendment Ordinance will create operational, financial and legal problems which affect the implementation of HA's policies and established practice, cause inequities in the use of housing resources and introduce legal uncertainties.

53. The Amendment Ordinance should not be put into operation unless there are provisions for clear definition of MRIR and the methodology of its assessment, exclusion clauses to allow flexible operation of the policy on safeguarding rational allocation of public housing resources and the housing subsidy policy, as well as to facilitate continued application of the established biennial rent review practice.

54. The exclusion clauses should be welcome by the community since they are targeted at better-off/well-off tenants to uphold the equitable allocation of limited housing resources. Additional provisions governing the definition and methodology for determining MRIR should also be seen as a positive step to implement the Amendment Ordinance. The retention of a biennial rent review cycle may draw criticisms from some public housing tenants against HA of trying to protect its source of income. However, as the change to a triennial cycle bears no direct relationship with tenants' affordability, this decision is likely to receive public support.

PART III
DISPOSAL OF PROPERTY

第 III 部
財產的處置

16. Leases of land in estates

- (1) Subject to this Ordinance, the Authority may-
- (a) let to any person, for any period, any land in an estate, subject to the payment of such premium, rent or other consideration as the Authority may determine; and
 - (b) fix the terms, covenants and conditions on which any land in an estate may be let or occupied.
- (2) The terms, covenants and conditions fixed by the Authority pursuant to subsection (1)(b) may include terms, covenants and conditions which provide for-
- (a) the subletting by a lessee or sublessee of the whole or any part of the land or for the granting by such person of a licence to any person to occupy the whole or any part of the land; or
 - (b) the management by a lessee of any land in an estate let to or occupied by him. (Replaced 16 of 1993 s.5)
- (3) Where-
- (a) the Authority grants a lease under subsection (1) of Crown land in an estate vested in or under the control and management of the Authority under section 5, 37 or 38; or
 - (b) by virtue of and in accordance with such a lease, a sublease or licence to occupy any part of the land is granted to any person,

the person occupying the land under and in accordance with the lease, sublease or licence shall be deemed for the purpose of sections 4 and 6 of the Crown Land Ordinance (Cap. 28), to be occupying the land under a licence issued under section 5 of that Ordinance. (Added 16 of 1993 s.5)

16. 屋邨內土地的租契

- (1) 在符合本條例的規定下，委員會可—
- (a) 將屋邨內任何土地，以任何期限出租予任何人，但須收取委員會釐定的同意租賃金、租金或其他代價；及
 - (b) 訂定出租或佔用屋邨內任何土地的條款、契諾及條件。
- (2) 委員會依據第 (1) (b) 款所訂定的條款、契諾及條件，可包括就下述事宜作出規定的條款、契諾及條件—
- (a) 由承租人或分租契承租人將該土地的全部或任何部分分租，或由該人將佔用該土地的全部或任何部分的許可證批給任何人；或
 - (b) 承租人對其承租或佔用的屋邨內任何土地的管理。
(由 1993 年第 16 號第 5 條代替)
- (3) 凡—
- (a) 委員會根據第 (1) 款就根據第 5、37 或 38 條歸屬委員會或由委員會控制和管理的屋邨內官地批出租契；或
 - (b) 憑藉和按照上述租契，任何人獲批給佔用任何部分土地的分租契或許可證。

A3900 Ord. No. 108 of 1997 HOUSING (AMENDMENT) 房屋（修訂）條例 1997 年第 108 號條例

HONG KONG
ORDINANCE No. 108 OF 1997

香港
1997 年第 108 號條例



Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof. 本條例旨在修訂《房屋條例》。

1. Short title and commencement

由香港總督參照立法局意見並得該局同意而制定。

- (1) This Ordinance may be cited as the Housing (Amendment) Ordinance 1997.
(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Housing by notice in the Gazette.

1.

簡稱及生效日期

- (1) 本條例可引稱為《1997 年房屋（修訂）條例》。
(2) 本條例自房屋司以憲報公告指定的日期起實施。

2. Leases of land in estates

Section 16 of the Housing Ordinance (Cap. 283) is amended by adding-

2.

屋邨內土地的租契

"(1A)(a) Any determination of variation of rent after the commencement of the Housing (Amendment) Ordinance 1997 (108 of 1997) by the Authority under subsection (1)(a) in respect of any class (whether determined by the nature of the land or status of the lessee) of land in an estate for residential purposes shall only take effect at least 3 years from the date on which any immediately preceding determination in respect of the same such class of land came into effect.

《房屋條例》（第 283 章）第 16 條現予修訂，加入—

(b) The rent determined under paragraph (a) in respect of any such class of land shall be of such amount that the median rent to income ratio in respect of all classes of land in all estates let for residential purposes, as determined by the Authority, shall not exceed 10%."

“ (1A) (a) 在《1997 年房屋（修訂）條例》（1997 年第 108 號）生效之後。任何由委員會根據第 (1) (a) 款就出租作住宅用途的屋邨內的任何土地類別（不論是由土地性質或由承租人身分釐定）所作出更改租金的釐定。須於就該同一土地類別的任何上次的釐定的生效日期起計最少 3 年後才生效。

(b) 委員會根據 (a) 段就任何該土地類別所釐定的租金，其數額須令就所有出租作住宅用途的屋邨內所有土地類別由委員會釐定的租金與入息比例中位數，不超過百份之十。”。

**Public Rental Housing Estates
as at 30 June 1997**

<u>Monthly rent (\$)</u>	<u>No. of Units</u>	<u>%</u>
below 500	67 305	10.0
500 - 899	91 916	13.7
900 - 999	67 222	10.0
1 000 - 1 099	53 009	7.9
1 100 - 1 199	55 357	8.3
1 200 - 1 299	62 151	9.3
1 300 - 1 399	65 043	9.7 (77%)
1 400 - 1 499	53 555	8.0
1 500 - 1 599	44 960	6.7
1 600 - 1 699	29 991	4.5
1 700 - 1 799	20 013	3.0
1 800 - 1 899	14 710	2.2
1 900 - 1 999	11 021	1.6
2 000 and above	34 723	5.2
<hr/>		
Total	670 976	100.0

Annex D

MRIR Capping at 10%	Annual Loss (\$ million)	Cumulative Loss (\$ million)
2001/02	100	100
2002/03	200	300
2003/04	300	600
2004/05	500	1,100
2005/06	600	1,700

Triennial Rent Review	Annual Loss (\$ million)	Cumulative Loss (\$ million)
1997/98	400	400
1998/99	500	900
1999/2000	200	1,100
2000/01	600	1,700
2001/02	800	2,500
2002/03	300	2,800
2003/04	800	3,600
2004/05	1,000	4,600
2005/06	600	5,200

Housing Ordinance, Cap. 283

4. General powers and duties of the Authority

- (4) The policy of the Authority shall be directed to ensuring that the revenue accruing to it from its estate shall be sufficient to meet its recurrent expenditure on its estates.

4. 委員會的一般權力及職責

- (4) 委員會的政策須旨在確保從屋邨所累算獲得的收入，足以應付屋邨的經常開支。

**Summary of Domestic Rent Reviews
(1987-1997)**

Implementation Date	No. of Estates (Group of Estates)	Average Increase %	MRIR %	Since Last Exercise	
				CPI(A) +%	Nominal Wage Index +%
4/87	Six (FHA)	24.9	9.0	5.3	12.8
9/87	49 (Post-1973)	16.5	10.6	6.6	13.7
4/88	Four (FHA)	20.1	8.5	7.5	14.4
9/88	57 (Post-1973)	14.5	10.3	10.5	17.6
12/88	48 (Group B & FGLCH)	21.7	5.3	11.4	19.2
4/89	Six (FHA)	22.0	8.1	12.8	20.1
9/89	58 (Post-1973)	14.8	10.2	15.1	21.0
4/90	Four (FHA)	18.1	8.3	19.0	23.7
9/90	68 (Post-1973)	19.8	10.0	18.7	25.0
12/90	42 (Group B & FGLCH)	23.9	5.2	20.0	27.0
4/91	Six (FHA)	23.2	8.4	21.0	27.0
3/92 (deferred from 9/91)	69 (Post-1973)	24.0	10.5	22.0	28.0
7/92 (deferred from 4/92)	Four (FHA)	26.4	9.6	25.0*	32.0*

**Summary of Domestic Rent Reviews
(1987-1997)**

Implementation Date	No. of Estates (Group of Estates)	Average Increase %	MRIR %	Since Last Exercise	
				CPI(A) +%	Nominal Wage Index +%
9/92	77 (Post-1973)	22.0	9.9	22.5	24.5
12/92	38 (Group B & FGLCH)	21.7	6.0	23.0	22.2
4/93	Six (FHA)	22.2	8.6	23.0	22.0
9/93	81 (Post-1973)	19.6	9.7	21.0	22.0
4/94	Four (FHA)	20.9	11.5	16.0**	16.0**
9/94	82 (Post-1973)	18.2	9.5	18.9	21.6
12/94	32 (Group B & FGLCH)	17.8	6.3	16.8	22.2
4/95	Six (FHA)	20.6	8.4	16.6	22.2
9/95	87 (Post-1973)	17.5	11.0	17.9	20.8
4/96	Four (FHA)	17.4	12.1	17.5	19.9
9/96	84 (Post-1973)	17.0	10.1	16.9	17.1
12/96	26 (Group B & FGLCH)	17.0	7.3	16.4	15.7
12/96	12 (Harmony Blocks)	25.0	14.5	24.9***	27.2***
4/97	Six (FHA)	22.7	11.1	16.1	15.7

*Covered a period of 27 months

**Covered a period of 21 months

***Covered a period of 36 months

**A Brief Note on the Compilation of
the Median Rent-To-Income Ratio
for the Rent Review Exercises**

The purpose of this note is to explain the present method adopted by the Housing Authority (HA) in compiling the Median Rent-to-Income Ratio (MRIR).

2. The HA has the responsibility to provide housing to those in need at affordable rent. The rate of rent increases is determined on the basis of tenants' affordability. The current ceilings of MRIR are set at 15% for tenants who choose to be accommodated at the minimum allocation standard of 5.5 m² IFA per person or 18.5% for those who opt for more spacious accommodation at the minimum allocation standard of 7.0 m² IFA per person.

3. Under the Housing (Amendment) Ordinance 1997, the level of rent increase would be such that the MRIR in respect of all public rental housing estates shall not exceed 10%. The following paragraphs explain what is MRIR, its coverage, and method of compilation currently adopted by HA.

Median rent to income ratio

4. The rent to income ratio (RIR) of a household is derived by expressing the rent it pays as a percentage of its income. The RIR thus measures the proportion of income spent on rent for this household. Given a fixed rent, a household with low income will have a high RIR and conversely, a household with high income will have a low RIR.

5. In a group of renter households, there are as many RIR's as the number of households. A representative measure is needed to gauge the "general" rent affordability of the households. There are several statistical measures which can be used for this purpose. The median is preferred to other measures because it is easy to understand and its value is not affected by extreme values. The MRIR is the RIR which divides the households under study into two halves. The values of the RIR's of half of the households are larger than the MRIR while the values of the other half are lower.

Coverage

6. In view of the large number (over 600,000) of public rental households, HA does not review the rents of all of its public rental housing in one exercise. Existing estates are divided into seven batches. Biennial rent review exercises are carried out separately for each batch of estates. Only the MRIR of households in the estates under review is compiled for consideration in each exercise. However, the Department also regularly compiles the MRIR for all public rental housing estates for reference purposes.

Method of compilation

7. The following steps are adopted in compiling the MRIR in the rent review exercises -

- (a) The following data of each estates are first compiled -
 - (i) percentage of rates in the rent, i.e. $\frac{\text{rates}}{\text{net rent} + \text{rates}}$;
 - (ii) percentage increase of rates since last exercise; and
 - (iii) a range of proposed percentage increase of net rent for scenario testing purposes.

- (b) For compilation of the MRIR of each scenario, the most updated quarterly General Household Survey (GHS)^{1/} data are used. The rent and income data of the sampled households in the estates under review are extracted for analysis. For each household, a new rent is compiled based on the following -
 - (i) $\text{new rates} = \text{existing rent (GHS data)} \times \% \text{ of rates in the rent} \times (1 + \% \text{ increase of rates since last exercise})$
 - (ii) $\text{new net rent} = \text{existing rent (GHS data)} \times (1 - \% \text{ of rates in the rent}) \times (1 + \text{proposed \% increase of net rent})$
 - (iii) $\text{new rent} = \text{new rates} + \text{new net rent}$

^{1/} General Household survey is a continuous survey conducted by the Census and Statistics Department. The sampling fraction is about 1.2% for one quarter, i.e., if the review covers 100,000 households, the sample available for analysis is 1,200.

- (c) Using the new rent and the income data from GHS, calculate the RIR of each affected household after the rent review; and
- (d) Re-arrange the RIR's in ascending order and find out the median.

**Programme of Rent Review Exercises
in a Cycle of Two Years (1996-1997)**

	Type of Estates	*No. of Flats for Rent Review	Date of Rent Increase
1.	Former Housing Authority (Group 1)	12,780	1 April 1996
2.	Post-1973 (Non-Harmony Blocks - Group 1)	236,750	1 September 1996
3.	Post-1973 (Harmony Blocks - Group 1)	22,827	1 December 1996
4.	Group B and Former Government Low Cost Housing	68,594	1 December 1996
5.	Former Housing Authority (Group 2)	22,122	1 April 1997
6.	Post-1973 (Non-Harmony Blocks - Group 2)	209,498	1 September 1997
7.	Post-1973 (Harmony Blocks - Group 2)	41,520	1 December 1997

* Number of flats involved in each rent review exercise is subject to change due to demolition and new completion.

**Cost of the Implementation of
Income Declaration for Rent Review**

1.	No. of PRH households	:	620,000
2.	No. of THA/CA households	:	<u>17,000</u>
	Total :		637,000

3. All activities are to be undertaken by clerical staff with security guards for despatching services

I) Staff Cost

<u>Rank</u>	<u>No.</u>	<u>Cost (\$)</u>
Clerical Officer	104	28,735,438.1
Security Guard	-	<u>276,451.8</u>
	sub-total	29,011,889.9

II) Administrative Cost*

a.	<i>enhancement of computer systems</i>	<i>3,000,000 (one-off capital cost)</i>
b.	printing of notification letters, explanatory notes, declaration forms, address labels etc.	600,000
c.	public record search charges and postage	400,000
	sub-total	<u>4,000,000</u>

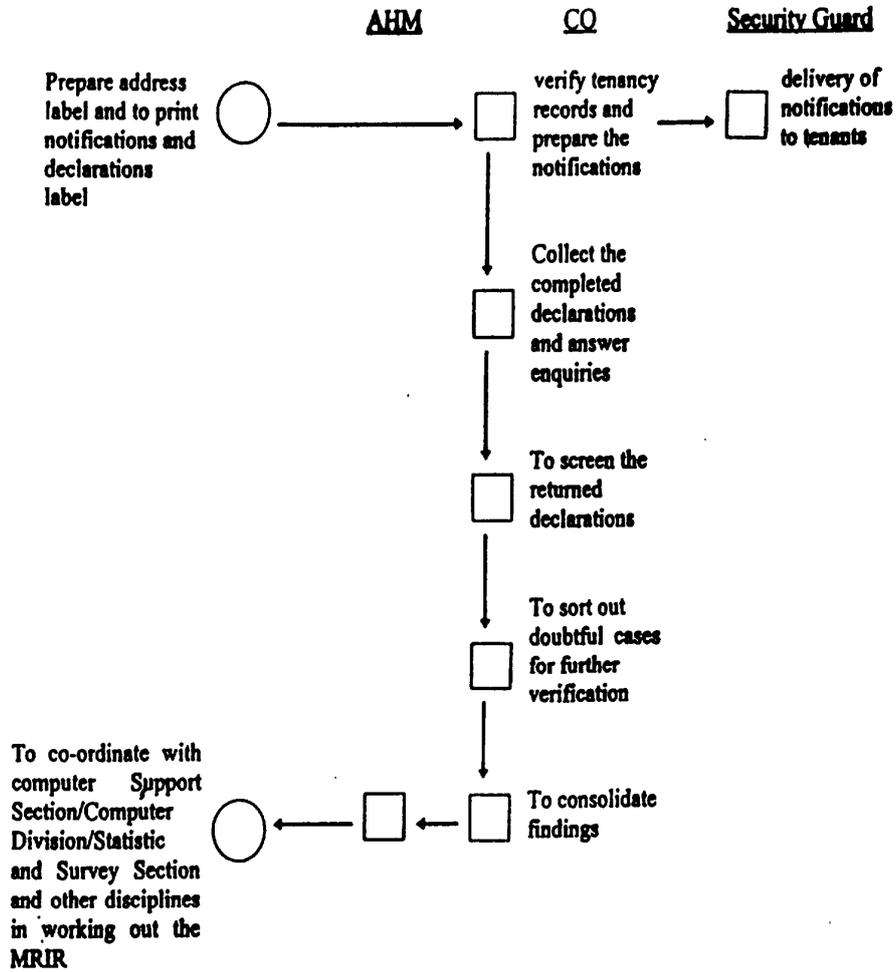
III) Total Cost *for the first exercise*
(I) + (II) = \$33,011,889.9
Say 33,010,900

IV) Total Cost *for subsequent exercise*
(I) + (II) - capital cost to enhance computer systems = \$30,011,889.9
Say 30,011,900

Conceptual Plan on the Implementation of Income Declaration for Rent Review

Central Co-ordinating Office

Estate Management Office



**Estimated Staffing Requirement for the
Implementation of Income Declaration for Rent Review**

No. of PRH households : 620,000
No. of THA/CA households : 17,000
Total : 637,000

<u>Activities</u>	<u>Unit Time (min)</u>		<u>Time Req'd (hr)</u>	
	<u>COII</u>	<u>Security Guard</u>	<u>COII</u>	<u>Security Guard</u>
1 Verifying tenancy records and to prepare notification letters	0.5	0.2	5,308	2,123
2 Serving notification letter and income declarations to tenants		1.2		12,740
3 Reminding tenants to return the declarations and to answer enquiries	2		21,233	
4 Receiving and verifying data on the returned declaration forms	15		159,250	
5 Consolidate findings for the computation of MRIR	1		<u>10,616</u>	<u> </u>
	19	1.4	196,407	14,863

Staffing Requirement:

COII: 196,407 manhours/1893 hours = 103.7
 Say 104

Emolument:

COII 104 × (\$258,468 × 106.9%) = \$28,735,438.10
 Security Guard 14,863 hrs × \$18.6/hr = \$276,451.80
 \$29,011,889.90