

Ref.: SC 500/4/1

29 March 2004

The Hon. Audrey Eu, S.C., JP  
Chairman,  
Bills Committee on Landlord and Tenant  
(Consolidation) (Amendment) Bill 2003  
Room 429, Central Government Offices, West Wing  
11 Ice House Street, Central,  
Hong Kong

(Fax : 2899 2249)

Dear

**Bills Committee on  
Landlord and Tenant (Consolidation) (Amendment) Bill 2003**

I understand that at the Bills Committee meeting held on 10 March 2004, Members noted the time chart prepared by the Housing, Planning and Lands Bureau on the repossession procedure and wanted to know why the court needed 11 days in the application stage and 10 more days in the second stage for granting a default order for repossession when no opposition was filed by the tenant. They also requested the Judiciary to consider whether the process could be further streamlined. I set out below the Judiciary's position on the matter for Members' information.

Application Stage: 11 days

2. After the expiry of the time limit for filing Notice of Opposition, the applicant may apply for default judgment under Rule 15 of the Lands Tribunal Rules. As required by Rule 15(2) of the Lands Tribunal Rules, the applicant has to submit an application form with supporting evidence consisting tenancy agreement, information on arrears of rent, demand notes for rates, management fees, electricity, etc. On receipt of the application, the registry of the Tribunal would check whether there is indeed no Notice of Opposition, the evidence submitted as well as the service of the originating application.

When all the papers are in order, the file will be passed to the Deputy Registrar for final checking and endorsement. The Applicant would then be notified by letter that an order in default has been made.

3. At present, the number of possession cases disposed of by way of default judgment is about 8 times those dealt with by hearing and the actual processing time is about 10 days on average. We are trying to improve the situation through further re-engineering initiatives and internal staffing re-deployment within the Lands Tribunal in the near future. We will strive to reduce the processing time to 7 days on average if the case load remains steady.

#### Processing Stage: 10 days

4. After compliance with Practice Direction 16.4, an applicant can file an application to the Tribunal for leave to issue a writ of possession. The application would first be processed by the clerks to the Presiding Officers. They have to check the relevant court file to ensure that there has not been any order for stay of execution and to check the information set out in the application. On completion, the file will be passed to a Presiding Officer who would grant leave if satisfied that the application is in order.

5. The Tribunal would then advise the applicant by letter of the granting of leave. The applicant then pays the deposit for execution. How soon this is done is a matter for the applicant. It is usually done within a few days which are part of the period of 10 days in the Processing Stage. After payment of the deposit, a writ of possession would be issued and the Tribunal would despatch the signed writ to the Bailiff for execution.

6. Given the number of steps involved, we doubt if there is room for shortening the processing time.

#### Additional measures for shortening possession procedures being considered

7. We have also been considering other measures to shorten the time taken for possession procedures in the Tribunal. They might, however, involve amendments to the Lands Tribunal Rules.

8. We have been in discussion with the Housing, Planning and Lands Bureau on the possibility of introducing Committee Stage Amendments to the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 to advance the requirement of posting notices to the application stage, i.e. the landlord should be required to post the application at the front door of the premises when he submits the application to the Tribunal. The purpose is to enable parties in occupation (including sub-tenants) to know about the possession proceedings at an early stage, and to take actions as deemed necessary. If

this is implemented, the posting up requirement for 3 consecutive days under Practice Direction 16.4 could be reduced with a view to further streamlining the possession procedure. I understand that this proposal was put to the Bills Committee at its meeting on 16.2.2004. However, the Housing, Planning and Lands Bureau has recently informed us that they took the view that the proposed amendment is outside the scope of the long title of the Bill<sup>Note</sup>.

9. In any event, the Chief Justice has directed that the Lands Tribunal Rules as a whole should be reviewed. After such review, the Judiciary will introduce in due course such amendments thereto as are considered appropriate, including the amendment referred to in para. 8 above.

Yours sincerely,

(Wilfred Tsui)  
Judiciary Administrator

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<sup>Note</sup> A Bill to Amend Parts IV and V of the Landlord and Tenant (Consolidation) Ordinance and to make consequential amendments.