

Amend Parts IV and V of the Landlord and Tenant (Consolidation) Ordinance and to make consequential amendments.

Enacted by the Legislative Council.

PART 1

Preliminary

1. Short title and commencement

(1) This Ordinance may be cited as the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2003.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Housing, Planning and Lands by notice published in the Gazette.

2. Interpretation

In this Ordinance---

"appointed day" (指定日期) means the day appointed under section 1(2) for the commencement of this Ordinance;

"Part IV" (第IV部) and "Part V" (第V部) mean respectively Part IV and Part V of the principal Ordinance;

"principal Ordinance" (主體條例) means the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);

"Tribunal" (審裁處) means the Lands Tribunal established under the Lands Tribunal Ordinance (Cap. 17).

PART 2

Amendments to Part IV

3. Provisions repealed

The following provisions of Part IV are repealed---

(a) section 116(3), (4) and (4A)---Application of this Part;

(b) section 117(1) and (2)---Continuation of tenancies and grant of new tenancies;

(c) section 118---Notices given before this Part applies;

(d) section 119---Termination of tenancy by the landlord;

(e) section 119A---Tenant's request for a new tenancy;

(f) section 119AA (as added by section 14 of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002))---Request to Commissioner for tenancy information;

(g) section 119B---Termination by tenant of tenancy for fixed term;

(h) section 119C---Renewal of tenancies by agreement;

(i) section 119D---Order by Tribunal for grant of a new tenancy;

(j) section 119E---Opposition by landlord to application for new tenancy;

(k) section 119F---Additional provisions regarding opposition on ground of intention to rebuild;

- (l) section 119FA--New tenancy of part of premises;
- (m) section 119FB (as added by section 19 of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002))---Certificate stating rateable value and compensation payable under section 119F(4) in respect of premises;
- (n) section 119G--Dismissal of application for new tenancy where landlord successfully opposes;
- (o) section 119H--Penalties;
- (p) section 119I--Duration of new tenancy;
- (q) section 119J--Other terms of new tenancy;
- (r) section 119K--Rent under new tenancy;
- (s) section 119M--Carrying out of order for new tenancy;
- (t) section 119N--Interim continuation of tenancies pending determination by Tribunal;
- (u) section 119NA--Rent where new tenancy refused etc.;
- (v) section 119O--Short tenancies;
- (w) section 119P--Sub-tenancies;
- (x) section 119Q--Appeals.

4. Endorsement of tenancy agreement

Section 119L is amended by repealing subsection (1) and substituting---

"(1) Where the parties enter into or renew a tenancy to which this Part applies, the landlord shall lodge with the Commissioner a notice in the specified form, and the Commissioner shall---

- (a) endorse the notice with the date of its receipt; and
- (b) notify both parties of the receipt of the notice."

5. Savings in respect of Part IV

(1) In the case of a tenancy to which Part IV applies and which is in existence on the day before the appointed day, if---

- (a) the landlord has before the appointed day given notice under and in accordance with section 119 of the principal Ordinance to terminate the tenancy; or
 - (b) the tenant has before the appointed day made a request for a new tenancy under and in accordance with section 119A of the principal Ordinance,
- then on and after the appointed day---
- (c) the provisions repealed by section 3 of this Ordinance shall continue to apply to the tenancy as if they were not repealed; and
 - (d) the enactments amended by sections 8 to 15 of and the Schedule to this Ordinance shall, if applicable, apply to the tenancy as if they were not amended.

(2) On and after the appointed day, a tenancy to which Part IV applies and which is in existence on the day before the appointed day, but in respect of which no notice

or request has been given or made before the appointed day under section 119 or 119A of the principal Ordinance---

(a) may be terminated in accordance with its terms or as otherwise agreed between the parties; or

(b) if it is a tenancy which was continued by virtue of section 117 of that Ordinance, may be terminated either as a month to month tenancy or as agreed between the parties.

(3) If, before the appointed day, a landlord has successfully opposed the grant of a new tenancy on a ground specified in paragraph (b) or (c) of section 119E(1) of the principal Ordinance, the provisions of sections 119F and 119H of that Ordinance and of any condition imposed or order made under either of those sections apply in respect of the landlord as if those sections were not repealed on that day.

(4) If, on the appointed day, a tenant is in possession of premises in the circumstances described in section 119NA(1) of the principal Ordinance, the provisions of section 119NA of that Ordinance apply in respect of the tenant as if that section was not repealed on that day.

(5) Proceedings relating to Part IV which are pending in the Tribunal on the appointed day, and decisions of the Tribunal relating to that Part which have not been given effect to on that day, may respectively continue and be given effect to on and after the appointed day notwithstanding the repeal of certain provisions of that Part by section 3 of this Ordinance.

(6) Proceedings relating to provisions of Part IV saved by this section may be commenced in the Tribunal on or after the appointed day.

PART 3

Amendments to Part V

6. Sections repealed

The following sections of Part V are repealed---

(a) section 122---Minimum length of notice to determine tenancy;

(b) section 124---Landlord may substitute notice;

(c) section 127---Saving of rights arising out of breach of tenancy.

7. Savings in respect of Part V

(1) Notwithstanding the repeal of section 122 of the principal Ordinance on the appointed day---

(a) a notice of termination served under section 122(1) of that Ordinance before that day shall have effect in relation to the tenancy to which it applies; and

(b) the definition of "notice of termination" in section 120A of that Ordinance shall continue to apply in relation to that tenancy.

(2) On and after the appointed day, a tenancy to which Part V applies and which is in existence on the day before the appointed day, but in respect of which no notice

of termination has been served before the appointed day under section 122(1) of the principal Ordinance---

(a) may be terminated in accordance with its terms or as otherwise agreed between the parties; or

(b) if it is a tenancy which was continued by virtue of section 122(4) of that Ordinance, may be terminated either as a month to month tenancy or as agreed between the parties.

(3) Proceedings relating to Part V which are pending in the Tribunal on the appointed day, and decisions of the Tribunal relating to that Part which have not been given effect to on that day, may respectively continue and be given effect to on and after the appointed day notwithstanding the repeal of certain provisions of that Part by section 6 of this Ordinance.

(4) Proceedings relating to provisions of Part V saved by this section may be commenced in the Tribunal on or after the appointed day.

PART 4

Consequential Amendments

Consequential amendments to principal Ordinance

8. Interpretation

Section 115(1) is amended---

(a) by repealing the definitions "current tenancy", "date of termination" and "prevailing market rent";

(b) in the definition of "tenancy"---

(i) in paragraph (a) by adding "and" at the end;

(ii) in paragraph (b) by repealing "and" at the end;

(iii) by repealing paragraph (c).

9. Application of this Part

Section 116 is amended---

(a) in subsection (1) by repealing "subsections (2) and (3)" and substituting "subsection (2)";

(b) in subsection (2)(d) by repealing "or an authority by the Commissioner under section 119H(2)(a)".

10. Proceedings

Section 119S is amended---

(a) in subsection (2) by repealing ", 117(1) or 119F(5)";

(b) in subsection (4) by repealing "Subject to section 119Q, any" and substituting "Any".

11. Exercise of powers of Commissioner

Section 119T(1B) is amended---

- (a) in paragraph (a) by adding "or" at the end;
- (b) in paragraph (b) by repealing "; or" and substituting a full stop;
- (c) by repealing paragraph (c).

12. Interpretation

Section 120A is amended by repealing the definition "notice of termination".

13. Application

Section 121(2) is amended---

- (a) in paragraph (h) by adding "and" at the end;
- (b) in paragraph (j) by repealing the semicolon at the end and substituting a full stop;
- (c) by repealing paragraphs (k) and (l).

14. Provisions transitional, etc. to the enactment of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002

Section 144 is amended by repealing subsections (6)(a) and (7)(a).

Consequential amendments to other enactments

15. Consequential amendments to other enactments

The enactments specified in the Schedule are amended as set out in that Schedule.

SCHEDULE [s. 15]

Consequential Amendments to Other Enactments

Lands Tribunal Ordinance

1. Jurisdiction of the Tribunal

Section 8 of the Lands Tribunal Ordinance (Cap. 17) is amended by adding---

"(10) The jurisdiction conferred by subsections (6), (7) and (8) in respect of tenancies to which Part IV or V of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) applies is subject to the repeal of certain provisions of those Parts by the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2003 (of 2003).".

2. Practice and procedure of Tribunal

Section 10(2) is amended---

- (a) in paragraph (c) by adding "and" at the end;
- (b) in paragraph (d)(iii) by repealing "; and" and substituting a full stop;
- (c) by repealing paragraph (e).

3. Review of decision

Section 11A(6) is amended by repealing ", or under section 119F(2),".

Lands Tribunal Rules

4. Forms

The Schedule to the Lands Tribunal Rules (Cap. 17 sub. leg. A) is amended in Form 7 by repealing "or requiring to occupy the premises (if notice of opposition under section 119E(1)(b) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7))".

Rating Ordinance

5. General powers of Commissioner

Section 5(1B) of the Rating Ordinance (Cap. 116) is amended---

- (a) in paragraph (a) by adding "or" at the end;
- (b) in paragraph (b) by repealing "; or" and substituting a full stop;
- (c) by repealing paragraph (c).

Government Rent (Assessment and Collection) Ordinance

6. General powers of Commissioner

Section 31(1B) of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) is amended---

- (a) in paragraph (a) by adding "or" at the end;
- (b) in paragraph (b) by repealing "; or" and substituting a full stop;
- (c) by repealing paragraph (c).

Electronic Transactions (Exclusion) Order

7. Provisions excluded from application
of section 5 of Ordinance

Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) is amended by repealing item 1.

Mass Transit Railway Ordinance

8. Interests in land

Section 47(a) of the Mass Transit Railway Ordinance (Cap. 556) is amended by repealing
", 119E(2) or 119H(1)(a)".

Hong Kong Red Cross Ordinance

9. Interests in land

Section 12C(a) of the Hong Kong Red Cross Ordinance (Cap. 1129) is amended by repealing ", 119E(2) or 119H(1)(a)".

Standard Chartered Asia Limited Ordinance

10. Vesting of interests in land

Section 12(a) of the Standard Chartered Asia Limited Ordinance (Cap. 1136) is repealed.

Lloyds Bank (Merger) Ordinance

11. Interests in land

Section 12(a) of the Lloyds Bank (Merger) Ordinance (Cap. 1137) is repealed.

Royal Bank of Scotland Ordinance

12. Transfer of interests in land and other property

Section 16(a) of the Royal Bank of Scotland Ordinance (Cap. 1138) is amended by repealing "or a purchase or creation of an interest in land for the purposes of section

119E(2) of that Ordinance".

Deutsche Bank (Merger) Ordinance

13. Interests in land

Section 12(a) of the Deutsche Bank (Merger) Ordinance (Cap. 1142) is repealed.

Rainier International Bank (Transfer of

Hong Kong Undertaking) Ordinance

14. Interests in land

Section 11(a) of the Rainier International Bank (Transfer of Hong Kong Undertaking) Ordinance (Cap. 1144) is repealed.

First Pacific Bank Limited Ordinance

15. Interests in land

Section 13(a) of the First Pacific Bank Limited Ordinance (Cap. 1146) is repealed.

Dao Heng Bank Limited Ordinance

16. Interests in land

Section 14(a) of the Dao Heng Bank Limited Ordinance (Cap. 1152) is amended by repealing ", 53(7)(a), 119E(2) or 119H(1)(a)" and substituting "or 53(7)(a)".

Middle East Finance International Limited

(Transfer of Undertaking) Ordinance

17. Interests in land

Section 14(a) of the Middle East Finance International Limited (Transfer of Undertaking) Ordinance (Cap. 1154) is amended by repealing ", 53(7)(a), 119E(2) or 119H(1)(a)" and substituting "or 53(7)(a)".

The Christian and Missionary Alliance (Transfer of Hong Kong Immovable Property) Ordinance

18. Interests in land

Section 8(a) of The Christian and Missionary Alliance (Transfer of Hong Kong Immovable Property) Ordinance (Cap. 1155) is amended by repealing "section 119E(2) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) or".

Bank of Tokyo-Mitsubishi Ordinance

19. Interests in land

Section 14(a) of the Bank of Tokyo-Mitsubishi Ordinance (Cap. 1160) is repealed.

The Bank of Tokyo-Mitsubishi (Merger of

Subsidiaries) Ordinance

20. Interests in land

Section 16(a) of The Bank of Tokyo-Mitsubishi (Merger of Subsidiaries) Ordinance (Cap. 1161) is amended by repealing ", 119E(2) or 119H(a)".

Hong Kong St. John Ambulance Incorporation Ordinance

21. Vesting of property

Section 6(4)(a) of the Hong Kong St. John Ambulance Incorporation Ordinance (Cap. 1164) is amended by repealing ", 119E(2) or 119H(1)(a)".

Bank of China (Hong Kong) Limited (Merger) Ordinance

22. Interests in land

Section 18(1)(a) of the Bank of China (Hong Kong) Limited (Merger) Ordinance (Cap. 1167) is amended by repealing ", 119E(2) or 119H(1)(a)".

The Bank of East Asia, Limited Ordinance

23. Interests in land

Section 15(1)(a) of The Bank of East Asia, Limited Ordinance (Cap. 1168) is amended by repealing ", 119E(2) or 119H(1)(a)".

Mizuho Corporate Bank, Ltd. (Hong Kong

Consolidation) Ordinance

24. Interests in land

Section 13(1)(a) of the Mizuho Corporate Bank, Ltd. (Hong Kong Consolidation) Ordinance (Cap. 1169) is amended by repealing ", 119E(2) or 119H(1)(a)".

The Bank of East Asia, Limited (Merger) Ordinance

25. Interests in land

Section 15(1)(a) of The Bank of East Asia, Limited (Merger) Ordinance (Cap. 1170) is amended by repealing ", 119E(2) or 119H(1)(a)".

CITIC Ka Wah Bank Limited (Merger) Ordinance

26. Interests in land

Section 16(1)(a) of the CITIC Ka Wah Bank Limited (Merger) Ordinance (Cap. 1171) is amended by repealing ", 119E(2) or 119H(1)(a)".

Dao Heng Bank Limited (Merger) Ordinance

27. Interests in land

Section 16(1)(a) of the Dao Heng Bank Limited (Merger) Ordinance (11 of 2003) is amended by repealing ", 119E(2) or 119H(1)(a)".

The Bank of East Asia, Limited (Merger

of Subsidiaries) Ordinance

28. Interests in land

Section 14(1)(a) of The Bank of East Asia, Limited (Merger of Subsidiaries) Ordinance (13 of 2003) is amended by repealing ", 119E(2) or 119H(1)(a)".

Explanatory Memorandum

Part IV of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ("LTO") provides security of tenure to most private domestic tenancies by entitling the tenant to apply for a new tenancy. Part V of the LTO imposes minimum notice requirements on the termination of non-domestic tenancies. The purpose of this Bill is to repeal the operative provisions of both Parts IV and V of the LTO in order to allow the rental

market in both domestic and non-domestic tenancies to operate as freely as possible. The Bill also makes consequential amendments to certain other Ordinances.

2. Part 1 provides a short title, and empowers the Secretary for Housing, Planning and Lands to appoint a day for the commencement of the Ordinance if enacted. That day is defined as the "appointed day" in clause 2, which also defines "principal Ordinance" and certain other terms used in the Bill.

3. Part 2 repeals the provisions of Part IV of the LTO which deal with security of tenure (clause 3), but with savings in respect of notices given or requests made before the appointed day, tenancies which continue after the appointed day, and decisions of the Lands Tribunal extant on the appointed day (clause 5).

4. Clause 4 amends section 119L of the LTO to simplify the procedure for giving notice to the Commissioner of Rating and Valuation.

5. Part 3 repeals the sections of Part V of the LTO which deal with notice of termination (clause 6), but with savings in respect of notices served before the appointed day, tenancies which continue after the appointed day, and decisions of the Lands Tribunal extant on the appointed day (clause 7).

6. Part 4 makes consequential amendments to the LTO (clauses 8 to 14) and to other Ordinances (clause 15 and the Schedule). An amendment to section 8 of the Lands Tribunal Ordinance (Cap. 17) provides that the jurisdiction of the Lands Tribunal in respect of Parts IV and V of the LTO will be subject to the repeals effected by the Bill when enacted.