

立法會
Legislative Council

LC Paper No. LS115/02-03

**Paper for the House Committee Meeting
on 13 June 2003**

**Legal Service Division Report on
Landlord and Tenant (Consolidation) (Amendment) Bill 2003**

I. SUMMARY

- 1. Objects of the Bill** To amend the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (the Ordinance) by removing provisions relating to the security of tenure of domestic premises under Part IV and abolishing the notice of termination requirement under Part V of the Ordinance and to make consequential amendments.
- 2. Comments** The Bill may first affect tenants under Part IV of the Ordinance whose tenancies would expire on or after the commencement of the enacted Bill and who have not requested for a new tenancy 3 months before or whose tenancies would expire 4 months after the commencement. The amendments to Part V of the Ordinance would immediately affect all tenants of commercial premises whose tenancies expire on or after the commencement date unless the landlord has already served the notice of termination. Without the buffer effect of the minimum notice, tenants of shop premises may succumb more easily to landlord's demands.
- 3. Public Consultation** A consultation paper on the legislative proposals was issued on 22 January 2003 to invite views from the public and relevant professional bodies and organizations.
- 4. Consultation with LegCo Panel** The Housing Panel was briefed on the proposals at its meeting on 14 February 2003 and the results of the consultation on 7 April 2003.
- 5. Conclusion** The Bill would affect all tenants in Hong Kong, inclusive of the occupants of bedspaces and cubicles. Members may wish to form a Bills Committee to study in detail the impact of the Bill.

II. REPORT

Objects of the Bill

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LegCo Brief Reference

2. HD(CR) 5/15/231 dated 27 May 2003 and issued by the Housing, Planning and Lands Bureau.

Date of First Reading

3. 11 June 2003.

Comments

4. The Bill would bring to an end the security of tenure for tenants of domestic premises under Part IV of the Ordinance for the first time in almost a quarter of a century. The right of a tenant to request for a new tenancy at market rent would become history. The landlord would be able to regain possession of the premises let at the expiration of the contractual term without the need to justify so doing before any courts or tribunals. However, the savings provisions would ensure that the enacted Bill would not affect notices served by landlords or requests made by tenants before its commencement. For these notices and requests and any proceedings commenced pursuant to any of them in or pending before the Lands Tribunal, the existing legislation would continue to have effect without the amendments made in the Bill.

5. Since Parts I and II of the Ordinance have expired at the end of 1998 and the effects of the transitional provisions are also spent, all existing tenancies of domestic premises are now under Part IV of the Ordinance. The amendments to Part IV proposed in the Bill would affect all domestic tenancies in Hong Kong. The combined effect of the savings provisions in the Bill in relation to Part IV and section 119A of the Ordinance would result in some tenants being the first to experience the consequences of the loss of security of tenure under Part IV of the Ordinance. They would be those whose tenancies would expire on or after the commencement of the enacted Bill and who have not requested for a new tenancy 3 months before, or whose tenancies would expire 4 months after the commencement.

6. The abolition of the notice of termination requirement under Part V of the Ordinance ends the provision that has affected commercial premises for over 30 years. Tenants of monthly tenancies and tenancies for fixed terms less than 3 years would lose the right to be served a notice of termination of not less than 6 months before their tenancies could be terminated. Without the buffer effect of the minimum notice of termination, tenants of shop premises may succumb more easily to the landlords' demands. The enacted Bill would not affect notices of termination served before the commencement or proceedings pending before the Lands Tribunal, in respect of which the existing Part V would continue to have effect without the amendments made by the Bill.

7. The Bill if enacted would commence on a date to be appointed by the Secretary for Housing, Planning and Lands by notice in the Gazette.

Public Consultation

8. A consultation paper on the proposals relaxing the security of tenure for domestic premises and abolishing the notice of termination requirement was issued on 22 January 2003 to invite views from the public and relevant professional bodies and organizations. The consultation period ended on 22 March 2003. According to the Administration, there was overwhelming support for the proposals. The Bar Association was the only professional body that questioned the logic of relaxing the security of tenure provisions.

Consultation with LegCo Panel

9. The Housing Panel was briefed on the proposals at its meeting on 14 February 2003 and the results of the consultation on 7 April 2003. At the meetings, some Members have expressed their concern about the impact of the Bill on the rental market and the effect on the needy.

Conclusion

10. The Bill would affect all tenants in Hong Kong, inclusive of the occupants of bedspaces and cubicles. Members may wish to form a Bills Committee to study the impact of the Bill. The Legal Service Division is seeking clarification from the Administration on some provisions of the Bill.

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