

立法會
Legislative Council

LC Paper No. LS18/02-03

**Paper for the House Committee Meeting
on 6 December 2002**

**Legal Service Division Report on
Housing (Amendment) Bill 2002**

I. SUMMARY

1. **Objects of the Bill**
 - (a) To enable a public officer who is a member of the Housing Authority to (as one of the classes of persons who may) be appointed by the Chief Executive ("CE") as Chairman of the Housing Authority ("HA"); and
 - (b) To transfer to CE the power of the Secretary for Housing, Planning and Lands ("SHPL") to appoint a panel for hearing tenancy appeals.
2. **Comments**
 - (a) The Report of the Committee on the Review of the Institutional Framework for Public Housing ("RIFPH") has recommended that the relevant Principal Official (i.e. SHPL) be appointed as Chairman of the HA. The proposed amendments in the Bill will enable this recommendation to be implemented (i.e. make SHPL, together with other public officer and non-public officer members of the HA, eligible for appointment to the chairmanship).
 - (b) Other amendments are made to ensure the independence of the appeal panel.
3. **Public Consultation** Public consultations were conducted prior to and after release of the RIFPH Report. The public was generally supportive of the RIFPH recommendations including that the relevant Principal Official (i.e. SHPL) should become Chairman of the HA.
4. **Consultation with LegCo Panel** The proposals in the Bill were discussed at the meeting of LegCo Panel on Housing on 4 November 2002. A member has indicated that he would move a Committee Stage amendment to the Bill to the effect that SHPL would be appointed as Chairman of the HA instead of only being made eligible for appointment.
5. **Conclusion** The drafting and legal aspects of the Bill present no problem. Subject to Members' views on the policy change proposed by the Bill to the appointment of the HA Chairmanship, Members may wish to consider whether the Bill is ready for resumption of second reading.

II. REPORT

Objects of the Bill

To amend the Housing Ordinance (Cap. 283) to:-

- (a) make a public officer who is a member of the Housing Authority also eligible for appointment by the Chief Executive ("CE") as Chairman of the Housing Authority ("HA"); and
- (b) transfer to CE the power of the Secretary for Housing, Planning and Lands ("SHPL") to appoint a panel for hearing tenancy appeals.

LegCo Brief Reference

2. HPLB/HB(CR)5/4/35 issued by the Housing Department, Housing, Planning and Lands Bureau and dated 20 November 2002.

Date of First Reading

3. 4 December 2002.

Comments

Chairmanship of the Housing Authority

4. The amendments proposed in the Bill are consequent upon the recommendations of the Report of the Committee on the Review of the Institutional Framework for Public Housing ("RIFPH") issued in June 2002. The RIFPH Report recommended that, amongst other things, the relevant Principal Official (i.e. SHPL) should be appointed as Chairman of the HA *ex officio* (Recommendation 2).

5. Section 3(2) of the Housing Ordinance provides that the HA shall consist of the following members:-

- (a) the Director of Housing;
- (b) such number of non-public officers as CE may appoint; and
- (c) such number of public officers, not exceeding 3, as CE may appoint.

6. Under section 3(3), CE shall appoint one of the persons appointed under section 3(2)(b), i.e. non-public officers, as HA Chairman.

7. In the RIFPH Report, it was considered that the statutory and advisory bodies relating to housing would respond to the Principal Officer concerned, that is, SHPL, and he would have full authority over and therefore be able to take responsibility for all aspects of the formulation and implementation of policy. For this reason, it was recommended that SHPL should be the Chairman of the HA (ref: para. 4.8 to 4.11).

8. The effect of the amendment proposed to section 3(3) of the principal Ordinance is that public officers appointed as members of the HA (who may include SHPL if so appointed) will be eligible for appointment as Chairman of the HA.

9. When the proposal was discussed at the meeting of LegCo Panel on Housing on 4 November 2002, a member held the view that SHPL should be appointed directly as Chairman by statute, instead of only being made eligible for appointment. The Administration, however, would like to have greater flexibility in the appointment of the Chairman of the HA.

Appeal Panel

10. Section 7A of the Housing Ordinance empowers SHPL to appoint an appeal panel to hear appeals against termination of public housing leases. In the event that SHPL is appointed as Chairman of the HA, there will be a potential conflict of interest if his power to appoint such a panel is retained. Section 7A is therefore amended in the Bill to transfer the power to appoint the panel from SHPL to CE.

Public consultation

11. According to the Administration, extensive public consultations were conducted prior to and after release of the RIFPH Report. The public was generally supportive of the RIFPH recommendations including that the relevant Principal Official to become Chairman of the HA. Some had suggested that a non-official member should be considered for appointment to the chairmanship after the HA becomes an advisory body (ref: LegCo Brief, para. 13).

Consultation with LegCo Panel

12. The proposals in the Bill were discussed at the meeting of LegCo Panel on Housing on 4 November 2002 and a member has expressed a view as referred to in paragraph 9 above.

Conclusion

13. The drafting and legal aspects of the Bill present no problem. Subject to Members' views on the policy change proposed by the Bill to the appointment of the HA Chairmanship, Members may wish to consider whether the Bill is ready for resumption of second reading.

Prepared by

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