

**LANDLORD AND TENANT (CONSOLIDATION)
(AMENDMENT) ORDINANCE 2002**

CONTENTS

Section	Page
1. Short title and commencement	A2119
2. Interpretation	A2119
3. Certificate as to rateable value	A2119
4. Time for making distress	A2121
5. Case of deserted premises, where no distress left	A2121
6. Fraudulent removal of property by tenant	A2121
7. Power to amend Schedules	A2121
8. Section added	
114A. Forms	A2121
9. Determining the nature of a tenancy	A2123
10. Application of this Part	A2123
11. Continuation of tenancies and grant of new tenancies	A2123
12. Termination of tenancy by the landlord	A2127
13. Tenant's request for a new tenancy	A2127
14. Section added	
119AA. Request to Commissioner for tenancy information	A2129
15. Renewal of tenancies by agreement	A2129
16. Order by Tribunal for grant of a new tenancy	A2131
17. Opposition by landlord to application for new tenancy	A2131
18. Additional provisions regarding opposition on ground of intention to rebuild	A2131
19. Section added	
119FB. Certificate stating rateable value and compensation payable under section 119F(4) in respect of premises	A2135
20. Penalties	A2137
21. Endorsement of tenancy agreement	A2139
22. Interim continuation of tenancies pending determination by Tribunal	A2139
23. Sub-tenancies	A2139
24. Proceedings	A2139
25. Exercise of powers of Commissioner	A2139
26. Section added	
119TA. Use of returned requisition as evidence	A2141
27. Section substituted	
119V. Harassment	A2143
28. Interpretation	A2145

LANDLORD AND TENANT (CONSOLIDATION)
(AMENDMENT) ORDINANCE

Ord. No. 32 of 2002 A2117

Section	Page
29. Application	A2145
30. Minimum length of notice to determine tenancy	A2145
31. Sections repealed	A2147
32. Tribunal may determine disputes	A2147
33. Interpretation	A2147
34. Certificate as to rateable value	A2147
35. Summoning of tenant of premises with a rateable value not exceeding \$100,000 unlawfully holding over	A2147
36. Issue of warrant for possession of premises	A2149
37. Recovery of land in case of illegal encroachment or inclosure with a rateable value not exceeding \$100,000	A2149
38. Section added 135A. Forms	A2149
39. Section added 144. Provisions transitional, etc. to the enactment of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 ...	A2149
40. Consequential and other amendments	A2151
Schedule Consequential and other amendments	A2153

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 32 OF 2002



TUNG Chee-hwa
Chief Executive
24 December 2002

An Ordinance to amend the Landlord and Tenant (Consolidation) Ordinance.

[27 December 2002]

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002.

(2) Subject to subsection (3), this Ordinance shall come into operation on the day it is published in the Gazette.

(3) Sections 3, 14, 19, 21, 34, and 39 (in so far as it relates to new section 144(1), (2) and (3) of the principal Ordinance as added by 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

Section 75 of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) is amended by adding—

““Commissioner” (署長) means the Commissioner of Rating and Valuation;”.

3. Certificate as to rateable value

Section 75A is amended—

(a) by renumbering it as section 75A(1);

(b) by adding—

“(2) A person may apply to the Commissioner for a certificate under subsection (1).

- (3) An application under subsection (2) shall—
 - (a) be made by sending a notice in the specified form to the Commissioner; and
 - (b) be accompanied by such fee as may be determined by the Financial Secretary by notice published in the Gazette.
- (4) The Commissioner shall comply with an application under subsection (2).”.

4. Time for making distress

Section 86 is amended by repealing “sunrise and before sunset” and substituting “9 a.m. and before 7 p.m.”.

5. Case of deserted premises, where no distress left

Section 101(1) is amended by repealing “\$30,000” and substituting “\$100,000”.

6. Fraudulent removal of property by tenant

Section 111 is amended by repealing “deemed to be”.

7. Power to amend Schedules

Section 114 is amended by repealing “Chief Executive” and substituting “Chief Justice”.

8. Section added

The following is added immediately after section 114—

“114A. Forms

(1) The Commissioner may specify the forms to be used under section 75A(3)(a).

(2) The Commissioner may publish in the Gazette any form specified by him under subsection (1).

(3) The Commissioner may in his discretion accept any notice or application served on him which is not in the specified form.”.

9. Determining the nature of a tenancy

Section 115A(5)(b) is amended by adding “by notice published in the Gazette” after “Secretary”.

10. Application of this Part

Section 116(4A) is amended—

- (a) by adding “in the specified form and” after “shall be”;
- (b) by adding “by notice published in the Gazette” after “Secretary”.

11. Continuation of tenancies and grant of new tenancies

Section 117 is amended by adding—

“(3) In the case of a tenancy entered into on or after the commencement of this subsection—

- (a) if the tenancy does not contain a covenant to pay the rent on the due date, then there shall be implied in the tenancy—
 - (i) a covenant to pay the rent on the due date; and
 - (ii) a condition for forfeiture if that implied covenant is broken by virtue of non-payment of the rent within 15 days of the due date;
- (b) if the tenancy—
 - (i) does contain a covenant to pay the rent on the due date; but
 - (ii) does not contain a condition for forfeiture if that covenant is broken by virtue of non-payment of the rent,then there shall be implied in the tenancy a condition for forfeiture if that covenant is broken by virtue of non-payment of the rent within 15 days of the due date;
- (c) if the tenancy does not contain a covenant substantially to the effect that the tenant not use, or suffer or permit the use of, the premises or any part thereof for an immoral or illegal purpose, then there shall be implied in the tenancy—
 - (i) a covenant that the tenant not use, or suffer or permit the use of, the premises or any part thereof for an immoral or illegal purpose; and
 - (ii) a condition for forfeiture if that implied covenant is broken;

- (d) if the tenancy—
 - (i) does contain a covenant substantially to the effect that the tenant not use, or suffer or permit the use of, the premises or any part thereof for an immoral or illegal purpose; but
 - (ii) does not contain a condition for forfeiture if that covenant is broken,
then there shall be implied in the tenancy a condition for forfeiture if that covenant is broken;
- (e) if the tenancy does not contain a covenant substantially to the effect that the tenant not cause unnecessary annoyance, inconvenience or disturbance to the landlord or to any other person, then there shall be implied in the tenancy—
 - (i) a covenant that the tenant not cause unnecessary annoyance, inconvenience or disturbance to the landlord or to any other person; and
 - (ii) a condition for forfeiture if that implied covenant is broken;
- (f) if the tenancy—
 - (i) does contain a covenant substantially to the effect that the tenant not cause unnecessary annoyance, inconvenience or disturbance to the landlord or to any other person; but
 - (ii) does not contain a condition for forfeiture if that covenant is broken,
then there shall be implied in the tenancy a condition for forfeiture if that covenant is broken;
- (g) if the tenancy does not contain a covenant substantially to the effect that the tenant not make any structural alteration to, or suffer or permit any structural alteration to, the premises without the prior written consent of the landlord, then there shall be implied in the tenancy—
 - (i) a covenant that the tenant not make any structural alteration to, or suffer or permit any structural alteration to, the premises without the prior written consent of the landlord; and
 - (ii) a condition for forfeiture if that implied covenant is broken; and
- (h) if the tenancy—
 - (i) does contain a covenant substantially to the effect that the tenant not make any structural alteration to, or suffer or permit any structural alteration to, the premises without the prior written consent of the landlord; but

(ii) does not contain a condition for forfeiture if that covenant is broken,

then there shall be implied in the tenancy a condition for forfeiture if that covenant is broken.

(4) For the avoidance of doubt, it is hereby declared that, for the purposes of subsection (3)(b)(ii), (d)(ii), (f)(ii) or (h)(ii), a tenancy mentioned in that subsection which contains a condition for forfeiture which may not be exercised solely on the ground mentioned in that subsection is, notwithstanding that, still a tenancy which contains a condition for forfeiture mentioned in that subsection.

(5) It is hereby declared that—

- (a) subsection (3)(a) and (b) shall have effect subject to section 58(4) and (10) of the Conveyancing and Property Ordinance (Cap. 219) (and notwithstanding subsection (14) of that section);
- (b) subsection (3)(c), (d), (e), (f), (g) and (h) shall have effect subject to section 58(1) to (13) of the Conveyancing and Property Ordinance (Cap. 219) (and notwithstanding subsection (14) of that section);
- (c) for the purposes of subsection (3)(e) and (f), the persistent delay of payment of rent is unnecessary annoyance, inconvenience or disturbance.”.

12. Termination of tenancy by the landlord

Section 119 is amended—

- (a) in subsection (2), by repealing “7 nor less than 6” and substituting “4 nor less than 3”;
- (b) in subsection (4), by repealing “2 months” and substituting “1 month”.

13. Tenant’s request for a new tenancy

Section 119A is amended—

- (a) in subsection (2), by repealing “7 nor less than 6” and substituting “4 nor less than 3”;
- (b) in subsection (6), by repealing “2 months” and substituting “1 month”.

14. Section added

The following is added—

**“119AA. Request to Commissioner for
tenancy information**

(1) Where—

- (a) a landlord has given notice under section 119 to terminate a tenancy; or
- (b) a tenant has made a request under section 119A for a new tenancy,

then, in either case, the landlord or tenant concerned may, upon payment of such fee as may be determined by the Financial Secretary by notice published in the Gazette, make an application in the specified form to the Commissioner to be supplied with tenancy information in relation to premises of the kind comprised in the tenancy.

(2) The Commissioner shall comply with an application made under subsection (1).

(3) In this section—

“tenancy information” (租賃資料), in relation to any premises, includes—

- (a) the address, age and size of;
- (b) the rent payable for; and
- (c) the terms (including commencement date) of any tenancy in respect of,

any other premises which are comparable, so far as is practicable, to the first-mentioned premises.”.

15. Renewal of tenancies by agreement

Section 119C(2) is repealed and the following substituted—

“(2) Where the landlord and tenant agree for the grant to the tenant of a future tenancy but are unable to agree—

- (a) only on the rent payable; or
- (b) on the terms of the future tenancy (which may include the rent payable),

then—

- (i) where paragraph (a) is applicable, the parties may refer the rent for determination by the Tribunal or by a valuation surveyor appointed by the Tribunal under section 119K and that section shall apply accordingly (except that the tenant may, within 1 month of the determination, serve a notice on the landlord declining to accept the future tenancy, in which case the current tenancy shall continue for such period, not exceeding 2 months from the date of delivery of the notice to the landlord, as the tenant shall state in the notice);

- (ii) where paragraph (b) is applicable, the parties may refer the terms for determination by the Tribunal which, in determining those terms, shall have regard to the terms of the current tenancy and to all relevant circumstances (except that the tenant may, within 1 month of the determination, serve a notice on the landlord declining to accept the future tenancy, in which case the current tenancy shall continue for such period, not exceeding 2 months from the date of delivery of the notice to the landlord, as the tenant shall state in the notice).”.

16. Order by Tribunal for grant of a new tenancy

Section 119D is amended—

- (a) in subsection (2), by repealing “Where” and substituting “Subject to subsection (4), where”;
- (b) in subsection (3)—
 - (i) in paragraph (a)—
 - (A) by repealing “No” and substituting “Subject to subsection (4), no”;
 - (B) in subparagraph (i), by repealing “2 months” and substituting “1 month”;
 - (C) by repealing subparagraph (ii);
 - (ii) by repealing paragraph (b);
- (c) by adding—
 - “(4) The Tribunal may for good cause entertain an application under section 117(1) notwithstanding that subsection (2) or (3) has not been complied with in respect of the application.”.

17. Opposition by landlord to application for new tenancy

Section 119E(1) is amended by repealing “such of the following grounds as may be” and substituting “any of the following grounds, whether or not they were”.

18. Additional provisions regarding opposition on ground of intention to rebuild

Section 119F is amended—

- (a) in subsection (1)(a), by repealing “住宅用的用地安排，或增加非住宅用的用地安排” and substituting “作住宅用途的地方，或增加作非住宅用途的地方”;
- (b) in subsection (2)(a), by adding “and other accommodation” after “dwellings” where it twice appears;
- (c) in subsection (4)—
 - (i) by repealing paragraph (b) and substituting—
 - “(b) Where any part of premises (including all the premises) is let or sublet, compensation payable under this subsection to the tenant or sub-tenant shall be calculated on the same basis as is specified in paragraph (a) as if any reference in that paragraph to “premises” were a reference to that part of the premises which—
 - (i) in the case of the tenant, is the subject of the tenancy and not the subject of the sub-tenancy;
 - (ii) in the case of the sub-tenant, is the subject of the sub-tenancy and not the subject of any other sub-tenancy.”;
 - (ii) in paragraph (c)—
 - (A) by repealing “premises or any part of premises is” and substituting “any part of premises (including all the premises) is let or”;
 - (B) by adding “tenant or” before “sub-tenant” where it twice appears;
 - (C) by adding “, and to specify what amount of the rateable value of the premises is attributable to that part,” before “and such”;
 - (iii) in paragraph (d)—
 - (A) in the definition of “rateable value”, by adding “(and without prejudice to the operation of paragraph (g))” after “means”;
 - (B) by adding—
 - ““premises” (處所) means the subject of a tenancy (but without prejudice to the operation of paragraph (b));”;
 - (iv) by adding—
 - “(g) Where—
 - (i) any part of premises (including all the premises) is let or sublet; or
 - (ii) a tenancy is of premises consisting of 2 or more dwellings,

then the rateable value or values, as the case requires, of the premises may be determined by the apportionment (where subparagraph (i) is applicable) or aggregation (where subparagraph (ii) is applicable) of the rateable value or values concerned, or any combination thereof.”;

(d) in subsection (5)—

(i) in paragraph (a), by repealing “用地安排” and substituting “建立的地方”;

(ii) by adding—

“(ba) In paragraph (b)(ii) (and without prejudice to the operation of paragraph (b)(i)), “premises” (處所) means the premises—

(i) the subject of successful opposition to the grant of a new tenancy on the ground mentioned in paragraph (c) of section 119E(1); and

(ii) in the state they were at the time of such opposition.”.

19. Section added

The following is added—

“119FB. Certificate stating rateable value and compensation payable under section 119F(4) in respect of premises

(1) A person may apply to the Commissioner for a certificate stating—

(a) the rateable value of any premises; and

(b) the compensation that would be payable under section 119F(4) if there were successful opposition to the grant of a new tenancy on the ground mentioned in paragraph (c) of section 119E(1).

(2) An application under subsection (1) shall—

(a) be made by sending a notice in the specified form to the Commissioner; and

(b) be accompanied by such fee as may be determined by the Financial Secretary by notice published in the Gazette.

(3) The Commissioner shall comply with an application under subsection (1).

(4) Where—

- (a) any part of premises (including all the premises) is let or sublet; or
- (b) a tenancy is of premises consisting of 2 or more dwellings, then the rateable value or values, as the case requires, of the premises may be determined by the apportionment (where paragraph (a) is applicable) or aggregation (where paragraph (b) is applicable) of the rateable value or values concerned, or any combination thereof.

(5) For the purposes of this section—

“dwelling” (住宅) has the same meaning it is assigned in section 119F(6);
“premises” (處所) has the same meaning it is assigned in section 119F(4)(d);

“rateable value” (應課差餉租值) means (and without prejudice to the operation of subsection (4))—

(a) in the case of premises being a tenement that was—

- (i) at the date of the opposition concerned under section 119E(1)(c) stated in the application under subsection (1) concerned;

- (ii) if no such date is so stated, at the date of the application under subsection (1) concerned,

included in the valuation list in force under section 14 of the Rating Ordinance (Cap. 116), the rateable value of those premises contained in that list on that date (disregarding any amendment or alteration to that list made after that date, even if retrospective);

- (b) in any other case, the rateable value or values, as the case requires, that would have been contained in that list on that date had the premises been included in that list, a certificate signed by the Commissioner as regards the premises for the purposes of this section being final and binding as to such value or values.”.

20. Penalties

Section 119H is amended—

- (a) in subsection (2)(a), by adding “by notice published in the Gazette” after “determine”;
- (b) by repealing subsection (7).

21. Endorsement of tenancy agreement

Section 119L(1A)(b) is amended by repealing “a fee of \$500” and substituting “such fee as may be determined by the Financial Secretary by notice published in the Gazette”.

22. Interim continuation of tenancies pending determination by Tribunal

Section 119N is amended by adding—

“(3) During the period from the date on which a tenancy referred to in subsection (1) would, but for that subsection as read with subsection (2), have come to an end until the termination of the tenancy at the expiration of the period of 3 months referred to in subsection (1), the tenant shall be liable to pay the rent—

(a) agreed between the landlord and tenant; or

(b) in default of such agreement, as determined by the Tribunal, or by a valuation surveyor appointed by the Tribunal, to be the prevailing market rent.

(4) Section 119K(2) and (3) shall, with all necessary modifications, apply to and in relation to subsection (3) as it applies to and in relation to section 119K(1).”.

23. Sub-tenancies

Section 119P(5)(b) and (6) is amended by adding “made” after “had been”.

24. Proceedings

Section 119S is amended—

(a) in subsection (2), by repealing “51(8)” and substituting “115A(10)”;

(b) by repealing subsection (3).

25. Exercise of powers of Commissioner

Section 119T is amended by adding—

“(1A) The Commissioner may disclose any information obtained under this Part to any specified person where in his opinion the disclosure will enable or assist the person to perform a function or exercise a power (including a right) imposed or conferred on the person by—

(a) this Ordinance;

- (b) the Rating Ordinance (Cap. 116); or
 - (c) the Government Rent (Assessment and Collection) Ordinance (Cap. 515).
- (1B) In subsection (1A), “specified person” (指明人士) means—
 - (a) the Tribunal or a court or magistrate;
 - (b) a public officer acting in his capacity as a public officer; or
 - (c) a landlord or tenant acting in his capacity as a landlord or tenant, as the case may be, under section 119AA.”.

26. Section added

The following is added—

“119TA. Use of returned requisition as evidence

(1) A returned requisition shall, in any proceedings before the Tribunal, a magistrate, the District Court or the Court of Appeal, be admissible as evidence of the facts stated in the returned requisition; and any document purporting to be a returned requisition shall in any such proceedings be presumed, unless the contrary is shown—

- (a) to be such a returned requisition;
- (b) to have been made by the person by whom it purports to have been made; and
- (c) if it purports to have been made by a person in a capacity specified in the returned requisition, to have been made by him in that capacity.

(2) In subsection (1), “returned requisition” (已交回的申報表) means either—

- (a) a notice under section 119L(1) lodged with the Commissioner; or
- (b) a requisition—
 - (i) served under section 119T(1)(a) on a person;
 - (ii) served under section 5(1)(a) of the Rating Ordinance (Cap. 116) on the owner or occupier of a tenement; or
 - (iii) served under section 31(1)(a) of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) on the lessee of an applicable lease or the owner or occupier of a tenement,and returned by him to the Commissioner containing or purporting to contain all or any of the particulars required to be given by him to the Commissioner.”.

27. Section substituted

Section 119V is repealed and the following substituted—

“119V. Harassment

(1) Any person who unlawfully deprives a tenant or sub-tenant of occupation of any premises commits an offence and is liable on conviction on indictment by the court—

- (a) on a first conviction, to a fine of \$500,000 and to imprisonment for 12 months;
- (b) on a second or subsequent conviction, to a fine of \$1,000,000 and to imprisonment for 3 years.

(2) Subject to subsection (3), any person who, in relation to any premises—

- (a) either—
 - (i) does any act calculated to interfere with the peace or comfort of the tenant or sub-tenant or members of his household; or
 - (ii) persistently withdraws or withholds services reasonably required for occupation of the premises as a dwelling; and
- (b) knows, or has reasonable cause to believe, that that conduct is likely to cause the tenant or sub-tenant—
 - (i) to give up occupation of the premises; or
 - (ii) to refrain from exercising any right or pursuing any remedy in respect of the premises,

commits an offence and is liable on conviction on indictment by the court—

- (i) on a first conviction, to a fine of \$500,000 and to imprisonment for 12 months;
- (ii) on a second or subsequent conviction, to a fine of \$1,000,000 and to imprisonment for 3 years.

(3) A person does not commit an offence under subsection (2) if he proves that he had reasonable grounds for doing the act, or withdrawing or withholding the services, concerned.

(4) Where a person is convicted of an offence under subsection (1) or (2), the court, in addition to passing sentence, may order the person convicted—

- (a) to pay to the tenant or sub-tenant such sum as it thinks fit by way of compensation for damage, loss or inconvenience suffered by the tenant or sub-tenant by reason of the conduct constituting the offence;

- (b) to forfeit to the Government a sum not exceeding the equivalent of the difference at the date of the contravention between the market value of the premises with vacant possession and the market value of the premises with the former tenant or sub-tenant in possession.

(5) In this section—
“premises” (處所) includes part of any premises.”.

28. Interpretation

Section 120A is amended by repealing the definitions of “business premises”, “current rent”, “domestic premises” and “prevailing market rent”.

29. Application

Section 121 is amended—

- (a) by repealing subsection (4) and substituting—

“(4) A dispute as to whether a tenancy is excluded under subsection (3) shall be determined by the Commissioner in a summary manner on application in writing to him and the Commissioner shall cause notice of the determination to be served on the person who made the application.”;

- (b) by adding—

“(6) Any person aggrieved by a determination under subsection (4) may, within 1 month of the service of the notice of the determination, appeal to the Tribunal against the determination and the Tribunal may make such order thereon as it thinks fit.”.

30. Minimum length of notice to determine tenancy

Section 122 is amended—

- (a) in subsections (2) and (3), by repealing “, subject to sections 124A to 124C,”;

- (b) by repealing subsection (4) and substituting—

“(4) When but for subsection (1) a tenancy would have terminated, the tenancy shall continue at the same rent until a notice of termination expires upon such of the covenants, conditions and other terms of the original tenancy as are appropriate to a month to month tenancy, together with, in the absence of any express covenant for the payment of rent

and condition of forfeiture, the covenant and condition implied in every tenancy by section 126.”.

31. Sections repealed

Sections 124A, 124B and 124C are repealed.

32. Tribunal may determine disputes

Section 127A(b) is repealed.

33. Interpretation

Section 128 is amended by adding—

““Commissioner” (署長) means the Commissioner of Rating and Valuation;”.

34. Certificate as to rateable value

Section 128A is amended—

(a) by renumbering it as section 128A(1);

(b) by adding—

“(2) A person may apply to the Commissioner for a certificate under subsection (1).

(3) An application under subsection (2) shall—

(a) be made by sending a notice in the specified form to the Commissioner; and

(b) be accompanied by such fee as may be determined by the Financial Secretary by notice published in the Gazette.

(4) The Commissioner shall comply with an application under subsection (2).”.

35. Summoning of tenant of premises with a rateable value not exceeding \$100,000 unlawfully holding over

Section 129 is amended by repealing “\$30,000” and substituting “\$100,000”.

36. Issue of warrant for possession of premises

Section 131 is amended, in the proviso, in paragraph (a), by repealing “5” and substituting “7”.

**37. Recovery of land in case of illegal
encroachment or inclosure with a
rateable value not exceeding
\$100,000**

Section 132 is amended by repealing “\$30,000” and substituting “\$100,000”.

38. Section added

The following is added—

“135A. Forms

(1) The Commissioner may specify the forms to be used under section 128A(3)(a).

(2) The Commissioner may publish in the Gazette any form specified by him under subsection (1).

(3) The Commissioner may in his discretion accept any notice or application served on him which is not in the specified form.”.

39. Section added

The following is added—

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

(1) A person may apply to the Commissioner for a certificate under section 50(10) or 53A(4)(d) as in force before the expiry of Part II.

(2) An application under subsection (1) shall—

(a) be made by sending a notice in the specified form to the Commissioner; and

(b) be accompanied by such fee as may be determined by the Financial Secretary by notice published in the Gazette.

(3) The Commissioner shall comply with an application under subsection (1).

(4) Section 119 shall apply to a notice given under that section before the commencement of section 12 of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002) as if that section 12 had never commenced.

(5) Section 119A shall apply to a request for a new tenancy in accordance with that section made before the commencement of section 13 of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002) as if that section 13 had never commenced.

(6) Section 119F(4)—

(a) as amended by the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002) shall apply in the case of a landlord who opposes, in accordance with rule 69 of the Lands Tribunal Rules (Cap. 17 sub. leg.), the grant of a new tenancy on or after the commencement of section 18(c) of that Ordinance;

(b) as in force before that commencement shall apply in the case of a landlord who so opposes the grant of a new tenancy before that commencement.

(7) Notwithstanding section 74B as in force before the expiry of Part II, section 119F(4)—

(a) as amended by the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002) shall apply in the case of a landlord who has applied, in accordance with rule 68 of the Lands Tribunal Rules (Cap. 17 sub. leg.), for an order for possession of premises on the ground specified in section 53(2)(c), as in force before that expiry, on or after the commencement of section 18(c) of that Ordinance;

(b) as in force before that commencement shall apply in the case of a landlord who so applies for an order for possession of premises on the ground specified in section 53(2)(c), as in force before that expiry, before that commencement.

(8) For the avoidance of doubt, it is hereby declared that, subject to the other provisions of this section, section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) applies to the expiry of any Part of this Ordinance (including the expiry of any provision or provisions of any such Part) as it applies to the repeal in whole or in part of any Ordinance.”.

40. Consequential and other amendments

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

SCHEDULE

[s. 40]

CONSEQUENTIAL AND OTHER AMENDMENTS

High Court Ordinance

1. Relief against forfeiture by action for non-payment of rent

Section 21F of the High Court Ordinance (Cap. 4) is amended—

- (a) in subsection (1), by repealing “This” and substituting “Subject to subsection (1A), this”;
- (b) by adding—

“(1A) Where during the term of a lease the application of this section has prevented a lessor from enforcing against a lessee a right mentioned in subsection (1), then during that term this section shall not be applicable again to prevent the lessor from exercising that right against the lessee unless the Court is satisfied that there is good cause why this section should apply in favour of the lessee.”;
- (c) in subsection (3), by repealing “4 weeks” and substituting “7 days”;
- (d) by adding—

“(3A) The Secretary for Housing, Planning and Lands may, by notice published in the Gazette, amend the number of days specified in subsection (3) by substituting another number therefor.”.

Lands Tribunal Ordinance

2. Jurisdiction of the Tribunal

Section 8 of the Lands Tribunal Ordinance (Cap. 17) is amended—

- (a) in subsection (7), by adding “(including surrender under the former section 52A, or under section 117, of that Ordinance)” after “surrender”;
- (b) in subsection (8)—
 - (i) by repealing “and for” and substituting “for”;
 - (ii) by adding “, and for the disposal of any property left in the premises concerned by the tenant or sub-tenant” after “sub-tenancy”.

3. Practice and procedure of Tribunal

Section 10(2) is amended—

- (a) in paragraph (c), by repealing “and” at the end;
- (b) in paragraph (d)—
 - (i) by repealing subparagraph (i) and substituting—

“(i) for the giving of any notice (and whether or not the notice relates to any proceedings);”;
 - (ii) in subparagraph (ii), by repealing “or”;
 - (iii) in subparagraph (iii), by repealing the full stop and substituting “; and”;
- (c) by adding—

“(e) for good cause, abridge any period specified in section 119(2), 119A(2) or 119D(3)(a)(i) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).”.

4. Review of decision

Section 11A is amended by adding—

“(5) The Tribunal shall not exercise its power of review in respect of a decision—

- (a) subject to subsection (6), if the decision has already been the subject of a review or the decision is a decision setting aside, reversing, varying or confirming under this section another decision of the Tribunal; or
- (b) subsequent to the commencement of proceedings by any party with a view to questioning the decision, by way of appeal or otherwise, unless such proceedings have been abandoned.

(6) Subsection (5)(a) shall not apply in the case of a decision of the Tribunal under the former section 4(7)(a) or 53A(2), or under section 119F(2), of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).”.

5. Costs

Section 12(1) is amended by repealing everything after “set out” and substituting—
“in the Schedules to Order 62 of—

- (a) the Rules of the High Court (Cap. 4 sub. leg.); or
- (b) the Rules of the District Court (Cap. 336 sub. leg.).”.

Lands Tribunal Rules

6. Orders in default

Rule 15(1), (2), (3) and (4) of the Lands Tribunal Rules (Cap. 17 sub. leg.) is repealed and the following substituted—

“(1) In the case of an application for an order for—

- (a) possession or for ejection; or
- (b) rent, mesne profits or any other liquidated demand,

where no notice of opposition has been filed by the respondent or any other respondents, if any, the applicant may—

- (i) apply for an order against the respondent in terms of the first-mentioned application and for costs; and
- (ii) proceed with the action against the other respondents, if any.

(2) An application for an order to be made in default of opposition pursuant to subrule (1) shall be—

- (a) made in writing to the Registrar; and
- (b) where the application relates to mesne profits (whether in whole or in part), accompanied by evidence proving the amount of those profits claimed.

(3) Upon an application under subrule (1) and upon assessing the evidence, if any, accompanying the application, the Registrar may, subject to subrule (4A), cause an order to be entered in favour of the applicant in terms of the application with costs, if any, by endorsing the originating application to that effect.

(4) Where there is more than one respondent, an order under this rule for possession shall not be enforced against any respondent unless and until an order or orders for possession has or have, as the case may be, been entered against all the respondents.

(4A) The Registrar may, where he thinks fit, refer any application under subrule (1) to the President or a presiding officer who may make such order thereon as the justice of the application may require.”.

7. Subheading amended

The subheading before rule 74 is amended by repealing “(Part II)” and substituting “(Parts II and V)”.

8. **Notice of appeal**

Rule 74 is amended by adding—

“(3A) Proceedings under section 121(6) of the Ordinance shall be commenced by the appellant filing with the Registrar a notice of appeal substantially in conformity with Form 36.”.

9. **Forms**

The Schedule is amended—

(a) by repealing Form 22 and substituting—

“FORM 22

[r. 68]

NOTICE OF APPLICATION UNDER LANDLORD AND
TENANT (CONSOLIDATION) ORDINANCE

Pursuant to section

No.LD.....

Applicant's Name:* (Landlord/Tenant/Sub-tenant)

and Address:

Respondent's Name:* (Landlord/Tenant/Sub-tenant)

and Address:

Address of premises:

User of premises:* (Residential/Business)

Duration of tenancy: From To Existing rent: \$ /month

Nature and particulars of application:

* Application for new tenancy. / *Application for determination of prevailing market rent.

* Application for recovery of possession of the suit premises and rent as the respondent has failed to pay rent from the day of and application for order for mesne profits, costs,*interest,*management fees,*rates/Government rent,*water/electricity/gas charges and*other utility charges.

* Application for disposal of properties left in the premises by the respondent.

Dated this day of

.....⁺
(Signature of *the authorized representative
of Applicant)

Full name of authorized
representative:

- To: 1. The Registrar, Lands Tribunal.
2. The Respondent.

Address for service of the applicant:

+ If the applicant is a company/incorporation, please affix the company seal and write down the full name of the signatory.

* Delete whichever is inapplicable.

Note: If the respondent intends to oppose this application, he must personally attend at the Lands Tribunal Registry within 14 days of the date of service of this notice, and file a notice of opposition (Form 7).";
(b) by adding—

“FORM 36

[r. 74(3A)]

NOTICE OF APPEAL TO LANDS TRIBUNAL AGAINST DETERMINATION
OF COMMISSIONER OF RATING AND VALUATION ON WHETHER A
TENANCY IS EXCLUDED FROM PART V OF THE LANDLORD
AND TENANT (CONSOLIDATION) ORDINANCE

Pursuant to section 121(6)

Name, address and status of appellant:

Name, address and status of respondent:

The appellant hereby appeals against the determination of the Commissioner of Rating and Valuation upon an application pursuant to section 121(4) to determine whether a tenancy is excluded from Part V under section 121(3). The tenancy concerned is in respect of the premises known as
(description of premises)

A copy of the notice issued by the Commissioner of Rating and Valuation setting out the determination appealed against is attached.

The grounds of appeal are: (here state briefly the grounds of appeal)

The appellant also applies for an order for costs.

Address for the service of the appellant:

Dated this day of

.....
(to be signed by or on behalf
of the Appellant)

- To: 1. The Registrar, Lands Tribunal.
2. The Respondent.
3. Commissioner of Rating and Valuation.
4. (Please add such other persons as may be required to be served)

Note: If you intend to oppose this appeal, you must personally attend at the Lands Tribunal Registry within 14 days of the day of service of this notice, and file a notice of opposition by means of Form 7.”.

Rating Ordinance

10. General powers of Commissioner

Section 5 of the Rating Ordinance (Cap. 116) is amended by adding—

“(1A) The Commissioner may disclose any information obtained under this Ordinance to any specified person where in his opinion the disclosure will enable or assist the person to perform a function or exercise a power (including a right) imposed or conferred on the person by—

- (a) this Ordinance;
 - (b) the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
 - (c) the Government Rent (Assessment and Collection) Ordinance (Cap. 515).
- (1B) In subsection (1A), “specified person” (指明人士) means—
- (a) the Lands Tribunal established under the Lands Tribunal Ordinance (Cap. 17) or a court or magistrate;
 - (b) a public officer acting in his capacity as a public officer; or
 - (c) a landlord or tenant acting in his capacity as a landlord or tenant, as the case may be, under section 119AA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).”.

11. Use of returned requisition as evidence

Section 6A(2) is repealed and the following substituted—

“(2) In subsection (1), “returned requisition” (已交回的申报表) means—

- (a) a requisition served under section 5(1)(a) on the owner or occupier of a tenement;
- (b) a notice lodged with the Commissioner under section 119L(1), or a requisition served on a person under section 119T(1)(a), of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (c) a requisition served under section 31(1)(a) of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) on the lessee of an applicable lease or the owner or occupier of a tenement,

and returned by him to the Commissioner containing or purporting to contain all or any of the particulars required to be given by him to the Commissioner.”.

District Court Ordinance

12. Relief against forfeiture by action for non-payment of rent

Section 69 of the District Court Ordinance (Cap. 336) is amended—

- (a) in subsection (1), by repealing “This” and substituting “Subject to subsection (1A), this”;
- (b) by adding—

“(1A) Where during the term of a lease the application of this section has prevented a lessor from enforcing against a lessee a right mentioned in subsection (1), then during that term this section shall not be applicable again to prevent the lessor from exercising that right against the lessee unless the Court is satisfied that there is good cause why this section should apply in favour of the lessee.”;
- (c) in subsection (3), by repealing “4 weeks” and substituting “7 days”;

(d) by adding—

“(3A) The Secretary for Housing, Planning and Lands may, by notice published in the Gazette, amend the number of days specified in subsection (3) by substituting another number therefor.”.

**Government Rent (Assessment and
Collection) Ordinance**

13. General powers of Commissioner

Section 31 of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) is amended by adding—

“(1A) The Commissioner may disclose any information obtained under this Ordinance to any specified person where in his opinion the disclosure will enable or assist the person to perform a function or exercise a power (including a right) imposed or conferred on the person by—

- (a) this Ordinance;
- (b) the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (c) the Rating Ordinance (Cap. 116).

(1B) In subsection (1A), “specified person” (指明人士) means—

- (a) the Lands Tribunal established under the Lands Tribunal Ordinance (Cap. 17) or a court or magistrate;
- (b) a public officer acting in his capacity as a public officer; or
- (c) a landlord or tenant acting in his capacity as a landlord or tenant, as the case may be, under section 119AA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).”.

**14. Use of returned requisition
as evidence**

Section 39 is amended—

- (a) by renumbering it as section 39(1);
- (b) by adding—

“(2) In subsection (1), “returned requisition” (已交回的申报表) includes, in addition to a returned requisition within the meaning of section 2—

- (a) a notice lodged with the Commissioner under section 119L(1), or a requisition served on a person under section 119T(1)(a), of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (b) a requisition served under section 5(1)(a) of the Rating Ordinance (Cap. 116) on the owner or occupier of a tenement,

and returned by him to the Commissioner containing or purporting to contain all or any of the particulars required to be given by him to the Commissioner.”.

**Hop Yat Church of The Church of Christ
in China Incorporation Ordinance**

15. Power of Corporation

Section 4(j) of the Hop Yat Church of The Church of Christ in China Incorporation Ordinance (Cap. 1027) is amended by repealing “apply for and obtain exclusion orders under Part I of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) and to agree and pay such compensation as the Tenancy Tribunal” and substituting “make applications and obtain orders under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) and to agree and pay such compensation as the Tribunal within the meaning of that Ordinance”.

**The Methodist Church, Hong Kong,
Incorporation Ordinance**

16. Powers of the Corporation

Section 4(*i*) of The Methodist Church, Hong Kong, Incorporation Ordinance (Cap. 1133) is amended by repealing “apply for and obtain exclusion orders under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), and to agree and pay such compensation as a tenancy tribunal” and substituting “make applications and obtain orders under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), and to agree and pay such compensation as the Tribunal within the meaning of that Ordinance”.