

**The Administration's Responses to Members' Requests
Raised at the Meeting of the Bills Committee on
Housing (Amendment) Bill 2007 on 4 May 2007**

COMMITTEE STAGE AMENDMENTS (CSAs)

————— Taking into account Members' views and comments made during
————— the clause-by-clause examination at the meeting on 4 May 2007, we intend to
propose a number of further amendments to the Bill. They are now set out in
the following sections. A set of CSAs including these further amendments and
those proposed at the meeting of 4 May 2007 is at **Appendix A**. A marked up
version of the Bill reflecting these CSAs is at **Appendix B**.

Clause 2 – Commencement

2. As indicated at the meeting on 4 May 2007, we intend to specify the commencement date in due course. Apart from clause 2, the proposed sections 16A(1)(a)(i), 16A(5)(a) and 16A(9) will also be revised consequentially.

Clause 4 - Proposed Section 16A(1)

3. The proposed section 16A(1) prescribes the frequency with which the HA shall conduct rent reviews. Since it is impracticable for the HA to conduct the review on the second anniversary of the commencement date due to the need to collect the necessary income data of the second period, we take on board some Members' suggestion to amend the section so that the first rent review shall be conducted as soon as practicable after the second anniversary of the commencement date. We also accept some Members' suggestion to re-arrange the section to enhance its clarity.

Clause 4 - Proposed Section 16A(3)

4. The proposed amendments aim to align the coverage of the exemption arrangement under the Bill with that provided for under the existing section 16(1C) of the Housing Ordinance (the Ordinance) (Cap. 283).

5. Some Members suggested specifying in law that the level of additional rent is linked to the rent of normal tenants. We do not intend to take on board this suggestion as the proposed 16A(3) is similar to and in line with the existing section 16(1C) of the Ordinance where there is no provision on the calculation of additional rent. The determination of additional rent has all along been clearly prescribed in the HA's Housing Subsidy Policy and Policy on Safeguarding Rational Allocation of Public Housing Resources.

Clause 4 - Proposed Sections 16A(4) and 16A(6)

6. Some Members suggested setting out the definition of insignificant amount of variation under the proposed section 16A(6) for the purpose of rent variation under the proposed section 16A(4). We will make the necessary amendments and will revert on the exact percentage later.

Clause 4 - Proposed Section 16A(8)

7. Some Members suggested specifying in the Bill that the HA should appoint either a tertiary institution or a public body to compute the income index. We take on board the suggestion and will amend the section accordingly.

Housing, Planning and Lands Bureau
May 2007

Appendix A

HOUSING (AMENDMENT) BILL 2007

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Housing, Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting everything after "on" and substituting "[<i>the commencement date</i>]".
4	(a) By deleting the proposed section 16A(1) and substituting - "(1) The Authority - (a) shall review the relevant rent -

(i) as soon as
practicable after
[date]¹; and

(ii) as soon as
practicable after
the second
anniversary of the
expiry date of the
second period for
the last review
under this
subsection; and

(b) is not required to review
the relevant rent other than
as provided by paragraph
(a)."

¹ The second anniversary of *the commencement date*.

(b) In the proposed section 16A(3)(a)(i) and (ii) and (b)(i) and (ii), by adding "or a combination of that income and that value," after "assets,".

(c) In the proposed section 16A(4), by deleting "subsections (5) and (6)" and substituting "subsection (5)".

(d) In the proposed section 16A(4)(a) and (b), by adding "by more than []%" after "first period".

(e) By deleting the proposed section 16A(5) and substituting -

"(5) The Authority shall not vary the relevant rent -

(a) on or before [*date*]²;

or

² The second anniversary of *the commencement date*.

(b) where the relevant rent
is varied under
subsection (4), before
the second anniversary
of the date of the last
variation.".

(f) By deleting the proposed section
16A(6).

(g) In the proposed section 16A(8)(a), by
deleting "determine that" and
substituting "compile".

(h) In the proposed section 16A(8)(a)(i)
and (ii), by deleting "is to be
compiled to reflect" and substituting
"that reflects".

(i) In the proposed section 16A(8)(a)(ii),
by adding "and" after the semicolon.

(j) By deleting the proposed section

16A(8)(b) and substituting -

"(b) shall, in relation to the
compilation of such an index,
appoint a tertiary institution in
Hong Kong, or a public body, to
compute the index in accordance
with a determination by the
Authority on how to compute the
index."

(k) By deleting the proposed section

16A(8)(c).

(l) In the proposed section 16A(9), by

deleting the definition of

"commencement date".

(m) In the proposed section 16A(9), by

deleting paragraph (a) of the

definition of "first period" and

substituting -

"(a) in relation to the first review of
the relevant rent after [date]³,
means a period of 12 months
expiring on [date]⁴;".

(n) In the proposed section 16A(9), in
paragraph (b)(ii) of the definition of
"first period", by deleting "the first
period for the first review of the
relevant rent after the commencement
date" and substituting "a period of 12
months expiring on [date]⁵".

(o) In the proposed section 16A(9), by
deleting the definition of "income
index" and substituting -

³ The second anniversary of *the commencement date*.

⁴ The date immediately before *the commencement date*.

⁵ The date immediately before *the commencement date*.

““income index” () means an index
compiled under subsection (8)(a)
and computed in accordance with
the determination referred to in
subsection (8)(b);”.

(p) In the proposed section 16A(9), by
deleting paragraph (a) of the
definition of “second period” and
substituting -

“(a) in relation to the first review of
the relevant rent after [date]⁶,
means a period of 12 months
expiring on [date]⁷;”.

⁶ The second anniversary of *the commencement date*.

⁷ The second anniversary of the expiry date of the first period for the review.

A BILL

To

Amend the Housing Ordinance to replace section 16(1A), (1B), (1C), (1D) and (1E) of the Ordinance with –

- (a) provisions relating to review of the rent of certain residential units;
- (b) provisions requiring the Housing Authority to vary the rent of those units with reference to the change in an index reflecting the level of household income of certain tenants of residential units;
- (c) provisions specifying when the Housing Authority shall not, or is not required to, make such a variation; and
- (d) provisions empowering the Housing Authority to round down the amount of the rent in such a variation and to make determinations in relation to the compilation of such an index.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Housing (Amendment) Ordinance 2007.

2. Commencement

This Ordinance shall come into operation on [the commencement date].~~a day to be appointed by the Secretary for Housing, Planning and Lands by notice published in the Gazette.~~

3. Leases of land in estates

Section 16(1A), (1B), (1C), (1D) and (1E) of the Housing Ordinance (Cap. 283) is repealed.

4. Section added

The following is added –

“16A. Variation of rent for residential estates

~~(1) — The Authority shall review the relevant rent as soon as practicable after the second anniversary of the commencement date, and as soon as practicable after the second anniversary of the date of the last review under this subsection, but not otherwise.~~

(1) The Authority –

(a) shall review the relevant rent –

(i) as soon as practicable after [date]¹; and

(ii) as soon as practicable after the second anniversary of the expiry date of the second period for the last review under this subsection; and

(b) is not required to review the relevant rent other than as provided by paragraph (a).

¹ The second anniversary of the commencement date.

(2) Despite section 16, the Authority shall not vary the relevant rent unless the variation is carried out under subsection (4).

(3) This section –

(a) does not apply to –

- (i) an adjustment in the rent of a residential tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is greater than a threshold established by the Authority for the purposes of an increase in the rent; and
- (ii) a re-adjustment in the rent of that tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is less than that threshold; and

(b) does not apply to –

- (i) an adjustment in the rent of a residential tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is less

than a threshold established by the Authority for the purposes of a reduction in the rent; and

- (ii) a re-adjustment in the rent of that tenant where the total household income or total value of the household assets, or a combination of that income and that value, as determined by the Authority, is greater than that threshold.

(4) Subject to ~~subsections (5) and (6)~~subsection (5), the Authority –

- (a) if satisfied on a review of the relevant rent that the income index for the second period is higher than the income index for the first period by more than []%, shall as soon as practicable after the review increase the relevant rent by the rate of the increase of the income index; and
- (b) if satisfied on a review of the relevant rent that the income index for the second period is lower than the income index for the first period by more than []%, shall as soon as practicable after the review reduce the relevant rent by the rate of the reduction of the income index.

~~(5) The Authority shall not vary the relevant rent –~~

~~(a) within 2 years after the commencement date; or~~

~~(b) — where the relevant rent is varied under subsection (4), within 2 years after the date of the last variation.~~

(5) The Authority shall not vary the relevant rent -

(a) on or before [date]²; or

(b) where the relevant rent is varied under subsection (4), before the second anniversary of the date of the last variation.

~~(6) — The Authority is not required to vary the relevant rent if, in the Authority's opinion, the amount of the variation required under subsection (4) is insignificant.~~

(7) In varying the relevant rent, the Authority may round down the amount of the relevant rent to the nearest dollar.

(8) For the purpose of a review of the relevant rent, the Authority –

(a) may ~~determine that compile~~ –

(i) an index ~~is to be compiled to reflect that~~ reflects the level of the mean monthly household income of any class of residential tenant over the first period; and

² The second anniversary of the commencement date.

(ii) an index ~~is to be compiled to reflect that~~ reflects the level of the adjusted mean monthly household income of that class of residential tenant over the second period; and

~~(b) may determine whether such an index is to be compiled by the Authority itself or by a tertiary institution in Hong Kong, or public body, appointed by the Authority for the purpose; and~~

(b) shall, in relation to the compilation of such an index, appoint a tertiary institution in Hong Kong, or a public body, to compute the index in accordance with a determination by the Authority on how to compute the index.

~~(c) may determine how such an index is to be compiled by the Authority or the appointed institution or body.~~

(9) In this section –

“adjusted mean monthly household income” (經調整後的家庭每月平均收入), in relation to any class of residential tenant identified for the purpose of a review of the relevant rent, means the mean monthly household income of that class of residential tenant

assessed on the basis of the distribution of the household size of that class of residential tenant over the first period for that review;

~~“commencement date” (生效日期) means the date on which the Housing (Amendment) Ordinance 2007 (— of 2007) comes into operation;~~

“first period” (第一期間) –

~~(a) — in relation to the first review of the relevant rent after the commencement date, means a period of 12 months expiring on the day immediately before the commencement date;~~

(a) in relation to the first review of the relevant rent after [date]³, means a period of 12 months expiring on [date]⁴;

(b) in relation to a subsequent review of the relevant rent, means –

(i) the second period for the last review of the relevant rent in consequence of which the relevant rent was varied; or

(ii) in the absence of a review in consequence of which the relevant rent was varied, ~~the first period for the first review of the relevant rent after the commencement~~

³ The second anniversary of the commencement date.

⁴ The date immediately before the commencement date.

~~date a period of 12 months expiring on
[date]⁵;~~

~~“income index” (收入指數) means the index referred to in subsection
(8)(a) and compiled in the manner determined under subsection
(8)(e);~~

“income index” (收入指數) means an index compiled under subsection
(8)(a) and computed in accordance with the determination referred
to in subsection (8)(b);

“land” (土地) does not include land in respect of which the Authority has
granted to a person a licence, or a permit, to occupy;

“relevant rent” (有關租金) means the rent subject to the payment of which
any land in an estate is let for residential purposes under section
16(1) but does not include the rent of a residential tenant who is
required to pay a higher rent after an adjustment under subsection
(3)(a)(i) or is permitted to pay a lower rent after an adjustment
under subsection (3)(b)(i);

“residential tenant” (住宅租戶) means a tenant of the land in an estate let
for residential purposes under section 16(1);

“second period” (第二期間) –

~~(a) — in relation to the first review of the relevant rent
after the commencement date, means a period of~~

⁵ The date immediately before the commencement date.

~~12 months expiring on the second anniversary of the expiry date of the first period for the review; or~~

- (a) in relation to the first review of the relevant rent after [date]⁶, means a period of 12 months expiring on [date]⁷;
- (b) in relation to a subsequent review of the relevant rent, means a period of 12 months expiring on the second anniversary of the expiry date of the second period for the last review.”.

Explanatory Memorandum

The object of this Bill is to amend the Housing Ordinance (Cap. 283)(“the principal Ordinance”). The main purpose is to replace section 16(1A), (1B), (1C), (1D) and (1E) of the principal Ordinance with provisions requiring the Housing Authority (“the Authority”) to vary the rent of certain residential units with reference to the change in an index reflecting the level of household income of certain tenants of residential units.

2. Clause 3 repeals section 16(1A), (1B), (1C), (1D) and (1E) of the principal Ordinance.

3. Clause 4 adds a new section 16A to the principal Ordinance. The new section 16A –

⁶ The second anniversary of the commencement date.

⁷ The second anniversary of the expiry date of the first period for the review.

- (a) relates to review of the rent of certain residential units;
- (b) requires the Authority to vary the rent of those units with reference to the change in an index reflecting the level of household income of certain tenants of residential units;
- (c) specifies when the Authority shall not, or is not required to, make such a variation; and
- (d) empowers the Authority to round down the amount of the rent in such a variation and to make determinations in relation to the compilation of such an index.