

**立法會**  
*Legislative Council*

LC Paper No. CB(1) 534/09-10(04)

Ref : CB1/PL/HG

**Panel on Housing**

**Meeting on 7 December 2009**

**Background brief on removal of security of tenure  
prepared by the Legislative Council Secretariat**

**Purpose**

This paper sets out the background on the removal of security of tenure, and gives a brief accounts of the views and concerns expressed by the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2003.

**Background**

2. The Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (the Ordinance) was enacted in 1973 to consolidate all previous legislation relating to landlord and tenant matters, protection and determination of tenancies as well as control and recovery of rent.

3. Security of tenure for domestic tenancies was introduced in 1981 when there was a serious shortfall of domestic accommodation leading to significant rental increases upon renewal of tenancies. Under the security of tenure provisions, if a tenant sought to renew the tenancy and was willing to pay the prevailing market rent, the landlord would have to agree to the tenancy renewal. Only on certain statutory grounds, such as default of rent payment by tenant or self-occupation or redevelopment of premises by landlord, could the landlord refuse to renew the tenancy. These restrictions aimed to protect tenants from eviction by unscrupulous landlords, and impose a right of renewal of tenancies at prevailing market rent. While security of tenure had helped protect the interest of tenants when their bargaining power were weak at the time when there was a serious shortfall of domestic accommodation, it also impeded the free operation of the private rental market and discouraged investors from renting out their properties.

4. In the light of the changed circumstances where there was ample supply of flats and rentals had dropped, the Administration introduced the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 in May 2003 to -

- (a) remove security of tenure provisions for domestic tenancies under Part IV of the Ordinance; and
- (b) remove the minimum notice requirement for terminating non-domestic tenancies under Part V of the Ordinance.

The Bill was passed in June 2004.

### **Major concerns raised by the Bills Committee**

5. In the course of deliberation, some members expressed concern that the removal of security of tenure might push up rents in the private market, thereby unduly affecting tenants, particularly those underprivileged groups such as elderly singletons, dwellers living in cubicles and bedspace apartments and those with chronic illness who might have difficulties in finding suitable alternative accommodation.

6. The Bills Committee noted that apart from security of tenure, payment of statutory compensation by landlords, including developers and the Urban Renewal Authority (URA), to tenants in acquisition of domestic properties for redevelopment would also be removed. Some members pointed out that the removal would not only run contrary to the legitimate expectation of tenants, particularly those of the remaining projects announced by the former Land Development Corporation (LDC) who had been waiting for redevelopment for so long, but was also at variance with the people-oriented approach advocated by URA. After repeated requests from members, the Administration had finally obtained the agreement of URA to adopt the existing compensation formula under the Ordinance on an ex gratia basis, and retain the minimum payments currently payable under URA policy. While welcoming the revised arrangement, members pointed out that this only dealt with the part on statutory compensation, and that the part on non-statutory compensation would have to be followed up by the relevant Panel with URA.

7. On the eligibility of evicted tenants for public rental housing (PRH), some members expressed concern that many evicted tenants, particularly those past beneficiaries of subsidized home ownership schemes (SHOS), would not be eligible for PRH given the stringent prevailing eligibility criteria for PRH. Tenants affected by URA redevelopment projects would also face the same problem. They considered that both Government and non-governmental organizations should assist those past SHOS beneficiaries who could not afford rented accommodation in the private sector.

## **Latest development**

8. A question on the compensation and rehousing for tenants affected by URA projects was raised at the Council meeting on 4 November 2009. The question and the Administration's response are hyperlinked below for ease of reference.

9. The Administration proposes to brief members on the review of the Landlord and Tenant (Consolidation) Ordinance at the meeting on 7 December 2009.

## **Relevant papers**

Report of the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2003 to the Council meeting on 30 June 2004

<http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0611cb1-2090e.pdf>

Question raised by Hon Albert HO at the Council meeting on 4 November 2009

[http://www.legco.gov.hk/yr09-10/english/counmtg/agenda/cm20091104.htm#q\\_11](http://www.legco.gov.hk/yr09-10/english/counmtg/agenda/cm20091104.htm#q_11)

Administration reply to question raised by Hon Albert HO at the Council meeting on 4 November 2009

<http://www.info.gov.hk/gia/general/200911/04/P200911040217.htm>

Council Business Division 1  
Legislative Council Secretariat  
1 December 2009