

## **Legislative Council Panel on Housing**

### **Tenancy Control**

#### **PURPOSE**

This paper sets out the research findings and observations of the Government on the issue of tenancy control.

#### **BACKGROUND**

2. There have been complaints about unreasonable rent increases and frequent evictions by landlords, particularly from tenants residing in sub-divided units (SDUs) and concern groups representing grassroots interests. Some have suggested the reintroduction of certain form of tenancy control with a view to safeguarding the interest of grassroots tenants.

3. During the public consultation on Long Term Housing Strategy (LTHS), there was considerable objection from respondents to the idea of a licensing or a landlord registration system to regulate SDUs. Their main concern was that such initiatives would reduce the supply of SDUs (as not all existing SDUs could meet the necessary licensing or registration requirements). There were also concerns that the landlords of licensed or registered SDUs would pass the costs of complying with the licensing or registration requirements onto the tenants. Either way the rents of SDUs would go up, thus causing financial hardship to the very group of people that the licensing or registration system sought to help. Separately, some urged the Government to introduce control measures on the rent and tenure of the SDUs in addressing the imminent needs of the grassroots tenants.

4. Tenancy control measures that have been suggested include –
- (a) limit the annual rent increase within a certain percentage;
  - (b) cap the rent payable at a “reasonable level”, say, at the market value of the premises concerned with reference to its rateable value;
  - (c) require the landlord to give “justifiable causes” to the tenant when he decides not to continue with a tenancy; and
  - (d) prescribe a minimum notice period (e.g. six months) if a landlord wishes to terminate a tenancy.

5. In response to those suggestions we have pointed out that tenancy control could have various consequences, some of which would aggravate the accommodation problem of grassroots tenants. We have said that in the light of the interest of some members of the public in tenancy control, we would present more information to enable a more informed discussion in the community. We have been collecting such information in the following areas –

- (a) the private residential rental market in Hong Kong;
- (b) the nature and possible consequences of tenancy control;
- (c) measures currently in place to assist grassroots tenants who are inadequately housed;
- (d) views from the public on tenancy control; and
- (e) implementational issues of tenancy control.

Our findings and observations are set out in the ensuing paragraphs.

## **THE PRIVATE RESIDENTIAL RENTAL MARKET IN HONG KONG**

### **Tenants and Landlords**

6. According to the General Household Survey of the Census and Statistics Department (C&SD), there were 327 000 sole tenant households in the first quarter of 2014, representing 25% of all households living in private permanent housing. While we are not aware of direct data on the profile of these landlords, our observation is that most of these rental units belong to individual property owners, not large commercial operations. There are no dominant players dictating the rental market. In short, the private residential rental market in Hong Kong is considered to be highly competitive.

7. As for tenants, profile is diverse and involves different population groups (e.g. expatriates, students, young professionals, and new immigrants) apart from local households. This is consistent with the status of Hong Kong as a cosmopolitan city. Any control measures on the rental market could affect the accessibility of rented accommodation for different population groups and the investment return or value of properties in the hands of home owners.

### **Housing supply**

8. According to the Rating and Valuation Department (RVD), the average annual net completions (i.e. completions net of demolitions) of private residential units were around 8 000 units during the period from 2009 to 2013, which was lower than the long-term average of 23 200 units during the period from 1989 to 2008.

9. Nonetheless, the housing demand-supply situation in Hong Kong is improving. According to the RVD's forecast, some 17 600 and 12 700 private domestic units will be completed in 2014 and 2015 respectively, representing a considerable increase from 10 100 in 2012 and 8 300 in 2013. It is further estimated that about 72 000 private residential units will be available in the next three to four years. In the long term, we have accepted the recommendation of the LTHS Steering Committee to increase housing supply. The target is to provide a total of 470 000 units in the coming ten years, with public housing accounting for 60%. In respect of private housing, we are working on supplying land that would enable the production of 188 000 private residential units in 10 years in order to increase supply in the market.

## **Recent trends of the property market and the general economic outlook**

10. One reason contributing to the surge in rent and price level of private residential units in the past few years has been the abundant liquidity and ultra-low interest rate, which is a result of the unprecedentedly accommodative monetary policies adopted by many major advanced economies after the Global Financial Tsunami in 2008. In particular, the Federal Reserve of the United States has kept its Federal Funds Target Rate close to zero and undertaken three rounds of quantitative easing since late 2008. This has not only driven down interest rates in Hong Kong and caused huge capital inflows, but has also significantly lifted sentiment in the local property market. Coupled with the tight demand-supply balance, Hong Kong has experienced an almost uninterrupted rise in prices and rents - the overall residential rentals in May 2014 had soared by about 67% as compared to the trough in 2008-09, and flat prices by a more rampant 135% for the same period. The relative movement of property prices and interest rate is at **Annex A**.

11. Nonetheless, the Federal Reserve of the United States has started to reduce its monthly asset purchases since early 2014. While the actual pace to withdraw the ultra-loose monetary policy in the United States remains uncertain, the market would switch its focus back to economic and property market fundamentals as the interest rate up-cycle draws closer.

12. In the midst of market expectation of an increase in future flat supply and an eventual interest rate hike, coupled with the Government's various rounds of demand-side management measures, the overall property market has cooled off in the past one year or so, though showing signs of stabilising in the past couple of months. As at May 2014, the overall rent level has declined by 0.8% as compared to the peak in November 2013. As for flats with saleable area not larger than 40 square metre (commonly known as Class A units), rentals only edged up by 0.5% during the first five months of 2014 as compared to the increase of 5.5% during 2013 and 13.4% during 2012. The rental trend in recent years provided by the RVD is at **Annex B**. Coupled with an improving demand-supply situation, it is believed that the bargaining position of tenants will also improve accordingly.

## THE FORMS AND INTENDED EFFECTS OF TENANCY CONTROL

13. As can be seen from the summaries of overseas experience at **Annex C** and the history of tenancy control in Hong Kong at **Annex D**, tenancy control has many different forms and possible consequences.

### Forms of tenancy control

14. In its simplest form, tenancy control may take the form of rent control or tenure control (the latter more commonly referred to as security of tenure). For rent control, while the actual schemes vary from one economy to another, they can be broadly classified into two main types, namely, control over the absolute level of rent, and control over the rate of increase in rent (rent increase control).

15. As for security of tenure, it restricts a landlord from evicting a tenant save under prescribed circumstances, including non-payment of rent by tenants, tenant's breach of lease terms, landlord's repossession for self-use, etc. The secured length of tenancy varies across different economies.<sup>1</sup> Security of tenure is often a prerequisite for rent increase control. This is because without tenure control landlords can circumvent rent control by evicting existing tenants and entering into new leases with new tenants paying higher rent.

### The intended effects of tenancy control

16. Tenancy control adopted in overseas economies are often used to achieve the following policy objectives –

- (a) ***To address the imbalance of information and bargaining power between landlords and tenants*** – there are views that since housing is valuable and unique in terms of their location and quality, landlords may often demand a higher rent by taking advantage of the tenant's pressing need for accommodation. Some consider that in the midst of a tight housing supply, the negotiation position of tenants vis-à-vis that of the landlords would be even worse. Under such situation, tenancy control is necessary to forbid a landlord to charge excessive rent or evict a tenant without justifiable reasons;

<sup>1</sup> The period of secured tenure may vary from several months (e.g. "assured shorthold tenancy" in the United Kingdom) to an indefinite period (e.g. Germany).

- (b) ***To preserve the social linkages among tenants by reducing eviction*** – there are views that the Government should implement measures that prevent frequent move of tenants or their being evicted by landlords in order to maintain a sustainable community network, which is integral to social cohesion;<sup>2</sup>
- (c) ***To stabilise the property market and relieve the inflationary pressure*** - some researches have suggested that tenancy control may suppress the rent level of the controlled units.<sup>3</sup> There are also views suggesting that with a reduced rental return, the property prices would also go down,<sup>4</sup> making the private residential units more affordable to the general public; and
- (d) ***To ensure the provision of affordable housing*** – having regard to the fact that private residential rental units are among the various means to satisfy general households’ housing needs,<sup>5</sup> there are views urging the Government to ensure the affordability of the rented accommodation in the private residential market by imposing control in rent level.<sup>6</sup>

## **POSSIBLE CONSEQUENCES OF TENANCY CONTROL**

17. On the other hand, empirical studies and evidence suggest that tenancy control measures often lead to unintended consequences, including consequences contrary to the original purpose.

<sup>2</sup> Reynolds, L. (2005). Safe and Secure? The Private Rented Sector and Security of Tenure: Shelter.

<sup>3</sup> Fallis, G. and Smith, L.B. (1984), *Uncontrolled Prices in a Controlled Market: The Case of Rent Controls*, the American Economic Review 74(1), 193-200.

<sup>4</sup> Hirsch, W.Z. (1988), *Rent Control and the Value of Rental Income Property*, UCLA Department of Economics Working Paper #475

<sup>5</sup> For example, a British research in 2011 suggests that the private residential rental market plays “a disproportionately important role in accommodating households living in poverty”, as 25% of those living in poverty are tenants.

Source: Kemp, P.A., (2011), *Low-income Tenants in Private Rental Housing Market*, Housing Studies, 26(7-8), 1019-1034.

<sup>6</sup> De Santos, R. (2012). A better deal – Towards more stable private renting: Shelter.

## On the supply of rented accommodation and future housing supply

18. Tenancy control, in particular rent control, may reduce the supply of rented accommodation. An artificially suppressed rent may reduce the incentive and willingness of the landlords to lease out their premises. Some may leave their flats vacant, or convert them into other uses (e.g. second homes). A study conducted in Cambridge, Massachusetts, the United States reveals that during the implementation of tenancy control, about 10% of the rent-controlled housing stock had been converted into non-rentable condominiums, and as a result, the proportion of tenant-occupied private units shrank from 75% in 1970 to 66% in 1980.<sup>7</sup> Another research in 2007 on the removal of tenancy control in Boston, Massachusetts suggests that with the removal, the probability for a residential unit to be turned into a rental unit was increased by 6 percentage points.<sup>8</sup> On the demand side, suppressed rent under tenancy control increases the demand for rented accommodation. With an increase in demand and a reduction in supply of rented accommodation, it will become more difficult for prospective tenants to find rental units that best meet their means and needs.

19. There are also views that, the short-term impact apart, the diminished attractiveness of residential properties as a means of long-term investment may result in less housing units being built, leading to a further drop in the supply of rented accommodation in the long run. A study in 2003 on the impact of tenancy control in the United States suggests that the stricter the tenancy control regime, the slower the development process.<sup>9</sup> In addressing this issue, the previous tenancy control regimes in Hong Kong had, like some other overseas economies, excluded new developments from tenancy control. However, we note that some studies suggest that developers would remain cautious in building new flats even if the tenancy control regime did not apply to new constructions, as there remained worries about a possible expansion of the coverage of tenancy control.<sup>10</sup>

<sup>7</sup> Navarro, P. (1985). *Rent control in Cambridge, Mass.* The Public Interest, 78(4), 83–100.

<sup>8</sup> Sims, D.P. (2007), *Out of Control: What Can We Learn from the End of Massachusetts Rent Control?* Journal of Urban Economics 61(1), 129-151

<sup>9</sup> McFarlane, A. (2003), *Rent Stabilization and the Long-Run Supply of Housing*, Regional Science and Urban Economics 33(3), 305-333

<sup>10</sup> Downs, A. (1988). *Background theory and empirical findings.* In *Residential Rent Controls - An Evaluation* (9–28). Urban Land Institute

## On access to adequate housing by the socially disadvantaged

20. If tenancy control is imposed only on a particular market sector (often the lower-end sector), there may be inadvertent spillover effects on the uncontrolled sector. For example, as some tenants may not be able to rent flats in the controlled sector, they are forced to seek accommodation in the uncontrolled sector, hence pushing up the rent level of the latter. An empirical research on the tenancy control mechanism in Los Angeles, United States suggests that tenancy control had contributed to a higher rate of increase in rents in the uncontrolled sector in the 1970s.<sup>11</sup> Another research suggests that the tenancy control measures had raised the rents in the uncontrolled sector by 13% in the metropolitan statistical areas of the United States during the period from 1984 to 1996.<sup>12</sup>

21. The experience of New York, San Francisco, and Sweden suggest that tenancy control has failed to address the housing needs of the grassroots with precision, as the control measures are often targeted at specific classes of premises instead of particular groups of households. For instance, the Swedish government recognises, in its 2012 report on Sweden's property market, that with the implementation of tenancy control, a prospective tenant could only secure a tenancy if he had acquired insider information<sup>13</sup> (which would not be easily accessible by the socially disadvantaged). A study conducted in 2000 reveals that one-fourth of households in rent-controlled apartments in San Francisco, United States earned more than US \$100,000 a year.<sup>14</sup> This observation is consistent with another research in 2007, which suggests that in Boston, Massachusetts, United States, only 26% of rent controlled premises were occupied by tenants in the bottom quartile of the household income distribution when tenancy control was implemented in the region, whereas 30% of the controlled units were occupied by tenants in the top half of the distribution for the same period.<sup>15</sup> An OECD research into the tenancy control systems of its member countries (the 2011 OECD research) also points out that landlords may initially set higher rents in order to compensate for the erosion of real rents suffered during occupancy, which

<sup>11</sup> Fallis, G. and Smith, L.B. (1984), *Uncontrolled Prices in a Controlled Market: The Case of Rent Controls*, the American Economic Review 74(1), 193-200.

<sup>12</sup> Early, D. W., & Phelps, J. T. (1999). *Rent Regulations' Pricing Effect in the Uncontrolled Sector: An Empirical Investigation*. Journal of Housing Research, 10(2), 267-285

<sup>13</sup> Statens Offentliga Utredningar (2012), *Att hyra, från en rätt för allt färre till en möjlighet för allt fler*

<sup>14</sup> James, S. (2012, February 17). How the Rich Get Richer, Rental Edition. Bay Area edition of the New York Times..

<sup>15</sup> Sims, D.P. (2007), *Out of Control: What Can We Learn from the End of Massachusetts Rent Control?* Journal of Urban Economics 61(1), 129-151.



may create and exacerbate the gap between sitting tenants and new tenants in terms of their rental expenditure and access to housing.<sup>16</sup>

22. Some research findings suggest that if tenancy control is implemented, the cases of homelessness will reduce, as it will be more difficult for a landlord to evict his tenant even if the latter is unable to pay the rent.<sup>17</sup> On the other hand, under tenancy control, it will be more difficult for a landlord to terminate a tenancy. Some landlords may become more selective about his tenant. As a result, those with unstable financial means (e.g. daily-waged workers), ethnic minorities, persons with disabilities, and other socially disadvantaged groups may find it even more difficult to find rental accommodation.

### **On landlord-and-tenant behavior**

23. Tenancy control may encourage the following behaviours from landlords who seek to minimise/mitigate the impact of the control measures –

- (a) in the case of rent increase control, a landlord may attempt to charge a higher initial rent in order to make up for the decreased rental income in future. An empirical research suggests that the rent control mechanism in New York City led to higher rents in the controlled sector as compared with the uncontrolled sector for the first six years after the implementation of such control<sup>18</sup>. In fact, the 2011 OECD research reveals that there is no clear evidence showing a lower average rental in countries with stricter tenancy control measures;<sup>19</sup>
- (b) while a landlord is obliged to return the deposit money, interest-free, to a tenant at the end of the tenancy, he may ask for more deposit money with a view to making use of the increased liquidity during the tenure for other investments with a view to making up for the loss arising from tenancy control;

<sup>16</sup> Andrews, D., A. Caldera Sánchez and Å. Johansson (2011), *Housing Markets and Structural Policies in OECD Countries*, OECD Economics Department Working Papers, No. 836, OECD Publishing.

<sup>17</sup> Early, D.W. and E.O. Olsen (1998), *Rent Control and Homelessness*, *Regional Science and Urban Economics*, 28(6), 679-710.

Grimes, P.W. and Chressanthis G.A. (1997), *Assessing the Effect of Rent Control on Homelessness*, *Journal of Urban Economics* 41(1), 23-37.

<sup>18</sup> Nagy, J. (1997). *Do Vacancy Decontrol Provisions Undo Rent Control?* *Journal of Urban Economics*, 42(1), 64–78

<sup>19</sup> Andrews, D., A. Caldera Sánchez and Å. Johansson (2011), *Housing Markets and Structural Policies in OECD Countries*, OECD Economics Department Working Papers, No. 836, OECD Publishing.

- (c) a landlord may demand different kinds of side payments (e.g. “shoe money”) from his tenant. This was observed in the postwar period when tenancy control was in place in Hong Kong;<sup>20</sup>
- (d) a landlord may overcharge his tenant on certain payments which are directly associated with the lease (such as management fees, gas charges, water charges, air conditioning fee, electricity fee etc.); and
- (e) a landlord may alter the lease terms to the effect that it can no longer be classified as a lease in law, so that the premises concerned does not have to be subjected to any form of tenancy control.

There are other examples of ways landlords react to tenancy control.

24. Some jurisdictions try to counter such landlord behaviours by legislation. Some economies use an array of initiatives (e.g. tax breaks or direct subsidies etc.) to offset the landlords’ loss. Take Germany as an example, the government provides for regressive depreciation allowances in the calculation of the income and corporate taxes for any new-built rented premises. Also, a landlord may take into account their rental loss in association with tenancy control when calculating their tax liabilities.<sup>21</sup> Furthermore, the German government provides subsidies for the landlords to install energy saving equipment in their premises, or to provide affordable rental housing for specific groups of households for a fixed period of time, after which the landlords may lease out the premises in the private market.

25. On the other hand, tenancy control measures may inhibit a landlord to repossess his premises even if the landlord-tenant relationship has been rendered unsustainable owing to faults on the tenant’s part. There are views that tenancy control would encourage the emergence of “rogue tenants”, who may make use of the relevant judicial procedures to take advantage of the landlord (e.g. habitual late payment of rent etc.).

<sup>20</sup> Cheung, S. N. S. (1975). *Roofs or stars : the stated intents and actual effects of a rents ordinance*, Economic Inquiry, Vol. 13, Issue 1, 1-21.

<sup>21</sup> Scanlon, K. (2011), *Private renting in other countries*, Towards a sustainable private rented sector –The lessons from other countries, LSE London, 19.

## On property maintenance

26. Tenancy control tends to discourage the proper maintenance of rented flats. A 2007 research suggests that such a problem persists regardless of whether the absolute rent level or its rate of increase is being controlled.<sup>22</sup> The main reason is that as landlords will not receive any additional rental income for their investment in repair and maintenance, tenancy control may induce landlords to leave their premises to deteriorate, causing a drop in the overall housing quality. While there are also views that security of tenure will incentivise sitting tenants to repair and maintain the premises on their own,<sup>23</sup> quite a number of studies suggest that tenancy control will give rise to the under-maintenance of premises.<sup>24</sup>

27. Some tenancy control regimes, such as those in Germany and Los Angeles, United States, allow further increase in rent to compensate for the landlords' expenditure on repair or renovation. While theoretically this could help mitigate the negative effect on housing maintenance,<sup>25</sup> empirical evidences suggest that these provisions, which are often cumbersome and costly to implement, are not able to fully address the problem. For instance, based on the experience of eight metropolitan statistical areas in the United States (half of which have tenancy control), a study finds that the quality of flats (measured by a basket of indicators including leaky roof, cracks/holes in the premises, peeling paint/broken plaster) in the controlled market was still considerably lower than that in the uncontrolled market, on average by 7.1% in 1974 and by 13.5% in 1977.<sup>26</sup> Another research in Manhattan, New York City finds that rent-controlled units had a higher probability of being "unsound" (measured by various indicators including rotted/loose window frames or broken/missing interior stair risers) as compared with the uncontrolled units.<sup>27</sup> A study in 2003 on the tenancy control system in Cambridge, Massachusetts also shows that the removal of

<sup>22</sup> Arnott, R. and E. Shevyakhova (2007), *Tenancy Rent Control and Credible Commitment in Maintenance*, Boston College of Economics, Boston College Working Papers in Economics.

<sup>23</sup> Olsen, E.O. (1988), *What Do Economists Know about the Effect of Rent Control on Housing Maintenance?* Journal of Real Estate Finance and Economics 1(3), 295-307.

<sup>24</sup> Ho, L.S. (1992). *Rent Control: Its Rationale and Effects*. Urban Studies, 29(7), 1183-1190.

Turner, B. & S. Malpezzi. (2003). *A Review of Empirical Evidence on the Costs and Benefits of Rent Control*. Swedish Economic Policy Review, 10(1), 11-56.

<sup>25</sup> Kutty, N.D. (1996), *The Impact of Rent Control on Housing Maintenance: A Dynamic Analysis Incorporating European and North American Rent Regulations*, Housing Studies 11(1), 69-89.

<sup>26</sup> Mengle, D. L. (1985). *The Effect of Second Generation Rent Controls on the Quality of Rental Housing* (No. 85-5). Federal Reserve Bank of Richmond, Working Paper.

<sup>27</sup> Gyourko, J., & Linneman, P. (1990). *Rent Controls and Rental Housing Quality: A Note on the Effects of New York City's Old Controls*. Journal of Urban Economics, 27, 398-409.

tenancy control in the area led to an about 20% increase in maintenance investment in formerly rent-controlled buildings.<sup>28</sup>

### **On tenant mobility**

28. Under tenancy control existing tenants may be discouraged from vacating the premises even if it is in their interest to do so. As a result, tenancy control may lead to inefficient allocation of resources, as tenants may not move out from the flats even when such units have become less suitable for them over time. Apart from an increase in commute time,<sup>29</sup> which adds pressure to the existing transportation system, the lower turnover of rental units will also reduce the choices of rented accommodation for prospective tenants, possibly leading to a higher time cost of finding suitable flats for them. As a consequence, new tenants, particularly new immigrants, would be denied access to housing in certain areas, often areas in close proximity to the city centre. There are also concerns that under tenancy control, some degree of segregation of population into groups/ strata would take place in the medium-to-long run.<sup>30</sup> The 2011 OECD Research finds a reduction in mobility caused by tenancy control due to a decrease in the supply of rented accommodation and the locking-in of tenants.<sup>31</sup> Some other empirical studies also support the OECD's finding.<sup>32</sup>

29. On the other hand, there are views that a reasonable level of security of tenure is an integral part of "the right to adequate housing"<sup>33</sup>, and that a reduced tenant mobility as a result of tenancy control could be beneficial to society in general. First, this would help preserve a close community network, which is particularly important to the socially disadvantaged who are more in need of such community support. A lower mobility for this group of population would also enable the Government to provide the necessary services to them with precision and continuity. Secondly, with a lower mobility, the home search and removal cost for a sitting tenant would

<sup>28</sup> Pollakowski, H. O. (2003). *Rent Control and Housing Investment: Evidence from Deregulation in Cambridge, Massachusetts*. Civic Report, 36.

<sup>29</sup> Krol, R., & Svorny, S. (2005). *The effect of rent control on commute times*. *Journal of Urban Economics*, 58(3), 421–436

<sup>30</sup> Glaeser, E.L., (2002), *Does Rent Control Reduce Segregation?*, Harvard Institute of Economic Research Discussion Paper No.1985. Cambridge, M.A., Harvard University.

<sup>31</sup> Andrews, D., A. Caldera Sánchez and Å. Johansson (2011), *Housing Markets and Structural Policies in OECD Countries*, OECD Economics Department Working Papers, No. 836, OECD Publishing.

<sup>32</sup> Munch, J. R., & Svarer, M. (2002). *Rent control and tenancy duration*. *Journal of Urban Economic*, 52(3), 542-56

<sup>33</sup> UN Committee on Economic, Social and Cultural Rights (1991), *General Comment No. 4: The Right to Adequate Housing* (Art. 11 (1) of the International Covenant on Economic, Social and Cultural Rights)

reduce, whereas the time and effort of a landlord to identify a new tenant and refurbish the premises for re-letting could also be saved.<sup>34</sup>

## **PUBLIC VIEWS**

30. The LTHS Steering Committee noted that there was strong support for implementing tenancy control amongst concern groups for the grassroots and SDU tenants. On the other hand, views from the general public are mixed and highly contentious. While some support the revival of tenancy control to address the plight of the grassroots tenants, others (such as individual landlords, some members from the academia particularly economists) cast doubts on the effectiveness of tenancy control in offering the desired protection to tenants. Noting the controversies involved, many express reservations about re-introducing tenancy control without detailed study and community consensus. A list of views gathered from the press reports on tenancy control is summarised at **Annex E**.

31. Apart from diverse public views on the issue of tenancy control, the Government is also aware of the sensitivity of the residential property market towards the Government's position on tenancy control. It is therefore necessary to be prudent in considering the subject matter in order to avoid creating unintended consequences to the residential property market.

## **MEASURES TO ASSIST GRASSROOTS TENANTS**

32. We agree with the LTHS Steering Committee that the root of the problem is the gap between demand and supply of housing. We also agree that the fundamental solution to the problem is to increase supply of both private and public housing. Our plan to increase the supply of PRH units is particularly relevant, given that about half of SDUs tenants have applied for PRH.

33. Separately, for many grassroots tenants, poverty is at the root of the problem. To this end, the Government has adopted a multi-pronged approach in providing appropriate assistance to low-income families living in

<sup>34</sup> Haffner, M., Elsinga, M., & Hoekstra, J. (2008). *Rent regulation: the balance between private landlords and tenants in six European countries*. *European Journal of Housing Policy*, 8(2), 217-233.

private residential units, particularly from the social welfare and housing perspectives, with a view to promoting upward social mobility and alleviating poverty. Details of the ongoing initiatives by the Government and the Community Care Fund are summarised at **Annex F**.

## **WAY FORWARD**

34. As explained above, tenancy control is highly controversial and affects the well-being of society as a whole. Empirical findings, local and overseas, have also suggested an array of unintended effects that the implementation of tenancy control may bring about.

35. Having regard to the latest trend of the private residential rental market, future housing supply, the economic outlook of Hong Kong, local and overseas experience in tenancy control, possible consequences of tenancy control, and the highly diverse views of different stakeholders in society, we consider it would not be in the overall public interest to rush into any tenancy control measures. We will continue to monitor developments in the residential rental market and listen to public views on the matter.

**Transport and Housing Bureau**  
**June 2014**

**Chart : Residential property prices and mortgage rate**



Sources: RVD, estimates by the Economic Analysis and Business Facilitation Unit.

**Movement of the Private Domestic Rental Indices  
for the period from January 2008 to May 2014<sup>1</sup>**

**2008 年 1 月至 2014 年 5 月  
私人住宅租金指數的變動<sup>1</sup>**

**(1999 = 100)**

Year / Month 年份 / 月份	Class A Units <sup>2</sup> A 類單位 <sup>2</sup>	Class B Units <sup>3</sup> B 類單位 <sup>3</sup>	Class C Units <sup>4</sup> C 類單位 <sup>4</sup>	Class D Units <sup>5</sup> D 類單位 <sup>5</sup>	Class E Units <sup>6</sup> E 類單位 <sup>6</sup>	All Classes of Units 所有單位
2008 1	110.2	109.3	115.8	126.5	134.4	112.6
2	112.4	111.9	118.6	132.1	137.1	115.3
3	115.7	114.9	121.5	135.0	139.9	118.3
4	115.1	114.9	121.3	134.1	142.5	118.1
5	118.6	117.2	123.2	138.2	145.7	120.9
6	117.9	117.8	127.3	138.7	149.2	121.5
7	118.2	117.4	126.0	144.9	149.4	121.7
8	117.6	117.2	126.8	137.9	148.5	121.1
9	115.5	114.1	123.8	139.8	147.6	118.8
10	113.1	109.7	119.7	133.4	142.1	114.9
11	105.4	101.8	108.9	125.7	138.1	106.8
12	99.2	93.6	97.7	114.1	119.1	98.2
2009 1	98.3	90.3	94.2	106.0	115.9	95.4
2	97.4	89.5	91.7	104.7	113.6	94.2
3	96.4	88.9	91.8	101.0	109.8	93.2
4	96.5	90.9	92.0	99.7	104.8	93.9
5	99.0	92.9	92.0	99.9	106.3	95.7
6	100.9	96.1	95.7	101.2	113.5	98.6
7	101.4	96.6	97.5	103.5	114.2	99.4
8	102.0	101.0	101.4	105.4	113.9	102.2
9	105.1	104.9	102.0	108.8	116.8	105.4
10	106.5	105.8	104.5	111.5	117.6	106.7
11	109.6	108.5	106.6	113.6	122.9	109.6
12	111.0	108.6	107.7	112.6	121.2	110.1
2010 1	111.5	108.1	110.8	116.2	121.6	110.6
2	112.3	109.0	111.9	117.0	122.4	111.5
3	114.1	112.8	112.1	117.9	122.8	113.9
4	116.0	114.2	115.0	121.7	127.2	115.9
5	119.0	116.6	116.0	122.9	129.3	118.2
6	119.8	118.0	117.0	124.2	131.3	119.3
2010 7	120.7	118.6	117.8	124.4	131.6	120.0



Year / Month 年份 / 月份	Class A Units <sup>2</sup> A 類單位 <sup>2</sup>	Class B Units <sup>3</sup> B 類單位 <sup>3</sup>	Class C Units <sup>4</sup> C 類單位 <sup>4</sup>	Class D Units <sup>5</sup> D 類單位 <sup>5</sup>	Class E Units <sup>6</sup> E 類單位 <sup>6</sup>	All Classes of Units 所有單位	
	8	123.0	120.3	118.6	127.4	132.2	121.9
	9	125.2	121.9	120.6	129.0	133.7	123.7
	10	128.1	123.9	122.1	130.1	137.0	126.0
	11	129.3	126.1	122.1	130.0	140.5	127.5
	12	129.5	126.1	121.7	128.2	141.1	127.4
2011	1	128.7	124.7	121.2	130.3	138.5	126.4
	2	128.7	126.6	123.2	131.9	137.8	127.6
	3	131.9	128.3	125.1	133.7	141.1	129.9
	4	133.5	130.2	125.4	134.4	145.3	131.5
	5	136.1	131.5	126.4	138.8	143.1	133.3
	6	138.5	135.2	131.3	139.1	148.4	136.6
	7	141.2	134.7	131.3	138.6	150.0	137.3
	8	141.2	135.0	131.2	138.3	150.6	137.5
	9	141.5	134.5	130.9	137.6	150.0	137.3
	10	142.4	134.8	130.3	136.2	150.7	137.6
	11	141.1	134.6	130.3	136.6	146.3	136.9
	12	139.9	133.6	128.9	135.4	145.3	135.8
2012	1	138.2	130.3	125.8	131.6	145.8	133.2
	2	138.6	130.6	124.6	134.2	145.3	133.4
	3	140.4	131.3	124.6	133.3	146.5	134.3
	4	144.1	134.0	128.5	134.1	147.2	137.3
	5	147.2	135.6	130.5	135.6	147.5	139.4
	6	150.4	139.8	131.0	136.8	148.0	142.4
	7	152.3	143.3	132.8	137.4	147.9	144.8
	8	154.0	145.1	134.2	140.2	147.9	146.4
	9	155.3	146.1	135.3	141.5	149.2 <sup>7</sup>	147.5
	10	157.3	148.6	137.8	142.7	149.8 <sup>7</sup>	149.6
	11	159.2	150.5	139.1	143.7	150.8	151.3
	12	158.7	150.3	139.7	143.5	150.7	151.1
2013	1	158.2	149.8	139.5	142.7	148.4	150.5
	2	160.9	151.9	140.6	142.6 <sup>7</sup>	146.2 <sup>7</sup>	152.4
	3	160.7	151.6	140.2	141.2	145.6	152.1
	4	161.6	152.8	140.7	141.8	143.1 <sup>7</sup>	153.2
	5	162.0	152.7	140.5	141.8	141.0	153.4
	6	162.6	153.0	141.2	141.8	141.7 <sup>7</sup>	154.0
	7	164.2	154.5	141.0	142.1	142.4	155.2
	8	165.2	155.2	141.2	142.6	143.5	155.9
	9	165.9	155.7	141.4	141.9	143.7	156.3
	10	167.0	156.4	141.9	142.0	143.7	157.0
	11	167.9	156.4	142.1	141.7	143.3	157.2
	12	167.5	155.1	141.2	141.7	142.9	156.3
2014	1	<sup>8</sup> 167.4	154.1	139.7	141.6	141.8	155.5
	2	<sup>8</sup> 166.8	154.0	139.4	140.6	141.0	155.0
2014	3	<sup>8</sup> 167.0	154.1	139.9	140.1	141.5	155.1

Year / Month 年份 / 月份	Class A Units <sup>2</sup> A 類單位 <sup>2</sup>	Class B Units <sup>3</sup> B 類單位 <sup>3</sup>	Class C Units <sup>4</sup> C 類單位 <sup>4</sup>	Class D Units <sup>5</sup> D 類單位 <sup>5</sup>	Class E Units <sup>6</sup> E 類單位 <sup>6</sup>	All Classes of Units 所有單位
4 <sup>8</sup>	167.7	154.5	140.7	140.6	140.3	155.6
5 <sup>8</sup>	168.4	155.0	141.2	140.7	140.5	156.0

## Note:

1. The rental index as at 1999 is 100
2. Class A units include units with a saleable area less than 40 square metre
3. Class B units include units with a saleable area of 40 to 69.9 square metre
4. Class C units include units with a saleable area of 70 to 99.9 square metre
5. Class D units include units with a saleable area of 100 to 159.9 square metre
6. Class E units include units with a saleable area of 160 square metre or above
7. Indicates fewer than 20 transactions
8. Provisional figures

## 註：

1. 1999 年的租金指數為 100
2. A 類單位包括實用面積少於 40 平方米的單位
3. B 類單位包括實用面積為 40 至 69.9 平方米的單位
4. C 類單位包括實用面積為 70 至 99.9 平方米的單位
5. D 類單位包括實用面積為 100 至 159.9 平方米的單位
6. E 類單位包括實用面積為 160 平方米以上的單位
7. 表示少於 20 宗交易
8. 臨時數字

## Overseas Tenancy Control Systems

**(A) United States**

- By way of background, there were two periods during which tenancy control had been implemented nation-wide in the United States (US) –
  - the first period was during the First and Second World War and immediately thereafter, when tenancy control was implemented to alleviate the negative impact on tenants arising from an imbalance between housing supply and demand caused by a wartime emergency;<sup>1</sup>
  - the second period was during the early 1970s, when tenancy control was implemented by the Nixon Administration as one of the measures under the then Economic Stabilization Programme with a view to combatting inflation.<sup>2</sup>

At present, the US Federal Government considers that tenancy control is a state matter where no federal policy should be imposed.

- To date, only three (California, New Jersey, and New York) out of 50 states in the US (as well as Washington DC) impose different degrees of tenancy control, whereas the state law of some states (e.g. Texas, Florida and Illinois) prohibit the imposition of tenancy control.

Overseas Economy	Rent Control			Security of tenure			Commentaries	Other features of the private rental sector	
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage			Content
1 San Francisco, USA	Y	Rent Increase Control	Private domestic premises completed before June 1979 not converted to condominiums.	<p><u>Basic increase</u></p> <ul style="list-style-type: none"> <li>• Annual increase to be limited to 7% of the prevailing rent or 60% of the increase in Consumer Price Index (CPI) rate, whichever is the lesser.</li> </ul> <p><u>Capital improvement cost</u></p> <ul style="list-style-type: none"> <li>• Permissible on appeal to the Rent Board with documentary proof.</li> <li>• For buildings with one to five units, landlords may reimburse full cost of improvement with monthly installment from tenants capped at 5% of the prevailing rent.</li> <li>• Generally speaking, for buildings with more than six units, the landlord may only reimburse 50% of the certified cost, with monthly installment from the tenant capped at 10% of the prevailing rent.</li> </ul> <p><u>Increased operating and maintenance cost</u></p> <ul style="list-style-type: none"> <li>• Permissible on appeal to the Rent Board with documentary proof that the overall operating and maintenance cost increase exceeds the allowed increase.</li> <li>• The permitted reimbursement should not cause the overall rent to be increased by more than 7%.</li> </ul>	Y	All domestic premises subject to rent control.	<ul style="list-style-type: none"> <li>• Landlord may only evict a tenant through court under certain “just” grounds including –                             <ul style="list-style-type: none"> <li>- the tenant’s failure to pay rent on time;</li> <li>- the tenant’s violation of lease terms;</li> <li>- the tenant’s causation of nuisance / damage to the premises;</li> <li>- the tenant uses the premises for illicit purposes;</li> <li>- the tenant refuses access for essential repair;</li> <li>- the landlord or a close relative of the landlord (if the landlord lives in the building) wants to move in;</li> <li>- the landlord seeks to carry out substantial refurbishment for the unit;</li> <li>- the landlord seeks to withdraw from putting the premises to rental use under the Ellis Act; and</li> <li>- the landlord seeks to recover possession in good faith in order to demolish or redevelop according to government’s plan.</li> </ul> </li> <li>• Tenants are entitled to compensation if evicted under causes not out of their fault.</li> <li>• On notice of eviction, the notice period is</li> </ul>	<ul style="list-style-type: none"> <li>• The tenancy control mechanism in San Francisco has frequently been criticized for being rigid and for reducing housing supply in San Francisco by discouraging landlords to rent out their premises.<sup>3</sup></li> <li>• Some considered that the rigid tenancy control regime in San Francisco has caused more illegal evictions in San Francisco and conversion of condominiums under the Ellis Act, discouraged proper maintenance of premises in San Francisco and reduced the mobility of tenants<sup>4</sup>.</li> <li>• A study conducted in 2000 revealed that one-fourth of households in rent-controlled apartments earned more than US \$100,000 a year in San Francisco.<sup>5</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Landlords of any domestic premises (i.e. even if it is not subject to tenancy control) must serve a 60-day notice to the tenant if he/she intends to increase rent by more than 10%. For increases less than 10%, a 30-day notice should be served.</li> </ul>

<sup>1</sup> US Department of Housing and Urban Development (1990), *Report to Congress on Rent Control*, p.3  
<sup>2</sup> US Department of Housing and Urban Development (1990), *Report to Congress on Rent Control*, p.3.  
<sup>3</sup> Calvey, M. (2013, June 11). San Francisco rent control as viewed from New York. San Francisco Business Times.  
<sup>4</sup> Few benefit from S.F.’s blind faith in Rent Control (2013, May 10). San Francisco Business Times.  
<sup>5</sup> James, S. (2012, February 17). How the Rich Get Richer, Rental Edition. Bay Area edition of the New York Times.

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
							three days for rent in arrears and any other “curable” breaches (for instance causing nuisance to neighbours), and 60 days under other circumstances (such as for the owner’s self-occupation).		
2 Los Angeles, USA	Y	Rent Increase Control	Private residential properties with a Certificate of Occupancy issued on or before 1 October 1978 within the City of Los Angeles with two or more units on the lot. Luxury premises <sup>6</sup> are excluded from rent control.	<p><u>Basic increase</u></p> <ul style="list-style-type: none"> <li>Annual increase to be capped at the average increase of the CPI for the 12-month period ending 30 September each year, with a further one percentage point increase in rent if the landlord provides gas and electricity to the tenant.</li> </ul> <p><u>Capital improvement cost</u></p> <ul style="list-style-type: none"> <li>Permissible on application to the Rent Stabilisation Division of Los Angeles.</li> <li>The landlord may reimburse 50% of the improvement cost within 60 months from the tenant by installments if the improvement is for the benefit of the tenants and has a service life of more than five years.</li> </ul> <p><u>Justifiable return for landlords</u></p> <ul style="list-style-type: none"> <li>On application to the Rent Adjustment Commission, the administrator of the tenancy control scheme in Los Angeles, with proof.</li> <li>The threshold of application is whether a tenancy has yielded reasonable return by comparing the net operating income from the prevailing rent and the net operating income as at 1977 adjusted by an inflation factor.</li> <li>The eligible items have been stipulated by law (for example building services expenses, water and sewer expenses, maintenance and repair costs, insurance and real estate taxes etc.). Mortgage payments, depreciation expenses and interest expenses are not considered part of Operating Expenses.</li> <li>The Commission’s decision is appealable before a dedicated appeal board, whose decision will be final.</li> </ul>	Y	All domestic premises subject to rent control.	<ul style="list-style-type: none"> <li>Landlord may only evict a tenant through the court under the following “just” grounds <ul style="list-style-type: none"> <li>the tenant’s failure to pay rent;</li> <li>the tenant’s violation of lease terms;</li> <li>the tenant’s causation of nuisance / damage to the premises;</li> <li>the tenant uses the premises for illicit purposes;</li> <li>the tenant refuses to renew the tenancy agreement in writing;</li> <li>the tenant refuses access for essential repair;</li> <li>the landlord repossesses the premises for his personal / family use;</li> <li>the tenant sublets the premises without consent of the landlord;</li> <li>the landlord seeks to carry out substantial renovation works;</li> <li>the landlord seeks to demolish the building concerned;</li> <li>the landlord seeks to withdraw from putting the premises for from rental use under the Ellis Act; and</li> <li>the landlord seeks to recover possession pursuant to Government directives.</li> </ul> </li> <li>The compensation and notice requirement in Los Angeles is similar to that in San Francisco.</li> </ul>	<ul style="list-style-type: none"> <li>According to a review by the Los Angeles Housing Department,<sup>7</sup> while the tenancy control regime in Los Angeles can protect those at the lower end of the income distribution against rapid rent increases and arbitrary eviction, the acute shortage of affordable housing remains unresolved.</li> <li>The same review also comments that the existing regime has allowed minimal rental savings for short-term tenants, and placed administrative burdens on owners.</li> </ul>	<ul style="list-style-type: none"> <li>All tenancies are required to be registered with the local authority.</li> </ul>

<sup>6</sup> According to the Los Angeles Municipal Code, a unit is a luxury housing accommodation only if the landlord can establish that the monthly rent charged for the unit on or before 31 May 1978 was at least:

- i. USD 302 for a unit with no bedrooms;
- ii. USD 420 for a unit with one bedroom;
- iii. USD 588 for a unit with two bedrooms;
- iv. USD 756 for a unit with three bedrooms; or
- v. USD 823 for a unit with four or more bedrooms.

<sup>7</sup> Flaming, D. *et al.* (2013). *Economic Study of the Rent Stabilization Ordinance and the Los Angeles Housing Market*. City of Los Angeles Housing Department.

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
3 New York City, USA	Y	Both	<p><u>Rent Increase Control</u> Continuing tenancies on residential premises completed before 1974 with rent lower than USD 2,500</p> <p><u>Rent Freeze</u> Continuing domestic tenancies created before 1 July 1971</p>	<p><u>Rent Increase Control</u> (also known as rent stabilisation)</p> <ul style="list-style-type: none"> <li>The local Rent Guidelines Board will prescribe an annual rent increase rate for stabilised premises.</li> <li>Rent increase is allowed during the term of a lease as far as the intention is clearly stated in the lease agreement.</li> </ul> <p><u>Rent Freeze</u></p> <ul style="list-style-type: none"> <li>A maximum base rent (MBR) will be set for every controlled unit by the Division of Housing and Community Renewal of the State of New York (DHCR).</li> <li>The MBR will be reviewed biennially to reflect the change in operating costs.</li> <li>Generally speaking, landlords are only allowed to increase rent by up to 7.5% annually until the rent reaches the MBR.</li> <li>Tenants may challenge the proposed increase on the grounds that the building has unauthorised structures / inadequate building services, or that the owner's expenses do not warrant an increase.</li> </ul> <p><u>Increased operating and maintenance cost</u></p> <ul style="list-style-type: none"> <li>Both systems allow a landlord to further increase rent when he/she makes an improvement to the premises with the tenant's consent.</li> <li>Landlords are also allowed to apply for extra rent increases in cases of hardship or substantial building-wide capital improvement subject to the approval of the DHCR.</li> <li>The system also allows a landlord to increase rent to compensate for increase in fuel and labour cost.</li> </ul>	Y	All residential premises subject to rent freeze and rent stabilization.	<ul style="list-style-type: none"> <li>Tenants of the controlled and stabilised premises in New York are conferred with unlimited security of tenure, and may file complaints to the DHCR about misdemeanors on the landlords' part. The DHCR is empowered to reduce rent or impose civil penalties on the landlord.</li> <li>Tenancies under the rent control and rent stabilisation scheme may only be terminated under certain statutory grounds, including self-occupation by the landlord, non-payment of rent by the tenant, tenant's breach of lease conditions, and tenant's creation of nuisances etc.</li> <li>A landlord is required to serve a notice to evict a tenant under all circumstances except in the event of non-payment of rent.</li> <li>For causes not at the tenant's fault (such as the landlord's repossession for demolition), approval from the DHCR has to be sought.</li> </ul>	<ul style="list-style-type: none"> <li>The tenancy control system in New York City have been frequently criticised as confusing and detrimental to the condition of the city's housing stock.<sup>8</sup></li> <li>There are also views that tenancy control in New York is incredibly expensive and unfair,<sup>9</sup> and that the system discriminates against new immigrant, who are forced to occupy the least desirable apartments.<sup>10</sup></li> <li>In 2012, the court rejected a petition seeking to declare rent stabilisation illegal under the US Constitution.<sup>11</sup></li> <li>A Professor of Law at the New York University, considered the tenancy control system in New York City unfair, as when the value of the property falls below the designated rate, the tenant is free to leave, hence allowing him to enjoy the benefits but leaving the landlord to bear all the setbacks.<sup>12</sup> He also questioned whether it is justifiable to impose tenancy control on a landlord, which is in effect a poorly targeted public welfare programme.<sup>13</sup></li> </ul>	<ul style="list-style-type: none"> <li>Within 90 days after an apartment first becomes subject to rent stabilization, an owner is required to file an initial registration. After the initial registration, owners must file an annual registration statement giving the 1 April rent for each unit and provide tenants with a copy of their respective apartment's registration form.</li> <li>The law prohibits harassment of rent regulated tenants. Owners found guilty of intentional actions to force a tenant to vacate an apartment can be denied decontrol and lawful rent increases and may be subject to both civil and criminal penalties.</li> </ul>

<sup>8</sup> Norcross, E. (2008, September 13). Rent Control is the Real New York Scandal. Wall Street Journal.

<sup>9</sup> Davidson, A. (2013, July 23). The Perverse Effects of Rent Regulation. New York Times.

<sup>10</sup> Davidson, A. (2013, July 23). The Perverse Effects of Rent Regulation. New York Times.

<sup>11</sup> Liptak, A. (2012, April 24). U.S. Supreme Court Declines to Hear Suit Challenging the Rent Stabilization Law. New York Times.

<sup>12</sup> Epstein, R.A. (2011), *The Follies of Rent Control*. Hoover Institute.

<sup>13</sup> Epstein, R.A. (2012, January 4). Rent Control Hits the Supreme Court. The Wall Street Journal.

**(B) Europe**

- According to some academic researches, tenancy control was a common phenomenon in Europe associated with the housing supply-demand imbalance during the outbreak of the two World Wars and immediately thereafter.<sup>14</sup> Apart from the countries tabled below, different degrees of rent control measures are being implemented in Portugal, Spain, Norway, Denmark, Italy and Switzerland etc.
- To date, the extent of tenancy control in Europe varies among countries having regard to their respective socio-economic circumstances. A British parliamentary paper suggested that while there had been a general trend towards deregulation since the 1980s in Europe, many countries (such as Denmark) have deregulated rents on new buildings (not new leases) only, so the majority of tenancies are still subject to tenancy control nowadays.<sup>15</sup>

Overseas Economy	Rent Control			Security of tenure			Commentaries	Other features of the private rental sector	
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage			Content
4. Germany	Y	Rent Increase Control	All private domestic premises	<p><u>Rent increases provided by the law</u></p> <ul style="list-style-type: none"> <li>• Generally speaking, the rent level of a premises has to be in line with a local market rate, which is determined by local authorities in consultation with tenants associations.</li> <li>• The landlord can demand rent up to the average local market rate. As for rent increase, the landlord has to justify the increase before the local authorities by making reference to – <ul style="list-style-type: none"> <li>- the rent index published by city governments; or</li> <li>- rent of at least three comparable flats in the same area.</li> </ul> </li> <li>• A tenant may apply to the Court for relief (which includes a reduction in rent) if the rent payable exceeds that of the local market rate.</li> <li>• In addition, rent increases are subject to a cap of 20% over a three-year period as imposed by the German federal government, which can be further tightened by state governments to 15% pursuant to a regulatory framework reform in May 2013.</li> <li>• The state governments of Bavaria and Berlin have already reduced the cap to 15% in the cities of Munich and Berlin as at December 2013.</li> </ul> <p><u>Rent usury</u></p> <ul style="list-style-type: none"> <li>• Normally speaking, landlords and tenants are free to negotiate the rent level when a tenancy is entered</li> </ul>	Y	All private domestic premises	<ul style="list-style-type: none"> <li>• The Law of Obligations presumes an unlimited tenure for oral leases of more than one year.</li> <li>• It also limits the situation under which a fixed term lease maybe entered into (e.g. if the landlord wishes to occupy the premises for himself or his family, repair the premises substantially, or lease the premises to persons under the landlord’s employment).</li> <li>• The notice period for landlords to terminate a lease increases with the tenancy period in the following manner – <ul style="list-style-type: none"> <li>- three months for the first five years;</li> <li>- six months between the sixth and eighth year; and</li> <li>- nine months for a longer tenure.</li> </ul> </li> <li>• A landlord must provide compelling reasons to terminate a tenancy, which include the following – <ul style="list-style-type: none"> <li>- the tenant has significantly violated his contractual duties (say non-payment of rent);</li> <li>- the landlord needs the premises as a dwelling for himself, his family/household members; and</li> <li>- the landlord would suffer substantial disadvantages by continuing with the tenancy agreement.</li> </ul> </li> </ul>	<p>The German system of tenancy control is often considered to be one of the most successful tenancy control systems in the world amongst those in favour of tenancy control.<sup>16</sup> It is generally perceived as beneficial to tenants without being harmful to landlords.<sup>17</sup></p> <p>In 2013, a special report for the United Nations Human Right Council in 2013 recognised the German system as being able to place a cap on increases for sitting tenants and providing a high degree of tenure security, while maintaining the profitability of private investments in rental.<sup>18</sup></p> <p>On the other hand, property and landlord associations in Germany have been heavily criticising tenancy control as an inappropriate regulation of free market. Some property associations have argued that tenancy control would slow down investment in new properties which would result in a lack of affordable housing.</p> <p>In view of the recent rental rise owing to reduced housing production, tenant</p>	<p>Germany has a well-established network of tenants associations recognised by the Federal Government of Germany – The Deutsche Mieterbund is the umbrella organisation for 320 local tenants associations across the territory. It represents the interests of some 50 million tenants in Germany, and is a recognised interlocutor for lawmakers and administration.<sup>20</sup></p> <p>To compensate for the tenancy control system, the German government offers generous tax concessions to landlords including depreciation allowance, and cost deduction for renting business in tax calculation. It also allows a landlord to offset rental losses in calculating the income tax so payable.<sup>21</sup></p> <p>The new supply of rental units in Germany has been decreasing since 1990, with the 2011 production volume at one-third compared to the peak then.<sup>22</sup></p>

<sup>14</sup> Haffner, M., Elsinga, M., & Hoekstra, J. (2008). *Rent regulation: the balance between private landlords and tenants in six European countries*. European Journal of Housing Policy, 8(2), 217-233.

<sup>15</sup> Heath, S. (2013). *The historical context of rent control in the private rented sector*. UK Parliamentary Paper (Ref: SN/SP/6747)

<sup>16</sup> Rent control: a success across Northern Europe. (2012) Extracted from: <http://en.myeurop.info/2012/06/06/rent-control-a-success-across-northern-europe-5530> (Accessed 18:06, 9 January 2014)

影子長策會 (2013), 《住屋不是地產：民間長遠房屋策略研究報告》, pp213-215

<sup>17</sup> Whitehead, C., Markkanen, S., Monk, S., Scanlon, K., & Tang, C. (2012). The private rented sector in the new century: A comparative approach (p,134). *Copenhagen: Boligøkonomisk videncentret*.

<sup>18</sup> Rolnik, R. (2013). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. United Nations Human Rights Council. (ref: A/HRC/25/54)

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
				<p>into. Nonetheless, Germany has adopted a unique system called rent usury (mietwucher) in prohibiting landlords charging exorbitant rent.</p> <ul style="list-style-type: none"> <li>If the Court is of the opinion that rent has exceeded the local market rate by more than 50%, the landlord will then become criminally liable.</li> </ul> <p><u>Contractually agreed rent increase</u></p> <ul style="list-style-type: none"> <li>The German Law of Obligation allows landlords and tenants to agree on rent increases, once every 12 months at most, in the following manner– <ul style="list-style-type: none"> <li><i>Stepped rent</i>: the rent is increased on fixed dates by fixed amounts.</li> <li><i>Indexed rent</i>: the rent can be adjusted based on the price index for the cost of living of all private households in Germany published by the German Federal Statistics Office.</li> </ul> </li> <li>In any event, the agreed rent increase shall not exceed the cap defined by the law.</li> </ul> <p><u>Reimbursement on capital improvement</u></p> <ul style="list-style-type: none"> <li>The landlord is allowed to increase the annual rent up to a maximum of 11% of the total investment.</li> <li>Tenants may object the modernisation work in case of hardships (e.g. due to the construction work or the subsequent rent increase, etc.).</li> </ul>			<ul style="list-style-type: none"> <li>A tenant also has the right to file an objection to tenancy termination if such a termination would create hardship for the tenant and/or his family.</li> </ul>	<p>associations have been lamenting that the lower rental cap of 15% is not binding countrywide.</p> <ul style="list-style-type: none"> <li>An OECD research in 2011 suggests that the German tenancy control system is detrimental to labour mobility.<sup>19</sup></li> </ul>	
5 Sweden	Y	Rent Freeze	All private domestic premises	<ul style="list-style-type: none"> <li>The rent control system in Sweden is a mixture of the following two components – <ul style="list-style-type: none"> <li>use-value system; and</li> <li>rent negotiation system</li> </ul> </li> <li>It does not allow provisions for index-linked rents and progressive rent increase.</li> </ul> <p><u>Use-value system</u></p> <ul style="list-style-type: none"> <li>It means that rents for new apartments should be set in accordance with the general tenant perceptions of its use value.</li> <li>The use-value system normally takes into account the quality and facilities of the premises concerned.</li> </ul>	Y	All domestic premises	<ul style="list-style-type: none"> <li><i>The Land Code</i> of Sweden provides that a tenant normally has a legal right to stay in his/her unit and cannot be forced to leave without an appropriate reason, which may be any of the following – <ul style="list-style-type: none"> <li>the tenant’s failure to pay rent for more than one week after the payment day;</li> <li>the tenant’s transfer of tenancy without consent or permission of the landlord;</li> <li>the tenant contravenes the permitted uses of the premises;</li> <li>the tenant offers accommodations to outsiders to the detriment of the landlord;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The 2011 Economic Review by the OECD commented that the tenancy control system in Sweden was overly restrictive, which had inhibited labour mobility.<sup>23</sup> This view was echoed by the Royal Institute of Chartered Surveyors in its European Housing Review 2012.<sup>24</sup></li> <li>It is also revealed that strict tenancy control regime in Sweden has led to lower quality and quantity of housing, as measured by the proportion of tenants who lack space and who have a leaking roof.<sup>25</sup></li> </ul>	<ul style="list-style-type: none"> <li>It has been a market norm in Sweden for the private rental sector to make direct reference to rents in the public sector.</li> <li>While not being the market norm, the <i>Land Code</i> also allows a landlord and a tenant to enter into a fixed term lease, where upon the expiry of the tenancy, the tenant shall leave the premises not later than the following day and shall, not later than 12 o’clock noon that day, make the premises available to the person who is to take possession of it. In fact, the <i>Land Code</i> presumes a</li> </ul>

<sup>20</sup> <http://mieterbund.de/index.php?id=765> (Accessed 09:57, 25 April 2014)

<sup>21</sup> Scanlon, K. & Whitehead, C. (2012), *Introduction: the need for a sustainable private rented sector*, Towards a sustainable private rented sector ~ The lessons from other countries, LSE London.

<sup>22</sup> Westerheide, P. (2012). *The private rented sector in Germany*, Towards a sustainable private rented sector ~ The lessons from other countries, LSE London.

<sup>19</sup> Andrews, D., Sánchez, A. C., & Johansson, Å. (2011). Housing and the economy: policies for renovation. *Economic Policy Reforms 2011: Going for Growth*, p12

<sup>23</sup> OECD (2011), *OECD Economic Surveys: Sweden 2011*, OECD Publishing.

<sup>24</sup> Ball, M. (2012), *European Housing Review 2012*, RICS research.

<sup>25</sup> Haffner, M., Elsinga, M., & Hoekstra, J. (2008). *Rent regulation: the balance between private landlords and tenants in six European countries*. *European Journal of Housing Policy*, 8(2), 217-233.

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
				<ul style="list-style-type: none"> <li>Location of the premises is in fact an unimportant consideration.</li> </ul> <p><u>Rent negotiation system</u></p> <ul style="list-style-type: none"> <li>It is used to determine the annual change in rent for existing tenancies.</li> <li>It is a collective bargaining system where the Swedish Union of Tenants takes the lead in rent negotiation.</li> <li>According to the webpage of the Swedish Union of Tenants, its aim is to negotiate with the Government with a view to maintaining average rents at not more than 25% of average disposable income, and annual rent increases below the rate of increase of the CPI.</li> <li>According to the Annual Report of the above organisation, the average rent in Sweden as at 2012 is 24% of the average disposable income. In the same year, the rents rose by 2.45%, which was higher than the CPI increase rate by 1.55 percentage points.</li> </ul> <p><u>Rent increases</u></p> <ul style="list-style-type: none"> <li>A landlord is required to notify the tenant if he proposes to increase the rent, which will be deemed as accepted if the tenant does not raise any objection in two months.</li> <li>In case of disputes, the landlord may appeal to the Rent Tribunal for the increase to take effect, where the Tribunal will assess the “reasonableness” of the proposed rent by referring to the “use-value system”.</li> </ul> <p><u>Reimbursement on capital improvement and management expenditure</u></p> <ul style="list-style-type: none"> <li>The Swedish system does not allow capital improvement cost and management expenditure be passed on to the tenants.</li> </ul>			<ul style="list-style-type: none"> <li>the tenant causes the occurrence / spreading of vermins in the premises concerned;</li> <li>the tenant refuses the landlord’s access to the premises for necessary repairs;</li> <li>the tenant violates any contractual obligation under the lease, which is of exceptional importance to the landlord;</li> <li>the tenant uses the premises for illicit uses;</li> </ul> <ul style="list-style-type: none"> <li>Generally speaking, a three-month notice of cancellation of agreement in writing is required to terminate a tenancy.</li> <li>On the other hand, the <i>Land Code</i> also allows a tenant to make good of the violations during the notice period in order to cancel the notice of cancellation.</li> </ul>	<ul style="list-style-type: none"> <li>According to a government report in 2012, the Swedish Government admitted that the following problems existed within its private rental sector <ul style="list-style-type: none"> <li>there was no price mechanism;</li> <li>black market;</li> <li>the tenancy control system impeded labour market mobility and economic growth.<sup>26</sup></li> </ul> </li> <li>The report recommended a gradual reform in striking a balance between landlord and tenant interests in the following direction – <ul style="list-style-type: none"> <li>to collate more sophisticated rental statistics;</li> <li>to determine rents according to the location and quality of the premises instead of making direct references to the public sectors;</li> <li>to allow greater tolerance for rent differences in rent tribunal examinations;</li> <li>to clarify rents for new housing and allow such rents to be index-linked; and</li> <li>to allow rent reduction in case of neglected maintenance.</li> </ul> </li> </ul>	tenancy to be indefinite if the tenant has continued to reside in the premises one month after the expiry of the fixed tenancy without the landlord requesting him to leave.

<sup>26</sup> Statens Offentliga Utredningar (2012), *Att hyra, från en rätt för allt färre till en möjlighet för allt fler*



Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector								
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content										
6 Netherlands	Y	Rent freeze	All domestic premises. It includes public housing and excludes luxury premises	<p><u>Rent level determination</u></p> <ul style="list-style-type: none"> <li>A dwelling valuation system is in place to assess the maximum permitted rent according to its score as determined by a basket of factors including the amenities, floor space and the general state of the premises.</li> <li>Subject to the maximum rent ceiling, landlords may increase the rent once a year and have to serve a two-month written notice on the tenant before any increase.</li> <li>The annual increase of the maximum permitted rent will be determined by making reference to the inflation rate of the previous year.</li> </ul> <p><u>Luxury Premises</u></p> <ul style="list-style-type: none"> <li>It is defined as premises with more than 143 quality points and a rent above the “liberalisation” rent level (at €699.48 per month as at 2014).</li> <li>Nonetheless, the frequency of rent increase remains once per annum under the <i>Dutch Civil Code</i>.</li> </ul> <p><u>Reimbursement on capital improvement and management expenditure</u></p> <ul style="list-style-type: none"> <li>The Dutch system does not allow capital improvement cost and management expenditure be passed on to the tenants.</li> </ul> <p><u>Latest development</u></p> <ul style="list-style-type: none"> <li>The Dutch Government has decided, in 2010, to allow greater rent increases for sitting tenants with an income of €43,000 p.a. or more, and in areas where housing is scarce. The following progressive rent increase scale will be adopted with effect from 1 July 2014 –</li> </ul> <table border="0"> <tr> <td><u>Household income</u></td> <td><u>Rent increase rate</u></td> </tr> <tr> <td>&lt; €34,085</td> <td>CPI<sub>2013</sub><sup>27</sup> + 1.5%</td> </tr> <tr> <td>€34,085 - €43,602</td> <td>CPI<sub>2013</sub> + 2.0%</td> </tr> <tr> <td>&gt; €43,602</td> <td>CPI<sub>2013</sub> + 4.0%</td> </tr> </table>	<u>Household income</u>	<u>Rent increase rate</u>	< €34,085	CPI <sub>2013</sub> <sup>27</sup> + 1.5%	€34,085 - €43,602	CPI <sub>2013</sub> + 2.0%	> €43,602	CPI <sub>2013</sub> + 4.0%	Y	All domestic premises including luxury premises	<ul style="list-style-type: none"> <li>The Dutch Civil Code stipulates that the landlord can only terminate a lease by serving a notice on the tenant no less than three months, for one of the following reasons – <ul style="list-style-type: none"> <li>the tenant has not behaved himself as a good tenant should;</li> <li>the landlord has based his legal claim on a contractual clause which requires the tenant to vacate after tenancy expiry;</li> <li>the landlord reasonably and fairly requires repossession for his own use, taking into account the interests of both parties and of possible subtenants;</li> <li>the tenant does not accept a reasonable offer to enter into a new lease agreement related to the same residential space;</li> <li>the landlord wants to realise a specific use of the leased property in accordance with a valid land use plan; and</li> <li>the lease agreement relates to a dependent residential space, which forms a part of the dwelling in which the landlord has his main residence, and the tenant makes plausible that his interest in ending the lease agreement weighs more heavily than the interest of the tenant in continuing it.</li> </ul> </li> <li>This notice to quit is extended to a maximum of six months depending on the tenure of the sitting tenant.</li> </ul>	<ul style="list-style-type: none"> <li>The private landlords filed a complaint with the European Commission (EC) about the false competition between the private rental sector and the housing associations that provide social housing.</li> <li>The EC concluded that as social housing receives government subsidies, it should only be confined to social objectives. As such, the EC recommended that only 10% of the social housing stock should be used to house those exceeding the income limit.<sup>28</sup></li> <li>Recognising the oversized social rental sector and the fact that too many people with non-low income enjoy rent substantially lower than the market rent, the Dutch coalition government has decided to implement measures to liberalise the private rental market since 2012, which includes an income-dependent tenancy control system.</li> </ul>	<ul style="list-style-type: none"> <li>The size of private rental sector in the Netherlands has been squeezed substantially in the recent decades – it only constitutes less than 10% of its housing stock as at 2009, with the figure at 60% in 1987.<sup>29</sup></li> <li>It seems to be a norm that leases in the Netherlands are for an indefinite term.</li> </ul>
<u>Household income</u>	<u>Rent increase rate</u>																
< €34,085	CPI <sub>2013</sub> <sup>27</sup> + 1.5%																
€34,085 - €43,602	CPI <sub>2013</sub> + 2.0%																
> €43,602	CPI <sub>2013</sub> + 4.0%																

<sup>27</sup> The inflation rate in the Netherlands for 2013 is 2.5%.

<sup>28</sup> Elsinga, M., & Lind, H. (2013). *The effect of EU-legislation on rental systems in Sweden and the Netherlands*. Housing Studies, 28(7), 960-970.

<sup>29</sup> Rolnik, R. (2013). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. United Nations Human Rights Council. (ref: A/HRC/25/54)

Overseas Economy	Rent Control			Security of tenure			Commentaries	Other features of the private rental sector	
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage			Content
7 United Kingdom	Y	Rent Increase Control	Domestic tenancies created before 15 January 1989 with an annual rental at or below £25,000 (protected tenancies).	<p><u>Fair rent to be determined by local rent officers</u></p> <ul style="list-style-type: none"> <li>In determining the fair rent (i.e. the maximum amount of rent receivable from a tenant) of a protected tenancy, local rent officers must consider the following factors – <ul style="list-style-type: none"> <li>all circumstances except the personal circumstances of the landlord and the tenant;</li> <li>the state of repair of the house or flat, its character, locality and age, as well as how much/ what furniture has been provided; and</li> <li>any premium lawfully paid.</li> </ul> </li> </ul> <p><u>Rent increases</u></p> <ul style="list-style-type: none"> <li>Generally speaking, when a fair rent is due to be renewed, it should not exceed the change in the Retail Prices Index since the last fair rent registration was made, plus an additional 7.5% if the fair rent was first registered after January 1999, or 5% for all subsequent registrations.</li> </ul> <p><u>Capital improvement and management expenditure</u></p> <ul style="list-style-type: none"> <li>Not eligible for reimbursement, but if the rent officer considers that there has been a considerable change in the condition of the property due to improvement works, a new fair rent may be assessed notwithstanding the generic rent increase rule.</li> </ul> <p><u>Review mechanism</u></p> <ul style="list-style-type: none"> <li>All valuations for protected tenancies are subject to review by the rent assessment committee.</li> </ul> <p>[Note – Protected tenancies are in fact lapsing in the UK. Under the 1988 Housing Act, no new protected tenancies will be created after the existing leases have lapsed.]</p>	Y	<p><u>Protected tenancies</u></p> <ul style="list-style-type: none"> <li>Rent-controlled premises</li> </ul> <p><u>Assured shorthold tenancy / assured tenancy</u></p> <ul style="list-style-type: none"> <li>The current UK law presumes that all domestic tenancies created after 15 January 1989 with an annual rental at or below £25,000 to be <b>assured shorthold tenancies</b> under stated otherwise in the tenancy agreement, which will become <b>assured tenancies</b>.</li> <li>The key difference between an assured shorthold tenancy and an assured tenancy is that the former will offer a six-month security of tenure, whilst there will be unlimited security of tenure for the latter.</li> </ul>	<p><u>Protected tenancies</u></p> <ul style="list-style-type: none"> <li>Unlimited security of tenure with succession right for one's surviving spouse.</li> </ul> <p><u>Assured shorthold tenancies</u></p> <ul style="list-style-type: none"> <li>Landlords may, under certain statutory grounds, apply for repossession. The grounds include landlord's self-occupation, tenant's breach of lease terms, tenant's creation of nuisance, tenant's non-payment of rent, and tenant's subletting of premises without consent etc.</li> <li>Security of tenure is offered for the <b>first six months</b> of a tenancy save for the following grounds – <ul style="list-style-type: none"> <li>self-occupation;</li> <li>foreclosure of the premises by a mortgagee;</li> <li>the landlord has a right to repossess the unit prior to a new short term tenancy of less than 12 months;</li> <li>redevelopment;</li> <li>rent in arrears for different periods depending on the duration of the tenancy (e.g. two months' rent in arrears for a monthly tenancy);</li> <li>availability of suitable alternative accommodation from the landlord, or that tenants have owned alternative accommodations;</li> <li>the tenant's breach of lease conditions; and</li> <li>the tenant uses the premises for illicit purposes.</li> </ul> </li> <li>After the six-month period, a two-month notice may be served without reason to terminate a tenancy.</li> <li>Under an assured shorthold tenancy, although a tenant may challenge the rent before the rent assessment committee if he finds the rent increase excessive, a landlord may still evict him, without reason, with two months' notice if the court has made</li> </ul>	<ul style="list-style-type: none"> <li>Owing to the widespread deterioration of rental premises, the UK Parliament discussed the expansion of tenancy control in 2013, and considered that it should not be supported as it would drive away investment, limit mobility and discourage people from improving their properties, thereby resulting in deterioration in the quality and quantity of rental accommodations.<sup>30</sup></li> <li>There are views that the duration of secured tenure is too short under the Assured Shorthold Tenancy, which has caused distress to the private tenants.<sup>31</sup> Shelter, a tenant advocacies groups has been urging the Government to consider promoting a Stable Rental Contract with the following features – <ul style="list-style-type: none"> <li>provide a five-year's tenure during which tenants could not be evicted without a good reason;</li> <li>allow landlords to increase rents annually by a maximum of CPI increase rate during the five years;</li> <li>give tenants the chance to decorate their homes as long as they return them to neutral afterwards;</li> <li>allow tenants to give two months' notice to end the tenancies; and</li> <li>give landlords the right to end the tenancies if they sell the properties</li> </ul> </li> <li>It is considered that, with certain tax incentives, the Stable Rental Contract should also be beneficial to landlords as it can ensure a stable income.<sup>32</sup></li> <li>Apart from promising that the issue of tenancy control will be taken forward in future if elected,<sup>33</sup> the Labour Party also introduced a private member Bill in October 2013 to amend the law on security of tenure and to provide for fair rent to be</li> </ul>	<ul style="list-style-type: none"> <li>Specific reference has been made in the Housing Act to prohibit harassment of tenants and intimidation for giving up a tenancy.</li> <li>In addressing the concern of the tenants for having short tenure, the UK Government has been promoting a voluntary model tenancy agreement, which encourages landlords and tenants to enter into long term leases with index-linked rent increases.<sup>37</sup></li> </ul>

<sup>30</sup> Communities and Local Government Committee (2013), *First Report on the Private Rented Sector*

<sup>31</sup> Heath, S. (2013). *Rent control in the private rented sector*. UK Parliamentary Paper (Ref: SN/SP/6760)

<sup>32</sup> De Santos, R. (2012). A better deal – Towards more stable private renting: Shelter.

<sup>33</sup> Shipman, T. (2013, August 16). Labour housing supremo secretly recorded making threats to impose rent controls on what landlords can charge if party won next election. Daily Mail.

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
							<p>rulings on the rent with which the landlord is dissatisfied. This phenomenon is commonly referred to in UK as “retaliatory eviction”.</p> <p><u>Assured tenancies</u></p> <ul style="list-style-type: none"> <li>• Unlimited security of tenure will be offered unless for the reasons stated above for assured shorthold tenancies.</li> <li>• A two-month notice is required to terminate a tenancy except in the case of rent in arrears; the period is shortened to two weeks.</li> <li>• Under assured tenancies, a tenant may challenge the rent before the rent assessment committee if a rent increase notice is served by a landlord after the end of a fixed term tenancy.</li> </ul>	<p>applicable to all rental accommodation.<sup>34</sup> However, the Bill failed to complete its passage through Parliament before the end of the 2012-13 session.<sup>35</sup></p> <p>On the other hand, Michael Ball, an Economics professor at the Henley Business School, argues that the removal of tenancy control in 1988 has boosted the British private rental market, and that any extension of security of tenure would be detrimental and unfair.<sup>36</sup></p>	
8 France	Y	Both	All domestic tenancies	<p><u>General Provisions</u></p> <ul style="list-style-type: none"> <li>• Rent could be set freely at the start of the lease.</li> <li>• Annual increases would have to follow a price index set by national statistics institute INSEE, based on the construction index.</li> <li>• The French law empowers municipal government to impose further control on rent by administrative decrees.</li> </ul> <p><u>The Access to housing and renovated urbanism Law</u></p> <ul style="list-style-type: none"> <li>• The Access to housing and renovated urbanism Law (the ALUR law) was adopted by the French parliament on 24 October 2013. It applies to 28 urban areas (including Paris) and involves around 4.6 million homes.</li> <li>• It provides that in areas of housing shortage, as indicated by a marked imbalance between housing supply and demand, a reference median rent, an upper median rent and a lower median rent will be set by the local independent “observatories of rents” (observatoires de loyer).</li> <li>• The reference upper median rent cannot be higher than 20% above the reference median rent.</li> </ul>	Y	All domestic tenancies	<ul style="list-style-type: none"> <li>• The terms of a property lease must be stated in the contract signed between landlord and tenant. If the landlord is an individual, the minimum duration is three years. Otherwise, the minimum period is six years.</li> <li>• Generally speaking, a landlord has to give a six-month notice to a tenant if he wishes to terminate a tenancy, whereas for tenants, a three-month notice is required from him to the landlord.</li> <li>• In some cases, such as loss of a job, transfer to another city for work, or in areas of housing shortage, the period of notice given by the tenant may be reduced to one month.</li> <li>• The landlord can only give notice at the end of the lease save for the following conditions – <ul style="list-style-type: none"> <li>- landlord occupation</li> <li>- sale of property</li> <li>- breach of tenancy conditions</li> </ul> </li> </ul>	<p>According to a poll conducted in June 2012 by IPSOS, a worldwide research company, almost 70% of French people supported tenancy control in areas where rents had increased the most, but many doubted whether a general cap on rents would work. A poll by Harris for property agency Century 21 reported similar findings.</p> <p>According to a survey of several hundred investors by the polling institute IFOP for Union Financière de France (UFF), a wealth management bank, more than half of investors in property said they would no longer invest in real estate if the government introduced further controls on rent.</p> <p>When the Upper House of the French parliament (the Senate) was debating the ALUR Bill, the Conseil d'analyse économique (Council for Economic Analysis – CEA) commented that the Bill ran the risk of causing inefficiencies in the private rental sector.</p>	N.A.

<sup>37</sup> <https://www.gov.uk/government/news/a-brighter-future-for-hardworking-tenants> (Accessed 16:06 30 March 2014)

<sup>34</sup> HC Deb 15 October 2013 c599

<sup>35</sup> <http://services.parliament.uk/bills/2012-13/regulationoftheprivaterentedsector.html> (Accessed 18:06, 30 March 2014)

<sup>36</sup> Ball, M. (2013), *Why governments should not enforce long-term contracts in the UK's private rented sector*. Residential Landlords Association.

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
				<p>Landlords will have to fix the amount of their rent within this range.</p> <ul style="list-style-type: none"> <li>Rents are not allowed to exceed the reference upper median rent unless the property is exceptional in terms of amenities and location.</li> </ul>				<ul style="list-style-type: none"> <li>The CEA opined that in view of the diversity of housing, it would be impossible to set median rents and averages for each category and each neighbourhood, and it would be equally difficult to take all the characteristics of a home into account to calculate its market value. The CEA also expressed concern as to whether the ALUR law would in turn “disorganise the market”.</li> </ul>	

(C) **Asia**

- There seems to be a strong correlation between former British colonial rule and the existence of tenancy control – for instance, in India and Pakistan, very complex rent freeze systems still exist, and in countries like Australia, Malaysia, Singapore and South Africa, there had been different degrees of tenancy control in place before the deregulation trend in the 1990s.
- Apart from the above, the imposition of tenancy control in Asia is not common.

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
9 Taiwan, China	Y	Rent Freeze	All domestic tenancies	<ul style="list-style-type: none"> <li>• Article 97 of the “Land Code” specifies that the maximum annual rent of domestic premises in urban area should not exceed 10% of the reported value of the premises concerned. The “Land Code” also empowers the Court to reduce rent if it exceeds the specified level upon tenant’s application.</li> <li>• The “Land Code” does not contain any provision governing the reimbursement of cost the landlord has invested in the maintenance/improvement of premises.</li> </ul>	N	N.A.	<ul style="list-style-type: none"> <li>• The “Land Code” forbids a landlord to repossess a flat except under the following conditions – <ul style="list-style-type: none"> <li>- the landlord wishes to repossess the flat for redevelopment or self-occupation;</li> <li>- the tenant has accrued rent for more than four months;</li> <li>- the tenant breaches any lease conditions;</li> <li>- the tenant subleases the premises without consent;</li> <li>- the tenant uses the property for illicit uses;</li> <li>- the tenant damages the premises and its fixtures without paying any compensation.</li> </ul> </li> <li>• While both the “Land Code” and the “Civil Code” of Taiwan China do not specify any minimum tenure of a tenancy, the “Civil Code” has made the following provisions on the tenure of a lease in balancing the rights of landlords and tenants – <ul style="list-style-type: none"> <li>- all tenancies exceeding one year should be made in writing, or it will be deemed as a tenancy without specified tenure;</li> <li>- the maximum tenure of a lease is 20 years; and</li> <li>- landlords and tenants are free to negotiate on how to terminate a tenancy. Nonetheless, the Civil Code specifies a set of rules on the notice period of tenancy termination, which is similar to the established practice in Hong Kong (e.g. a one-month notice is required for a monthly tenancy).</li> </ul> </li> </ul>	N.A.	<ul style="list-style-type: none"> <li>• The Land Code of Taiwan specified the maximum deposit of a tenancy to be equaled at two months’ rent of that tenancy, but it is not uncommon for this requirement to be ignored.<sup>38</sup></li> <li>• The tax system in Taiwan China requires a landlord to file annual returns on the value of his property for the calculation of the land tax so payable.</li> </ul>

<sup>38</sup> <http://www.globalpropertyguide.com/Asia/Taiwan/Landlord-and-Tenant> (Accessed 10:41, 24 April 2014)

Overseas Economy	Rent Control				Security of tenure			Commentaries	Other features of the private rental sector
	Y/N	Rent Increase Control / Rent Freeze	Coverage	Content	Y/N	Coverage	Content		
10 Japan	N	N.A.	N.A.	N.A.	Y	All domestic premises	<ul style="list-style-type: none"> <li>The Act on Land and Building Leases specifies that a six-month notice is required to terminate a tenancy for both a tenant and a landlord, whereas the tenant may shorten this requirement to one month on the grounds of hardship.</li> <li>The same act also requires a landlord to provide reason for not renewing a fixed term lease.</li> <li>The Civil Code of Japan specifies that a lease shall not be exceeding 20 years</li> </ul>	N.A.	N.A.
11 Singapore	N	N.A.	N.A.	<ul style="list-style-type: none"> <li>Singapore repealed tenancy control in 2001, as it considered the law had outlived its purpose to protect families from unscrupulous landlords in the midst of an extensive provision of public housing.<sup>39</sup></li> <li>The then control system in Singapore was very similar to Hong Kong's previous control regime on pre-war premises (i.e. to fix rents at a particular multiplier of the rental value on a specified cut-off date). In fact, the tenancy control law in Singapore was enacted against the same background as Hong Kong after WWII, where both economies suffered from a severe housing supply-demand imbalance in association with warfare.</li> </ul>	N	N.A.	<ul style="list-style-type: none"> <li>There are no specific statutes in Singapore on landlord and tenant relationship. Landlords and tenants are free to enter into / terminate a tenancy agreement according to the common law.</li> </ul>	<ul style="list-style-type: none"> <li>While most of the Singaporeans have access to public housing, there are views from the private sector urging the Singaporean Government to impose tenancy control on non-domestic premises given the recent rental rise in the non-domestic sector.<sup>40</sup></li> <li>There are similar calls, albeit less prominent, for the reintroduction of tenancy control among the expatriates who are not entitled to public housing, in the midst of rising rent level in Singapore over the years.</li> </ul>	Singapore has an extensive public housing system, which houses more than 80% of its population. <sup>41</sup>
12 Malaysia	N	N.A.	N.A.	<ul style="list-style-type: none"> <li>Similar to Singapore, Malaysia also repealed tenancy control in 1997 for the following reasons – <ul style="list-style-type: none"> <li>it became prevalent for the protected tenants to profit from the protected tenancies by subletting the premises at the expense of the landlords;</li> <li>the Malaysian Government wished to further liberalise Malaysia's economy, and to encourage foreign real estate investments;</li> <li>the Malaysian Government wished to promote homeownership amongst the Malays by encouraging the holders of the controlled premises, most often Chinese, to resell the property for redevelopment.<sup>42</sup></li> </ul> </li> </ul>	N	N.A.	<ul style="list-style-type: none"> <li>While the National Land Code of Malaysia does not make specific rules on the minimum tenure of a tenancy, and that the notice period of lease termination broadly follows the common law provisions, the Code allows a tenant to compensate a landlord with a view to nullifying the notice of forfeiture so served upon him.</li> </ul>	N.A.	N.A.

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<sup>39</sup> Singapore HC Deb, 16 March 2001, c1376W

<sup>40</sup> <http://www.stproperty.sg/articles-property/singapore-property-news/smes-call-for-fair-tenancy-legislation/a/161963> (Accessed 11:10, 24 April 2014)

<sup>41</sup> [http://eresources.nlb.gov.sg/infopedia/articles/SIP\\_1585\\_2009-10-26.html](http://eresources.nlb.gov.sg/infopedia/articles/SIP_1585_2009-10-26.html) (Accessed 11:10, 24 April 2014)

<sup>42</sup> Atsumi, S. (2003). *The Repeal of Rent Control in Malaysia*, Cornell Real Estate Review, 2(1), 29-38.

## History of Tenancy Control in Hong Kong

### INTRODUCTION

While being one of the freest economies in the world, there were times when Hong Kong implemented different forms of tenancy control (i.e. rent control and security of tenure). Even though these measures were meant to be temporary in nature, as a matter of fact, they had been in place for a much longer period than expected.

### TENANCY CONTROL BEFORE THE SECOND WORLD WAR

2. The first form of tenancy control in Hong Kong was enacted in 1921 in view of a significant influx of refugees from Mainland China, coupled with a slow increase in housing supply then. It was aimed to protect the tenants from unreasonable rent increases and arbitrary evictions. The then Rents Ordinance 1921 (the 1921 Ordinance) stipulated, among other things, that rents for residential tenements should be frozen at the 31 December 1920 level, and that landlords were forbidden to evict tenants as long as the latter had complied with the terms of the tenancy agreements.

3. Originally planned to expire on 30 June 1922, the 1921 Ordinance was extended to 30 June 1926. It was subsequently allowed to lapse as the then adverse economic condition had led to increased vacancies, rendering the control no longer necessary. It was not until 1938 that the Prevention of Eviction Ordinance 1938 (the 1938 Ordinance) was made to restrict repossession by landlords, in the light of another round of refugee influx from Mainland China.

## TENANCY CONTROL BEFORE 1973

### Pre-war premises

4. When the British Administration resumed in August 1945 after the Second World War, the population in Hong Kong rose rapidly again and many dwellings in Hong Kong had been destroyed during the war. Hence, the then Provisional Hong Kong Military Government restricted the rent level for pre-war premises to what was payable on 25 December 1941 (more commonly known as the “standard rent”)<sup>1</sup> by issuing two Proclamations in October 1945 and March 1946 respectively. These Proclamations were later transformed into the Landlord and Tenant Ordinance 1947 (the 1947 Ordinance). The 1947 Ordinance introduced different treatments for residential and business premises, and allowed increases in rent for the purpose of refurbishment based on a certain percentage of the amount so invested. The 1947 Ordinance also provided security of tenure to sitting tenants, with certain exceptions including –

- (a) self-occupation by the landlord;
- (b) redevelopment;
- (c) rent in arrears / tenancy breach by the tenant; and
- (d) mutual agreement between the landlord and the tenant etc.

The 1947 Ordinance established a Tenancy Tribunal to handle tenancy disputes. This scheme had been administered by the Tenancy Inquiry Bureaux of the Secretariat for Chinese Affairs (the forerunner of the Home Affairs Department) until 1974, when the Rating and Valuation Department (RVD) took up the duty. The RVD remains to be the department responsible for landlord and tenant matters today.

5. The 1947 Ordinance was further reviewed by a select committee in 1952 before further amendments were made in 1953 and 1955 to stipulate, among other things, that business premises with a tenure of more than five years should be excluded from rent control, that tenants dispossessed by

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<sup>1</sup> If the premises were vacant at that time, the standard rent should then be the rental value as at 1 December 1941.



redevelopment should be entitled to compensation (an amount of which to be certified by the Tenancy Tribunal) from landlords, and that the Tenancy Tribunal should be empowered to revise the standard rent if it was substantially lower than the then market value. Subsequently, the Government had allowed rent increases intermittently by prescribing a statutory incremental percentage for the standard rent. In general, business premises were allowed a faster growth in rent over the years. From 1947 to 1976, the maximum rent for pre-war residential premises rose by 55%, whereas in the case of pre-war non-residential premises, the cumulative rise amounted to 150%.

## **Post-war premises**

### *Security of tenure*

6. The Tenancy (Prolonged Duration) Ordinance 1952 (the 1952 Ordinance) was enacted to prevent landlords of post-war residential premises from evicting a tenant for three years from the date the latter took residence in the premises concerned, and to stipulate that rents should be set at mutually agreed rates. The 1952 Ordinance was applicable to tenants who had paid key / construction money to obtain the tenancy, and had observed the implied duties of a tenant at common law. The 1952 Ordinance aimed to address the then prevalence of oral tenancies, which were often renewed on a monthly basis. It also allowed a landlord to increase rent by serving a three-month written notice on the tenants. In 1963, the period of secured tenure was extended to five years.

7. Owing to a sharp rise in rent in the early 1960s, the Tenancy (Notice of Termination) Ordinance was enacted in April 1962 (the 1962 Ordinance) to cover tenancies of the other post-war premises (including residential tenancies with written agreements, oral tenancies with no payment of key/ construction money, and non-residential tenancies). The 1962 Ordinance provided for a six-month notice of termination of tenancies (the six-month requirement) for both residential and non-residential premises. The 1962 Ordinance did not apply to pre-war premises, nor did it seek to interfere in the normal rights and remedies of either party in respect of any breach of a tenancy agreement.

### *Rent Control*

8. When the 1962 Ordinance was discussed at the then Legislative Council (LegCo), the Government undertook to devise further measures to address the then rent hikes caused by rapid population growth and shortage in housing supply. Subsequently, the Government announced that it would implement tenancy control measures on post-war residential premises in the following manner –

- (a) only rent increase, instead of the absolute rent level, was controlled;
- (b) the control mechanism only applied to existing periodic tenancies and fixed tenancies with a tenure of less than three years;
- (c) the system should provide a two-year security of tenure to the controlled tenancies; and
- (d) the system should lapse automatically.

9. To this end, the Rent Increases (Domestic Premises) Control Ordinance 1963 (the 1963 Ordinance) was enacted on 29 March 1963 to limit the biennial rent increase to 10%, and to provide for security of tenure for two years starting from 1 July 1963 for premises under the regime of the 1962 Ordinance. The 1963 Ordinance empowered the Commissioner of Rating and Valuation (CRV) to certify a “justified rent increase” up to 10% biennially. If a landlord wished to impose a rent increase exceeding this limit, he should justify his case before the CRV and file an application to the District Court thereafter. The 1963 Ordinance also provided for a Rent Increases Advisory Panel as a redress channel against CRV’s decisions. In addition, the 1963 Ordinance allowed a landlord to apply for repossession on the grounds of redevelopment or housing his close relatives.

10. The 1963 Ordinance was planned to lapse automatically by 30 June 1965. It was extended for another year owing to the prevalence of high rents. The Government subsequently decided that the control should

expire on 30 June 1966 as the demand-supply situation had improved<sup>2</sup>, and that tenancy control had discouraged new private housing constructions.

11. There had been further calls for tenancy control in 1970, when the rent level picked up again due to a drastic fall in supply in the late 1960s in association with the economic downturn in 1967.<sup>3</sup> Against this background, the Rent Increases (Domestic Premises) Ordinance 1970 (the 1970 Ordinance) was enacted<sup>4</sup> to cap the maximum rent increase for residential tenancies at 15% biennially. The following types of residential tenancies were however excluded –

- (a) tenancies entered into after the enactment of the 1970 Ordinance;
- (b) tenancies on newly completed premises after June 1970; and
- (c) tenancies on premises with a rateable value<sup>5</sup> higher than \$15,000 as at 5 March 1970.

At the same time, the Government reiterated that it had no intention to further control tenancy matters for non-residential premises (including shops and flatted factories) beyond the six-month requirement provided for under the 1962 Ordinance, given the then high vacancy rate of flatted factories. Besides, the Government considered that imposing tenancy control on the non-residential sector was in fact subsidising a trade over the others, thereby undermining the principle of free market economy to an even greater extent.

## **LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE 1973**

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<sup>2</sup> According to statistics from the RVD, the number of new private housing supply had increased from about 11 500 units in 1962 to some 31 000 units in 1966. Besides, from 1964 to 1966, there had been a decrease in rent of a magnitude of around 10% for all residential premises.

<sup>3</sup> New housing supply had fallen from around 31 000 units in 1966 to around 7 700 in 1969 according to statistics from RVD.

<sup>4</sup> Another interim legislation was enacted by the former LegCo in January 1970 known as the Security of Tenure (Domestic Premises) Ordinance 1970, which froze the rent level and tenure of all existing residential tenancies. It was subsequently superseded by the 1970 Ordinance.

<sup>5</sup> Rateable value is an estimate of the annual rental value of the property at a designated valuation reference date, assuming that the property was then vacant and to let. In assessing the rateable value, reference is made to other open market rents, agreed on or around the date of valuation, for similar properties in the locality, with due adjustments to reflect any difference in size, location, facilities, standards of finishing and management.

## 1970-1973 – Tightening of control

12. In early 1970s, the Government considered that measures should be put in place to allow controlled rents to be increased gradually to the market level to prevent an abrupt rental rise should such control be allowed to expire. Against such background, the Government revamped its tenancy policy in 1973. First, the Government consolidated in May 1973 an array of ordinances concerning landlord and tenant matters into the present Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (LTO), where the tenancy control mechanism for pre-war residential tenancies and the rent control mechanism for post-war residential tenancies were incorporated as Parts I and II of the LTO separately. A brief description of the various Parts under the LTO is at *Appendix*. At the same time, the Security of Tenure and Rent Restraint (Domestic Premises) Ordinance 1973 was enacted to temporarily freeze rents for six months, and to provide for security of tenure for all post-war residential premises not being covered by the then tenancy control legislation for six months, pending the enactment of a longer-term control regime.

### Appendix

13. In October 1973, two legislative amendments to the LTO (the 1973 Ordinances) were made to the effect that –

- (a) constraints for landlords and tenants of pre-war premises to opt out of rent control be removed;
- (b) all existing post-war residential tenancies, regardless of the rateable value of the premises, be subject to rent control concerned under Part II of the LTO in lieu of the control under the 1970 Ordinance;
- (c) a factor rent system be introduced with the rent increase factor set at “5” for all existing residential tenancies (i.e. the maximum rent increase was set at one-fifth of the difference between the controlled rent and the fair market rent as estimated by the RVD);
- (d) for residential tenancies concerning premises with a rateable value of not more than \$30,000, the rate of rent increase be capped at 21% biennially;

- (e) fresh lettings in existing buildings should not exceed the “fair market rent” as determined by the CRV, with arrears in excess not recoverable by law;
- (f) tenancies of new buildings be freed from rent control for three years in order not to discourage new developments;
- (g) security of tenure be provided for while allowing landlords to apply for repossession under certain circumstances (e.g. rent in arrears, self-occupation); and
- (h) the entire scheme be expired at midnight on 30 November 1976.

### **1974-1978 – Relaxation**

14. After the new rental regime had commenced for a year, the LTO was amended in 1975 and 1976 intermittently with a view to –

- (a) allowing landlords to pass on the liability to pay rates (based on the market rent of the premises concerned) to tenants (including subtenants) in the form of rent increases;
- (b) increasing the maximum rent for pre-war residential and non-residential premises to 155% and 350% of the standard rent respectively in two stages by 1 January 1977;
- (c) extending Part II control to 14 December 1979, and decreasing the rent increase factor from “5” to “4” with a view to accelerating the increase in controlled rents;
- (d) removing rent control for the following post-war residential tenancies while maintaining the six-month notice requirement for these tenancies –
  - (i). new tenancies of three years or longer entered into after 31 December 1975; and
  - (ii). tenancies held in the name of a corporation / a government; and
- (e) allowing landlords to increase rent to compensate his expenses on repairing the premises concerned, while such expenses should be more than \$5,000 and the maximum rent increase be capped at 20% of the relevant expenditure.

In response to the views from the developers that frequent changes to the tenancy control mechanism had already discouraged private housing development and that they had been facing immense difficulties after the stock crash in 1973, the Government assured at the LegCo meeting on 16 July 1975 that it would not impose rent control on buildings to be completed by the end of 1977 for a period of five years. This pledge was later extended to buildings completed between 1 January 1978 and 31 December 1978. Separately, Part II control was further amended in November 1977 by changing the rent increase factor from “4” to “3”.

15. The entire rent control regime was reviewed again in 1978. It was decided that –

- (a) rent control for non-residential pre-war premises should be phased out completely by 1 July 1984;
- (b) the permitted rent increase for pre-war premises should be accelerated by allowing rents to be capped by a certain multiplier (instead of a percentage) of the standard rent (known as the standard rent multiplier);
- (c) landlords and tenants should be allowed to opt out of the control by application to CRV (in lieu of judicial applications); and
- (d) for post-war residential premises, the then control should be extended for two more years, with the rent increase factor reduced from “3” to “2”.

The enabling legislation was passed on 6 June 1979. Nonetheless, some LegCo Members raised concerns about the accelerated rent rise for residential tenancies that were not under control (i.e. luxury and corporate tenancies).<sup>6</sup> The Government reiterated that tenancy control was only meant to be a temporary palliative for sitting tenants, and would not help to resolve the housing problem at its root.

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<sup>6</sup> Corporate tenancy means tenancies where the tenant is a government, a company, or an institution.

## **A COMPREHENSIVE REVIEW IN 1980s**

### **Rent hikes in 1979**

16. Notwithstanding the controls in place and the private developers' effort in increasing supply, rent levels in Hong Kong continued to rise rapidly owing to the influx of immigrants from Mainland China, the accelerated speed in household formation (owing to increased average household income), as well as increased speculation in the private residential market. Against this background, the former LegCo enacted the Landlord and Tenant (Consolidation) Amendment Ordinance 1980 (the 1980 Amendment Ordinance) to –

- (a) extend the factor rent system and security of tenure to post-war residential tenancies –
  - (i). in buildings certified for occupation after the enactment of the 1973 Ordinances;
  - (ii). with a tenure longer than three years and entered into after 31 December 1975; and
  - (iii). held in the name of a corporation / a government;
- (b) permit a landlord to apply to the Court for repossession of controlled tenancies on the following grounds –
  - (i). for the landlord's personal or family use;
  - (ii). the premises concerned had been used for illicit purposes; and
  - (iii). the tenant concerned had failed to pay rent;
- (c) provide for criminal sanctions for landlords who had obtained a possession order from the court either for his own or family use, or for redevelopment, but had subsequently let or assigned the premises without the consent of the court within a period of two years from the date of the order;
- (d) extend the 21% biennial cap made under the 1973 Ordinances to all post-war residential premises;

- (e) extend the six-month notice requirement applicable to all residential and non-residential premises, to 12 months; and
- (f) extend the amended control regime for post-war residential premises to 18 December 1981.

The 1980 Amendment Ordinance also increased the permitted rent for pre-war residential and non-residential premises under Part I of the LTO to six and 12 times of the standard rent respectively.

### **Committee of Review, Landlord and Tenant (Consolidation) Ordinance (the 1981 Review Committee)**

#### *Terms of reference*

17. After the enactment of the 1980 Amendment Ordinance, the Government set up a Committee of Review, Landlord and Tenant (Consolidation) Ordinance (the 1981 Review Committee) in March 1980. Chaired by the then Secretary for Housing and comprising representatives from different strata of the community as well as senior Government officials, the 1981 Review Committee was tasked to, among other things, review the LTO and make recommendations on various aspects of the tenancy control legislation having regard to, *inter alia*, the demand for housing, the rate of construction of new housing, the need for adequate maintenance of the existing housing stock, and the overall community interest.

#### *Outcome of the review*

18. Having studied the subject matter in detail with regard to economic statistics, public views and overseas examples, the 1981 Review Committee submitted a report to the Government in May 1981, which considered, *inter alia*, that there was no evidence of the existence of any fundamental and lasting market imperfections in the rental market. The report also recognised the drawbacks of rent control from different economic and social perspectives.



To this end, the 1981 Review Committee recommended that rent control should only be implemented if –

- (a) the Government was persuaded that without rent control rents would rise at a rate contrary to the public interest; and
- (b) the immediate and long-term consequences were unlikely to affect the supply of rented accommodation adversely.

19. As to the then rent control regime, the 1981 Review Committee recommended that, as soon as circumstances permitted, every effort consistent with the need to avoid adverse social consequences should be made to accelerate the phasing out of rent control, through the following measures –

- (a) removal of the rent factor in the long run;
- (b) increase in the biennial cap on rental increase gradually;
- (c) for premises with rents substantially lower than the market rent, the general imposition of a “rent floor” and raising such floor gradually; and
- (d) considering to remove rent control if the controlled rents had reached about 85% of fair market rents.

For controlled tenancies, it was also recommended that security of tenure should be extended until the expiry of the new legislation or two years from the date of the last increase in rent permitted or agreed under the statutory provisions, whichever is the later. Mirroring the experiences in the UK, the 1981 Review Committee recommended that a landlord should be allowed to apply for repossession in the Court if he could provide suitable alternative accommodation to his tenant, or the tenant had access to alternative accommodation.

20. The 1981 Review Committee also recommended that the following tenancies should be excluded from rent control –

- (a) tenancies concerning new buildings;
- (b) tenancies concerning luxury premises;
- (c) fixed term tenancies with tenure not less than five years; and
- (d) corporate lettings.

21. The 1981 Review Committee considered that the Government should introduce permanent measures to protect a sitting tenant from unreasonable demands of a landlord who might seek to take advantage of the tenant's stake in his home. To this end, the 1981 Review Committee recommended that a system of security of tenure be provided for tenants across the board<sup>7</sup> as far as he was willing to pay the prevailing market rent. The system also allowed a tenant to seek judicial intervention in deciding the "fair market rent" when the tenancy was due to renew. Similar to previous forms of security of tenure, the proposed system also allowed a landlord to apply for repossession of the premises under the following conditions –

- (a) the landlord wished to redevelop the premises concerned;
- (b) the landlord wished to repossess the premises for self-occupation, or for occupation by his immediate family;
- (c) the tenant failed to pay rent and/or breached the conditions of the tenancy;
- (d) the tenant incurred continued nuisance to the landlord or co-occupants of the premises after the landlord's written warning;
- (e) the tenant sub-let the whole / part of the premises without the landlord's consent; or
- (f) the tenant used the premises for illegal / immoral purposes.

22. As regards the length of notice period for termination of tenancies, the 1981 Review Committee recommended that such a period be reduced to six months. Meanwhile, the 1981 Review Committee recommended further measures to protect a tenant's rights, e.g. allowing a tenant dispossessed by redevelopment to be entitled to statutory compensation from the landlord, and

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<sup>7</sup> With the exception of short-term tenancies, service tenancies, and tenancies from Government and public bodies.

extending the maximum period of stay of execution<sup>8</sup> of a possession order from three to six months etc.

### **Follow-up on the 1981 Review**

23. The Government accepted the report in principle, and implemented most of the 1981 Review Committee's recommendations in stages through a series of legislative amendments from 1981 to 1988.<sup>9</sup> For example, the security of tenure provisions, as suggested by the 1981 Review Committee, was incorporated to the LTO as its Part IV in 1981. Besides, the Government reviewed the rent control regime for pre-war premises annually, and that –

- (a) rent control for pre-war non-residential premises was removed with effect from 1 July 1984, and these premises became subject to the six-month termination notice requirement under part V of the LTO only; and
- (b) the standard rent multiplier for pre-war residential premises was increased annually to 55 times in 1992.

### **REMOVAL OF RENT CONTROL IN 1990s**

#### **Landlord and Tenant (Consolidation) (Amendment) Bill 1992**

24. In pursuit of the recommendation of the 1981 Review Committee, the Government had devised the following scheme to phase out rent control under Parts I and II of the LTO by end 1994 with a view to preventing a sharp rise in rents –

- (a) Parts I and II of the LTO should be extended to 31 December 1994;

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<sup>8</sup> This was the interim period during which a tenant might be allowed by the court to stay in the possessed premises after the order was issued. The purpose was to allow more time for a tenant to seek alternative accommodation.

<sup>9</sup> The 1981 Review Committee's recommendation to allow landlord's repossession upon availability of alternative accommodation (see para 19) was not adopted by the Government.

- (b) for pre-war residential premises, an escalating “rent floor” (similar to the one under Part II of the LTO) should be introduced;
- (c) the standard rent multiplier should be escalated in three years; and
- (d) for post-war residential premises, an annual 7.5% increment of the “rent floor” should be imposed for three years, while maintaining the biennial increase ceiling at 30%.

Apart from the above, the opportunity was also taken to increase the statutory compensation rate for dispossessed tenants affected by redevelopment to 1.3 times of the rateable value in force.

25. The enabling legislation, The Landlord and Tenant (Consolidation) (Amendment) Bill 1992 (the 1992 Bill), was introduced into the LegCo on 3 June 1992. An ad-hoc group was formed in LegCo to scrutinise the 1992 Bill. Members were concerned about the impact of the removal of rent control on low-income households. Some Members considered that the proposed phasing-out timeframe was too short, and that there were inadequate measures in place to assist the grassroots tenants, especially those being displaced by redevelopment. In response, the Government proposed the following amendments –

- (a) for Part II controlled tenancies (post-war residential tenancies), the proposed annual adjustment to the “rent floor” was reduced to 5%;
- (b) Parts I and II of the LTO were extended to 31 December 1996; and
- (c) the level of statutory compensation payable under Parts II and IV of the LTO to tenants dispossessed by redevelopment was increased to 1.7 times of the prevailing rateable value.

The 1992 Bill was passed and the provisions came into effect on 1 July 1993.

### **The Hon James TO’s resolution**

26. In 1996, the Hon James TO moved two sets of resolutions at the former LegCo. The first resolution was to substantially increase the statutory compensation payable under Parts II and IV of the LTO to tenants dispossessed by redevelopment, and the second resolution was to delay the expiry of rent control in view of the then property market exuberance by –

- (a) extending Parts I and II of the LTO to 31 December 1998;
- (b) reducing the biennial rent increase ceiling for Part II of the LTO from 30% to 20%; and
- (c) reducing the “rent floor” for Part II of the LTO from 90% to 80% of the market rent of that premises.

These resolutions were passed on 14 February 1996 and 11 December 1996 respectively. As a result, Parts I and II of the LTO expired on 31 December 1998, after which the security of tenure provisions under Part IV of the LTO became applicable to all decontrolled tenancies.

## **THE ISSUE OF SECURITY OF TENURE AFTER RENT CONTROL REMOVAL**

27. The LTO was further amended during 1999 to 2001 with a view to improving its operation by–

- (a) simplifying tenancy renewal and repossession procedures;
- (b) improving the basis of calculating compensation for the tenant (and subtenant) dispossessed by the landlord for redevelopment;
- (c) increasing penalties for harassment of the tenant and unlawful eviction;
- (d) shortening the lead time for the landlord to serve a notice of termination of residential tenancy upon a tenant, from not more than

seven and not less than six months, to not more than four and not less than three months, before the expiry date of the tenancy; and

- (e) improving the general administration of the LTO.

The enabling legislation – the Landlord and Tenant (Consolidation) (Amendment) Bill 2001 - was passed on 18 December 2002.

28. It should be noted that in facilitating the forfeiture of tenancy by landlords in view of “rogue tenants”, the amended LTO has permitted a landlord to apply for repossession before the tenancy expires if the tenant fails to pay rent within 15 days after the due date. This forfeiture clause, together with other grounds for repossession concerning nuisance, breach of lease terms and tenant’s unauthorised subletting of the premises, are still in force today under Part IV of the LTO.

## **REMOVAL OF SECURITY OF TENURE**

29. Having considered the distortions caused by security of tenure to the market and factors including a sufficient supply of flats;<sup>10</sup> falling rents of private residential units;<sup>11</sup> and the availability of adequate and affordable public housing then, the former Secretary for Housing, Planning and Lands (SHPL) announced on 13 November 2002 that a thorough review of the LTO would be undertaken with a view to resuming free market operation of the private residential market, giving owners the necessary flexibility, and mitigating the difficulties in recovering flats for re-letting.

30. The Government commenced a public consultation exercise in January 2003 to invite views on –

- (a) whether and how the security of tenure provisions under Part IV of the LTO should be removed;

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<sup>10</sup> The then assessment was that the annual production of private housing was estimated to remain at a stable and high level of about 30 000 units until 2003, whereas the vacancy rate in the private sector as at end 2001 remained high at 5.7% or 60 500 units.

<sup>11</sup> As at end November 2002, the average rent level dropped by about 40% as compared with the peak in October 1997.

- (b) whether certain provisions on the notice requirement for termination of non-residential tenancies should be abolished;
- (c) whether tenants should be statutorily required to submit personal information to landlords, and whether the provision of false information by tenants should attract criminal liability; and
- (d) whether the prevailing statutory protection for subtenants was adequate in cases where the principal tenancy was terminated by the landlord due to non-payment of rent by the principal tenant.

31. As to how security of tenure should be removed, the Government proposed the following four options –

- (a) partial removal delineated by rateable value;
- (b) removal for new tenancies only;
- (c) complete removal in one go; and
- (d) complete removal after a grace period.

It was revealed that the majority of respondents, including those from professional bodies, political parties and District Councils, were in favour of a complete removal of security of tenure, and supported that the notice period under part V of the LTO for non-residential tenancies should also be removed.

### **The Landlord and Tenant (Consolidation) (Amendment) Bill 2003**

32. Taking public views into account, the Government introduced the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 (the 2003 Amendment Bill) into LegCo on 11 June 2003 to remove security of tenure under Part IV of the LTO, as well as the six-month notice requirement for tenancy termination for non-residential tenancies under Part V of the LTO. It was planned that the removal should take effect one year after the passage of the 2003 Amendment Bill.

33. During the scrutiny of the 2003 Amendment Bill by the relevant Bills Committee, some LegCo Members raised the following concerns –

- (a) the complete removal of security of tenure would push up rents immediately, thereby unduly affecting tenants who were socially underprivileged; and
- (b) the passage of the 2003 Amendment Bill would encourage landlords to evict tenants for the purpose of redevelopment with a view to receiving more compensation from the Urban Renewal Authority (URA), and that tenants would no longer be eligible for the compensation as stipulated in the LTO.

34. In response to the views above, the Government provided figures to demonstrate that the supply of rented accommodation for low-income households was adequate, and that there seemed to be in lack of strong evidence suggesting tenants had availed themselves of the security of tenure protection. In fact, a survey conducted by the RVD in Q2 2003 revealed that the vacancy rate of flats with shared households was 23.6%, and that 72% and 86% of the 480 respondents stayed in the same premises for less than two and four years respectively. There were also no evidence suggesting that tenants residing in low-rateable value premises were in any particular need of security of tenure protection: according to the RVD, as at 2003, 89% of the tenancies involving tenements of a rateable value less than \$60,000 lasted shorter than four years, and 69% lasted for two years or shorter. Besides, the Government and the URA undertook to implement various measures to meet the housing needs of the tenants being displaced by redevelopment projects initiated by the URA. For instance, rehousing in estates of the Housing Authority or the Hong Kong Housing Society would be offered to the eligible tenants, and for those who were not eligible for rehousing, ex-gratia cash payments would be offered by the URA.

35. The 2003 Amendment Bill was passed on 30 June 2004. The security of tenure for residential premises and the six-month notice period for tenancy termination for non-residential premises were eventually removed on 9 July 2004.



**Transport and Housing Bureau**  
**June 2014**

**Components of the  
Landlord and Tenant (Consolidation) Ordinance (LTO)  
before the removal of tenancy control**

<u>Corresponding part of the LTO</u>	<u>Purpose</u>
<b>Part I</b>	To provide for rent control and security of tenure for domestic premises completed before the Second World War.
<b>Part II</b>	To provide for rent control and security of tenure for domestic premises completed after the Second World War (post-war domestic premises) with a rateable value below a prescribed threshold at a particular date.
<b>Part III</b> (certain provisions are still in force today)	To stipulate procedures for a landlord to apply to recover properties within a premises to compensate his loss in the case of rent in arrears.
<b>Part IV</b> (certain provisions are still in force today)	To provide for security of tenure for domestic tenancies not covered by Part II of the LTO. <sup>12</sup>
<b>Part V</b> (certain provisions are still in force today)	To provide for a six-month notice period for the termination of non-domestic tenancies.
<b>Part VI</b>	To provide for streamlined procedures for a landlord to apply for re-possession for small tenements.

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<sup>12</sup> Part IV of the LTO is not applicable to certain types of tenancies, for example short-term tenancies.

Major Views from the Public on Tenancy Control in Hong Kong

(recorded in the language in which they are reported)

香港各界對租務管制公開表達的一些主要意見

(按有關報導的語言記錄)

(January 2013 to June 2014)

(2013年1月至2014年6月)

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
2013	<ul style="list-style-type: none"><li data-bbox="256 696 842 1352">● Michael CHUGANI, a current affairs commentator, considered that tenancy control was an effective measure for the Government to confront the property developers. Quoting himself as an example, he commented that the Government had not been able to address the difficulties faced by the middle class who did not own any property, by refusing to reintroduce tenancy control measures. (14 January 2013 and 10 April 2013, South China Morning Post)</li><li data-bbox="256 1397 842 1765">● 報章引述博客文章指出，推行租金管制不會影響香港自由市場之美譽。同時，租金管制只需涵括以基層住戶的物業為對象，內容可考慮昔日管制方式，「每兩年一次的加租幅度不得超過三成」。 (2013年1月15日，經濟日報)</li><li data-bbox="256 1809 842 2024">● 工聯會陳婉嫻議員就《施政報告 2013》房屋政策部分建議實施租金管制。 (2013年1月18日，立法會房屋事務委員會特別會議)</li></ul>	<ul style="list-style-type: none"><li data-bbox="873 696 1455 1205">● 新報社論回應明愛基層組織發展計劃的調查時指出，根據經濟學家意見，租金管制導致樓宇失修，令住房居住環境越趨惡劣。現時香港樓價高企，但租金回報率只有不到 3%。同時，租金高昂主要集中於劏房。若政府強行向全港單位實施租金管制，這方法並不恰當。 (2013年6月28日，新報)</li><li data-bbox="873 1249 1455 1957">● 香港浸會大學傳播系講師，前香港大學經濟及財務學系助教阮穎嫻撰文指出，多年來經濟學家反覆研究租金管制，已說明有關管制將會減少租盤供應及令租盤質素下降。由於租金低於市價，需求增加，因此令與地產經紀或者業主相熟的人士才能獲得租盤，故低下階層人士不能從中受惠。同時，由於人為地壓低租金，枱底交易或會出現。為了得到租盤，租客需付出租約以外的金錢予業主（如鞋金），變相令租金增加。 (2013年7月20日，明報)</li></ul>

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<p>(2013年1月19日，文匯報)</p> <ul style="list-style-type: none"> <li>● 《地產霸權》作者潘慧嫻建議即時針對中小型單位及劏房實行租金管制，以解小市民住屋燃眉之急。她認為即使租金收入減少，物業投資者亦不會空置單位不願放租。 (2013年1月20日，蘋果日報)</li> <li>● 測量師陳東岳回應《施政報告2013》時指出，現時社會對資助房屋剛性需求大，但短時間內未能大量增加供應。在過渡期間，政府除容忍劏房之外，可考慮推行租金管制作為權宜之計。 (2013年2月1日，經濟通，專欄「地產人語」)</li> <li>● Chi YUEN, a current affairs commentator, considered that judging from the history of implementation in Hong Kong, the imposition of tenancy control would help the Government to maintain social stability and would not hinder the progress of the economy or harm the interests of small property owners. (2 February 2013, China Daily Hong Kong Edition)</li> <li>● 工黨李卓人議員建議政府實施租金管制，以減輕低收入家庭住屋負擔。 (2013年2月8日，立法會長遠房屋策略委員會會議) (2013年2月8日，新報)</li> </ul>	<ul style="list-style-type: none"> <li>● 香港中文大學酒店及旅遊管理學院會計與財務高級講師李兆波指出，現階段不應恢復租金管制上限，但政府可考慮將終止租約通知期由現時一個月增加至三個月，容許租客有更充分時間找尋另一居所。此外，政府亦可考慮限制預繳租金的數目，用以避免部分租客因預繳較多租金，從而較為容易獲得租盤。 (2013年7月27日，置業家居)</li> <li>● 青年區動張國文參考經濟學的合理預期理論分析租金管制的成效。由於重推租金管制需要經過立法會三讀通過，由諮詢至立法的時間可長達兩三年，因此市場有足夠時間調高租金抵消租金管制的效用。 (2013年8月26日，成報)</li> <li>● 恒生管理學院商學院院長蘇偉文（亦為長遠房屋策略督導委員會（長策會）委員）根據過往香港實施租管經驗說明，租金管制實際是以業主的租務利益來保障低下階層住屋需要。因此，若針對舊樓租金實施管制，受害的只是舊樓業主，而非地產商。另一方面，從政策角度出發，要麼全面實施租金管制，不然會出現漏洞，到頭來只會影響自由經濟及扭曲住宅市場。 (2013年8月31日，置業家居)</li> </ul>

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<ul style="list-style-type: none"> <li data-bbox="256 309 839 913">● 理工大學許智文教授（亦為長遠房屋策略督導委員會（長策會）委員）建議，在住宅供應不足下，租管有助壓抑租金升幅，對租客有基本保障。同時，租金管制只可用作短期樓市熾熱的暫緩措施。雖然租管下可能因為市價未達業主心目中理想水平，令業主封盤不願放租。但長遠來說，業主還是傾向把單位出租，令其至少可賺取一定的租金收入。 (2013年2月14日，信報)</li> <li data-bbox="256 965 839 1240">● 社會民主連線梁國雄議員建議重推租金管制，以緩減租金升勢。 (2013年3月4日，立法會房屋事務委員會會議，討論公屋輪候冊入息和資產限額檢討) (2013年3月5日，東方日報)</li> <li data-bbox="256 1292 839 1464">● 民協馮檢基議員指出，基層人士受通脹影響物價上升所累，政府應盡快重推租金管制。 (同上)</li> <li data-bbox="256 1516 839 2031">● 明愛基層組織發展計劃訪問了208名居於深水埗區的劏房居民，接近60%的受訪者過去兩年曾經加租，每年平均加幅為15%。有40%受訪者租金支出佔家庭收入30%以上。劏房平均呎租約28.8元，較同區豪宅呎租24元為高。因此，該組織建議政府恢復租金管制及租住權保障，減輕低收入人士租金壓力。</li> </ul>	<ul style="list-style-type: none"> <li data-bbox="871 309 1457 674">● 經濟學者關焯照（亦為長策會委員）撰文說明，根據香港過往數據，租管對於控制租金的能力非常有限。此外，香港金融研究中心指出，租金變化往往隨樓價變動，因此要壓低租金應先壓低樓價。 (2013年11月19日，蘋果日報)</li> <li data-bbox="871 725 1457 1039">● 阮穎嫻在另一篇回應區諾軒的文章中以紐約為例，說明在租務管制的情況下富戶較基層市民較有優勢，因此阮認為儘管租務管制能夠穩定租金，但不能幫助基層市民。 (2013年9月7日，明報)</li> <li data-bbox="871 1090 1457 1314">● 專欄作者「林芸生」認為租金管制導致「匙金」制度出現，以其他方式向租客收取額外款項，以彌補租金收入減少。 (2013年9月13日，東方日報)</li> <li data-bbox="871 1366 1457 1874">● 紀惠集團行政總裁湯文亮博士於專欄中解釋，租管並不能穩定樓市，生意人希望得到利益，若實施租管生意人見無利可圖便不會投資，變相減少供應。此外，若實施租管後，租金由土地仲裁處釐定一個合理市值，在樓市供應不充足的情況下，租金將會繼續上升，受害的仍是租客。 (2013年12月8日，新報)</li> </ul>

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<p>(2013年6月28日，新報，及同日，文匯報)</p> <ul style="list-style-type: none"> <li>● 「全港租客大聯盟」遊行時表示，由於欠缺租金管制，令租客必須承擔貴租。該組織表示有租戶居於荃灣區100呎單位，月租竟要4,000元。亦有長者因無法負擔租金，兩年內需要搬家四次。聯盟要求政府盡快檢討和修改「租管條例」，限制租金升幅。 (2013年7月8日，新報)</li> <li>● 民主黨區議員區諾軒回應阮穎嫻的文章時指出，第一代租金管制失敗，不代表修正後的第二代租金管制沒有貢獻。他認為租金管制能夠穩定租客租金水平，減低租客因加租而被逼遷。 (2013年7月24日，明報)</li> <li>● 區諾軒在另一篇文章中又表示，租客尋找單位時間便是成本，業主亦不可能慢慢等待「最好」的租客光臨，因此交易是在信息不完整下完成。因此，他對租金管制減低租盤供應的說法存在疑問。另一方面，他認為樓市目前受熱錢影響導致租金上升，出現業主賺盡、租客任由魚肉的情況。他認為租金管制能夠抑止投資住宅市場的熾熱。 (2013年8月7日，明報)</li> </ul>	<ul style="list-style-type: none"> <li>● 世紀21奇豐物業主席李峻銘指出，參考海外經驗，租金管制會引致業主不願將單位放租，減少房屋供應，出現黑市交易，基層住戶不能受惠。 (2013年12月12日，經濟日報)</li> <li>● 湯文亮亦在另一篇專欄文章指出，若推出租管，租客只願付出現有租金，而不願付出更高的租金，故部分願意以低於市值出租物業的業主將身受其害。 (2013年12月13日，新報)</li> </ul>

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<ul style="list-style-type: none"> <li data-bbox="256 304 831 622">● 影子長策會葉寶琳指出，租務管制包括租金管制及租住權保障兩部分。現時租客處於弱勢之下，租務管制能夠平衡業主與租客議價能力，因此並不應將之打壓於萌芽。 (2013年8月20日，明報)</li> <li data-bbox="256 674 831 1585">● 葉寶琳的另一文章反駁租務管制所帶來的問題。她認為根據1998年撤銷租金管制後住宅空置率不跌反升，和2004年取消租務管制後空置率只下跌0.5%的前提下，已令租金管制導致供應減少的說法難以成立。她認為推行租金管制或會令租客短期內付出較多租金。但租住權管制能夠保障長期及穩定的居住權，業主不能純粹因租金「價高者得」而選擇租客。由於業主選擇新租客或是和舊租客續約，基本上利益分別不大。可是，租客卻需付上極大成本，因此租住權保障將有助增加租客的議價能力。因此，應重開租管的討論，並不應打壓於萌芽。 (2013年8月21日，信報)</li> <li data-bbox="256 1666 831 2000">● 「青年拒當樓奴運動」訪問900名青年人發現，近80%持有高級文憑或以上學歷；當中62%入息高於審查上限因而無意申請公屋；90%認為樓價太貴，工資太低無力置業。由於年青人未能申請公屋及未能置業，政</li> </ul>	

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<p>府應恢復租金管制，令租金回落至可負擔水平。 (2013年8月25日，頭條日報)</p> <ul style="list-style-type: none"> <li>● 工黨張國柱議員回應扶貧委員會向低收入住戶發放一筆過津貼時指出，政府應回復租金管制，重新檢定《業主與租客（綜合）條例》，使租金回到合理水平，改善貧困人士生活。 (2013年9月3日，星島日報)</li> <li>● 會計師「WY Jimmy」於專欄中表示，租金管制並不是干預自由市場，早於租金管制仍然存在時，香港已被視為最自由經濟。此外，現時租金暴漲失控令基層市民不能負擔，影響生活質素，所以再次實施租金管制刻不容緩。 (2013年10月4日，信報)</li> <li>● 葵涌劏房租客聯盟認為發牌規管劏房前，政府應設立租管及興建過渡性住房，否則劏房居民將無處容身。 (2013年10月8日，太陽報)</li> <li>● 浸會大學社會工作學系助理教授馮國堅指出英國自1988年取消租金管制後，私營租住市場只有短暫的改善，供應繼續下降及質量沒有改善。此外，他亦指出不少海外歐美州郡亦正在推行「軟」租管。他認為政府不應在沒有詳細的研究基礎</li> </ul>	



Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<p>下貿然斷定租務管制的後果。 (2013年10月26日，信報)</p> <ul style="list-style-type: none"> <li>● 工聯會鄧家彪議員回應社區組織協會向立法會議員申訴要求政府保障貧窮租戶權益，期望立法會事務委員會能夠討論租金管制及租戶權益。 (2013年11月20日，文匯報)</li> </ul>	
2014	<ul style="list-style-type: none"> <li>● 工黨李卓人議員建議政府實施租務管制，以減輕低收入家庭的住屋負擔。 (2014年1月5日城市論壇，討論施政報告2014) (2014年1月6日，明報)</li> <li>● 街工梁耀忠議員要求政府實施租務管制，為基層勞工解決租金不斷上升問題。 (2014年1月16日施政報告答問大會) (2014年1月17日，大公報)</li> <li>● 影子長策會陳紹銘撰文指出，《長遠房屋策略》諮詢過程中，租金管制及租住權管制的建議，可算是主流聲音，但《施政報告》卻隻字不提，加上公屋興建量甚少，令人擔心租金只會繼續上升，基層市民生活將更捉襟見肘。 (2014年1月20日，信報)</li> <li>● 影子長策會葉寶琳撰文說明，參考海外經驗租管有多個可能性，租務管制的基本精神是平衡業主和租客的權利，不應只以過往的印象來否定租管。 (2014年1月27日，信報)</li> </ul>	<ul style="list-style-type: none"> <li>● 星島日報社評認為租管副作用多，並不是有效方法為租務市場降溫，政府應增加居屋單位供應，從而減低租樓需要。 (2014年2月14日，星島日報)</li> <li>● 關焯照回應政府表示全面研究租金管制利弊時說，分析過去數據，認為租金管制只會令租盤減少，租金不跌反升。 (2014年2月16日，蘋果日報)</li> <li>● 中原地產施永青在回應政府表示全面研究租金管制利弊時認為租管只會令少數人受惠，令業主拒絕放租，最後無法解決住屋問題。 (2014年2月16日，蘋果日報)</li> <li>● 香港中文大學地理及資源管理學系副教授姚松炎博士認為「租管不公義」，因目前租金高企，主因是房屋供應不足，不應實施租管懲罰小業主。其次是租管實際上無法實行，業主可以巧立名目，在租金以外收取鞋金、鎖匙金、頂手費和家具費，結果市民還是無法以</li> </ul>

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
	<ul style="list-style-type: none"> <li>● 社民連梁國雄議員要求政府恢復租金管制。 (2014年2月11日，新報)</li> <li>● 工黨何秀蘭議員建議恢復一定程度的租金管制。 (2014年2月13日《施政報告》致謝議案辯論) (2014年2月14日，星島日報)</li> <li>● Mr Patrick LAU, former Director of Lands, considered that while the reintroduction of rent control could curb exorbitant residential and commercial rent increases, such control would also aggravate the supply shortage. (14 February 2014, China Daily Hong Kong Edition)</li> <li>● 張國柱立法會議員辦事處及關注基層住屋聯席於2013年12月中至2月中訪問了301個受助基層家庭。受訪者中有50%以上居於劏房及12%居於板間房。94.3%的受訪者支持實施租管，87.8%要求延長終止租約通知期，及接近90%認為若非重建或自住，現時租客可優先續約。 (2014年2月25日，蘋果日報)</li> <li>● 理工大學陳文鴻博士認為租務管制是房屋政策主要的組成部分，作用是保障租戶利益，背後包括對社會的食利者階層不予鼓勵，也為了避免由壟斷帶來社會生活生產的不合理高成</li> </ul>	<p>平租找到租盤。第三，推行租管令更多業主封盤，轉為經營租金收入更豐厚的賓館或無牌賓館。考慮到市場上是有足夠私樓單位，解決方法是政府租入市場上大批物業，再以較便宜的租金轉租給有需要的人士。</p> <p>(2014年2月16日，蘋果日報) (2014年2月23日，明報) (2014年3月29日，信報)</p> <ul style="list-style-type: none"> <li>● 「林芸生」認為租金管制導致「匙金」制度——為了彌補法定與市值租金間的差額，業主要求租客入住前繳交高昂匙金，一旦約滿或欠租，又會千方百計逼走租客，重新放盤，再撈一筆。 (2014年2月17日，太陽報)</li> <li>● The Hon IP Kwok-him of the Democratic Alliance for the Betterment and Progress of Hong Kong commented that it would be controversial to restrict owners to increase rents as the residential properties were their own assets. (17 February 2014, the Standard)</li> <li>● 文匯報報導認為租管對控制租金的能力並非想像中的有效，甚至適得其反。樓價不跌，租金不可能回落。目前本港租金的升勢，反映的是市場對租盤的需求增加及供應不足，不能倚賴租管政策去解決，而要從</li> </ul>

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	<p>本。租務管制可逼使房屋需求轉至市中心外圍，這樣能夠使市區及外圍地區租金不致相差太遠，減少財富集中，較有效率地改善香港有限的土地資源。另一方面，假若香港社會能減少樓價租金的支出，其他方面的消費投資便可增加，有利經濟。</p> <p>(2014年2月18日，東方日報)</p> <ul style="list-style-type: none"> <li>● Considering that rental expenditure is one of the major expenditure items for poor families, Mr KWOK Lit-tung, the Chief Executive of the Christian Family Service Centre, commented that tenancy control would benefit the poor in the long run despite its negative impact on housing supply. He considered that it would be irresponsible for the Government not to consider rent control especially when there were no better ideas to help these families.</li> </ul> <p>(19 February 2014, South China Morning Post)</p> <ul style="list-style-type: none"> <li>● 影子長策會陳紹銘另一篇文章建議，若租金管制連同空置稅一同實施，將會減少業主封盤的誘因。同時，他認為實施租管出現所聲稱的「副作用」，如租約期後大幅加租、續租與否由業主決定、沒有簽署租約被即時加租、租客毫無選擇等，在現時沒有實施租管的情況下仍是經常出現。此外，他</li> </ul>	<p>增加供應入手。</p> <p>(2014年2月18日，文匯報)</p> <ul style="list-style-type: none"> <li>● 文匯報社評認為，根據過往本地經驗，實施租金管制難以阻止租金上升。業主不願放租單位，租管保障同時驅使更多租客進入租務市場，令供求失衡最後租金上升。</li> </ul> <p>(2014年2月18日，文匯報)</p> <ul style="list-style-type: none"> <li>● 專欄作者「沙膽虹」回應政府研究租金管制的利弊時表示，若業主希望趕走舊租客獲得更多租金，業主成本將會增加。因此，若租客是好租客，業主往往願意收取較低租金。</li> </ul> <p>(2014年2月18日，蘋果日報)</p> <ul style="list-style-type: none"> <li>● 專欄作者「齊秀峰」認為長遠而言，租管能否抑壓高企的租金屬未知之數，但根據海外及本港以往的情況，短期內會令租盤供應減少。在現時供應仍未真正回升時，在求過於供下，租金短期內勢必上揚。此外，香港的全球最高自由度美名，對吸引外資很重要，若然政府對自由市場不斷加以限制，香港經濟自由度將會與新加坡越拉越近。如果香港失去第一位，經濟多少都要付出代價。</li> </ul> <p>(2014年2月18日，星島日報)</p> <ul style="list-style-type: none"> <li>● 專欄作者「高天佑」引用諾貝爾經濟學獎得主克魯明教授的論點，即租管只會帶來雙輸局</li> </ul>

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	<p>亦認為租金管制是減少市民租金開支的重要政策，扶貧除了救濟外，限富也是一種辦法。最後，他表示訂立租務管制的果效，是向社會發出訊息，政府決心保障租客權益，限制業主權力，嘗試扭轉港人置業至上的意識形態。 (2014年2月24日，信報)</p> <ul style="list-style-type: none"> <li>● 葵涌劏房住客聯盟於2013年10月期間訪問150位正在輪候公屋而未能負擔購買私樓的市民，當中有60%受訪者居於劏房，有83.3%的受訪者贊成租金管制。 (2014年2月25日，蘋果日報)</li> <li>● 關注基層住屋聯席幹事陳凱姿認為房屋是基本需要，現在租金水平已不合理，應平衡業主與租客利益，不能只讓業主賺錢。如不推行租管，當局應提出其他壓抑租金的方案。 (2014年3月4日，信報)</li> <li>● Considering that housing is key to poverty alleviation, Mr HO Hei-wah of the Society for Community Organization criticized the Government for refusing to introduce tenancy control notwithstanding its focus on poverty alleviation in the Policy Address. (10 March 2014, South China Morning Post)</li> <li>● When being interviewed, WONG</li> </ul>	<p>面，是為經濟學上最無爭議的概念之一。美國經濟學協會的調查亦顯示93%受訪經濟學家認同，為租金設定上限，只會傷害房屋供應的質量和數量。克魯明觀察有實施租管的三藩市，租客百般取悅業主，但求對方挑選自己。他總結租管三大壞處：削弱投資建屋意欲；業主嚴選租客，增加雙方交易成本；部分投資者寧願讓單位空置。 (2014年2月18日，信報)</p> <ul style="list-style-type: none"> <li>● 專欄作者「徐傑昌」回應政府考慮研究租金管制時表示，一旦恢復租管，租霸將會重新出現。二來，業主跟新租客訂立租約時，必定大幅提高租金。由於沒有關於租管的新論述，重提租管只是「阿茂整餅」。 (2014年2月19日，東方日報)</li> <li>● 亞洲地產董事蔡志忠於其專欄中回應政府研究租金管制時表示，實施租管只會令舊租客得益，業主反而會提高租金及挑選租客，新租客沒有好處。 (2014年2月19日，經濟日報)</li> <li>● 湯文亮認為推行租金管制將會降低業主收入，租金收入未必能夠負擔利息支出，到時業主便會要求政府管制利息支出。 (2014年2月20日，新報)</li> <li>● 李峻銘於專欄中回應政府研究</li> </ul>

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	<p>Kwok-wing, a veteran member of the Federation of Sub-divided Flat Tenants, advocated a tenancy control policy that guaranteed a minimum of two year's tenure, capped [rent increase] at a maximum of 15%, and existing tenants being given the priority to renew tenancy contracts. He also said that in the non-regulated rental market, he had been forced to move out more than once. (14 March 2014, China Daily Hong Kong Edition)</p> <ul style="list-style-type: none"> <li>● The Salvation Army interviewed 127 persons who were not recipients of social security assistance or public housing from December 2013 to January 2014. The Survey discovered that the interviewees on average spent 62% of their income on rent, whereas more than 80% of them considered that reintroducing tenancy control and a regular low-income subsidy would be the most effective ways to help them. (24 March 2014, South China Morning Post) (24 March 2014, the Standard)</li> <li>● 公屋聯會主席王坤(亦為長策會委員)認為實施租管可減少業主亂加租。就租霸問題，可加快業主上訴期。他並建議可給予出租單位的業主扣稅，以刺激租務市場的流通量。 (2014年3月29日，信報)</li> <li>● 影子長策會黃和平撰文釐清不</li> </ul>	<p>租金管制時表示，實施租管只會令舊租客得益，代價是年輕人將來面對房屋供應更少。 (2014年2月20日，經濟日報)</p> <ul style="list-style-type: none"> <li>● 專欄作者「魯姜」在回應政府研究租金管制時表示，現時最需要幫助或資助的其實只有劏房租戶，但由於界定劏房困難，政府難以規管劏房租金。 (2014年2月20日，信報)</li> <li>● 觀塘區民建聯區議員顏汶羽認為，租金管制只是口號漂亮、沒有多大實效的政策而已。要解決租金高昂，應該從居屋供應及需求入手。 (2014年2月24日，香港商報)</li> <li>● 油尖旺區獨立區議員陳偉強於其專欄中表示反對實施租金管制，認為若以行政管制削弱市場自由，將來必定出現大量問題。 (2014年2月24日，太陽報)</li> <li>● 立法會議員謝偉銓於專欄中表示，經濟理論清晰表明，租金管制令住屋供不應求推高租金，及令業主維修意欲下降。政府無需研究其可行性。 (2014年2月26日，am730)</li> <li>● 香港友好協進會李秀恒於專欄反對租金管制。租管將會租霸重新出現，同時有一半人口居於公屋或居屋內，因此不存在租管問題。</li> </ul>

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	<p>同團體的訴求，他指出現時大部分團體正爭取「租住權保障」，而限制加租則是保障租住權的其中一項政策。租住權保障就是要透過政策介入調整業主與租客之間的不對等狀況。他進一步說明世界各地保障居住權的措施包括：租金管制、續租權保障、最低租約期、收回物業限制、搬遷通知期及賠償及仲裁機制。「租住權保障」正正是保障原有租客不會因為有新租客願意付出更高租金而遭到業主迫遷。此外，他又認為政府的土地及房屋政策是影響樓宇供應及需求的最大因素，因此不能單單抽取「租住權保障」來評論樓宇供應。</p> <p>(2014年3月25日，信報)</p> <ul style="list-style-type: none"> <li>● 香港理工大學社會政策研究中心主任鍾劍華認為，政府要解決住屋問題應從多方面入手，短期而言可以考慮重推 2004 年前的租住權保障政策。</li> <li>(2014年4月9日，文匯報)</li> <li>● 葵涌劏房住客聯盟在 2014 年 1 至 3 月的另一個調查發現在受訪的 580 名居住於葵青區內不適切居所的居民當中，一人住戶的住屋開支佔其入息的 49.5%，而業主濫收水電費的情況亦十分普遍。該團體建議政府應針對基層集中的不適切居</li> </ul>	<p>(2014年3月1日，東方日報)</p> <ul style="list-style-type: none"> <li>● 獅子山學會羅繼堯撰文指出，最支持租管的人士，肯定是現時租住單位的人士。從經濟的角度，租管只會令業主更難把單位放租給新租客。至於那些打算搬出來住，卻未有足夠經濟能力的，租管不能亦不應幫助他們。而且取消租金管制成功阻嚇部分租霸出現，若恢復將會令租霸重新出現。</li> <li>(2014年3月1日，香港商報)</li> <li>● 專欄作者「辛博仁」認為租管對租戶看似理想的制度，但實際施行卻有不少副作用：如減少供應，間接引致租金上升；業主私自收取租金以外的費用；「上有政策，下有對策」，如用更多政策壓抑，行政措施太多變成擾民。租客最後反而得不償失，又會責怪政府「越管越衰」。</li> <li>(2014年3月2日，香港商報)</li> <li>● 經濟學者，前理工大學副教授林本利在蘋論中表示贊同姚松炎的看法。他認為租管是不公義的，政府沒有理由強制小業主收取低於市值的租金，變相充公私人財產，用作減輕基層市民的租金支出。另外，租管實際上是難以執行，因為業主可以巧立名目，在租金以外收取鞋金、鎖匙金、頂手費和家具費等費用。業主如不能收取</li> </ul>

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	<p>所實施租金管制。 (2014年5月9日，晴報)</p> <ul style="list-style-type: none"> <li>● 社會服務聯會於2014年5月發表最新「香港社會發展指數」調查，其中房屋分類指數嚴重倒退。社聯指出，公屋輪候人數已逼近23萬，加上租金升勢未止，預期房屋指數會越來越差。就此，社聯促請政府加建公屋及落實租務管制，當中包括延長終止租約通知期至三個月，方便租客另覓居所。 (2014年5月30日，蘋果日報)</li> </ul>	<p>額外費用，情願把物業空置，肯定令私樓的空置率飆升；此外，業主為降低出租成本，會讓物業日久失修，之後就以進行大型修葺為由把租客趕走，收回單位改作其他用途（包括改建成旅館）；不少租戶要露宿街頭或居於僭建單位內。此外，林認為租管會令小業主和租客變得對立，進一步激化社會矛盾。 (2014年3月2日，蘋果日報)</p> <ul style="list-style-type: none"> <li>● 香港業主會會長余慶雲指租管扭曲市場。他認為業主承受的風險很大，同情弱勢租客時也應考慮只靠手上一層樓放租維生的弱勢業主。 (2014年3月4日，信報)</li> <li>● 根據過往香港實施租金管制的經驗，怡居地產董事總經理王文彥指出，租務管制會令業主不願放盤，令租客易請難送，業主變相補貼租客，業主不能迫遷租客令物業成交降低，及令業主及租客關係對立。實踐證明，租金管制是不公義。 (2014年3月10日，經濟日報)</li> <li>● Professor CHAU Kwong-wing of the Department of Real Estate and Construction, the University of Hong Kong commented that there had been no successful rent control systems in the world, and that the <i>raison d'être</i> behind rent control regimes in different</li> </ul>

Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
		<p>countries was political reality. (14 March 2014, China Daily Hong Kong Edition)</p> <ul style="list-style-type: none"> <li>● Dr MO Pak-hung of the Economics Department, Hong Kong Baptist University considered that the Government should increase the supply of residential flats to restrain rent instead of imposing rent control. He considered such measures, being microeconomic fine-tuning policies that undermined the free market philosophy, would make both landlords and tenants lose. (14 March 2014, China Daily Hong Kong Edition)</li> <li>● When being interviewed, Mr Peter WONG, a local property investor, commented that tenancy control would curtail his financial flexibility, and discourage him from refurbishing his flat. He also added that rent control would scare off property investors, and make it more difficult for local people to find appropriate residential flats due to reduced supply. (14 March 2014, China Daily Hong Kong Edition)</li> <li>● Mr Vincent CHEUNG, the Greater China National Director of Cushman &amp; Wakefield, an international property analyst, considered that if tenancy control cases were handled through the regular court system, the system would be cumbersome and</li> </ul>



Year 年份	Views supporting tenancy control 支持租務管制的意見	Views opposing tenancy control 不支持租務管制的意見
		<p>expensive. He also considered that “installing a rent control regime in a free market economy like Hong Kong does not make any sense”. To alleviate the burden of the tenants, CHEUNG suggested the Government to give more tax allowance for rent payments. (14 March 2014, China Daily Hong Kong Edition)</p> <ul style="list-style-type: none"> <li>● 中原地产亞太區住宅部總裁陳永傑認為「租務條例」推行一段長時間後終於修改，反映條例效用成疑。重新推行這條例，不一定幫助租客可享受廉宜租金，因為一些業主會嫌租出物業後收回麻煩，索性丟空，減少供應，租金便不會大幅下滑，甚至有可能令租金再上。市區重建工作亦可能停頓，市區不能改善居住環境，也是一個非常嚴重的社會問題。 (2014年4月17日，am730) (2014年4月21日，新報)</li> <li>● 在報章有關房屋供應的專題報導中，許智文教授表示如針對劏房實施租金管制，將可能令劏房的需求增加和供應減少，造成反效果。 (2014年5月31日，新報)</li> </ul>

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## **Measures Taken by the Government and the Community Care Fund to Address Livelihood Issues Faced by the Low Income Households**

### **Housing**

To assist low-income families who cannot afford private rental accommodation, the Hong Kong Housing Authority (HA) provides Public Rental Housing (PRH) to these low-income families, with the target to maintain the average waiting time at around three years for general applicants (i.e. family and elderly one-person applicants). With the increasing number of general applicants, the HA will endeavor to increase housing supply and at the same time step up measures to ensure the rational use of precious PRH resources. The Government has accepted the recommendation of the Long Term Housing Strategy Steering Committee to adopt a new total housing supply target for public and private housing of 470 000 units for the next ten years, with public housing supply accounting for 60% of the new supply. Also, the annual production of the Home Ownership Scheme will be increased to about 8 000 flats on average, so as to meet the home ownership aspirations of low and middle-income families and the younger generation.

2. At the same time, we will continue to monitor the development of the private residential property market. We estimate that about 72 000 private residential units will be available for sale in the next three to four years. The Government will continue to actively make available more land for both public and private housing development.

### **Other Assistance Available to Low-income Households Taken by the Government and the Community Care Fund**

#### ***The Comprehensive Social Security Assistance (CSSA) Scheme***

3. The Government provides a safety net for those who cannot support themselves financially. Such individuals and families can apply for assistance under the CSSA Scheme to meet their basic needs. Assistance is broadly classified into three types : “Standard rates” are paid to different categories of recipients to meet their basic needs; “supplements” are provided for specific categories of recipients (i.e. long-term supplement for the old, disabled or those in ill-health, single parent supplement, community living supplement, transport supplement and residential care supplement); and

“special grants” to meet particular needs of recipients (which are divided into different categories such as housing and related grants, family grants, medical and rehabilitation grants, child-care grants, school grants etc.)

4. Rent allowance is one of the special grants provided to eligible households under the CSSA Scheme to meet their accommodation expenses. The amount of the allowance is the actual rent paid or the prescribed maximum level of rent allowance (MRA) set in accordance with the number of members in the household who are eligible for CSSA, whichever is the less. The MRA is adjusted annually in accordance with the Consumer Price Index. As at February 2014, the MRA is as follows –

No. of eligible members in the households	Maximum level per month (\$)
1	1,535
2	3,095
3	4,040
4	4,295
5	4,310
6 or above	5,385

### ***The Community Care Fund (CCF)***

5. The CCF has launched various assistance programmes to relieve the financial pressure of low-income households including the following -

- (a) the “Subsidy for CSSA recipients living in rented private housing” programme was first launched in October 2011 and re-launched in September 2013 to provide a one-off subsidy to CSSA households who lived in rented private housing and paid a rent exceeding the MRA under the CSSA Scheme. Each eligible one-person and two-or-more-person CSSA household was provided with a one-off subsidy of \$1,000 and \$2,000 respectively for the first launch and \$2,000 and \$4,000 respectively for the re-launch. The programme benefited around 22 600 and around 17 800 CSSA households respectively when it was first launched and re-launched and the total amount of subsidy involved was over \$83 million. As announced in the 2014 Policy Address, the Government will invite the CCF to re-launch the programme in 2014 ; and

- (b) the following programmes target low-income households who do not receive CSSA, do not live in PRH, and do not own any property in Hong Kong (colloquially known as “N have-nots”), and whose household income and monthly rent do not exceed the specified limit –
- (i) the “Subsidy for elderly tenants in private housing” programme was launched in July 2012 which targets elderly tenants living in private housing. A subsidy of \$4,000, \$8,000 and \$12,000 was provided for one-person, two-person and three-or-more-person elderly households respectively. The programme benefited around 2 100 households and the amount of subsidy involved was over \$10 million;
  - (ii) the “Subsidy for low-income persons who are inadequately housed” programme was launched in October 2012 which targets those who rented on a monthly basis (or for longer tenures) accommodation in rooms/cubicles, cocklofts or bedspaces in private permanent housing; rented bedspaces under the Home Affairs Department (HAD)'s Singleton Hostel Programme; resided in temporary housing; or were homeless. A subsidy of \$3,000, \$6,000 and \$8,000 for one-person, two-person and three-or-more-person household was provided. The programme benefited around 25 800 households and the amount of subsidy involved was around \$150 million; and
  - (iii) the “One-off living subsidy for low-income households not living in public housing and not receiving CSSA” was launched in December 2013 which targets those who rented on a monthly basis (or for longer tenures) accommodation in private permanent housing, industrial or commercial buildings; rented bedspaces offered under the HAD's Singleton Hostel Programme; resided in temporary housing; lived on board vessels; or were homeless. The beneficiaries of the two CCF programmes in (i) and (ii) above were also included as targeted beneficiaries. A subsidy of \$3,500, \$7,000 and \$10,000 for one-person, two-person and three-or-more-person households respectively was provided. Up to 20 June 2014, the programme has benefited over 37 000 households and the amount of subsidy involved is around \$270 million. Application will close on 29 August 2014. The CCF will consider the proposal to relaunch the programme in 2014.



6. Apart from the above measures and increasing housing supply, which directly pertain to relieving the rental pressure faced by low-income households, the Government has also put in place a variety of assistance and measures which benefit the low-income community in general. They include cash and non-cash benefits, recurrent and non-recurrent assistance. They are provided in many different areas including education, healthcare, housing, transport and social welfare. The Government will continue to implement and roll-out suitable measures to alleviate poverty, such as the “Low-income Working Family Allowance” announced by the Chief Executive in the 2014 Policy Address, which seeks to encourage self-reliance amongst low-income working families and promote upward mobility.