



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會 LEGISLATIVE COUNCIL



立法會CB(1)963/18-19(01)號文件
LC Paper No. CB(1)963/18-19(01)

香港中區立法會道1號
立法會綜合大樓
立法會秘書處
房屋事務委員會主席
柯創盛議員, MH

尊敬的柯創盛主席

要求將《公共及資助房屋商業設施規管（立法條文）條例草案》
加入事務委員會6月份會議議程

我們近日收到署理法律草擬專員根據《香港特別行政區立法會議事規則》第51(2)條簽發的證明書（下稱證明書），確認我們早前提交的《公共及資助房屋商業設施規管（立法條文）條例草案》（下稱《條例草案》）符合議事規則第50條的規定及香港法例的一般格式，並收悉經律政司法律草擬科修訂的中文及英文《條例草案》文本。

就此，我們要求主席閣下批准將《條例草案》加入房屋事務委員會6月份會議議程，供委員討論。證明書及經律政司修訂並確認的《條例草案》文本已載於附件，並頌
勛祺

葉劉淑儀

委員 葉劉淑儀

麥美娟

委員 麥美娟

謹啟

2019年4月16日

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4 April 2019

Hon. Mrs Regina IP,
Member of the Legislative Council,
Room 804, Legislative Council Complex,
1 Legislative Council Road, Central,
Hong Kong.

BY HAND

Dear Mrs. Ip,

**Regulation of Commercial Facilities in Public and
Subsidized Housing (Legislative Provisions) Bill**

We refer to your e-mail of 4 April 2019@10:54.

2. We enclose the final English and Chinese versions of your Bill together with the Certificate signed by the Law Draftsman (Acting) under Rule 51(2) of the Rules of Procedure of the Legislative Council (*the Rules*).

3. Please note that the Law Draftsman's Certificate is issued on the basis that the Bill conforms with the requirements of Rule 50 of the Rules and the general form of Hong Kong legislation. It does not imply endorsement by the Department of Justice of the contents of the Bill.

Yours sincerely,


(Alan Chong)
Senior Government Counsel

Encls.

《公共及資助房屋商業設施規管(立法條文)條例草案》

根據《香港特別行政區立法會議事規則》
第 51(2)條簽發的證明書

本人認為《公共及資助房屋商業設施規管(立法條文)條例草案》符合議事規則第 50 條的規定及香港法例的一般格式。




署理法律草擬專員
毛錫強

2019 年 4 月 4 日

**Regulation of Commercial Facilities in Public and Subsidized Housing
(Legislative Provisions) Bill**

**Certificate under Rule 51(2) of the Rules of Procedure
of the Legislative Council of the Hong Kong
Special Administrative Region**

I am of the opinion that the Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill conforms to the requirements of Rule 50 and the general form of Hong Kong legislation.



(Gilbert Mo)
Acting Law Draftsman

4 April 2019

《公共及資助房屋商業設施規管(立法條文)條例草案》

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本條例草案

旨在

修訂《房屋條例》，以規管在香港房屋委員會售予領展物業有限公司的物業內的康樂設施及其他設施的提供；規管該等物業的租金增加；以及修訂《稅務條例》，對該等物業的空置處所徵收空置稅。

弁言

鑑於 ——

- (1) 繼 2003 年 7 月 15 日行政長官會同行政會議命令政府應徵求香港房屋委員會原則上同意出售其零售及停車場設施，而該委員會於 2003 年 7 月 24 日原則上同意出售其零售和停車場設施；
- (2) 領展房地產投資信託基金(領展)於 2005 年 9 月 6 日成立，旨在收購香港房屋委員會出售的 180 項物業，並獲授權根據《證券及期貨條例》(第 571 章)作為集體投資計劃運作；
- (3) 2005 年 11 月 25 日，領展在香港聯合交易所公開上市；
- (4) 2016 年 11 月 11 日，立法會內務委員會委任公屋及居屋商場、街市及停車場事宜小組委員會研究多項事宜，當中包括香港房屋委員會能否切實履行《房屋條例》(第 283 章)第 4(1)條所訂定的職責，確保提供房屋和該委員會認為適合附屬於該等房屋的康樂設施；及
- (5) 除了政府採取的各項措施外，有需要以立法方式解決香港房屋委員會能否妥善履行其職責的問題：

現由立法會制定本條例如下 ——

第 1 部

導言

1. 簡稱及生效日期

- (1) 本條例可引稱為《公共及資助房屋商業設施規管(立法條文)條例》。
- (2) 除第(3)及(4)款另有規定外，本條例當作自《公共及資助房屋商業設施規管(立法條文)條例草案》在憲報刊登的日期起實施。
- (3) 第 4 及 11 條自運輸及房屋局局長以憲報公告指定的日期起實施。
- (4) 第 3 部自財政司司長以憲報公告指定的日期起實施，該日期為稅務局局長根據《稅務條例》(第 112 章)第 7E(5)條就各項規例作出的生效日期。

2. 修訂成文法則

第 2 及 3 部指明的成文法則現予修訂，修訂方式列於該兩部。

第 2 部

修訂《房屋條例》(第 283 章)

3. 修訂第 2 條(釋義)

第 2 條 ——

按筆劃數目順序加入

“**已出售物業** (Divested Property)指在附表 2 所指明的一個或多個地段內，並由委員會轉讓予領展物業有限公司的任何物業，即使日後其全部或部分轉讓予第三方，該等物業須仍然屬於已出售物業；”。

4. 加入第 4A 及 4B 條

在第 4 條之後 ——

加入

“4A. 委員會的額外職責

- (1) 在不減損根據第 4(1)條規定的委員會職責的情況下，並在符合第(2)款的規定下，委員會須按照本條例，就已出售物業的任何租約的租金增幅作出規管。
- (2) 第(1)款不適用於租用停車位的租金增加。

4B. 規管租金增幅

- (1) 在符合本條的規定下，委員會須藉在憲報刊登的公告，指明在該公告生效期間租約續期的最高租金增幅。
- (2) 根據第(1)款刊登的公告，須在其在憲報刊登的日期生效，並在其被另一份根據該款刊登的公告所取代之前保持有效。

- (3) 根據第(1)款刊登的第一份公告，須在自運輸及房屋局局長以憲報公告指定的日期後 3 個月內刊登。
- (4) 第(1)款所指的租金增幅，須為採用附表 3 所指明的公式予以確定的數值(**初始值**)，並由委員會經考慮其於指明日期前從以下各方收到有關該初始值的意見後決定給予的若干程度的折扣 ——
 - (a) 《區議會條例》(第 547 章)所指的區議會；
 - (b) 領展、其繼任者及已出售物業的其後受讓人；
 - (c) 在《建築物管理條例》(第 344 章)所指的法團當中，獲委員會認為適當的法團；
 - (d) 由委員會設立並認為適合的屋邨管理諮詢委員會。
- (5) 凡依據第(4)款所確定的租金增幅低於 0.1%，則根據第(1)款指明的租金增幅須視為零。
- (6) 就本條而言 ——

租金增幅 (rate of rent increase)指適用於某租金額的比率，該租金額訂明於在第(1)款提述的公告所指的期間續期的租約。
- (7) 根據本條在憲報刊登的公告並非附屬法例。
- (8) 就已出售物業內物業單位的現行租約的租戶與業主所訂立的任何租約，倘訂立租約的目的是規避本條對該租約適用，則須當作為是對現行租約的續期，而適用於該租約的租金增幅為零。”。

5. 修訂第 17AA 條(特別售賣條件)

第 17AA(1)、(2)及(3)條，在所有“附表”之後 ——

加入

“1”。

6. 修訂第 17AB 條(房屋署署長可轉授其評估現行市值的職能)
第 17AB(1)及(2)條，在“附表”之後 ——
加入
“1”。
7. 修訂第 17B 條(無效的讓與等)
第 17B(1)(c)(ii)及(2)(b)(ii)條，在“附表”之後 ——
加入
“1”。
8. 加入第 19B 條
在第 19A 條之後 ——
加入
“19B. 租戶對現行租約有續期優先權
已出售物業內任何物業單位的所有租約，均憑藉本條而被視為已載有一項條文，規定租戶就租約續期有優先權。”。
9. 修訂第 26A 條(購買人根據第 26(2)條被定罪後法院作出的命令)
第 26A(1)(b)及(2)條，在“附表”之後 ——
加入
“1”。
10. 修訂第 26B 條(其他人根據第 26(2)條被定罪後法院作出的命令)
第 26B(3)(ii)及(5)條，在“附表”之後 ——
加入
“1”。

11. 加入第 29B 條
第 V 部，在第 29A 條之後 ——
加入
“29B. 以超過已公布的租金增幅進行租約續期的罪行
任何人無合理辯解而要求、或有意促使第 4A(1)條適用的租約的現有租戶或其授權代表，同意以高於根據第 4B 條刊登的公告所指明的租金增幅進行租約續期，即屬犯罪，一經循簡易程序定罪，可處第 6 級罰款。”。
12. 修訂附表(條款、契諾及條件)
(1) 附表 ——
將該附表重編為附表 1。
(2) 附表 1 ——
廢除
“[第 17AA、”
代以
“[第 17AA、17AB、17B、”。
13. 加入附表 2 及 3
在附表 1 之後 ——
加入

“附表 2

[第 2 條]

為第 2 條中已出售物業的定義而指明的地段

項	地段
1.	香港仔內地段第 433 號
2.	香港仔內地段第 455 號
3.	鴨脷洲內地段第 133 號
4.	鴨脷洲內地段第 134 號
5.	柴灣內地段第 166 號
6.	柴灣內地段第 169 號
7.	柴灣內地段第 176 號
8.	柴灣內地段第 177 號
9.	柴灣內地段第 179 號
10.	柴灣內地段第 180 號
11.	粉嶺上水市地段第 39 號
12.	粉嶺上水市地段第 204 號
13.	粉嶺上水市地段第 207 號
14.	粉嶺上水市地段第 208 號
15.	粉嶺上水市地段第 223 號
16.	粉嶺上水市地段第 226 號
17.	粉嶺上水市地段第 230 號
18.	粉嶺上水市地段第 234 號
19.	粉嶺上水市地段第 236 號
20.	紅磡內地段第 554 號
21.	將軍澳市地段 9 號

項	地段
22.	九龍內地段第 9826 號
23.	九龍內地段第 11119 號
24.	九龍內地段第 11141 號
25.	葵涌市地段第 389 號
26.	葵涌市地段第 489 號
27.	葵涌市地段第 497 號
28.	葵涌市地段第 498 號
29.	葵涌市地段第 500 號
30.	葵涌市地段第 503 號
31.	葵涌市地段第 505 號
32.	葵涌市地段第 506 號
33.	觀塘內地段第 754 號
34.	新九龍內地段第 5969 號
35.	新九龍內地段第 5994 號
36.	新九龍內地段第 6095 號
37.	新九龍內地段第 6117 號
38.	新九龍內地段第 6131 號
39.	新九龍內地段第 6189 號
40.	新九龍內地段第 6205 號
41.	新九龍內地段第 6211 號
42.	新九龍內地段第 6227 號

項	地段
43.	新九龍內地段第 6266 號
44.	新九龍內地段第 6318 號
45.	新九龍內地段第 6326 號
46.	新九龍內地段第 6329 號
47.	新九龍內地段第 6348 號
48.	新九龍內地段第 6377 號
49.	新九龍內地段第 6413 號
50.	新九龍內地段第 6416 號
51.	新九龍內地段第 6427 號
52.	新九龍內地段第 6437 號
53.	新九龍內地段第 6438 號
54.	新九龍內地段第 6439 號
55.	新九龍內地段第 6442 號
56.	新九龍內地段第 6444 號
57.	新九龍內地段第 6445 號
58.	新九龍內地段第 6446 號
59.	新九龍內地段第 6451 號
60.	新九龍內地段第 6452 號
61.	新九龍內地段第 6459 號
62.	新九龍內地段第 6460 號
63.	新九龍內地段第 6461 號

項	地段
64.	新九龍內地段第 6462 號
65.	新九龍內地段第 6465 號
66.	新九龍內地段第 6466 號
67.	新九龍內地段第 6470 號
68.	新九龍內地段第 6472 號
69.	新九龍內地段第 6474 號
70.	新九龍內地段第 6475 號
71.	新九龍內地段第 6478 號
72.	新九龍內地段第 6480 號
73.	新九龍內地段第 6481 號
74.	新九龍內地段第 6483 號
75.	新九龍內地段第 6484 號
76.	沙田市地段第 43 號
77.	沙田市地段第 305 號
78.	沙田市地段第 396 號
79.	沙田市地段第 447 號
80.	沙田市地段第 462 號
81.	沙田市地段第 500 號
82.	沙田市地段第 503 號
83.	沙田市地段第 505 號
84.	沙田市地段第 506 號

項	地段
85.	沙田市地段第 544 號
86.	沙田市地段第 549 號
87.	沙田市地段第 550 號
88.	沙田市地段第 551 號
89.	沙田市地段第 552 號
90.	沙田市地段第 553 號
91.	沙田市地段第 554 號
92.	沙田市地段第 555 號
93.	沙田市地段第 557 號
94.	沙田市地段第 558 號
95.	筲箕灣內地段第 834 號
96.	筲箕灣內地段第 849 號
97.	筲箕灣內地段第 851 號
98.	筲箕灣內地段第 852 號
99.	赤柱內地段第 98 號
100.	大埔市地段第 73 號
101.	大埔市地段第 172 號
102.	大埔市地段第 176 號
103.	大埔市地段第 178 號
104.	大埔市地段第 189 號
105.	大埔市地段第 192 號

項	地段
106.	大埔市地段第 196 號
107.	天水圍市地段第 17 號
108.	天水圍市地段第 18 號
109.	天水圍市地段第 37 號
110.	天水圍市地段第 38 號
111.	天水圍市地段第 39 號
112.	天水圍市地段第 40 號
113.	天水圍市地段第 42 號
114.	天水圍市地段第 43 號
115.	將軍澳市地段第 52 號
116.	將軍澳市地段第 54 號
117.	將軍澳市地段第 82 號
118.	將軍澳市地段第 83 號
119.	將軍澳市地段第 88 號
120.	將軍澳市地段第 96 號
121.	將軍澳市地段第 98 號
122.	將軍澳市地段第 99 號
123.	將軍澳市地段第 108 號
124.	青衣市地段第 100 號
125.	青衣市地段第 160 號
126.	青衣市地段第 167 號

項	地段
127.	青衣市地段第 172 號
128.	青衣市地段第 175 號
129.	青衣市地段第 177 號
130.	青衣市地段第 178 號
131.	荃灣市地段第 411 號
132.	屯門市地段第 216 號
133.	屯門市地段第 255 號
134.	屯門市地段第 357 號
135.	屯門市地段第 418 號
136.	屯門市地段第 441 號
137.	屯門市地段第 458 號
138.	屯門市地段第 469 號
139.	屯門市地段第 473 號
140.	屯門市地段第 476 號
141.	屯門市地段第 479 號
142.	屯門市地段第 481 號
143.	屯門市地段第 484 號
144.	屯門市地段第 485 號
145.	東涌市地段第 30 號
146.	東涌市地段第 40 號

項	地段
147.	元朗市地段第 521 號

附表 3

[第 4B 條]

第 4A 及 4B 條所述的租金增幅

1. 確定初始值

(1) 須予應用的公式 ——

$$\frac{1}{3}V + \frac{1}{3}I + \frac{1}{3}C$$

當中 ——

V 代表在第一個日期和第二個日期之間該物業單位的應課差餉租值的變動率；

I 代表第一個日期和第二個日期之間家庭住戶每月入息中位數的變動率；及

C 代表第一個日期和第二個日期之間綜合消費物價指數的變動率。

(2) 在本條中 ——

家庭住戶每月入息中位數 (median monthly household income) 指由政府統計處處長編製及發表的家庭住戶每月入息中位數；

第一個日期 (first date) ——

- (a) 就第一次公告而言，指行政長官對立法會通過的《公共及資助房屋商業設施規管(立法條文)條例》(2019 年第 號)給予批准的日期；或
- (b) 就其後的任何公告而言，指現行公告到期前的 18 個公曆月；

第二個日期 (second date) ——

- (a) 就第一次公告而言，指行政長官對《公共及資助房屋商業設施規管(立法條文)條例》(2019 年 號)給予批准當日之後的首個週年日；或
- (b) 就其後的任何公告而言，指現行公告到期前的 6 個公曆月；

綜合消費物價指數 (Composite Consumer Price Index)指由政府統計處處長編製及發表的綜合消費物價指數；

應課差餉租值 (rateable value)指根據《差餉條例》(第 116 章)第 III 部所確定的物業單位的應課差餉租值。”。

第 3 部

修訂《稅務條例》(第 112 章)

14. 修訂第 2 條(釋義)

第 2(1)條 ——

按筆劃數目順序加入

“**已出售物業** (Divested Property)具有《房屋條例》(第 283 章)第 2 條所給予的涵義；”。

15. 加入第 2A 部

在第 2 部之後 ——

加入

“第 2A 部

空置稅

7E. 收取空置稅

- (1) 在符合本條例的規定下，空置稅須就位於已出售物業內的任何應課稅的物業單位在每個評稅年度向每名擁有人收取。

- (2) 在本條中 ——

應課稅的物業單位 (taxable tenement)指任何物業單位 ——

- (a) 其租約在每個課稅年度內有效累計不足 6 個公曆月；及
- (b) 不是停車位。
- (3) 任何應課稅的物業單位的稅率見附表 49。

- (4) 如物業單位在緊接當前課稅年度之前的評估期內已被確定為應課稅的物業單位，則附表 49 所指明的稅率須加倍。
- (5) 局長須按其認為適當的方式訂立規例，以執行本部的條文。”。

16. 加入附表 49

在附表 48 之後 ——

加入

“附表 49

[第 7E 條]

兩級制空置稅率

1. 在本附表中 ——

總計時間 (aggregate period) 指在評稅年度內將物業單位出租予任何租戶的總時間。

2. 在 2019 年 4 月 1 日或之後開始的評稅年度，就每個應課稅的物業單位徵收空置稅 ——

- (a) 如果總計時間少於 6 個公歷月但超過 3 個公歷月，則按物業單位應課差餉租值的 10% 計算；或
- (b) 如果總時間少於 3 個公歷月，則按物業單位應課差餉租值的 30% 計算。”。

摘要說明

本條例草案的目的是修訂《房屋條例》(第 283 章)(《房屋條例》)及《稅務條例》(第 112 章)(《稅務條例》)，在香港房屋委員會(房屋委員會)向領展物業有限公司出售的物業(已出售物業)中，規管租金增加及引入空置稅，以確保已出售物業獲合理地提供康樂設施及其他設施。

2. 草案第 1 條列出簡稱，並就生效日期訂定條文。
3. 草案第 3 條修訂《房屋條例》第 2 條，清楚訂明本條例草案只影響《房屋條例》新訂附表 2 指明的地段的已出售物業，而一般而言不會影響商業物業業主的私人產權。

規管租金增幅

4. 草案第 4 條在《房屋條例》加入新訂第 4A 條，授權房屋委員會規管已出售物業內的租金增加。根據《房屋條例》新訂附表 3 的建議公式計算的最高租金增幅，適用於所有租約的續期。該條第(2)款訂明對租金增幅的規管將不適用於停車位。
5. 建議公式旨在反映租賃市場、公眾的負擔能力和消費品價格的變化。
6. 草案第 4 條亦在《房屋條例》加入新訂第 4B 條，該新條文的目的是 ——
- (a) 引入規管加租機制，以平衡合法行使私人財產權和業主可能濫用市場權力的情況，以解決社會對已出售物業租金暴漲的關注；
- (b) 為持份者和公眾參與該過程提供諮詢機制，然後由房屋委員會確定允許的租金增幅最終值；及
- (c) 指明最高租金增幅須為 0% 的情況。因此在經濟不景氣下，業主不會被迫根據公式減租。
7. 草案第 5、6、7、9、10 及 12 條訂定對《房屋條例》的輕微技術性修訂。

8. 草案第 8 條在《房屋條例》加入新訂第 19B 條，規定租戶對現有租約續期的優先權，目的是提高租戶的議價能力。這種權利的存在，也將會防止業主以新訂租約規避租金增加的管制。
9. 草案第 11 條在《房屋條例》加入新訂第 29B 條，就以超過上文第 6 段所提述的新訂第 4B 條所指的刊登增幅而續租約加租，訂定罪行罰則。
10. 草案第 13 條在《房屋條例》加入新訂附表 2 及附表 3。
11. 草案第 14 條修訂《稅務條例》第 2(1)條，清楚訂明空置稅只影響已出售物業，而一般而言不會影響商業物業業主的私人產權。
12. 草案第 15 條在《稅務條例》加入載有新訂第 7E 條的新訂第 2A 部，以就已出售物業引入空置稅。在已出售物業內的任何物業單位，如果在評稅年度內有租約的總計時間合計少於 6 個月，會被視為空置。空置稅的目的是確保已出售物業獲提供康樂設施及其他設施。
13. 新訂第 7E(3)及(4)條規定，空置稅稅率在草案第 16 條所加入的《稅務條例》新訂附表 49 中指明，如果物業單位連續兩年被確定為應課稅的物業單位，則該稅率將加倍。新訂第 7E(5)條授權稅務局局長訂立規例，但有關規例只可以為實施空置稅而訂立。

Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill

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A BILL

To

Amend the Housing Ordinance to regulate the provision of amenities and facilities in the properties divested by the Hong Kong Housing Authority to the Link Properties Limited; to regulate rental increases in such properties; and to amend the Inland Revenue Ordinance to impose a vacancy tax on vacant premises in such properties.

Preamble

WHEREAS—

- (1) following the Chief Executive in Council's order made on 15 July 2003 that the government should seek the Hong Kong Housing Authority's agreement in principle to divest its retail and carpark facilities, that Authority agreed in principle on 24 July 2003 to divest its retail and carpark facilities;
- (2) the Link Real Estate Investment Trust (*The Link REIT*) was constituted on 6 September 2005 for the purpose of acquiring the 180 properties divested by the Hong Kong Housing Authority and was authorized to operate as a collective investment scheme under the Securities and Futures Ordinance (Cap. 571);
- (3) on 25 November 2005, The Link REIT was publicly listed in the Stock Exchange of Hong Kong;
- (4) on 11 November 2016, the House Committee of the Legislative Council appointed the Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks in Public

Rental Housing Estates and Home Ownership Scheme Estates to study, among other things, whether the Hong Kong Housing Authority can duly discharge its duties to secure the provision of housing and such amenities ancillary thereto as that Authority thinks fit as stipulated under section 4(1) of the Housing Ordinance (Cap. 283); and

- (5) in addition to the various measures adopted by the Government, it is desirable and necessary to address the concern about whether the Hong Kong Housing Authority can duly discharge its duties by legislative means:

NOW, THEREFORE, it is enacted by the Legislative Council as follows—

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Ordinance.
- (2) Subject to subsections (3) and (4), this Ordinance is deemed to have come into operation on the day on which the Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill was published in the Gazette.
- (3) Sections 4 and 11 come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.
- (4) Part 3 comes into operation on a day to be appointed by the Financial Secretary by notice published in the Gazette, that

day being the date of commencement of the regulations made by the Commissioner of Inland Revenue under section 7E(5) of the Inland Revenue Ordinance (Cap. 112).

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Housing Ordinance (Cap. 283)

3. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“Divested Property (已出售物業) means any of the properties that are within one or more of the lots specified in Schedule 2 and were assigned by the Authority to the Link Properties Limited, and such properties remain a Divested Property despite any subsequent assignment, in whole or in part, to a third party;”.

4. Sections 4A and 4B added

After section 4—

Add

“4A. Additional duty of Authority

- (1) Without derogating from the duties of the Authority that are provided under section 4(1), and subject to subsection (2), the Authority must regulate, in accordance with this Ordinance, the rate of rent increase in respect of any lease of tenement of the Divested Properties.
- (2) Subsection (1) does not apply to rent increase in respect of the lease of a parking space.

4B. Regulation of rate of rent increase

- (1) Subject to this section, the Authority must specify by notice published in the Gazette the maximum rate of rent increase that applies to a lease which is a renewal of an existing lease during the period when the notice has effect.
- (2) A notice published under subsection (1) takes effect on the date of its publication in the Gazette, and remains effective until it is superseded by another notice published under that subsection.
- (3) The first of the notices published under subsection (1) must be published within 3 months of the date to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.
- (4) The rate of rent increase in subsection (1) is the value ascertained by applying the formula specified in Schedule 3 (*initial value*) and as discounted by the Authority to an extent as determined by it after having taking into account views received by a date specified by the Authority from the following on that initial value—
 - (a) the District Councils within the meaning of the District Councils Ordinance (Cap. 547);
 - (b) Link REIT, the successor of Link REIT and subsequent assignees of the Divested Properties;
 - (c) corporations within the meaning of the Building Management Ordinance (Cap. 344) that are considered as appropriate by the Authority;
 - (d) Estate Management Advisory Committees established and considered as appropriate by the Authority.

- (5) If the rate of rent increase is determined to be a value less than 0.1% pursuant to subsection (4), the rate of rent increase specified under subsection (1) is taken to be zero.
- (6) For the purpose of this section—
rate of rent increase (租金增幅) means the rate that applies to the amount of rent provided in a lease that is being renewed during the period when a notice referred to in subsection (1) applies to it.
- (7) Notices published in the Gazette under this section are not subsidiary legislation.
- (8) Any lease of tenement of the Divested Properties entered into between the tenant of an existing lease and the landlord with the purpose of avoiding the application of this section is deemed to be a renewal of an existing lease in relation to which the rent increase is zero.”

5. Section 17AA amended (particular conditions of sale)

Section 17AA(1), (2) and (3)—

Repeal

“the Schedule” (wherever appearing)

Substitute

“Schedule 1”.

6. Section 17AB amended (Director of Housing may delegate his function to assess Prevailing Market Value)

Section 17AB(1) and (2)—

Repeal

“the Schedule”

Substitute

“Schedule 1”.

7. Section 17B amended (void alienations, etc.)

Section 17B(1)(c)(ii) and (2)(b)(ii)—

Repeal

“the Schedule”

Substitute

“Schedule 1”.

8. Section 19B added

After section 19A—

Add

“19B. Tenants to have right of first refusal to renew existing lease

All leases for any tenement within the Divested Properties are, by virtue of this section, deemed to have contained a provision that entitles the tenant to a right of first refusal to renew the lease.”.

9. Section 26A amended (court orders on purchaser’s conviction under section 26(2))

Section 26A(1)(b) and (2)—

Repeal

“the Schedule”

Substitute

“Schedule 1”.

10. Section 26B amended (court orders on conviction of other person under section 26(2))

Section 26B(3)(ii) and (5)—

Repeal

“the Schedule”

Substitute

“Schedule 1”.

11. Section 29B added

Part V, after section 29A—

Add

“29B. Offence in respect of renewal of lease at rate of rent increase in excess of published rate

Any person who, without reasonable excuse, demands from or acts with intent to induce the existing tenant of a lease to which section 4A(1) applies or that tenant’s authorized representative into agreeing to apply a rate of increase to a lease being renewed that is in excess of the rate specified in a notice published under section 4B commits an offence and is liable on summary conviction to a fine at level 6.”.

12. Schedule amended (terms, covenants and conditions)

(1) The Schedule—

Renumber the Schedule as Schedule 1.

(2) Schedule 1—

Repeal

“[ss. 17AA,”

Substitute

“[ss. 17AA, 17AB, 17B,”.

13. Schedules 2 and 3 added

After Schedule 1—

Add

“Schedule 2

[s. 2]

**Lots Specified for Purpose of Definition of
Divested Property in Section 2**

Item	Lot
1.	Aberdeen Inland Lot No. 433
2.	Aberdeen Inland Lot No. 455
3.	Ap Lei Chau Inland Lot No. 133
4.	Ap Lei Chau Inland Lot No. 134
5.	Chai Wan Inland Lot No. 166
6.	Chai Wan Inland Lot No. 169
7.	Chai Wan Inland Lot No. 176
8.	Chai Wan Inland Lot No. 177
9.	Chai Wan Inland Lot No. 179
10.	Chai Wan Inland Lot No. 180
11.	Fanling Shueng Shui Town Lot No. 39

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Item	Lot
12.	Fanling Shueng Shui Town Lot No. 204
13.	Fanling Shueng Shui Town Lot No. 207
14.	Fanling Shueng Shui Town Lot No. 208
15.	Fanling Shueng Shui Town Lot No. 223
16.	Fanling Shueng Shui Town Lot No. 226
17.	Fanling Shueng Shui Town Lot No. 230
18.	Fanling Shueng Shui Town Lot No. 234
19.	Fanling Shueng Shui Town Lot No. 236
20.	Hung Hom Inland Lot No. 554
21.	Junk Bay Town Lot No. 9
22.	Kowloon Inland Lot No. 9826
23.	Kowloon Inland Lot No. 11119
24.	Kowloon Inland Lot No. 11141
25.	Kwai Chung Town Lot No. 389
26.	Kwai Chung Town Lot No. 489
27.	Kwai Chung Town Lot No. 497
28.	Kwai Chung Town Lot No. 498
29.	Kwai Chung Town Lot No. 500
30.	Kwai Chung Town Lot No. 503
31.	Kwai Chung Town Lot No. 505

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Item	Lot
32.	Kwai Chung Town Lot No. 506
33.	Kwun Tong Inland Lot No. 754
34.	New Kowloon Inland Lot No. 5969
35.	New Kowloon Inland Lot No. 5994
36.	New Kowloon Inland Lot No. 6095
37.	New Kowloon Inland Lot No. 6117
38.	New Kowloon Inland Lot No. 6131
39.	New Kowloon Inland Lot No. 6189
40.	New Kowloon Inland Lot No. 6205
41.	New Kowloon Inland Lot No. 6211
42.	New Kowloon Inland Lot No. 6227
43.	New Kowloon Inland Lot No. 6266
44.	New Kowloon Inland Lot No. 6318
45.	New Kowloon Inland Lot No. 6326
46.	New Kowloon Inland Lot No. 6329
47.	New Kowloon Inland Lot No. 6348
48.	New Kowloon Inland Lot No. 6377
49.	New Kowloon Inland Lot No. 6413
50.	New Kowloon Inland Lot No. 6416
51.	New Kowloon Inland Lot No. 6427

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Clause 13

12

Item	Lot
52.	New Kowloon Inland Lot No. 6437
53.	New Kowloon Inland Lot No. 6438
54.	New Kowloon Inland Lot No. 6439
55.	New Kowloon Inland Lot No. 6442
56.	New Kowloon Inland Lot No. 6444
57.	New Kowloon Inland Lot No. 6445
58.	New Kowloon Inland Lot No. 6446
59.	New Kowloon Inland Lot No. 6451
60.	New Kowloon Inland Lot No. 6452
61.	New Kowloon Inland Lot No. 6459
62.	New Kowloon Inland Lot No. 6460
63.	New Kowloon Inland Lot No. 6461
64.	New Kowloon Inland Lot No. 6462
65.	New Kowloon Inland Lot No. 6465
66.	New Kowloon Inland Lot No. 6466
67.	New Kowloon Inland Lot No. 6470
68.	New Kowloon Inland Lot No. 6472
69.	New Kowloon Inland Lot No. 6474
70.	New Kowloon Inland Lot No. 6475
71.	New Kowloon Inland Lot No. 6478

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Clause 13

13

Item	Lot
72.	New Kowloon Inland Lot No. 6480
73.	New Kowloon Inland Lot No. 6481
74.	New Kowloon Inland Lot No. 6483
75.	New Kowloon Inland Lot No. 6484
76.	Sha Tin Town Lot No. 43
77.	Sha Tin Town Lot No. 305
78.	Sha Tin Town Lot No. 396
79.	Sha Tin Town Lot No. 447
80.	Sha Tin Town Lot No. 462
81.	Sha Tin Town Lot No. 500
82.	Sha Tin Town Lot No. 503
83.	Sha Tin Town Lot No. 505
84.	Sha Tin Town Lot No. 506
85.	Sha Tin Town Lot No. 544
86.	Sha Tin Town Lot No. 549
87.	Sha Tin Town Lot No. 550
88.	Sha Tin Town Lot No. 551
89.	Sha Tin Town Lot No. 552
90.	Sha Tin Town Lot No. 553
91.	Sha Tin Town Lot No. 554

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Clause 13

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Item	Lot
92.	Sha Tin Town Lot No. 555
93.	Sha Tin Town Lot No. 557
94.	Sha Tin Town Lot No. 558
95.	Shau Kei Wan Inland Lot No. 834
96.	Shau Kei Wan Inland Lot No. 849
97.	Shau Kei Wan Inland Lot No. 851
98.	Shau Kei Wan Inland Lot No. 852
99.	Stanley Inland Lot No. 98
100.	Tai Po Town Lot No. 73
101.	Tai Po Town Lot No. 172
102.	Tai Po Town Lot No. 176
103.	Tai Po Town Lot No. 178
104.	Tai Po Town Lot No. 189
105.	Tai Po Town Lot No. 192
106.	Tai Po Town Lot No. 196
107.	Tin Shui Wai Town Lot No. 17
108.	Tin Shui Wai Town Lot No. 18
109.	Tin Shui Wai Town Lot No. 37
110.	Tin Shui Wai Town Lot No. 38
111.	Tin Shui Wai Town Lot No. 39

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Clause 13

15

Item	Lot
112.	Tin Shui Wai Town Lot No. 40
113.	Tin Shui Wai Town Lot No. 42
114.	Tin Shui Wai Town Lot No. 43
115.	Tseung Kwan O Town Lot No. 52
116.	Tseung Kwan O Town Lot No. 54
117.	Tseung Kwan O Town Lot No. 82
118.	Tseung Kwan O Town Lot No. 83
119.	Tseung Kwan O Town Lot No. 88
120.	Tseung Kwan O Town Lot No. 96
121.	Tseung Kwan O Town Lot No. 98
122.	Tseung Kwan O Town Lot No. 99
123.	Tseung Kwan O Town Lot No. 108
124.	Tsing Yi Town Lot No. 100
125.	Tsing Yi Town Lot No. 160
126.	Tsing Yi Town Lot No. 167
127.	Tsing Yi Town Lot No. 172
128.	Tsing Yi Town Lot No. 175
129.	Tsing Yi Town Lot No. 177
130.	Tsing Yi Town Lot No. 178
131.	Tsuen Wan Town Lot No. 411

Item	Lot
132.	Tuen Mun Town Lot No. 216
133.	Tuen Mun Town Lot No. 255
134.	Tuen Mun Town Lot No. 357
135.	Tuen Mun Town Lot No. 418
136.	Tuen Mun Town Lot No. 441
137.	Tuen Mun Town Lot No. 458
138.	Tuen Mun Town Lot No. 469
139.	Tuen Mun Town Lot No. 473
140.	Tuen Mun Town Lot No. 476
141.	Tuen Mun Town Lot No. 479
142.	Tuen Mun Town Lot No. 481
143.	Tuen Mun Town Lot No. 484
144.	Tuen Mun Town Lot No. 485
145.	Tung Chung Town Lot No. 30
146.	Tung Chung Town Lot No. 40
147.	Yuen Long Town Lot No. 521

Schedule 3

[s. 4B]

Rate of Rent Increase for Sections 4A and 4B

1. Determination of initial value

(1) The formula applied is to be—

$$\frac{1}{3}V + \frac{1}{3}I + \frac{1}{3}C$$

where—

V represents the rate of change in the tenement's rateable value between the first date and the second date;

I represents the rate of change in the median monthly household income between the first date and the second date; and

C represents the rate of change in the Composite Consumer Price Index between the first date and the second date.

(2) In this section—

Composite Consumer Price Index (綜合消費物價指數) means the Composite Consumer Price Index as compiled and published by the Commissioner for Census and Statistics;

first date (第一個日期) means—

- (a) for the first of such notice, the date which the Chief Executive has given assent to the Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Ordinance (of 2019) that was passed by the Legislative Council; or

- (b) for any subsequent notices, 18 calendar months before the expiry of an existing notice;

median monthly household income (家庭住户每月入息中位數) means the median monthly household income as compiled and published by the Commissioner for Census and Statistics;

rateable value (應課差餉租值) means the rateable value of the tenement ascertained under Part III of the Rating Ordinance (Cap. 116);

second date (第二個日期) means—

- (a) for the first of such notice, the first anniversary after the date which the Chief Executive has given assent to the Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Ordinance (of 2019); or
- (b) for any subsequent notices, 6 calendar months before the expiry of an existing notice.”.

Part 3

Amendments to Inland Revenue Ordinance (Cap. 112)

14. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“**Divested Property** (已出售物業) has the meaning given by section 2 of the Housing Ordinance (Cap. 283);”.

15. Part 2A added

After Part 2—

Add

“Part 2A

Vacancy Tax

7E. Charge of vacancy tax

- (1) Subject to this Ordinance, vacancy tax is charged for each year of assessment on every person being the owner of any taxable tenement wherever situated in the Divested Properties.

- (2) In this section—

taxable tenement (應課稅的物業單位) means any tenement—

- (a) with leases effective for an aggregated period of less than 6 calendar months within each year of assessment; and

- (b) that is not a parking space.
- (3) The rate charged on any taxable tenement is specified in Schedule 49.
- (4) The rate specified in Schedule 49 is double, if a tenement was established as a taxable tenement in the assessment period immediately preceding the current year of assessment.
- (5) The Commissioner may make regulations as the Commissioner thinks appropriate for the purposes of implementing the provisions of this Part.”.

16. Schedule 49 added

After Schedule 48—

Add

“Schedule 49

[s. 7E]

Two-tiered Rates of Vacancy Tax

1. In this Schedule—

aggregate period (總計時間) means the aggregated amount of time where a tenement is leased to any tenants within a year of assessment.

2. For a year of assessment commencing on or after 1 April 2019, vacancy tax is chargeable in respect of each taxable tenement—

- (a) at the rate of 10% of the tenement’s rateable value, if the aggregate period is less than 6 calendar months, but more than 3 calendar months; or
- (b) at the rate of 30% of the tenement’s rateable value, if the aggregate period is less than 3 calendar months.”.

Explanatory Memorandum

The object of this Bill is to amend the Housing Ordinance (Cap. 283) (*Housing Ordinance*) and the Inland Revenue Ordinance (Cap. 112) (*Inland Revenue Ordinance*) in order to regulate the rental increases and introduce vacancy tax within the properties divested by the Hong Kong Housing Authority (*Housing Authority*) to the Link Properties Limited (*divested properties*), with a view to ensuring the reasonable provision of amenities and facilities within the divested properties.

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 3 amends section 2 of the Housing Ordinance to make it clear that the Bill only affects the divested properties within the land lots specified under a new Schedule 2 to the Housing Ordinance and it will not affect the private property right of commercial property owners in general.

Regulation of Rate of Rent Increase

4. Clause 4 adds a new section 4A to the Housing Ordinance to empower the Housing Authority to regulate rent increase within the divested properties. A maximum rate of rent increase will be applied to the renewal of all leases based on the proposed formula set out in a new Schedule 3 to the Housing Ordinance. Subsection (2) of that section specifies that the regulation of rent increase will not be applicable to car parking spaces.
5. The proposed formula is designed in such a way as to reflect changes in rental market, the public's affordability and consumer goods prices.
6. Clause 4 also adds a new section 4B to the Housing Ordinance. The purposes of that new section are to—

- (a) introduce a regulation of rent increase mechanism to balance lawful exercise of private property right against the potential abuse of market power by owners in order to address the community's concern on the skyrocketing of rents in the divested properties;
 - (b) provide a consultation mechanism for stakeholders and public to participate in the process before the Housing Authority determines the final value of the permitted rate of rent increase; and
 - (c) specify a condition where the maximum rate of rent increase will be 0%, so that owners will not be compelled to reduce their rent based on the formula in case of economic downturn.
7. Clauses 5, 6, 7, 9, 10 and 12 provide for minor technical amendments to the Housing Ordinance.
8. Clause 8 adds a new section 19B to the Housing Ordinance providing for a right of first refusal for tenants to renew an existing lease. The objective is to enhance the bargaining power of tenants. The existence of such right will also prevent owners from using a new lease as a leeway to avoid the regulation of rent increase.
9. Clause 11 adds a new section 29B to the Housing Ordinance to provide for the penalty for an offence in respect of renewal of lease at a rate of rent increase in excess of the published rate under the new section 4B referred to in paragraph 6 above.
10. Clause 13 adds new Schedules 2 and 3 to the Housing Ordinance.
11. Clause 14 amends section 2(1) of the Inland Revenue Ordinance to make it clear that the vacancy tax will only affect the divested properties and it will not affect the private property right of commercial property owners in general.

Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill

Explanatory Memorandum

Paragraph 12

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12. Clause 15 adds a new Part 2A, which contains a new section 7E, to the Inland Revenue Ordinance to introduce a vacancy tax in divested properties. Any tenement within the divested properties without leases of an aggregated period of 6 months within a year of assessment will be considered as vacant. The objective of vacancy tax is to ensure the provision of amenities and facilities in the divested properties.
13. The new section 7E(3) and (4) provides that the rates chargeable under vacancy tax are specified in a new Schedule 49, as added to the Inland Revenue Ordinance under clause 16, and that the rate will be doubled if the tenement is ascertained as a taxable tenement for two consecutive years. The new section 7E(5) empowers the Commissioner of Inland Revenue to make regulations for the sole purpose of implementing the vacancy tax.