



立法會 LEGISLATIVE COUNCIL  
石禮謙 議員 Hon Abraham Shek Lai-Him J.P.

2 September 2021

The Honourable Vincent Cheng  
Chairman  
Bills Committee on Landlord and Tenant  
(Consolidation) (Amendment) Bill 2021  
The Legislative Council  
Hong Kong

Honourable Chairman,

**Proposed Committee Stage Amendments for**  
**Landlord and Tenant (Consolidation) (Amendment) Bill 2021**

I would like to submit my proposed Committee Stage Amendments to Landlord and Tenant (Consolidation) (Amendment) Bill 2021 for the deliberation of the Bills Committee. Please find the attached Committee Stage Amendments for your consideration.

Yours faithfully,

Abraham Shek Lai Him

c.c. Clerk to Bills Committee on Landlord and Tenant (Consolidation)  
(Amendment) Bill 2021

Encl.

# Landlord and Tenant (Consolidation) (Amendment) Bill 2021

## - Security of Tenure

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### 1. Proposed exemption

- 1.1 There is a need to exempt subdivided units being the subject matter of a redevelopment project from the provisions regarding security of tenure under the Bill: i.e. Section 120AAR and Subdivision 2 of Division 3 of Part IVA.
- 1.2 This will affect provisions including but not limited to Clause 4, Part IVA – Regulated Tenancies, Division 3 – Regulated Cycle, Subdivision 1 – General Provisions, Section 120AAR- Tenant is entitled to second term tenancy, and Subdivision 2 of Division 3 of Part IVA –Second Term Offer, of the Bill.

### 2. Background

- 2.1 Section 8(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (the “LCSRO”) provides that:

***“8. Protection of purchaser of lot, etc.***

*(1) Where the lot the subject of an order for sale is sold—*

*(a) immediately upon the purchaser of the lot becoming the owner of the lot all the rights of any prior owner (including the prior owner’s assigns or personal representatives) in or over the lot or any part thereof shall absolutely cease except to the extent, if any, specified in the order;*

*(b) notwithstanding the terms of any lease or the provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) but in accordance with such conditions, if any, as the Tribunal specifies in directions—*

*(i) immediately upon the day on which the purchaser of the lot becomes the owner of the lot it shall be deemed, by virtue of this section and for all purposes, that there has on that day been terminated the tenancy of any tenant of any property on the lot who is such a tenant by virtue of any lease entered into at any time before the purchaser became such owner; and*

*(ii) immediately upon the expiration of 6 months immediately following that day, the purchaser is entitled to, and the tenant is required to deliver up, vacant possession of the property.”*

- 2.2 By prevailing over the provisions under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), as far as a term of tenancy is concerned, Section 8(1) of the LCSRO serves to protect purchaser of the lot by ensuring vacant possession of units and clearance of site of those lots being the subject of an order for sale granted by the Lands Tribunal, thereby enabling the early commencement of redevelopment projects.
- 2.3 This protection however does not apply in the circumstances **where a settlement has been reached between the majority owner and the minority owners outside the Court** in respect of a redevelopment project **or** where a person who becomes the owner of a lot **without making an application for an order to sell under the LCSRO has obtained approval of plans for demolition works of a building from the Building Authority**, and there is/are subdivided unit(s) in the building(s) which is/are subject to tenancy(ies). If there is no exemption under the Bill, in the absence of an order for sale granted by the Lands Tribunal under the LCSRO or in the event that no application for an order to sell is made under the LCSRO (as the case may be), such tenant is entitled to the right to renew their tenancy once, thus enjoying a total of 4-year tenancy at maximum.
- 2.4 This will defeat the intent of Section 8(1) of the LCSRO in giving due protection to the purchaser of the lot and **facilitating redevelopment projects**. This will discourage settlement out of court and discourage re-development. This will also be contrary to the policy of the Government to speed up the provisions of new units in Hong Kong and urban renewals.

### **3. Scope for Exemption for Redevelopment Project**

3.1 To commensurate with the intent of section 8(1) of the LCSRO and encourage early settlement between the majority and minority owners without the need to resort to the court, we would propose that exemption be provided for such cases from the security of tenure under the Bill.

3.2 Redevelopment Projects under the following scenarios:

(a) where a person has made an application to the Lands Tribunal for an order to sell all the undivided shares in the lot for the purposes of the redevelopment of the lot pursuant to the LCSRO; and

(i) at any time before the Lands Tribunal made an order for sale under the LCSRO, that person becomes the owner of the lot; and

(ii) there is/are subdivided unit(s) in the building(s) which is/are subject to tenancy(ies), or

(b) a person who becomes the owner of a lot without making an application for an order to sell under the LCSRO has obtained approval of plans for demolition works of a building from the Building Authority and there is/are subdivided unit(s) in the building(s) which is/are subject to tenancy(ies),

then immediately upon the expiration of 6 months immediately following the day on which the person becomes the owner of the lot; or immediately upon the expiration of the respective tenancy(ies) of the subdivided unit(s) of the building(s), whichever is the later, the person is entitled to, and the respective tenant is required to deliver up, vacant possession of his subdivided unit.

Please see attached our proposed amendments to the Bill. There are of course other consequential amendments that need to be made to the remaining parts of the Bill.

**Landlord and Tenant (Consolidation)(Amendment) Bill 2021**

**Committee Stage Amendment**

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**Clause 4 Proposed Amendment**

- Add sub-section (4) in section 120AAR.

[120AAR] (4) This Section does not apply to the tenancies specified in Schedule 8.

- Add immediately after section 120AAY.

**[120AAY(B)] Application of this Subdivision 2**

(1) This Subdivision 2 does not apply to the tenancies specified in Schedule 8.

**Clause 8 Proposed Amendment**

- Add Schedule 8.

**“Schedule 8**

**Tenancies Excluded from Application of Section 120AAR and**

**Subdivision 2 of Division 3 of Part IVA**

**1. Excluded tenancies**

(1) Section 120AAR and Subdivision 2 of Division 3 of Part IVA do not apply to any of the tenancies under the following situations –

(a) a person has made an application to the Lands Tribunal for an order to sell all the undivided shares in the lot for the purposes of the redevelopment of the lot pursuant to the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) (the “**Compulsory Sale Ordinance**”) and that -

(i) at any time before the Lands Tribunal made an order for sale under the Compulsory Sale Ordinance, that person becomes the owner of the lot; and

(ii) there is/are subdivided unit(s) in the building(s) which is/are subject to tenancy(ies); or

(b) a person who becomes the owner of a lot(as referred to in the approved plans or approval letter for demolition works mentioned in this sub-section (b)) without making an application for an order to sell under the Compulsory Sale Ordinance has obtained approval of plans for demolition works of the building(s) within the lot from the Building Authority and there is/are subdivided unit(s) in the building(s) which is/are subject to tenancy(ies).

(II) Under the situations specified in subsection (I) above-

(a) immediately upon the expiration of 6 months immediately following the day on which the person referred to in subsection (a) or (b) (as the case may be) becomes the owner of the lot; or

(b) immediately upon the expiration of the respective tenancy(ies) of the subdivided unit(s) of the building(s),

whichever is the later, the person referred to in subsection (a) or (b) (as the case may be) is entitled to, and the respective tenant is required to deliver up, vacant possession of his subdivided unit.”

《2021 年業主與租客(綜合)(修訂)條例草案》  
委員會審議階段

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條次 4

建議的修正案

- 在第 120AAR 條加入第(4)款

[120AAR]

(4) 本部不適用於附表 8 指明的租賃。

- 在第 120AAY 條後加入

[120AAY(B)]

第 2 次分部的適用範圍

(1) 本第 2 次分部不適用於附表 8 指明的租賃。

條次 8

建議的修正案

- 加入附表 8

“附表 8

獲豁免而不屬第 120AAR 條及第 IVA 部第 3 分部

第 2 次分部的租賃

1.

獲豁免的租賃



- (I) 第 120AAR 條及第 IVA 部第 3 分部第 2 次分部不適用於以下情況的任何租賃—
- (a) 該人士已依據《土地(為重新發展而強制售賣)條例》(第 545 章) (“強制售賣條例”)向土地審裁處提出申請作出一項為重新發展該地段而強制售賣該地段所有不分割份數的命令及—
- (i) 在土地審裁處發出售賣令之前的任何時間，該人士成為該地段的擁有人；及
- (ii) 該建築物內有有受租賃規限的分間單位；或
- (b) 該人士為該地段(即本(b)款中提及之拆卸工程的經批准圖則或施工同意書內所指的地段)之擁有人，惟沒有根據強制售賣條例申請售賣令，並已獲得建築事務監督發出就該地段上建築物之拆卸工程圖則的同意書，而該地段上的建築物內有受租賃規限的分間單位。
- (II) 在(I)款說明的情況下—
- (a) 在(a) 款或(b) 款(視屬何情況而定)指明的該人士成為該地段的擁有人之後的 6 個月屆滿後；或
- (b) 該地段上建築物的分間單位的租賃屆滿之後，以較後的日期為準，(a) 款或(b) 款 (視屬何情況而定)指明之人士有權取回有關分間單位在空置情況下的管有，而有關租客必須交回有關分間單位在空置情況下的管有。”