

立法會
Legislative Council

LC Paper No. CB(1)1478/20-21
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/20

Bills Committee on Landlord and Tenant (Consolidation)
(Amendment) Bill 2021

Minutes of the third meeting on
Monday, 16 August 2021, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex

- Members present** : Hon Vincent CHENG Wing-shun, MH, JP (Chairman)
Hon YUNG Hoi-yan, JP (Deputy Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Ir Dr Hon LO Wai-kiwok, GBS, MH, JP
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon Tony TSE Wai-chuen, BBS, JP
- Member attending** : Hon Michael TIEN Puk-sun, BBS, JP
- Members absent** : Hon CHAN Han-pan, BBS, JP
Dr Hon CHENG Chung-tai

**Public officers
attending**

: Agenda item I

Transport and Housing Bureau

Dr Raymond SO, BBS, JP
Under Secretary for Transport and Housing

Mr Carlson CHAN, JP
Director (Special Duties)

Miss Kathy CHAN
Assistant Director
(Tenancy Control on Subdivided Units)

Rating and Valuation Department

Ms Sandy JIM, JP
Assistant Commissioner (Special Duties)

Department of Justice

Ms Rayne CHAI
Deputy Law Draftsman II (Acting)

Ms Lonnie NG
Senior Government Counsel

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Mr Keith WONG
Senior Council Secretary (1)2

Ms Michelle NIEN
Legislative Assistant (1)5

Ms Michelle LEE
Clerical Assistant (1)5

Action

I. Meeting with the Administration

(LC Paper No. CB(1)1190/20-21(01) — List of follow-up actions arising from the meeting on 29 July 2021

LC Paper No. CB(1)1190/20-21(02) — Administration's response to the list of follow-up actions arising from the meeting on 29 July 2021

LC Paper No. CB(1)1190/20-21(03) — Letter from Hon Vincent CHENG Wing-shun dated 11 August 2021 to the Administration (Chinese version only)

LC Paper No. CB(1)1148/20-21(02) — Assistant Legal Adviser's letter dated 28 July 2021 to the Administration

LC Paper No. CB(1)1190/20-21(04) — Letter from the Administration responding to the letter from Assistant Legal Adviser dated 28 July 2021

LC Paper No. CB(1)1171/20-21(01) — Assistant Legal Adviser's letter dated 2 August 2021 to the Administration

LC Paper No. CB(1)1190/20-21(05) — Letter from the Administration dated 13 August 2021 responding to the letter from Assistant Legal Adviser dated 2 August 2021

LC Paper No. CB(3)771/20-21 — The Bill

(issued by the Transport and Housing Bureau on 6 July 2021) — Legislative Council Brief

LC Paper No. LS91/20-21 — Legal Service Division Report

Action

LC Paper No. CB(1)1148/20-21(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)

LC Paper No. CB(1)1148/20-21(03) — Paper on Landlord and Tenant (Consolidation) (Amendment) Bill 2021 prepared by the Legislative Council Secretariat (background brief)

Discussion

The Bills Committee deliberated (index of proceedings in the **Appendix**).

II. Any other business

2. There being no other business, the meeting ended at 4:26 pm.

Council Business Division 1
Legislative Council Secretariat
15 November 2021

**Proceedings of the third meeting of the
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2021
on Monday, 16 August 2021, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I — Meeting with the Administration			
000349 – 000604	Chairman	Opening remarks	
000605 – 000802	Chairman Administration	The Administration briefed members on its written response (LC Paper No. CB(1)1190/20-21(02)) to the list of follow-up actions arising from the meeting on 29 July 2021, and its written responses (LC Paper No. CB(1)1190/20-21(04) and LC Paper No. CB(1)1190/20-21(05)) to the two letters from Assistant Legal Adviser to the Administration dated 28 July 2021 and 2 August 2021 respectively.	
000803 – 001634	Chairman Mr Michael TIEN Administration	<p>Mr Michael TIEN raised the following suggestions/enquiries –</p> <p>(a) the proposed maximum rate of rent increase between the first term and second term tenancies should be capped at 10% as the proposed 15% would exceed subdivided units ("SDUs") tenants' ability to afford;</p> <p>(b) SDU tenants should be provided with security of tenure for six years as the average waiting time for public rental housing was now over five years;</p> <p>(c) to avoid massive rent hikes by SDU landlords after the passage of the Landlord and Tenant (Consolidation) (Amendment) Bill 2021 ("the Bill"), the Administration should set the maximum initial rent that could be charged by SDU landlords; and</p> <p>(d) the Administration should set a cap on the total amount of rent that an SDU landlord could receive from his SDU/bedspace tenants within a unit. Such cap could be</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>set at a level by making reference to the rateable value of the premises that provided the SDUs/bedspaces concerned. A rent multiplier could be applied to the rateable value when setting the rent cap so as to allow landlords to enjoy a reasonable level of profit from renting out SDUs/bedspaces.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> (a) because of a lack of data on the existing SDU market rentals, the Administration considered it infeasible to devise an objective and administratively easy mechanism for the purpose of fairly determining the maximum initial rent the landlord might charge; (b) the Administration should be prudent in considering whether to impose a maximum initial rent the landlord might charge under the proposed tenancy control, as any restrictions imposed after the acquisition by an owner might be found to be an infringement of or a derogation from the owner's property rights and might be held by the court as contravention of the Basic Law unless the proportionality test was met; and (c) under the proposed tenancy control, SDU landlords must submit tenancy information to the Rating and Valuation Department ("RVD"). This would enable the Administration to collect and analyze relevant data on the existing SDU rental market, such as rent level and distribution of SDUs. With the availability of these data, the Administration would be in a better position to consider whether further measures, such as imposition of rent cap as suggested by Mr TIEN, should be implemented. 	
001635 – 002307	Chairman Mr Tony TSE Administration	Mr Tony TSE considered that the proposed tenancy control could only offer little help to SDU tenants as they would not enjoy instant	

Time Marker	Speaker	Subject(s)	Action Required
		<p>reduction of rent. Nonetheless, he agreed that the proposed tenancy control should strike a balance between protecting the tenants' rights and the landlords' property rights.</p> <p>He also enquired about –</p> <ul style="list-style-type: none">(a) the number of SDUs available in the rental market which were located in industrial buildings;(b) the number of subdivided flats located in industrial buildings displaced under the enforcement actions taken by the Administration;(c) whether the Administration would offer rehousing arrangement to tenants whose SDUs were displaced by the law enforcement departments; and(d) whether an SDU landlord, including landlord of SDUs located in industrial buildings, was required to state in the tenancy agreement that the tenancy was for domestic purpose. <p>The Administration advised that –</p> <ul style="list-style-type: none">(a) according to the survey carried out by the institution commissioned by the Task Force for the Study on Tenancy Control of SDUs ("the Task Force"), it was estimated that there were 6 927 SDUs occupied for domestic purposes in industrial and commercial buildings in 2020;(b) from 2016 to 2020, 1 198 subdivided flats, including flats located in industrial buildings, were rectified of actionable building irregularities under the enforcement actions taken by relevant departments;(c) when taking enforcement actions against building irregularities in subdivided flats located in industrial buildings, the Buildings Department would record the	

Time Marker	Speaker	Subject(s)	Action Required
		<p>information of the affected SDU tenants. These cases, if necessary, would be referred to the Housing Department, the Social Welfare Department or the Home Affairs Department so that they might receive appropriate support and assistance; and</p> <p>(d) the Community Care Fund had launched the "Relocation Allowance for Residents of Illegal Domestic Premises in Industrial Buildings who Have to Move out as a result of the Buildings Department's Enforcement Action" which provided relocation allowance to residents who had to move out of illegal domestic premises in industrial buildings within a short period of time so as to assist them to pay for the necessary removal expenses.</p>	
002308 – 002933	Chairman Mr CHAN Chun-ying Administration	<p>Mr CHAN Chun-ying raised the following suggestions/enquiries –</p> <p>(a) the Administration should consider imposing a cap on the level of rent per square foot for SDU tenancies under the proposed tenancy control;</p> <p>(b) whether the proposed tenancy control could satisfy the "proportionality test" if a cap on the level of rent per square foot was imposed;</p> <p>(c) whether SDU tenants who had rented more than one SDU were eligible for the protection provided by the proposed tenancy control; and</p> <p>(d) how the Administration would help SDU tenants better understand their own rights under the new regime.</p> <p>The Administration advised that –</p> <p>(a) because of a lack of data on the existing SDU market rentals, the Administration considered it infeasible to devise an objective and administratively easy</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>mechanism for the purpose of fairly determining the maximum initial rent the landlord might charge, which should take into account the individual characteristics of each SDU;</p> <p>(b) the implementation of the proposed tenancy control would enable the Administration to collect and analyze relevant data on the existing SDU rental market. With the availability of these data, the Administration would be in a better position to consider whether further measures should be implemented so as to better protect the interest of grass-roots SDU tenants;</p> <p>(c) the Administration was aware that some people might need to rent more than one SDU because of family reasons. Under the proposed tenancy control, all SDU tenancy agreements signed by the same tenant would be regarded as regulated tenancies under the new regime; and</p> <p>(d) RVD was setting up a new team of about 50 staff members to administer the new provisions in the Bill, including promoting public awareness of the new regulatory regime; handling enquiries; and providing advisory and mediatory services on tenancy matters.</p>	
002934 – 003457	Chairman Mr Tommy CHEUNG Administration	Mr Tommy CHEUNG pointed out that the Liberal Party supported the implementation of tenancy control on SDUs only for the purpose of safeguarding the interests of grass-roots tenants of SDUs. He was dissatisfied with the Administration's decision to include in the scope of "regulated tenancy" the tenancy of one room rented out in a domestic flat which was occupied by the owner and did not involve any subdivision or alteration, as this would have an effect of broadening the scope of regulation to cover more domestic tenancies than originally intended, such as renting rooms of luxury residential units to tenants who were financially healthy.	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Mr Cheung said he would propose an amendment to the Bill. Under the proposed amendment, tenancy of one room in domestic premises would be exempted from "regulated tenancy" if both the landlord and tenant resided in the same premises and there were no more than two households in total living in the premises concerned.</p> <p>The Administration advised that—</p> <p>(a) by defining SDUs as "premises that formed part of a unit of a building", it could fulfil its policy objective of applying the proposed tenancy control to as many SDUs as possible and offering protection to a wide range of grass-roots tenants who could not afford renting a whole residential unit; and</p> <p>(b) if the amendment proposed by Mr Tommy CHEUNG was passed, it would be technically difficult for RVD to take law enforcement actions as the total number of households living in a domestic premises could vary from time to time.</p>	
003458 – 004033	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP expressed the following views –</p> <p>(a) the proposed tenancy control should aim at protecting the interest of grass-roots tenants of SDUs. As such, tenancy of rooms in domestic premises which did not involve any subdivision or alteration should not be included into the scope of "regulated tenancy";</p> <p>(b) to exclude tenancy of rooms in domestic premises which did not involve any subdivision or alteration from the scope of "regulated tenancy", the Administration could refer to the building plans of the premises and distinguish whether rooms in the premises were subdivided or altered by landlords; and</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(c) the Administration should clarify whether rooms that were partitioned within premises without structural alteration would be defined as SDUs under the proposed tenancy control.</p> <p>The Administration advised that—</p> <p>(a) some SDUs currently available in the rental market, such as space capsules and bedspaces, might not involve installation of physical partitions. By defining SDUs as "premises that formed part of a unit of a building", the proposed tenancy control could cover these kinds of SDUs as well, fulfilling its policy objective in protecting a wide range of grass-roots tenants who could not afford renting a whole residential unit; and</p> <p>(b) it would be difficult to determine whether an SDU involved structural alteration by the landlord only by referring to the building plans of the premises concerned. It was common that the internal partitioning of premises in some old buildings were not shown in the building plans, allowing the landlords to subdivide the premises into a number of rooms as they wished.</p>	
004034 – 004846	Chairman Mr KWOK Wai-keung Administration	Noting that the Administration considered it infeasible at this stage to set a maximum initial rent that the landlord might charge, Mr KWOK Wai-keung urged the Administration to implement other counter measures to prevent rent hike after passage of the Bill. He also expressed concern that, fearing that the tenancies might be terminated prematurely by landlords, SDU tenants might not be willing to lodge complaints against their landlords even if they had committed offences under the proposed tenancy control.	

Time Marker	Speaker	Subject(s)	Action Required
		<p>He also enquired about –</p> <ul style="list-style-type: none">(a) whether SDU landlords could increase the rent by 15% between the first term and second term tenancies, irrespective of the actual percentage change of the rental index in respect of all classes of private domestic properties ("the Index") compiled by RVD; and(b) the time that it took the Administration to handle complaints received from SDU tenants regarding overcharging of utilities fees by landlords. <p>The Administration advised that –</p> <ul style="list-style-type: none">(a) under the proposed tenancy control, the rate of rent increase between the first term and second term tenancies must not be more than the percentage change of the Index in the relevant period, subject to a cap of 15%;(b) whilst the Index fluctuated over the years, it recorded remarkable biennial increases exceeding 15% in seven of the past 23 years. The imposition of the 15% cap as the maximum permissible rate of rent increase could provide an additional and effective safeguard against any extreme rent hike for SDU tenants;(c) under the proposed tenancy control, an SDU landlord would commit an offence and be subject to penalties if he requested reimbursement of utility charges from the tenant where the total of apportioned sums for all tenants of the unit exceeded the amount charged in the relevant bill. SDU tenants should report to the relevant department if they encountered such a situation; and(d) given that tenants would enjoy a total of four years of security of tenure under the new regulatory regime, they should not worry about being evicted when lodging complaint against their landlords.	

Time Marker	Speaker	Subject(s)	Action Required
004847 – 005355	Chairman Mr Abraham SHEK	<p>Mr Abraham SHEK considered that the main intention of the Bill should be provision of better protection to SDU tenants. However, the proposed tenancy control had failed to address the problems of high rent and poor living conditions that most of the SDU tenants were now facing. He also expressed the following views –</p> <ul style="list-style-type: none"> (a) the Administration should set a cap on the total amount of rent that an SDU landlord could receive from his SDU/bedspace tenants within a unit as suggested by Mr Michael TIEN. With the application of a rent multiplier, such measure should not be considered as an infringement to the private property rights of SDU landlords; (b) capping the proposed maximum rate of rent increase between the first term and second term tenancies at 15% would exceed SDU tenants' ability to afford; (c) there were landlords in the rental market who rented out extra rooms of their own premises without subdivision or structural alteration, and had been treating the tenants in a fair and reasonable manner. Such kind of tenancy should not be included in the scope of "regulated tenancy"; (d) the proposed tenancy control should focus on SDUs within domestic premises which involved subdivision or alteration. The Administration should be able to distinguish whether domestic premises were subdivided or altered by referring to their building plans or deed of mutual covenants; and (e) in response to the opinions recently raised by the Director of the Hong Kong and Macao Affairs Office of the State Council regarding displacement of SDUs in Hong Kong, the Administration should formulate other policies which could provide better protection to grass-roots SDU tenants. 	

Time Marker	Speaker	Subject(s)	Action Required
005356 – 010115	Chairman Deputy Chairman Administration	<p>The Deputy Chairman raised the following suggestions/enquiries –</p> <ul style="list-style-type: none">(a) the Administration should narrow down the scope of "regulated tenancy" by excluding tenancy of one room in domestic premises not involving any subdivision or alteration;(b) whether the information about the number of SDUs in Hong Kong (i.e. around 110 000 SDUs in the rental market) provided in the LegCo Brief had included rooms for rent in domestic premises which did not involve any subdivision or alteration;(c) given that there were around 110 000 SDUs in the rental market, the 50 new staff members to be deployed by RVD would be far from enough in administering the new provisions in the Bill; and(d) fearing that the tenancy might be terminated prematurely by landlords, SDU tenants might not be willing to lodge complaints against their landlords even if they had committed offences under the proposed tenancy control. <p>The Administration advised that –</p> <ul style="list-style-type: none">(a) in the survey commissioned by the Task Force in 2020, premises with one room rented out were included in the category of "cubicles". According to the said survey, there were 3 415 cubicles in the SDU rental market;(b) according to the Census and Statistics Department and the consulting firm responsible for conducting the survey commissioned by the Task Force, tenancy of one room in domestic premises was indeed not common in the current SDU rental market; and	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(c) as administering the new provisions in the Bill would be a challenging task for RVD, the Administration would entrust non-governmental organizations to provide the necessary support for SDU landlords and tenants at the district level to assist them in understanding their respective rights and obligations under the new law.</p>	
010116 – 011028	Chairman Ms Starry LEE Administration	<p>Ms Starry LEE raised the following suggestions/enquiries –</p> <p>(a) the current rent level of SDU had exceeded the grass-roots SDU tenants' ability to afford. The Administration should take the initiative to formulate effective measures which could provide better protection to grass-roots SDU tenants. Without the regulation of initial rent, the proposed tenancy control might not be able to address the problem of high rent level of SDUs; and</p> <p>(b) whether the Administration would implement other new policies in response to the opinions recently raised by the Director of the Hong Kong and Macao Affairs Office of the State Council regarding displacement of SDUs in Hong Kong.</p> <p>The Administration advised that –</p> <p>(a) because of a lack of data on the existing SDU market rentals, the Administration considered it infeasible to devise an objective and administratively easy mechanism for the purpose of fairly determining the maximum initial rent the landlord might charge in respect of each of the 110 000 SDUs, which should take into account the individual characteristics of each SDU;</p> <p>(b) imposing a cap on the rent level of SDU tenancies at a lower level might disproportionately infringe the private property rights of SDU landlords, which</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>was protected by the Basic Law. More stringent restriction on the level of rent increase might not be able to satisfy the "proportionality test" and thus be held as unconstitutional;</p> <p>(c) some SDU landlords might decide to quit the market for good if relatively strict forms of tenancy control were implemented. In such case, thousands of affected households might encounter difficulty in finding a new and affordable place to live;</p> <p>(d) the implementation of the proposed tenancy control would enable the Administration to collect and analyze relevant data on the existing SDU rental market. With the availability of these data, the Administration would be in a better position to consider whether further measures should be implemented so as to better protect the interest of grass-roots SDU tenants; and</p> <p>(e) the proposed tenancy control, if implemented, could achieve the policy objective of providing reasonable protection for SDU tenants, particularly in respect of the provision of the much needed security of tenure for SDU tenants, prevention of unwarranted rent hikes upon tenancy renewal, and prohibition of over-charging of specified utilities and services fees by SDU landlords.</p>	
011029 – 011535	Chairman Administration	<p>The Chairman raised the following suggestions/enquiries –</p> <p>(a) Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong considered that the rate of rent increase between the first term and second term tenancies should be capped at 10% instead of the proposed 15%;</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(b) referring to the Administration's response that it would review and consider whether further measures should be implemented after the passage of the Bill, the timeframe of the review;</p> <p>(c) the Administration should provide a clearer definition of SDUs under the proposed tenancy control regime; and</p> <p>(d) whether the Administration would implement other new policies in response to the opinions recently raised by the Director of the Hong Kong and Macao Affairs Office of the State Council regarding displacement of SDUs in Hong Kong.</p> <p>The Administration advised that –</p> <p>(a) it would analyze the relevant data on the existing SDU rental market in the coming years, and would consider whether further measures should be implemented so as to better protect the interest of grass-roots SDU tenants in due course;</p> <p>(b) the fundamental way to solve the issue of SDUs was to continuously increase land and housing supply. As mentioned in the 2020 Policy Address and the Long Term Housing Strategy Annual Progress Report 2020, the Administration had identified 330 hectares of land for providing 316 000 public housing units to meet the demand for about 301 000 public housing units in the coming ten years. The Administration was also committed to promoting the development of transitional housing and had identified sufficient land to provide about 15 000 transitional housing units;</p> <p>(c) by defining SDU as "premises that form part of a unit of a building", the proposed tenancy control could achieve its policy objective of covering as many SDUs as possible under the proposed rent control</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>framework. Furthermore, such definition could facilitate future enforcement actions as it clearly delineated what premises would be subject to the new control measures; and</p> <p>(d) the Administration appreciated members' concerns on the definition of SDU under the new regime, and would continue to conduct relevant explanatory work.</p>	
011536 – 012211	Chairman Mr Michael TIEN	<p>Mr Michael TIEN reiterated his suggestions on imposition of a rent cap on SDUs and added the following views –</p> <p>(a) issues of SDUs had been one of the main social problems in Hong Kong over the years. However, the Administration had failed to address and solve the issues all along, and the proposed tenancy control could not provide substantial protection to grass-roots SDU tenants; and</p> <p>(b) the data on the rent level of SDUs collected by the Administration after the passage of the Bill could only reflect the current market rent level. Given that the current rent level of SDUs was unreasonably high, such data would have no reference value if the Administration intended to set an SDU rent cap level which was reasonable and affordable to SDU tenants.</p>	
012212 – 012852	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE raised the following suggestions/enquiries –</p> <p>(a) the proposed tenancy control could not provide substantial protection to grass-roots SDU tenants as the rent level of SDUs would not be regulated at a reasonable level under the new regime;</p> <p>(b) the Administration could impose an SDU rent cap on a zonal basis. An appeal mechanism could also be set up which allowed SDU landlords to bring the case to the Lands Tribunal to determine the market rent of SDUs in case of disputes;</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>(c) apart from collecting SDU tenancy data from SDU landlords, RVD should proactively conduct surveys to assess the rent level of SDUs in the SDU rental market;</p> <p>(d) whether the existence of SDUs in New Territories Exempted Houses ("NTEHs") was prevalent; and</p> <p>(e) the staff cost for RVD to set up a new team of about 50 staff to administer the new provisions in the Bill.</p> <p>The Administration advised that –</p> <p>(a) it would be difficult for RVD to assess the rental value of individual SDUs as SDUs commonly had no building plans showing their layout and orientation and the value would be affected by a basket of factors which varied from case to case;</p> <p>(b) the scope of regulation would not cover "SDUs" in NTEHs as these houses were not covered by approved building plans. In the absence of such plans, it would be impossible to delineate the boundary of a "unit" and hence determine whether the subject premises of a tenancy were an SDU;</p> <p>(c) according to the observation by the Buildings Department and the Lands Department who conducted regular inspections on NTEHs, only a relatively small number of NTEHs consisted of "SDUs" for rental purpose; and</p> <p>(d) the estimated staff cost of extra manpower in RVD for 2021-2022 financial year would be between \$7 million and \$8 million.</p>	

Time Marker	Speaker	Subject(s)	Action Required
012853 – 013617	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP reiterated her views on the definition of SDUs under the proposed tenancy control, and raised the following suggestions/enquiries –</p> <p>(a) the Administration had failed to provide enough public housing units in recent years, leading to the rapid increase of rent level of SDUs. As the market rent of SDUs had reached a level that tenants could not afford, the Administration should intervene in the market by imposing a rent cap or regulating the initial rent; and</p> <p>(b) SDU landlords enjoyed a big profit margin by renting out SDUs, and would not quit the SDU rental market even if the Administration decided to impose a rent cap or regulate the initial rent.</p> <p>The Administration advised that –</p> <p>(a) in the survey commissioned by the Task Force in 2020, premises with one room rented out were included in the category of "cubicles", and there were 3 415 cubicles in the SDU rental market. The institution conducting the survey advised that it was not common for landlords to rent out extra rooms of their premises to tenants for domestic purpose as their field officers had encountered very few such cases; and</p> <p>(b) the Administration considered that the scope of proposed tenancy control should be relatively broad to cover as many SDUs as possible such that more SDU tenants could be protected.</p>	
013618 – 014230	Chairman Ms Starry LEE Administration	<p>Ms Starry LEE pointed out that issues of SDUs had been one of the main social problems in Hong Kong over the years. However, the Administration had failed to address and solve the issues all along, leading to the rapid growth of the SDU rental market as well as the massive increase in the rent level. Given that the current SDU rent level had exceeded tenants' ability to afford, the Administration</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>should intervene in the SDU rental market by regulating the initial rent. Such measures should not be considered as an infringement of the owner's property rights.</p> <p>She enquired about the legal view from the Department of Justice ("DoJ") on whether regulation of the initial rent might lead to judicial challenge by members of the public.</p> <p>The Administration responded that –</p> <p>(a) the Administration was committed to solving the issues of SDUs, and had all along been identifying new land vigorously with a view to increasing the supply of public housing units; and</p> <p>(b) DoJ had been providing legal advice when drafting the Bill. The scope of regulation under the proposed tenancy control was formulated according to a basket of factors. The policy was formulated based on the professional judgment of the Administration rather than a political one.</p>	
014231 – 014550	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE expressed concern that landlords and tenants of SDUs in industrial/commercial buildings might try to circumvent the new regulations as they feared that the SDUs concerned would be displaced after submitting information of the tenancies to RVD.</p> <p>The Administration advised that the scope of regulation would be the same for tenancies of SDUs in domestic/composite buildings and industrial/commercial buildings. RVD would not disclose the information received from SDU landlords to other law enforcement departments, even the tenancy concerned was related to an SDU in industrial/commercial buildings.</p>	

Time Marker	Speaker	Subject(s)	Action Required
<p>Clause-by-clause examination of the Bill [The Bill (LC Paper No. CB(3)771/20-21)] [Marked-up copy of the Bill prepared by the Legal Service Division (LC Paper No. CB(1)1148/20-21(01))]</p>			
<p>014551 – 015829</p>	<p>Chairman Mrs Regina IP Mr Tony TSE Administration</p>	<p>The Bills Committee examined the Bill clause-by-clause</p> <p>Part 1: Preliminary</p> <p><u>Clause 1 – Short title and commencement</u></p> <p>Mrs Regina IP asked whether the Administration had considered drafting a new ordinance which might involve less and simpler work than amending the existing Landlord and Tenant (Consolidation) Ordinance (Cap. 7).</p> <p>The Administration responded that the Landlord and Tenant Ordinance was first enacted in 1947, which was later consolidated with other ordinances relating to landlord and tenant into the Landlord and Tenant (Consolidation) Ordinance ("the Ordinance") that provided a consolidated legal framework for implementing tenancy control. Given that the proposed tenancy control would have interplay with other Parts of the Ordinance, the Administration considered that amending the existing Ordinance would be a better option than drafting a new ordinance.</p> <p>Mr Tony TSE enquired about –</p> <p>(a) the consideration in setting the commencement date of the proposed tenancy control at three months after the passage of the Bill; and</p> <p>(b) whether the Administration would enhance public education for SDU tenants, landlords and estate agents to raise their awareness of the new regulations under the proposed tenancy control.</p> <p>The Administration responded that it was necessary to set the commencement date of the proposed tenancy control at three months after</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>the passage of the Bill to allow the bare minimum of time to –</p> <p>(a) recruit and train the new staff to administer the new provisions in the Bill;</p> <p>(b) entrust non-governmental organizations to provide the necessary support for SDU landlords and tenants at the district level;</p> <p>(c) provide education to SDU tenants and landlords to assist them in understanding their respective rights and obligations under the new law; and</p> <p>(d) collaborate with the Estate Agents Authority for the latter to issue best practices for estate agents, enabling them to handle SDU tenancy matters in accordance with the new regulations under the new regime.</p> <p>In response to Mr Tony TSE's further enquiries, the Administration advised that the terms as well as rights and obligations of the landlord and the tenant under fixed-term tenancy agreements that commenced before the commencement date of the Bill would not be affected by the implementation of the proposed tenancy control. In addition, the provisions impliedly incorporated into a regulated tenancy by virtue of the Bill prevailed over any other provision of the tenancy that was in conflict or inconsistent with the incorporated provisions to the extent of the conflict or inconsistency.</p>	
015830 – 015926	Chairman Administration	<p><u>Clause 2 – Enactments amended</u></p> <p>Part 2: Amendments to Landlord and Tenant (Consolidation) Ordinance (Cap.7)</p> <p><u>Clause 3 – Section 116 amended (application of this Part)</u></p> <p><u>Clause 4 – Part IVA added</u></p> <p>Members raised no questions.</p>	

Time Marker	Speaker	Subject(s)	Action Required
Agenda item II — Any other business			
015927 – 020007	Chairman	Meeting arrangements	

Council Business Division 1
Legislative Council Secretariat
15 November 2021