

立法會
Legislative Council

LC Paper No. CB(1)1507/20-21
(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 sixth meeting on
Monday, 6 September 2021, at 10:45 am
in Conference Room 3 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 Frankie YICK Chi-ming, SBS, JP
Hon CHAN Han-pan, BBS, JP
Hon KWOK Wai-keung, JP
Ir Dr Hon LO Wai-kwok, GBS, MH, JP
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon Tony TSE Wai-chuen, BBS, JP
- Member attending** : Hon SHIU Ka-fai, JP
- Member absent** : Hon Alice MAK Mei-kuen, BBS, JP

**Public officers
attending**

: Agenda item II

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

Action

I. Application for late membership

(LC Paper No. CB(1)1282/20-21(01) — Letter dated 2 September 2021 from Hon Frankie YICK Chi-ming on his application for late membership of the Bills Committee)

The Bills Committee accepted the application from Mr Frankie YICK Chi-ming for late membership of the Bills Committee pursuant to Rule 23(c) of the House Rules.

II. Meeting with the Administration

(LC Paper No. CB(1)1287/20-21(01) — Letter from Hon Mrs Regina IP LAU Suk-yea dated 3 September 2021

LC Paper No. CB(1)1287/20-21(02) — Amendment to the Bill proposed by the Administration

LC Paper No. CB(1)1255/20-21(01) — Draft amendment proposed by Hon Vincent CHENG Wing-shun, Hon Starry LEE Wai-king, Hon CHAN Han-pan and Hon Wilson OR Chong-shing

LC Paper No. CB(1)1278/20-21(01) — Administration's response to the draft amendment proposed by Hon Vincent CHENG Wing-shun, Hon Starry LEE Wai-king, Hon CHAN Han-pan and Hon Wilson OR Chong-shing

LC Paper No. CB(1)1268/20-21(01) — Draft amendment proposed by Hon KWOK Wai-keung

Action

- LC Paper No. CB(1)1278/20-21(03) — Administration's response to the draft amendment proposed by Hon KWOK Wai-keung
- LC Paper No. CB(1)1279/20-21(01) — Draft amendment proposed by Hon YUNG Hoi-yan
- LC Paper No. CB(1)1282/20-21(02) — Draft amendments proposed by Hon Abraham SHEK Lai-him
- LC Paper No. CB(1)1282/20-21(03) — Draft amendments proposed by Hon Vincent CHENG Wing-shun
- LC Paper No. CB(1)1289/20-21(01) — Administration's response to the draft amendment proposed by Hon Frankie YICK Chi-ming
- 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
- 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)

Discussion

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

Follow-up actions

3. The Administration was requested to provide written response regarding following members' views on, and draft amendments to, the Bill, and whether or not the Administration would take on board, or incorporate otherwise, any of them by proposing amendments to the Bill:

Action

- (a) excluding from "regulated tenancy" tenancies that satisfied the conditions as set out in Mr Frankie YICK's and the Chairman's letters, both of 2 September 2021;
- (b) clarifying or improving the definition of "subdivided unit" in order to address the concern raised by Mrs Regina IP in her letter of 3 September 2021;
- (c) setting the maximum rate of increase in the renewed rent of the second term tenancy in a regulated cycle of tenancies at 10%, instead of 15% as proposed in the Bill (proposed by the Chairman, Ms Starry LEE, Mr CHAN Han-pan and Mr Wilson OR in their letter of 25 August 2021, and Mr KWOK Wai-keung in his letter of 27 August 2021);
- (d) excluding subdivided units in buildings on a lot intended for redevelopment from the provisions regarding security of tenure under the Bill (proposed by Mr Abraham SHEK in his letters of 2 September 2021 and 7 September 2021); and
- (e) defining "family member" as "persons living together forming a household" under the Bill (proposed by the Deputy Chairman in her letters of 1 September 2021 and 7 September 2021).

(Post-meeting note: The Administration's supplementary information was issued to members vide [LC Paper No. CB\(1\)1319/20-21\(02\)](#) on 13 September 2021.)

III. Any other business

4. There being no other business, the meeting ended at 12:34 pm.

Council Business Division 1
Legislative Council Secretariat
15 December 2021

**Proceedings of the sixth meeting of the
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2021
on Monday, 6 September 2021, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000536 – 000553	Chairman	Opening remarks	
Agenda item I — Application for late membership			
000554 – 000636	Chairman Mr Frankie YICK	The Bills Committee accepted the application from Mr Frankie YICK Chiming for late membership of the Bills Committee pursuant to Rule 23(c) of the House Rules.	
Agenda item II — Meeting with the Administration			
Draft amendments to the Bill			
000637 – 001536	Chairman Administration	Briefing by the Administration on its proposed amendments to the Bill in relation to the termination of a regulated tenancy which was a sub-tenancy as set out in LC Paper No. CB(1)1287/20-21(02) .	
001537 – 001610	Chairman Mr KWOK Wai-keung	Mr KWOK Wai-keung expressed support for the Administration's proposed amendments.	
001611 – 001839	Chairman Mr Wilson OR Mr CHAN Han-pan	Draft amendment to the Bill proposed by the Chairman, Ms Starry LEE, Mr CHAN Han-pan and Mr Wilson OR to lower the cap on rent increase upon renewal of a regulated tenancy from 15% to 10%, which was set out in LC Paper No. CB(1)1255/20-21(01) . Mr Wilson OR and Mr CHAN Han-pan gave an introductory remark on the draft amendment.	
001840 – 002120	Chairman Mr KWOK Wai-keung	Draft amendment to the Bill proposed by Mr KWOK Wai-keung to lower the cap on rent increase upon renewal of a regulated tenancy from 15% to 10%, which was set out in LC Paper No. CB(1)1268/20-21(01) .	
002121 – 002330	Chairman Administration	Administration's responses to the draft amendment proposed by the Chairman, Ms Starry LEE, Mr CHAN Han-pan and	

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		<p>Mr Wilson OR, and the amendment proposed by Mr KWOK Wai-keung, which were set out in LC Paper No. CB(1)1278/20-21(01) and LC Paper No. CB(1)1278/20-21(03) respectively.</p> <p>In response to members' suggestions that reference should be made to the 10% cap on the rate of rent increase for public rental housing ("PRH"), the Administration advised that subdivided units ("SDUs") were a form of private housing, the nature of which was different from that of PRH and thus a direct comparison between the two was inappropriate.</p>	
002331 – 002508	Chairman Mr Abraham SHEK Administration	<p>Expressing support for the above draft amendments proposed by members seeking to revise the maximum rate of rent increase upon renewal of a regulated tenancy from 15% to 10%, Mr Abraham SHEK raised the following views/enquiries –</p> <p>(a) without regulating the initial rent that SDU landlords could charge, the rental level of SDUs would remain high after the passage of the Bill; and</p> <p>(b) whether the Administration would propose an amendment to revise the cap on rent increase upon tenancy renewal from 15% to 10%.</p> <p>The Administration responded that it would make reference to the views and suggestions raised by members at the Bills Committee meetings when deciding the way forward of the proposed tenancy control regime.</p>	
002509 – 002548	Chairman Mrs Regina IP	<p>Mrs Regina IP expressed support for the draft amendments proposed by members which sought to revise the cap on rent increase upon tenancy renewal in a regulated cycle of tenancies from 15% to 10%. She also pointed out that SDU landlords could still enjoy sizeable profits from letting SDUs even if the cap was set at 10%.</p>	

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002549 – 002728	Chairman Mr KWOK Wai-keung	<p>Mr KWOK Wai-keung raised the following views –</p> <p>(a) given that SDU landlords could enjoy sizeable profits from letting SDUs, they would not withdraw from the SDU rental market even if the cap on rent increase upon tenancy renewal was set at 10%; and</p> <p>(b) the Administration should be prudent in setting the cap on rent increase upon tenancy renewal. Setting the cap at 15% would certainly lead to an increase in the market rent level of SDUs.</p>	
002729 – 002855	Chairman Deputy Chairman	<p>The Deputy Chairman expressed support for the draft amendments proposed by members which sought to revise the cap on rent increase upon tenancy renewal in a regulated cycle of tenancies from 15% to 10%. She also raised the following views –</p> <p>(a) given that SDU landlords could enjoy sizeable profits from letting SDUs, they would not withdraw from the SDU rental market even if the cap on rent increase upon tenancy renewal was set at 10%; and</p> <p>(b) the proposed tenancy control should not be tilted in favour of SDU landlords.</p>	
002856 – 003228	Chairman Mr Wilson OR Mr CHAN Han-pan	<p>Mr Wilson OR and Mr CHAN Han-pan reiterated their views on revising the cap on rent increase upon tenancy renewal in a regulated cycle of tenancies from 15% to 10%.</p> <p>Mr CHAN also pointed out that, given that SDU landlords could enjoy sizeable profits from letting SDUs, they would not withdraw from the SDU rental market even if the cap on rent increase upon tenancy renewal was set at 10%.</p>	

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003229 – 003347	Chairman Administration	The Administration said that, when deciding the way forward of the proposed tenancy control regime, it would make reference to the views and suggestions raised by members regarding the cap on rent increase upon tenancy renewal.	
003348 – 003753	Chairman Mr Abraham SHEK	Draft amendment to the Bill proposed by Mr Abraham SHEK in relation to the security of tenure of SDUs in buildings on a lot intended for redevelopment, which was set out at LC Paper No. CB(1)1282/20-21(02) .	
003754 – 004725	Chairman Administration	<p>The Administration advised that –</p> <p>(a) the Bill would not override or interfere with the provisions of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) ("the Ordinance"). In other words, a majority owner's right to make an application to the Lands Tribunal for an order for sale and the protection of the purchaser of a lot under the Ordinance would not be affected;</p> <p>(b) for situations where the sole owner (or joint owners) of a lot would like to redevelop a building on the lot, the Bill would not prohibit the landlord and tenants from entering into negotiations on early surrender of the tenancies and the related compensation arrangements. Presumably, a person who intended to acquire shares of a lot for redevelopment would take into account pre-existing contractual and/or other obligations associated with the purchase;</p> <p>(c) the amendments proposed by Mr SHEK might raise a host of highly complicated and controversial issues concerning whether statutory termination of tenancies should be introduced in respect of the buildings of a lot intended for redevelopment after a person had</p>	

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		<p>become the owner of the lot before the Lands Tribunal made an order for sale under the Ordinance or without making an application to the Lands Tribunal for an order for sale under the Ordinance, including –</p> <p>(i) whether the proposed statutory termination of tenancies should apply to both regulated and non-regulated tenancies on the same lot;</p> <p>(ii) in what capacity the tenant might stay in the unit after the expiry of the term of his tenancy until the expiration of the six-month period after the person had become the owner of the lot; and</p> <p>(iii) whether any safeguards should be introduced to ensure that the redevelopment would actually be implemented according to the proposed schedule; and</p> <p>(d) the Administration would provide a written response to the draft amendments proposed by Mr SHEK in due course.</p>	
004726 – 005118	Chairman Mr Abraham SHEK	Mr Abraham SHEK reiterated his views that SDUs in buildings on a lot intended for redevelopment should be exempted from the provisions regarding security of tenure under the Bill.	
005119 – 005156	Chairman Mrs Regina IP	Mrs Regina IP said she would decide whether to support the draft amendments proposed by Mr Abraham SHEK only after receiving the written response on Mr SHEK's amendments from the Administration.	
005157 – 005640	Chairman Mr Tommy CHEUNG	<p>Mr Tommy CHEUNG raised the following views –</p> <p>(a) he was dissatisfied with the way that the Administration had failed to provide</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>proper responses to the views and suggestions raised by the members;</p> <p>(b) the tenancy control regime proposed in the Bill should exclude a tenancy where the landlord resided in the unit and only rented out a room or some of the remaining rooms in the unit whilst the tenancy, providing dwelling to the tenant, was the only domestic tenancy subsisting in the unit; and</p> <p>(c) the pace of urban redevelopment should not be adversely affected by the implementation of the proposed tenancy control.</p>	
005641 – 005847	Chairman Administration	<p>The Chairman declared that he was a non-executive director of the Urban Renewal Authority Board. He expressed the following views –</p> <p>(a) the implementation of the proposed tenancy control should not affect the pace of urban redevelopment;</p> <p>(b) some of the concerns raised by Mr Abraham SHEK could not be dealt with in the context of the Bill; and</p> <p>(c) the Administration should examine how to refine the implementation of the proposed tenancy control so as to facilitate urban redevelopment as well.</p> <p>The Administration advised that it would make reference to the views and suggestions raised by members when deciding the way forward of the proposed tenancy control regime.</p>	
005848 – 010731	Chairman Mr Tommy CHEUNG	<p>Draft amendment proposed by Mr Frankie YICK to exclude a tenancy where the landlord resided in the unit and only rented out a room or some of the remaining rooms in the unit whilst the tenancy, providing dwelling to the tenant, was the only domestic tenancy subsisting in the unit, which was set out in LC Paper No.</p>	

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		<p>CB(1)1282/20-21(01). As Mr Frankie YICK was not present, Mr Tommy CHEUNG gave an introductory remark on Mr YICK's draft amendment.</p>	
010732 – 010821	Chairman	<p>Draft amendment to the Bill proposed by the Chairman to exclude a tenancy where the landlord resided in the unit and only rented out a room or some of the remaining rooms in the unit whilst the tenancy, providing dwelling to the tenant, was the only domestic tenancy subsisting in the unit, which was set out in LC Paper No. CB(1)1282/20-21(03).</p>	
010822 – 011210	Chairman Mrs Regina IP	<p>Mrs Regina IP gave an introductory remark on her letter dated 3 September 2021 to the Administration in relation to the definition of SDU in the Bill, which was set out in LC Paper No. CB(1)1287/20-21(01).</p>	
011211 – 011500	Chairman Administration	<p>The Administration advised that –</p> <p>(a) there had never been an official definition of SDU. By defining SDUs as "premises that form part of a unit of a building", the proposed tenancy control could cover different kinds of SDUs, fulfilling its policy objective of affording protection to as many SDU tenants as possible; and</p> <p>(b) considering that housing units that were shared with other households (including rooms) were regarded as inadequate housing under the Long Term Housing Strategy, the proposed tenancy control could provide protection to tenants who could only afford to rent a room as dwelling.</p>	
011501 – 011651	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK requested the Administration to clarify whether the Executive Council had been well informed of the contents of the Bill and agreed to the apparent deviation of the SDU definition from the policy objective of the proposed tenancy control as mentioned by members.</p>	

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		<p>The Administration advised that –</p> <p>(a) the definitions of "unit" and SDU under the proposed tenancy control had been clearly explained in the Bill; and</p> <p>(b) the policy objective of the proposed tenancy control was to provide protection to as many SDU tenants as possible. When drafting the Bill, the Administration had made reference to the Report of the Task Force for the Study on Tenancy Control of Subdivided Units, as well as views and suggestions raised by relevant stakeholders and Legislative Council Members from different political parties.</p>	
011652 – 011840	Chairman Assistant Legal Adviser 5 ("ALA5")	<p>In response to the enquiries raised in Mrs Regina IP's letter, ALA5 advised that –</p> <p>(a) SDU was defined as "premises that form part of a unit of a building" under the Bill, irrespective of whether such premises involved installation of physical partitions;</p> <p>(b) as explained by the Administration in its letter to ALA5 dated 13 August 2021 (LC Paper No. CB(1)1190/20-21(05)), by defining SDU as "premises that form part of a unit of a building", the proposed tenancy control could also protect the interest of tenants of cubicles, bedspaces, cocklofts and space capsules; and</p> <p>(c) under the Bill, "unit" referred to premises that were demarcated or shown as a separate unit (however described) in the building plan of a building, rather than premises within a unit of a building, or premises that were referred to in the deed of mutual covenant of a building as a unit (however described) the owner of which was entitled to its exclusive possession</p>	

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		as opposed to the owners or occupiers of other parts of the building.	
011841 – 012541	Chairman Deputy Chairman Administration	<p>The Deputy Chairman raised the following views –</p> <p>(a) under the current definition of SDU in the Bill, tenancy of one room in domestic premises not involving any subdivision or alteration would be regulated under the proposed tenancy control;</p> <p>(b) such definition was unclear and differed from the definitions adopted by some other government departments, causing confusion upon the implementation of the proposed tenancy control; and</p> <p>(c) in addition to defining SDU, the Bill should provide definitions for other forms of inadequate housing such as cubicles, bedspaces, cocklofts and space capsules if the Administration intended to include them in the proposed tenancy control.</p> <p>The Administration advised that –</p> <p>(a) there had never been an official definition of SDU. By defining SDU as "premises that form part of a unit of a building" under the Bill, the proposed tenancy control could cover different kinds of SDUs, fulfilling its policy objective of affording protection to as many SDU tenants as possible; and</p> <p>(b) under the proposed section 120AA(1) of the Bill, "unit", in relation to a building, meant premises that were demarcated or shown as a separate unit (however described) in the building plan of the building, or premises that were referred to in the deed of mutual covenant of the building as a unit (however described) the owner of which was entitled to its exclusive possession as opposed to the</p>	

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		owners or occupiers of other parts of the building.	
012542 – 013010	Chairman Mrs Regina IP ALA5 Administration	<p>Mrs Regina IP reiterated her views that the Administration should provide clear definitions of "unit" and "SDU" under the Bill, and asked whether tenants of bedspaces would be protected under the proposed tenancy control.</p> <p>The Administration explained that tenants of bedspaces would be protected under the proposed tenancy control.</p> <p>ALA5 pointed out that the term "subdivided unit" under the Bill in essence served only as a label of the premises that were regulated under the proposed tenancy control. Defined as "premises that form part of a unit of a building" under the Bill, an SDU could be an area within a unit of a building involving no subdivision, such as a bedspace and space capsule.</p>	
013011 – 013511	Chairman Mr Tommy CHEUNG Administration	<p>Mr Tommy CHEUNG reiterated his views that tenancy of one room in domestic premises not involving any subdivision or alteration should not be regulated under the proposed tenancy control.</p> <p>The Administration said that it would make reference to the views and suggestions raised by members when deciding the way forward of the proposed tenancy control regime.</p>	
013512 – 013636	Chairman Administration	<p>The Chairman reiterated his views that tenancy of one room in domestic premises not involving any subdivision or alteration should not be regulated under the proposed tenancy control, and asked in what way the Administration would respond to the queries raised by members.</p> <p>The Administration said that it would continue to listen to the views raised by members when deciding the way forward of the proposed tenancy control regime.</p>	

Time Marker	Speaker	Subject(s)	Action Required
013637 – 013838	Chairman Mr Tommy CHEUNG	My Tommy CHEUNG said Members belonging to the Liberal Party might propose other amendments to the Bill if the Administration failed to properly respond to members' concerns.	
013839 – 014009	Chairman Mrs Regina IP Mr Wilson OR Administration	<p>Pointing out that the objective of the proposed tenancy control was to protect the interest of grass-roots SDU tenants, Mrs Regina IP urged the Administration to propose amendments to the Bill as the current scope of the proposed tenancy control would cover more domestic tenancies than originally intended.</p> <p>The Administration said that it would stay humble and listen to the views raised by members when deciding the way forward of the proposed tenancy control regime.</p>	
014010 – 014433	Chairman Deputy Chairman Administration	<p>Draft amendment to the Bill proposed by the Deputy Chairman in relation to the definition of "family member", which was set out in LC Paper No. CB(1)1279/20-21(01).</p> <p>The Administration advised that –</p> <p>(a) the scope of family members who were eligible, after the tenant's death, for the subsisting benefits and protection under a regulated tenancy to which the tenant was entitled under the proposed Part IVA of the Bill during the tenant's life time (i.e. a spouse, parent or adult child of the deceased tenant who was residing with the tenant in the SDU at the time of the tenant's death) was the same as the family members (i.e. "the widow, widower, mother, father or any daughter or son over the age of 18 years of the deceased tenant who was residing with the tenant at the time of the tenant's death) to whom the benefits and protection afforded by the existing Part IV of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ("Cap. 7") in a domestic tenancy were available after the tenant's death;</p>	

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		<p>(b) It was considered that expanding the scope of "family member" to cover "persons living together forming a household" as proposed by the Deputy Chairman would make the scope of family members too broad under the Bill; and</p> <p>(c) it was the Administration's policy intention for "adult child" in the definition of "family member" under the Bill to include an "adopted adult child", a "step adult child" and an "illegitimate adult child". The Administration would propose relevant amendments to the Bill to reflect the policy intent.</p>	
014434 – 014727	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP expressed support for the Deputy Chairman's proposed amendments to the Bill as it could extend the protection to other family members who lived with a deceased SDU tenant at the time of the tenant's death, such as a minor child of the tenant. She further asked why a minor child of a deceased tenant was not entitled to the subsisting benefits and protection under the regulated tenancy.</p> <p>The Administration advised that when the tenant's interest was passed to a family member on the tenant's death, not only the subsisting benefits but also the obligations under the regulated tenancy, such as the obligation to pay rent, would be passed to the family member. Considering that a minor child might not be capable of taking up the obligations under the regulated tenancy, in line with the arrangement under Part IV of Cap. 7, it was proposed that only an adult child, but not a minor child, of the deceased tenant was entitled to the subsisting benefits and protection under the regulated tenancy after the tenant's death.</p>	
014728 – 015229	Chairman Mr Tommy CHEUNG Administration	Mr Tommy CHEUNG commented that the Administration should be more open in considering whether same-sex partners of the deceased tenant could enjoy the benefits	

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		<p>under the regulated tenancy after the tenant's death.</p> <p>The Administration advised that it would listen to the views raised by members when deciding the way forward of the proposed tenancy control regime.</p>	
015230 – 015315	Chairman Administration	The Chairman requested the Administration to provide written responses to the draft amendments proposed by members.	The Administration to take action as per paragraph 3 of the minutes
Agenda item III — Any other business			
015316 – 015338	Chairman Administration	Closing remarks	