

**立法會**  
***Legislative Council***

**(issued by email only)**  
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Tel : 3919 3328

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 13 October 2021**

**Proposed amendments to  
the Landlord and Tenant (Consolidation) (Amendment) Bill 2021**

Further to LC Paper No. CB(3) 1016/20-21 issued on 27 September 2021, the President has given permission for the Secretary for Transport and Housing to move amendments to the captioned Bill, subject to the Bill receiving Second Reading.

2. As directed by the President, the proposed amendments are attached for Members' consideration.

(Thomas CHAN)  
for Clerk to the Legislative Council

Encl.

Landlord and Tenant (Consolidation) (Amendment) Bill 2021

**Committee Stage**

Amendments to be moved by the Secretary for Transport and Housing

<u>Clause</u>	<u>Amendment Proposed</u>
4	In the proposed section 120AA(1), in the definition of <i>family member</i> , in paragraph (b), by deleting “or”.
4	In the proposed section 120AA(1), in the definition of <i>family member</i> , by adding— “(d) the person’s grandparent; or (e) the person’s adult grandchild;”.
4	In the proposed section 120AA(1), by adding in alphabetical order— “ <i>child</i> (子女) includes an illegitimate child, a stepchild and a child adopted in a way recognized by law, and <i>parent</i> (父母), <i>grandchild</i> (孫、外孫) and <i>grandparent</i> (祖父母、外祖母) are to be construed accordingly;”.
4	In the proposed section 120AAZE(2)(b), by deleting “15%” and substituting “10%”.
4	In the proposed Part IVA, in Division 6, by adding— “ <b>120AAZJA. Limited liabilities of sub-tenant on termination of superior tenancy</b> (1) This section applies if— (a) a regulated tenancy for a subdivided unit is a sub-tenancy created out of another tenancy; (b) the regulated tenancy is terminated because of the termination of a tenancy superior to the regulated tenancy ( <i>superior tenancy</i> ); and (c) the tenant of the regulated tenancy ( <i>sub-tenant</i> ) fails to deliver up vacant possession of the subdivided unit on the date on which the

regulated tenancy is terminated (*termination date*).

(2) Only the following person may recover as a civil debt from the sub-tenant the compensation determined under subsection (3) (*compensation*) for the sub-tenant's failure to deliver up vacant possession of the subdivided unit on the termination date—

(a) the superior landlord who terminates the superior tenancy; or

(b) if the superior landlord in writing waives the right to recover the compensation—the landlord of the regulated tenancy (*sub-landlord*).

(3) The compensation is determined in accordance with the following formula—

$$A = B \times C$$

where—

A means the compensation;

B means the monthly rent payable by the sub-tenant under the regulated tenancy for the subdivided unit immediately before the termination date;

C means the number of months covering the period commencing on the date immediately after the termination date and ending on the date on which the sub-tenant delivers up vacant possession of the subdivided unit (*holding-over period*).

(4) If the number of months covering a holding-over period is not an integer, it is to be rounded down to the nearest integer.

(5) The compensation recoverable by the superior landlord or sub-landlord must be paid by the sub-tenant within 15 days after the date on which the sub-tenant delivers up vacant possession of the subdivided unit.

- (6) The right (if any) of the superior landlord or sub-landlord under common law rules or equitable principles to make further claims against—
- (a) the sub-tenant; or
  - (b) a surety or guarantor for the sub-tenant's liabilities under the regulated tenancy,
- for the sub-tenant's failure to deliver up vacant possession of the subdivided unit on the termination of the regulated tenancy and trespass to land in respect of the subdivided unit during the holding-over period is abrogated.
- (7) Also, the right (if any) of the superior landlord or sub-landlord to make claims against any other occupiers (who are residing with the sub-tenant in the subdivided unit during the holding-over period) for—
- (a) their failure to vacate the subdivided unit on the termination of the regulated tenancy; and
  - (b) their trespass to land in respect of the subdivided unit during the holding-over period,
- is abrogated.
- (8) Subject to subsection (9), despite section 52A of the High Court Ordinance, section 53 of the District Court Ordinance and section 12 of the Lands Tribunal Ordinance, no order as to costs may be made in favour of the superior landlord or sub-landlord (whichever is applicable) against the sub-tenant in the following proceedings (*specified proceedings*)—
- (a) proceedings commenced by the superior landlord to recover possession of the subdivided unit;
  - (b) proceedings commenced by the superior landlord or sub-landlord to claim the compensation from the sub-tenant.
- (9) Subsection (8) does not apply—

- (a) if the sub-tenant has conducted the sub-tenant's case in the specified proceedings in a frivolous or vexatious manner; or
  - (b) in respect of the costs of any counterclaim made by the sub-tenant in the specified proceedings.
- (10) Also, despite section 48 of the High Court Ordinance, section 49 of the District Court Ordinance and section 12B of the Lands Tribunal Ordinance, no interest on all or any part of the compensation may be included in the sum for which judgment is given in favour of the superior landlord or sub-landlord (whichever is applicable) against the sub-tenant in the specified proceedings.

(11) In this section—

***District Court Ordinance*** (《區域法院條例》) means the District Court Ordinance (Cap. 336);

***High Court Ordinance*** (《高等法院條例》) means the High Court Ordinance (Cap. 4);

***Lands Tribunal Ordinance*** (《土地審裁處條例》) means the Lands Tribunal Ordinance (Cap. 17);

***superior landlord*** (上級業主) has the meaning given by section 120AAZJ(7).”.

- 4 In the proposed section 120AAZZE(6)(a), by adding “or” after the semicolon.
- 4 In the proposed section 120AAZZE(6)(b), by deleting “; or” and substituting a full stop.
- 4 By deleting the proposed section 120AAZZE(6)(c).
- 5 In the English text, in the proposed definition of ***landlord***, by deleting “giving” and substituting “given”.
- 8 In the proposed Schedule 6, by renumbering section 1 as section 1(1).

8 In the proposed Schedule 6, in the Chinese text, in section 1(1), in the definition of 社會服務機構, by deleting “構。” and substituting “構;”.

8 In the proposed Schedule 6, in section 1(1), by adding in alphabetical order—

“*bedroom* (睡房), in relation to a building, means premises in a unit of the building that are demarcated as a bedroom in the latest building plan of the building;

*latest building plan* (最近期建築圖則), in relation to a building, means a building plan of the building that is the latest one approved by the Building Authority under the Buildings Ordinance as at the date on which the occupation permit in relation to the building is issued;

*occupation permit* (佔用許可證) means an occupation permit (but not a temporary occupation permit) issued under the Buildings Ordinance;”.

8 In the proposed Schedule 6, in section 1, by adding—

“(2) The following expressions have the same meaning in this Schedule as in section 120AA—

*building*;

*building plan*;

*Buildings Ordinance*;

*landlord*;

*tenancy*;

*tenant*;

*unit*.”.

8 In the proposed Schedule 6, in section 2, by adding—

“(ba) a tenancy—

(i) that is not a sub-tenancy;

(ii) the subject premises of which are a bedroom in a unit;  
and

(iii) the landlord of which is—

(A) a natural person; and

(B) residing in the unit at the commencement of the tenancy;”.

8 In the proposed Schedule 6, in section 2, by adding—

“(ca) a tenancy of premises under the Hong Kong Housing Society’s Letting Scheme for Subsidised Sale Developments with Premium Unpaid;”.

8 In the proposed Schedule 6, in section 2(e), by deleting “of a housing unit provided by the organization”.

9 By renumbering the clause as clause 9(4).

9 By adding—

“(1) Section 8(8)(c)—

**Repeal**

“and”.

(2) Section 8(8)(d)—

**Repeal the full stop**

**Substitute**

“; and”.

(3) After section 8(8)(d)—

**Add**

“(e) an order for the payment of any compensation within the meaning of section 120AAZJA of that Ordinance.”.”.