

Government to introduce Landlord and Tenant (Consolidation) (Amendment) Bill 2021 into Legislative Council

At the meeting held today (July 6), the Executive Council advised and the Chief Executive ordered that the Landlord and Tenant (Consolidation) (Amendment) Bill 2021 should be introduced into the Legislative Council (LegCo) to implement tenancy control on subdivided units (SDUs).

The Bill regulates domestic tenancies in respect of SDUs through adding a new Part IVA to the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), including mandating the SDU landlords and tenants to sign a written tenancy agreement setting out their respective rights and obligations; providing four-year security of tenure for the tenants; restricting the rate of rent increase on tenancy renewal by making reference to the movement of the rental index of all classes of private domestic properties as compiled and published by the Rating and Valuation Department and subject to a cap of 15 per cent; and prohibiting landlords from overcharging tenants on utility charges, etc.

The current legislative proposals are formulated based on the recommendations put forward by the Task Force for the Study on Tenancy Control of Subdivided Units in its report submitted to the Government in March 2021, and have fully taken into account the guiding principles adopted by the Task Force, i.e. to ensure that the legislative proposals would not disproportionately infringe on the property rights of the owners; to minimise the unintended consequences; to include suitable measures to deal with the problems caused by subletting as far as possible; and to adopt tenancy control measures that are legally sound, are relatively easy to administer and can be implemented speedily. The spokesman for the Transport and Housing Bureau said, "The proposed tenancy control framework, if implemented, would be able to achieve our policy objective of providing reasonable protection for SDU tenants, particularly providing them with the much needed security of tenure and preventing unwarranted rent hikes by landlords upon tenancy renewal without unduly compromising the interests and property rights of SDU landlords."

Apart from domestic tenancies of SDUs in residential buildings, the scope of the Bill also covers domestic tenancies of SDUs in industrial/commercial buildings or temporary structures such as "rooftop houses" and "podium houses". The primary consideration to extend tenancy control to cover these SDUs is that tenants living in these SDUs may be even more vulnerable than those living in SDUs in normal residential buildings and are also in need of the protection of tenancy control measures. In addition, the Task Force, concern groups and many LegCo Members also generally consider that SDU tenancy control should cover as many SDUs as possible so that more SDU tenants can benefit from the tenancy control measures. That said, the

Government must emphasise that the Bill is not to "legalise" those illegal SDUs in industrial/commercial buildings or temporary structures. The implementation of tenancy control on SDUs will not affect the enforcement actions taken by the relevant government departments under the existing legislation, in particular those concerning building safety and fire safety.

The Chief Executive undertook at the LegCo Question and Answer Session on February 4, 2021, that the Government would introduce a bill into LegCo within the current legislative session to implement tenancy control on SDUs. The Bill will be gazetted this Friday (July 9) for the First Reading at LegCo next Wednesday (July 14).

If the Bill is passed by LegCo within the current legislative session, it is anticipated that the amended Ordinance will come into operation in late 2021 or early 2022 at the earliest.