

Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill gazetted

The Government published in the Gazette today (March 18) the Temporary Protection Measures for Business Tenants (COVID-19 Pandemic) Bill to provide business tenants of specified sectors with temporary protection measures in the form of a rental enforcement moratorium.

The legislative proposal was announced in the 2022-23 Budget as part of the measures to enhance liquidity support for businesses. Another relevant measure, among others, is the extension of the application period of all guarantee products under the SME Financing Guarantee Scheme (SFGS) and further enhancement to the Special 100% Loan Guarantee under the SFGS, mainly by increasing the maximum loan amount per enterprise applicant and by extending the maximum repayment period. Together, the two measures aim to help tide businesses, in particular SMEs, over short-term financial difficulties arising from the impact of the COVID-19 epidemic.

The Bill seeks to impose a moratorium barring landlords from taking certain actions during a three-month protection period against their business tenants in specified sectors for failing to settle outstanding rent in accordance with the tenancy in respect of the period from January 1, 2022, to the end of the protection period. Correspondingly, a moratorium is also provided barring lenders from taking certain actions against landlords for a default in the related secured loan repayment arising from tenants' failure to pay rent. The three-month protection period will start from the commencement date of the Bill as enacted.

The Financial Secretary, Mr Paul Chan, said, "At this critical juncture in the fight against the epidemic, many SMEs are facing huge difficulties amidst a suffocating business environment. As rental payments constitute a substantial part of SMEs' operating expenses, the proposed moratorium is essential for preventing large-scale business failures, thereby saving jobs and preserving the vitality of our economy. Apart from providing business tenants of specified sectors in trouble with a much-needed breathing space, the proposed legislation also aims to give landlords and tenants room and an opportunity to work out a mutually agreeable rental arrangement in the interim through negotiation."

The proposed legislation will not take away the right of landlords to receive, or the obligation of tenants to pay, rent, but will only cause a temporary and short deferral of certain actions that landlords may take in respect of tenants' failure to pay rent. Appreciating the concerns raised by some stakeholders, improvements have been made to the original legislative proposal, namely a clear indication in the Bill that the "protection period" will last only for three months without the option to extend; the above-mentioned moratorium on lenders; exemption of landlords and tenants from the

application of the law if they reach mutually agreeable rental agreements during the protection period; the provision of interest-free rental advancement to landlords whose livelihood is adversely affected by the implementation of the legislation; and deferral of payment of rates and Government rents for affected properties on request, free of surcharge or interests.

The Bill will be introduced into the Legislative Council for first reading on March 23.