

Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002

The Landlord and Tenant (Consolidation) (Amendment) Ordinance was enacted on 18 December 2002. Most of the provisions came into effect on 27 December 2002. Certain fee paying services relating to the provision of information to assist affected parties will take effect later on a date to be announced by the Secretary for Housing, Planning and Lands. This leaflet provides general information on the major changes introduced by the Ordinance. Landlords and Tenants who require detailed advice regarding their cases should consult a lawyer.

Major Changes Introduced by the Ordinance :

1. Simplified Part IV Tenancy Renewal Procedures

The statutory period for service of notice of termination of tenancy by the landlord (Form CR101) or request for a new tenancy by the tenant (Form CR103) is shortened from "not more than 7 or less than 6 months" to "**not more than 4 or less than 3 months**".

2. Revised Part IV Rebuilding Compensation for Part-let and Sub-let Premises

Rebuilding compensation payable for part-let or sub-let premises will be calculated by multiplying the appropriate statutory factors by the apportioned rateable value of the premises. This will result in higher compensation being payable to sub-tenants and part let tenants compared with the previous method of calculation by apportioning compensation for the whole premises. An illustration comparing the new and old compensation for a typical flat affected by rebuilding is as follows :

<u>Portion</u>	<u>Floor Area</u> (m ²)	<u>Apportioned</u> <u>Rateable Value</u> ($\text{\$}$)	<u>Old</u> <u>Compensation</u> ($\text{\$}$)	<u>New</u> <u>Compensation</u> ($\text{\$}$)	<u>Increase</u>
Cubicle	4.7	6,360	38,220	44,520	16.5 %
Upper Bunk	2.0	3,480	20,920	24,360	16.4 %
Lower Bunk	2.0	3,480	20,920	24,360	16.4 %
Cubicle	4.7	5,160	31,010	36,120	16.5 %
Cubicle	4.8	6,000	36,060	42,000	16.5 %
Cubicle & Cockloft	7.0 + 2.5	12,600	75,720	88,200	16.5 %
Upper Bunk	2.3	3,480	20,920	24,360	16.4 %
Cubicle	6.9	6,360	38,220	44,520	16.5 %
Cubicle	9.7	9,000	54,090	63,000	16.5 %
Lower Bunk	2.3	3,480	20,920	24,360	16.4 %
Total	(73.1 whole flat)	59,400	357,000	415,800	16.5 %

3. Increased Part IV Penalties for Harassment of tenant and Unlawful Eviction

Penalties for harassment of tenant and unlawful eviction under Part IV are increased to :

- (a) for first conviction, a fine of \$500,000 and imprisonment for 12 months; and
- (b) for second and subsequent conviction, a fine of \$1,000,000 and imprisonment

for 3 years.

4. Streamlined Procedures for Repossession of Premises

- (a) Landlords are given the right under Part IV to forfeit tenancies for non-payment of rent, illegal or immoral use of premises, unnecessary inconvenience or disturbances and unauthorized structural alterations by tenants.
- (b) The Lands Tribunal is empowered when granting possession orders to also order disposal of properties left in the premises by the tenant.
- (c) The mandatory relief period in possession of premises for non-payment of rent is shortened from 28 days to 7 days. Such relief is also restricted to only once for the term of the lease.
- (d) The requirement of landlords to submit affidavit is removed if the tenant does not oppose to the application of possession order.

5. Other Operational Improvements

- (a) For the renewal of Part IV tenancies, landlords and tenants may apply at a fee to the Commissioner of Rating and Valuation for rental information to assist their negotiations or submissions to the Lands Tribunal. Such applications may be made after the service of notice of termination by the landlord (Form CR101), or the request of new tenancy by the tenant (Form CR103). **This service will be implemented later on a date to be announced.** Until then landlords and tenants may continue with the existing practice of applying to the Commissioner for rental information at a fee after an application for new tenancy has been filed with the Lands Tribunal.
- (b) Affected parties may apply under Part IV to the Commissioner of Rating and Valuation for certificates of rateable value and rebuilding compensation to assist their negotiations. **This service will be implemented later on a date to be announced.**
- (c) Certain deeming provisions regarding distress for rent under Part III and restrictions on repossessed premises under Part IV are removed to ensure compliance with the human rights provisions in the Basic Law.
- (d) The rateable value limit for the fast-track repossession procedures under Part III and VI is increased from \$30,000 to \$100,000. The procedures apply respectively to deserted premises under Part III, and holding over or illegal encroachment under Part VI.
- (e) The Lands Tribunal is empowered to entertain applications for new tenancies under Part IV even if the proper formalities have not been followed. It is also empowered to decline repeated applications for review of its decisions.