

地產代理監管局
ESTATE AGENTS AUTHORITY

Circular

Circular No. 03-04 (CR)

Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002

The Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 ("the Amendment Ordinance") has recently been passed by the Legislative Council, amending certain provisions of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) and other related ordinances. Practitioners should pay attention to the amendments below that concern tenancies under Part IV of the Ordinance. Where a legal issue arises, practitioners should suggest their clients to seek legal advice.

Shortening statutory periods for issuing notice of termination/request for new tenancy

Originally, a landlord is required to issue to the tenant a notice of termination of tenancy (Form CR101) within a period of 6-7 months before the termination of tenancy. Now this has been changed to a period of 3-4 months before the termination of tenancy. Similarly, where a tenant issues to the landlord a notice requesting the grant of a new tenancy (Form CR103), the statutory period has been amended from 6-7 months to 3-4 months before the termination of the tenancy.

Implied forfeiture terms

The grounds for opposing the grant of a new tenancy under the Ordinance remain unchanged (e.g., non-payment of rent, self-use, re-building, etc.). New forfeiture terms are introduced by the Amendment Ordinance. For tenancies created on or after 27 December 2002, terms will be implied into the tenancy, if they have not been provided for in the tenancy agreement, to enable the landlord to forfeit the tenancy for any of the following conducts of the tenant:

- (1) non-payment of rent within 15 days of the due date;
- (2) using the premises concerned for immoral or illegal purposes;
- (3) causing unnecessary annoyance, inconvenience or disturbances to the landlord or any other person (the persistent delay of payment of rent is treated as unnecessary annoyance, inconvenience or disturbances); and
- (4) making unauthorized structural alterations without prior written consent of the landlord.

Shortening period for re-possession

Under section 21F of the High Court Ordinance (Cap. 4) and section 69 of the District Court Ordinance (Cap. 336), an order for possession for non-payment of rent will lapse if the tenant pays all the rent in arrears and the costs of the action within the period of 4 weeks from the date of the order. This relief period has been amended to 7 days but the tenant is only allowed this relief once.

Other amendments include increased penalties for harassment of tenants. The full text of the Amendment Ordinance may be found in Legal Supplement No. 1 to the *Government Gazette* (Vol. 6, No. 52) published on 27 December 2002 (www.info.gov.hk/pd/egazette).

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This Circular should be made available for the information of all staff engaged in estate agency work