

<b>Doc Type</b>	HA
<b>Paper No</b>	57/95
<b>Title</b>	Memorandum for the Housing Authority Housing (Amendment) Ordinance 1995
<b>CONTENTS</b>	<p>HA 57/95</p> <p>THE HONG KONG HOUSING AUTHORITY</p> <p>Memorandum for the Housing Authority Housing (Amendment) Ordinance 1995</p> <p>PURPOSE</p> <p>To inform Members of the enactment of the Housing (Amendment) Ordinance 1995.</p> <p>BACKGROUND</p> <p>2. Members approved vide Paper No. HA 72/94 the draft Housing (Amendment) Bill 1995. The Bill seeks to introduce amendments to the Housing Ordinance, Cap. 283, in the following areas-</p> <p>(a) to amend Section 7A to provide for the appointment of an independent Appeal Panel by Secretary for Housing;</p> <p>(b) to ensure that an appeal tribunal's decision is compatible with established policies of the Housing Authority (HA);</p> <p>(c) to put beyond doubt HA's power to employ staff and advisers and to determine their terms and conditions of employment;</p> <p>(d) to make unauthorised mortgages or charges of Home Ownership Scheme (HOS) and Private Sector Participation Scheme (PSPS) flats void under Section 17B and rendering the offenders liable to prosecution under Section 27A; and</p> <p>(e) to provide for the delegation of powers by Director of Housing (D of H) to specify public officers or officers of a class under Section 10 (3), with consequential changes to Sections 2, 10(1) and (2).</p> <p>3. The Bill was approved by the Legislative Council on 26 April 1995. The Amendment Ordinance came into operation on 1 July 1995.</p> <p>COMMITTEE STAGE AMENDMENTS</p> <p>4. Two committee stage amendments (CSAs) to Sections 20(2A) and 27A were made to the Bill when it was considered by the Legislative Council. The gazetted Housing (Amendment) Ordinance 1995, with the CSAs incorporated, is at Annex A. The purposes of these two amendments are explained below.</p> <p>An Appellant's Awareness of HA's Policy under Section 20</p> <p>5. By virtue of clause 7 of the Bill, we sought to ensure that the appeal tribunal should have regard to HA's policy in considering appeals. When the Bill was considered by the Bills Committee of the Legislative Council, a provision in the Amendment Ordinance was proposed and added to place on HA the responsibility to make tenants aware of relevant policies based on which the decisions to terminate tenancy might be taken.</p> <p>6. Section 19 of the Housing Ordinance, Cap. 283, empowers the Housing Authority to terminate tenancies and to issue notice-to-quit to tenants upon such termination. The most common situation whereby a tenancy may terminate is by virtue of the terms of the tenancy agreement. When an important tenancy condition is breached or when there are repeated breaches of the same condition, tenancies may be determined.</p> <p>7. All tenants have a copy of the tenancy agreement and should be aware of the tenancy conditions contained. In addition, where a tenant has breached any tenancy condition he will be warned and issued with a warning letter which will explain clearly the breach concerned. In such cases, the tenants are given a chance to remedy the breach and if the breach persists, we may serve notice-to-quit under Section 19 of Cap. 283 to terminate the tenancy.</p> <p>8. In case the breaches involve non-occupation of premises or engagement of the premises for illegal purposes, for example, as a vice establishment, no warning letter will be issued as such breaches are not considered capable of being remedied by the tenant. Notice-to-quit will be issued after confirmation of the breaches.</p> <p>9. It is our policy to terminate tenancy in several other situations, such as false declaration of information on application for PRH, repeated refusals of rehousing offers, divorced tenant who has not been granted custody of children, etc. (Annex B). The Housing Department continues to arrange publicity from time to time through the periodical newsletter "the Housing Authority Estates Bi-monthly Newsletter" and estates' newsletter to remind tenants of all these relevant policies.</p> <p>Prosecution under Section 27A for Unauthorised Mortgages or Charges</p> <p>10. We had originally proposed to amend Section 17B to nullify any unauthorised mortgages or charges and Section 27A to render the offenders liable to prosecution. We were however advised by the Attorney General's Chambers after submission to the Executive Council that the wording of clause 6 of the Amendment Bill would not allow the prosecution of offenders for unauthorised mortgages or charges as we had intended. The</p>

opportunity was thus taken to amend the Bill at the Committee stage in respect thereof.

#### THE INDEPENDENT APPEAL MECHANISM

11. In accordance with Section 7A(1) of the Amendment Ordinance, Secretary for Housing has now appointed a new Appeal Panel (AP) comprising only non-HA and non-HA Committee members. The Chairman of the AP, who was previously the only HA member on the Panel has now been replaced by a person independent of the HA and its Committees, so that the statutory requirement could be satisfied. The appointment by Secretary for Housing of independent members to the AP would enhance the independent image of the appeal tribunals. Membership of the newly appointed AP is at Annex C.

12. Section 7A(7) of the (Amendment) Ordinance also provides that Secretary for Housing may make rules regulating the procedures for appeals to the AP. These are the Housing (Tenancy Appeals) Rules (the Rules) which have also come into effect on 1 July 1995. A copy is at Annex D for Members' information.

#### INFORMATION

13. This paper is issued for Members' information.

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#### Annex B

##### Other Situations whereby Tenancies may be Terminated

Applications for PRH on Where a PRH applicant is found to have made a clause would be inserted on the account of false information false declaration of personal information and relevant application forms to draw have enjoyed public housing benefits on the false upon the attention of applicants to information provided such policy.

Repeated refusals of Where tenants affected by HA's redevelopment Warning letters would be sent to rehousing offers programmes repeatedly refused reasonable offers these tenants before notice-to-quit of rehousing and the blocks are due for are served.

clearance.

Divorced Cases Where any divorced tenant who has not been Warning letters would be sent to the granted custody of children pursuant to an order tenant involved before notice-to-quit tenancy of which should have been transferred to is served.  
the party having lawful custody of children.