



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By email (kathy.chan@housingauthority.gov.hk)

2 August 2021

Miss CHAN Nap-sze, Kathy
Assistant Director (Tenancy Control
on Subdivided Units)
Transport and Housing Bureau
Secretary for Transport and Housing's Office
Secretariat for Task Force for the Study on
Tenancy Control of Subdivided Units
Housing Authority Headquarters
33 Fat Kwong Street, Ho Man Tin
Kowloon

Dear Miss CHAN,

Landlord and Tenant (Consolidation) (Amendment) Bill 2021

Further to our letter dated 28 July 2021, we shall be grateful if you would let us have your response to the following matters:

1. In response to members' queries raised at the meeting of the Bills Committee on 29 July 2021, the Administration has explained that the proposed tenancy control will be applicable to domestic tenancies on premises (e.g. individual rooms which would be considered as subdivided units ("SDUs") under the Bill) forming part of a unit of a building notwithstanding such premises do not involve any subdivision or alteration. It is noted that the Census and Statistics Department ("CSD") adopted a definition of SDUs in the Hong Kong 2016 Population By-census – Thematic Report: Persons Living in Subdivided Units published by CSD in January 2018 ("Thematic Report") (which has also been referred in paragraph 12 (page 25) of the Report of the Task Force for the Study on Tenancy Control of Subdivided Units presented in March 2021) in which SDUs refer to those "formed by splitting a unit of quarters into two or more "internally connected" and "externally accessible" units commonly for rental purposes. Very often, the non-structural partition walls in the original quarters may be removed while new ones are erected

to form the SDUs. In some SDUs, internal drains may be added or altered for installing independent toilets and/or kitchens." Accordingly, some members queried that the Bill proposes to adopt a definition of SDU which deviates from that adopted in the Thematic Report and thus would have an effect of the broadening the scope of regulation to cover more domestic tenancies than originally intended.

Please clarify the rationale for not adopting the definition of SDU as provided in the Thematic Report, in particular, the inadequacies of such a definition that are identified by the Administration as not being able to achieve the policy objective of the Bill.

2. Please clarify the rationale for excluding a tenancy held from the Government, the Housing Authority, the Hong Kong Housing Society, the Hong Kong Settlers Housing Corporation Limited or the Urban Renewal Authority (or any of its wholly owned subsidiaries) from the application of the proposed Part IVA under the Bill (see the proposed section 120AAB(2) and the proposed Schedule 6).

3. It is noted that Part IV of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) applies to private domestic tenancies. Part IV of Cap. 7 does not control rent increases nor afford security of tenure. The proposed tenancy control regime under the proposed Part IVA will apply to a tenancy that is a domestic tenancy and the subject premises of which are an SDU (proposed section 120AAB(1)). It is proposed that Part IV of Cap. 7 will not apply to a tenancy to which the proposed Part IVA applies (clause 3 of the Bill). Given that both Part IV and the proposed Part IVA are applicable to private domestic tenancies, please clarify how to determine whether a domestic tenancy will be subject to the regulation under Part IV or the proposed Part IVA.

We should be grateful for your reply in both English and Chinese as soon as practicable.

Yours sincerely,



(Vanessa CHENG)
Assistant Legal Adviser

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