

立法會
Legislative Council

LC Paper No. LS121/20-21

**Bills Committee on Landlord and Tenant
(Consolidation) (Amendment) Bill 2021**

**Advice by Legal Service Division on
Hon Mrs Regina IP LAU Suk-yee's letter of 3 September 2021**

Hon Mrs Regina IP LAU Suk-yee has sought legal advice from the Legal Service Division by a letter dated 3 September 2021 submitted to the Chairman of the Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2021 ("Bill") on the definition of subdivided unit ("SDU"), in particular, whether tenancies involving units shown as separate units in building plans and which have not been subdivided are not covered by the Bill.

Scope of regulation under the Bill

2. Under the proposed new section 120AAB of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (clause 4 of the Bill), a tenancy would be subject to the proposed tenancy control regime under the new Part IVA of Cap. 7 if (a) it commences on or after the commencement date of the Bill enacted as an Ordinance; (b) it is a domestic tenancy; (c) the subject premises of the tenancy are an SDU; (d) the tenant is a natural person; (e) the purpose of the tenancy is for the tenant's own dwelling; and (f) is not an excluded tenancy specified in the proposed Schedule 6 to the Bill.¹

3. An SDU is proposed to be defined as premises that form part of a unit of a building (proposed new section 120AA(1)). "Unit", in relation to a building, is proposed to mean premises of the building falling within either or both of the following descriptions—

- (a) premises that are demarcated or shown as a separate unit (however described) in the building plan of the building; and

¹ The excluded tenancies would include a tenancy held from the Government and a tenancy held from a social service organization of a housing unit provided by the organization.

- (b) premises that are referred to in the deed of mutual covenant of the building as a unit (however described) the owner of which is entitled to its exclusive possession, as opposed to the owners or occupiers of other parts of the building (proposed new section 120AA(1)).

4. Upon construction of the definition of the SDU as presently drafted, it is plain that any premises (whether or not such premises are shown as separate rooms in building plans) which form part of a unit of a building would be considered as an SDU and there is no requirement that there should be any subdivision of such premises. Regarding the definition of "unit", it is noted that a unit would refer to the individual unit of the building and "demarcated" as referred thereto is to be understood in the context of an individual unit which is separate from other individual units in the building as shown in the building plan.

5. To sum up, so long as the tenancy is in relation to the premises which form part of a unit of the building and satisfies the conditions as set out in the proposed new section 120AAB, the tenancy would fall within the scope of the proposed tenancy control regime irrespective of whether any subdivision is involved.

Prepared by

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