

**For discussion
on 2 December 2024**

Legislative Council Panel on Housing

Proposed Regulatory Regime on Basic Housing Units

Purpose

This paper seeks Members' views on the proposed regulatory regime on Basic Housing Units (BHUs).

Background

2. There are currently about 110 000 subdivided units (SDUs) in residential buildings in Hong Kong, involving about 220 000 residents. As the aggregate rent received from renting out several units subdivided from a single flat is much higher than the rent from renting out one whole flat without subdivision, it gives landlords a strong economic incentive to operate such SDU tenancies. The quality of SDUs available in the market varies significantly. Some are of higher quality which may meet the needs of some working individuals, small families and university students for easier access to work or school, while there are also a considerable number of SDUs with small living space, poor hygiene conditions as well as potential fire safety and structural safety hazards, the living conditions of which are far from desirable.

3. The current-term Government faces up to the SDU issue and acknowledges its complexity and urgency, while understanding that this long-standing issue must be handled with prudence. The Government is determined to work out solutions to eradicate substandard SDUs at root. Since taking office, the current-term Government has introduced a number of measures to substantially increase public housing supply by enhancing speed, quantity, quality and efficiency. Coupled with some 30 000 units of Light Public Housing (LPH), the total public housing supply in the coming 5 years (i.e. 2025-26 to 2029-30) will reach 189 000 units, which is about 80% higher than that of the 5-year period since the current-term Government took office (i.e. 2022-23 to 2026-27). Besides, some 21 000 Transitional Housing (TH) units also help plug the short-term gap in public housing supply, allowing eligible citizens to be housed to public housing more quickly. All these have enabled us to gradually handle the "long-standing, big and difficult" issue of substandard SDUs.

4. The Chief Executive (the CE) announced in the 2023 Policy Address the establishment of the inter-departmental Task Force on Tackling the Issue of

Subdivided Units (the Task Force), led by the Deputy Financial Secretary and with the Secretary for Housing as deputy, for conducting an in-depth study on the comprehensive handling of the issue of SDUs. Apart from listening to the views of different stakeholders, the Task Force also conducted in-depth discussions on SDU-related issues with relevant bureaux and departments. In addition, the consultant commissioned by the Task Force visited different types of SDUs across the territory to collect the latest relevant data. The Task Force submitted to the CE the specific proposals and results of further study in August and September 2024 respectively on the comprehensive and orderly handling of substandard SDUs. After considering the Task Force's reports, the CE announced in the 2024 Policy Address to put in place, through legislation, a system on the renting of SDUs in residential buildings, under which only up-to-standard SDUs recognised as BHUs will be allowed to be rented out in the future (the BHU regulatory regime), so as to ensure the provision of reasonable and safe living conditions in relevant SDUs. This represents a significant milestone in eradicating substandard SDUs.

Proposals on BHU Regulatory Regime

Overall Considerations

5. To ensure the provision of reasonable and safe living conditions in SDUs in residential buildings that are allowed to be rented out, the Government proposes that they must comply with a set of minimum standards (including floor area, headroom, structural and fire safety, ventilation, hygiene, water and electricity meters, etc., please refer to paragraph 16 below for details). There would be criminal liability on the part of landlords¹ to rent out a substandard SDUs, while the tenants concerned will not be held liable. To put forward the BHU regulatory regime in an orderly manner, the Government will set up a registration system for pre-existing SDUs in residential buildings under rental (the pre-existing SDUs), with a grace period to allow landlords of registered pre-existing SDUs to carry out necessary alteration works within a reasonable period of time and apply for recognition as BHUs. New SDUs entering the market will only be allowed to be rented out after applying for and being recognised as BHUs that comply with the required standards. Therefore, when the BHU regulatory regime is implemented in full, SDUs that can be rented out legally must meet the relevant minimum standards and be recognised as BHUs.

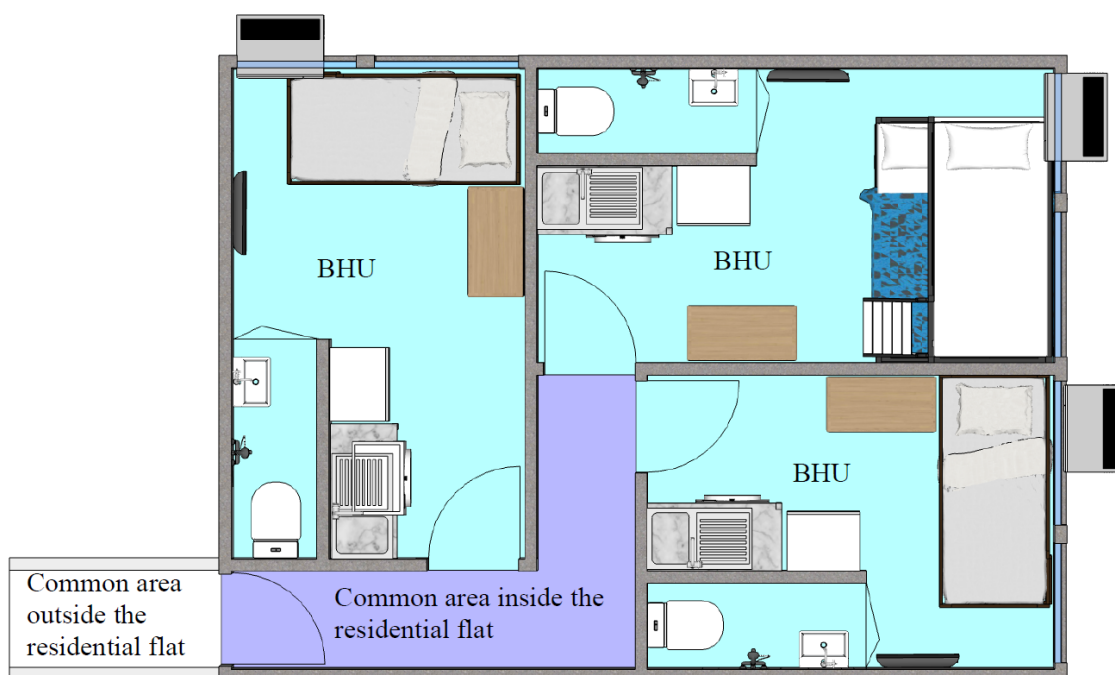
6. Given that there are about 110 000 households living in SDUs, the Government will adopt a pragmatic approach and adhere to the people-oriented principle when taking enforcement actions against illegal renting of substandard

¹ "Landlord" means any person who is, from time to time, entitled to receive rent in respect of any premises, thus includes a "principal tenant".

SDUs in an orderly manner upon completion of registration period and grace period respectively, with regard to the market supply of BHUs as well as the public housing supply. This would progressively eradicate substandard SDUs until the relevant number goes down to zero. Subject to the actual needs of the affected households, we will consider providing appropriate assistance to avoid displacing them.

Scope of Regulation

7. The Government proposes to regulate SDUs in residential buildings, i.e. SDUs located in the domestic portion of domestic buildings or composite buildings, under the BHU regulatory regime. These SDUs must comply with the minimum standards and be recognised as BHUs before they can be rented out legally. Under the current proposal, “SDUs” refer to two or more smaller units formed through subdivision of a residential flat with fixed materials (i.e. partition materials with certain degree of firmly fixed nature, e.g. brick walls, wood panels, metal panels, etc.) resulting in change(s) in the flat layout as shown in the latest approved building plan² of the flat, and such SDUs are rented out separately. The diagram of SDUs in a residential flat is as follows –



² The latest approved building plan refers to the following before implementation of the BHU regulatory regime –

- (a) a building plan approved by the Buildings Department under the Buildings Ordinance (Cap. 123), including those of private residential flats, as well as subsidised sale flats of the Hong Kong Housing Society, the Urban Renewal Authority and private developers (including developments under the Starter Homes Pilot Scheme for Hong Kong residents, the Private Sector Participation Scheme and the Middle Income Housing Scheme); or
- (b) a building plan prepared by the Hong Kong Housing Authority for a building.

8. The Government proposes that the scope of regulation under the BHU regulatory regime should cover SDUs in private residential flats and subsidised sale flats with premium paid, as well as those in the domestic portion of composite buildings. If a landlord sublets different rooms in a residential flat without alteration to the layout as shown in the latest approved building plan, such subletting will not be regulated under the BHU regulatory regime.

9. Moreover, there is currently some inadequate housing for rental purpose in commercial buildings, industrial buildings and illegal structures (including squatters, unauthorised building works (UBWs) located at rooftops, flat roofs, lanes, light wells, yards etc., constructed without the prior approval and consent from the Building Authority (BA) or in contravention with the Buildings Ordinance (Cap. 123)), or in any storeys of New Territories Exempted Houses divided into more than one individual unit. Such inadequate housing is already under the regulation of and, in fact, in breach of the existing legislation and/or government leases. Therefore, it does not need to be subject to the BHU regulatory regime, lest it might create confusion that such inadequate housing is “legalised”. Besides, as bedspace apartments (i.e. residential flats with 12 or more bedspaces for rental as accommodation for individuals) are currently regulated by the licensing regime under the Bedspace Apartments Ordinance (Cap. 447), it is not necessary to regulate them under the BHU regulatory regime to avoid duplicate regulation. Relevant departments will continue to take enforcement actions against illegal inadequate housing in accordance with the existing legislation.

Registration System for Pre-existing SDUs

10. In order to allow reasonable time for landlords of pre-existing SDUs to carry out the necessary works to convert the units to up-to-standard BHUs, the Government proposes to put in place a registration system, enabling landlords of registered pre-existing SDUs to carry out alteration works during the grace period granted by the Secretary for Housing. The Government will simplify the registration procedures and the required information as far as possible to facilitate landlords of pre-existing SDUs to make registration. The required information includes the particulars of landlords and tenants, the address of the unit, the number and area of SDUs as well as the facilities therein, the commencement and end dates of the relevant tenancies, copies of the valid tenancy agreements and/or the Notice of Tenancy (Form AR2)³ endorsed by the Rating and Valuation Department, etc. We propose that after passage of the Bill on BHUs by the

³ Under section 120AAZT of Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), which implements tenancy control on SDUs, the landlord of regulated tenancy must, within 60 days after the term of the tenancy commences or is taken to commence, submit a notice in the specified form (i.e. a completed Form AR2) to the Commissioner of Rating and Valuation to notify the Commissioner of the particulars of the tenancy.

Legislative Council (LegCo), registration of pre-existing SDUs with a valid tenancy on the “specified date” or within the past three months of the “specified date” will commence as soon as practicable. Under the current proposal, the registration period may last for 12 or up to 18 months, and the “specified date” is proposed to be the date of the Government’s introduction of the Bill on BHUs into LegCo, with a view to curbing early the creation of new substandard SDUs in the market for making registration. If the Bill on BHUs is passed by LegCo within 2025, the registration system is expected to be launched in the fourth quarter of 2025 the earliest. We propose to empower the Secretary for Housing to grant a grace period to the landlords of the pre-existing SDUs that have been successfully registered within the registration period upon submission of all the required information, and under the current proposal, the grace period may last for 12 or up to 24 months after the end of the registration period. This would provide reasonable time for the landlords to discuss tenancy arrangements with tenants and convert their SDUs to up-to-standard BHUs.

11. It is a transitional arrangement to put in place the registration period and the grace period as mentioned above in order to enable gradual and orderly implementation of the BHU regulatory regime as well as to facilitate relevant landlords and households to gradually adapt to the new regulatory regime. Upon completion of the registration period, enforcement actions targeting the illegal renting of unregistered and unrecognised SDUs will be taken in an orderly manner. In addition, upon completion of the grace period, the Government will, having regard to factors such as the supply of public housing, continue to take enforcement actions against the illegal renting of substandard or unrecognised SDUs in an orderly manner. The aforesaid enforcement arrangements related to the registration period and the grace period will not affect the enforcement actions by other departments in respect of matters such as building structure, fire safety, hygiene, etc., in accordance with the existing legislation. Besides, to facilitate SDU households to check and ascertain whether the units they have rented or intend to rent are registered, we propose to upload the information of registered pre-existing SDUs to the website of the Housing Bureau (HB), including the addresses of the units, the grace period, etc., but not the personal particulars of landlords or tenants.

Recognition System on BHUs

12. Concurrent with the roll-out of the registration system for pre-existing SDUs, the Government plans to launch a recognition system on BHUs to accept relevant applications (i.e. expected to be launched in the fourth quarter of 2025 the earliest). To this end, unregistered pre-existing SDUs or new SDUs in residential buildings entering the market must apply for recognition as up-to-standard BHUs before they can be rented out legally. In other words, all SDUs, unless they are successfully registered and entitled to a valid grace period, must obtain recognition as BHUs before they can be rented out legally.

13. For SDUs in residential buildings, regardless of whether they are registered, their landlords or authorised representatives may make applications to the Government for recognition as BHUs subject to their compliance with the minimum standards of BHUs. Requirements of such applications include submission of a report certified by professionals⁴ to confirm compliance with the minimum standards of BHUs and with the statutory order / direction / notice issued in respect of the SDUs concerned by the Buildings Department (BD) or other departments⁵. In addition, the Government will consider the conditions of the common parts of the buildings where the SDUs are located when deciding whether the SDUs will be recognised as BHUs. For instance, if there are serious safety problems in the common parts of the buildings (e.g. seriously defective drainage, structural cracks, blockage of exit route with UBWs, etc.), even though the relevant SDUs can meet the minimum standards of BHUs, the Government may still refuse their recognition applications and will reconsider such applications only after the safety conditions of the common parts of the relevant building have improved (i.e. relevant statutory order / direction / notice has been complied with, the defective drainage / structural cracks have been fixed, UBWs have been removed, etc.).

14. Provided that the applications for recognition as BHUs can fulfil the above requirements, the landlords of up-to-standard SDUs will be granted recognitions by the Secretary for Housing. To ensure that the living conditions of BHUs can continue to meet the minimum standards, the validity period of each BHU recognition is proposed to be 5 years. In order to apply for renewal of the BHU recognition for continued legal renting out of the unit concerned, a report certified by professionals has to be submitted every 5 years to confirm that the relevant unit still meets the minimum standards. Besides, to facilitate tenants to identify which SDUs are granted with valid recognition as BHUs, we propose to upload the information of BHUs (including the addresses and recognition validity periods of the units, etc., but not the personal particulars of landlords or tenants) to the website of HB.

15. Apart from certification by professionals on the compliance with the minimum standards of BHUs, the Government will also put in place an audit check system to conduct random audit checks on SDUs with recognition applications submitted and those recognised as BHUs so as to check whether they comply with the minimum standards of BHUs. Any misstatements found in the

⁴ It is proposed that the professionals should be registered architects, registered professional engineers (construction, civil and structural) or registered professional surveyors (building surveying) registered with the Architects Registration Board, the Engineers Registration Board or the Surveyors Registration Board.

⁵ Other documents required include: (a) particulars of the landlords and tenants; (b) proof showing the landlord's ownership of the relevant unit; (c) latest approved building plan of the flat as well as any prescribed plans of works submitted to BD under the Minor Works Control System; (d) building plans showing the latest layout of the SDUs; (e) commencement and end dates of the relevant tenancies, etc.

report certified by professionals may result in the cancellation of recognition as BHUs for the relevant units. If any person is found to have provided false information when applying for recognition, we will consider instigating prosecution against the person having regard to the actual circumstances and the information and evidence collected. If such acts involve registered professionals, we will also refer the cases to relevant professional institutes / bodies / registration boards for their consideration on whether disciplinary hearings should be carried out. In addition, we will conduct inspections at the SDUs concerned and take appropriate follow-up actions in response to public complaints / reports.

Minimum Standards of Living Conditions for BHUs

16. With reference to findings of the consultancy study commissioned by the Task Force, and to ensure the provision of safe and reasonable living conditions in BHUs, the Government proposes that the living conditions of BHUs should meet a set of minimum standards, with major requirements including –

- (a) **Internal floor area (IFA)**⁶: Having struck a balance among the views of different stakeholders, other minimum requirements and living configurations on SDUs, as well as relevant data collected from the consultancy study, the IFA requirement for each BHU is at least 8m². From a practical perspective, an IFA of 8m² can basically provide space for a single bed or double-decker bed, a separate toilet, ventilation windows, basic living space, etc. Besides, there are views in the community suggesting that some singleton SDU households do not wish the minimum area requirement to be set too high in order to save rental expenses;
- (b) **Clear headroom**: To eliminate inadequate housing such as “lofts” and “tree houses”, and taking into account the need to lay solid floor screeding in SDUs in general for the erection of drainage, the requirement for clear headroom of a BHU is at least 2.3m measured from floor to ceiling, or at least 2m measured from the floor to the underside of any beam;
- (c) **Fire safety**:
 - (i) Since SDUs are generally cramped with a lot of miscellaneous articles, the consequences can be very serious in case of a fire. In this regard, the major fire safety requirements for BHUs must be the same as the existing standards under the Buildings Ordinance (Cap. 123), e.g. BHUs should be provided with access to two or more exit staircases (except for

⁶ IFA means the area contained within the enclosing walls of a unit measured to the interior face of the external walls or partition walls. All internal partitions and columns within the unit as well as balconies and toilets forming part of that unit are included.

single-staircase buildings), a clear headroom of not less than 2m for exit routes, separation of the exit routes / exit staircases of the building from BHUs by fire-rated partition walls, etc.;

- (ii) If the fire-rated door at the original entrance of relevant residential unit with BHUs is retained, the clear width of the internal corridor leading to each BHU must be not less than 0.75m. The partition walls of each BHU and the walls of the internal corridors should be constructed of solid partitions from floor to ceiling to meet the requirements for protection against smoke, and the entrance door of each BHU must be self-closing with smoke seal;
 - (iii) If the fire-rated door at the original entrance of the relevant residential unit with BHUs is removed or replaced by one that does not meet the required fire resistance rating (FRR), the clear width of the internal corridor leading to BHUs must be not less than 1.05m. The partition walls of each BHU, the walls of the internal corridors as well as the entrance door of each BHU should have a FRR of not less than one hour, and such doors should be self-closing (with smoke-seal); and
 - (iv) Each BHU should be equipped with a stand-alone fire detector, and that fire extinguishers and stand-alone fire detectors should be installed in the common corridor or area (if any) of the residential units with BHUs to enhance fire safety of the building;
- (d) **Structural safety:** SDUs usually involve the erection of non-load bearing block partition walls or thickening of floor slabs. Although these building works can be carried out without prior approval and consent from BD, they must comply with the standards on loading capacity stipulated in the Buildings Ordinance (Cap. 123), not to overload building structure, and the simplified requirements under the Minor Works Control System (MWCS)⁷ should be adhered to by appointing prescribed building professionals / prescribed registered contractors to design and supervise the works;
- (e) **Ventilation and lighting:**
- (i) To ensure sufficient lighting and ventilation in BHUs, the habitable area, toilet and kitchen (if any) of every BHU shall comply with the existing statutory requirements on natural ventilation and lighting;

⁷ MWCS, regulated by the Building (Minor Works) Regulation (Cap. 123N), came into operation on 31 December 2010. It provides an alternative for building owners to carry out small-scale building works in a lawful, simple, safe and convenient way, without the need to obtain prior approval of plans and consent to the commencement of such works from BA.

- (ii) If the habitable area or kitchen (if any) of BHUs fails to comply with the existing statutory requirements on natural ventilation and lighting⁸, it must each be provided with at least one openable window facing a street, service lane, yard, re-entrant, etc., instead of a four-side enclosed yard, and with a system of artificial lighting and mechanical ventilation producing not less than 5 air changes per hour, and the change of air must be with the outside of the building; and
- (iii) If the toilet of BHU fails to comply with the existing statutory requirements on ventilation and lighting⁹ (commonly known as “dark toilet / bathroom”), a system of artificial lighting and mechanical ventilation producing not less than 5 air changes per hour should be in operation at any time when the toilet is in use, and the change of air must be with the outside of the building. Such toilet must also be provided with permanent ventilation connected to the open air, e.g. in the form of louvers on a toilet door which connect to windowed habitable area;
- (f) **Toilet:** In order to provide hygienic living conditions, each BHU should be equipped with a separate toilet for exclusive use by the household with partition wall from floor to ceiling and a door to separate it from the habitable area and kitchen (if any). Waterproofing layer should be laid properly and separated from the kitchen to ensure no water seepage affecting the flat on the lower floor. Also, the toilet should not be constructed on a balcony and verandah. In addition, according to the prevailing requirements of the Buildings Ordinance (Cap. 123), the floor drains and sanitary equipment (such as water closets, wash basins, bathtubs, etc.) of the toilets in the unit must be provided with traps with effective water seals and anti-syphonage equipment, to prevent foul odour in the drain pipes from drifting into the premises. Relevant drainage works should also be carried out in accordance with the simplified requirements of MWCS;
- (g) **Kitchen:** In view of the generally limited space of the existing SDUs and fire safety considerations, we will not mandate the provision of a kitchen in each BHU, while BHUs as well as the common area within the residential flat should not be installed with any naked flame cooking facility so as to minimise the fire risk. If naked flame cooking is needed, the BHU

⁸ The habitable area and kitchen are required to have one or more windows to provide natural lighting and ventilation, with the aggregate superficial area of glass in the window or windows being not less than one-tenth of the area of the floor of the room. Such window or windows shall face into the external air (e.g. facing into a street which is not less than 4.5m wide, or facing into a space uncovered and unobstructed above the area delineated by the rectangular horizontal plane), and can be opened to an extent at least equal in the aggregate to one-sixteenth of the area of the floor of the room.

⁹ Toilets must be provided with a window, with the aggregate superficial area of glass therein being not less than the equivalent of one-tenth of the area of the floor of the room, and a part thereof, not less in area than the equivalent of one-tenth of the area of the floor of the room, can be opened directly into the open air (a space which is vertically uncovered and unobstructed, and is not less, in any horizontal dimension, than 1.5m).

concerned must be provided with a separate and enclosed kitchen in compliance with fire safety requirements with a fire-rated door. The kitchen and the door shall have an FRR of not less than half an hour. Besides, if a kitchen is not provided, a water point and a sink outside the toilet with proper waterproofing layer for the surrounding area must be provided in each BHU to avoid occupants using the toilet to prepare food and wash dishes; and

- (h) **Separate water meter and individual electricity meter:** To ensure that BHU households will not be overcharged for water and electricity, each BHU must be fitted with a separate water meter provided by the Water Supplies Department and an individual electricity meter provided by the power companies, such that the households can pay according to the water and electricity bills.

Contravention and Penalty

17. Under the recognition system on BHUs, the Government proposes that persons renting out SDUs in residential buildings not meeting the minimum standards of BHUs, which include landlords and principal tenants who further sublet the units, shall be held criminally liable. To ensure compliance by the landlords with the requirements under the BHU regulatory regime, the Government proposes to criminalise the following major acts in the BHU Bill, while the Secretary for Housing will be empowered to carry out inspection, evidence search, enforcement, prosecution, etc. in relation to such criminal offences –

- (a) renting out of SDUs which have neither been granted a valid grace period nor recognised as BHUs;
- (b) renting out of recognised BHUs which are subsequently found to fail to comply with the minimum standards of living conditions for BHUs; and
- (c) furnishing false information or making a false statement under the registration system or the recognition system on BHUs or in response to the request for information from the Government in respect of the matters related to the ordinance, knowing such statement to be false or not believing that such statement to be true.

18. To enhance the deterrent effect, it is proposed that the relevant penalties under the BHU regulatory regime should be more stringent. The Government proposes that any person who commits the acts in paragraphs 17(a) and 17(b) above shall be liable on conviction to a maximum fine of \$300,000 and to imprisonment for 3 years. As for the act in paragraph 17(c) above, it is proposed that any person who commits such act shall be liable to a fine at level 3 (\$10,000) and to imprisonment for 3 months. We will also study the feasibility of imposing

higher penalties on cases where the offender continues with the illegal renting for a longer period of time.

Appeal Mechanism

19. The Government proposes to set up an appeal mechanism under the BHU regulatory regime to allow relevant landlords to make an appeal through an independent appeal board if they disagree with the decisions made or written directions given by the Secretary for Housing on the registration system for pre-existing SDUs, grace period and the recognition system on BHUs. Members of the appeal board may include professionals from the building surveying and engineering professions and the legal profession, etc., to ensure that there is balanced and independent third-party advice to consider the appeals. As regards other decisions of the Secretary for Housing under the BHU regulatory regime, including inspection, evidence search, enforcement and prosecution, etc., if the parties concerned are not satisfied with the relevant decisions, they may be dealt with through judicial proceedings.

Enforcement Approach

20. According to findings of the consultancy study commissioned by the Task Force, it is roughly estimated that about 30% of SDUs among about 110 000 existing SDUs in residential buildings will need to be substantially modified to meet the minimum standard of BHUs, while the remaining about 70% of SDUs are expected to be able to meet the relevant minimum standards through simpler remedial works. In this regard, the Government will adopt a pragmatic approach in taking enforcement actions against illegal renting of substandard SDUs in an orderly manner upon completion of the registration period and grace period respectively. In determining the enforcement priorities, we will consider the following relevant factors under the “risk-based” approach –

- (a) how the units fall short of the minimum standards, such as whether serious safety problems are involved;
- (b) the number of SDUs that falls short of the minimum standards in the building where the SDUs are located;
- (c) the condition of the common area in the building where the SDUs are located;
- (d) the market supply of BHUs; and
- (e) the supply of public housing (including LPH and TH) and relevant policies, etc.

21. Upon completion of the registration period of 12 or up to 18 months, we plan to take progressive enforcement actions against the illegal renting of substandard SDUs, primarily targeting those that are unregistered and unrecognised. Subsequently, after a grace period of 12 or up to 24 months, we plan to take enforcement actions in an orderly manner against the illegal renting of substandard SDUs that have not been converted to BHUs during the grace period. To avoid displacing SDU households affected by the enforcement actions, the Government will provide assistance through relevant social work teams on a need basis in finding other rental accommodation (including BHUs with valid recognition) in the private market for relocation, as well as flexibly deploy other housing resources (such as TH, interim housing, transit centres, etc.) to provide temporary shelter for households in need. However, even if SDU households affected by enforcement actions under the BHU regulatory regime are on the waiting list for public rental housing (PRH), they will not be accorded priority in the allocation of PRH units as a result of the above-mentioned enforcement actions, otherwise it would be unfair to other individuals who are also on the PRH waiting list.

Public Consultation and Way Forward

22. The Government will launch a stakeholder consultation from 2 December 2024 to 10 February 2025 on the proposed BHU regulatory regime. Different stakeholders can express their views by email (bhu_consultation@hb.gov.hk) or by post to HB. We will carefully consider the views collected from various stakeholders through this consultation so as to formulate the final proposal and implementation timetable of the BHU regulatory regime. The consultation document setting out the details of the proposal on BHU regulatory regime is at **Annex**.

23. After the consultation period, the Government will consolidate and analyse the views collected. We plan to report to the LegCo Panel on Housing in the first half of 2025 summarising the views collected and briefing the Panel on the final proposal of the BHU regulatory regime. Subject to the consultation results and the final proposal, we will introduce the relevant Bill into LegCo as soon as possible and will actively facilitate LegCo's scrutiny in order to strive for passage of the Bill by LegCo within 2025. Upon completion of the legislative process, we expect the registration for pre-existing SDUs to commence in the fourth quarter of 2025 the earliest, with applications for recognition as BHUs to be accepted concurrently.

Advice Sought

24. Members are invited to note and comment on the above proposals for the BHU regulatory regime.

**Housing Bureau
November 2024**



Housing Bureau
The Government of the
Hong Kong Special Administrative Region
of the People's Republic of China

Regulatory Regime on Basic Housing Units

Consultation Document

December 2024

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Chapter 1 Introduction

1.1 There are currently about 110 000 subdivided units (SDUs) in residential buildings in Hong Kong, involving about 220 000 residents. As the aggregate rent received from renting out several units subdivided from a single flat is much higher than the rent from renting out one whole flat without subdivision, it gives landlords a strong economic incentive to operate such SDU tenancies. The quality of SDUs available in the market varies significantly. Some are of higher quality which may meet the needs of some working individuals, small families and university students for easier access to work or school, while there are also a considerable number of SDUs with small living space, poor hygiene conditions as well as potential fire safety and structural safety hazards, the living conditions of which are far from desirable.

1.2 The current-term Government faces up to the SDU issue and acknowledges its complexity and urgency, while understanding that this long-standing issue must be handled with prudence. The Government is determined to work out solutions to eradicate substandard SDUs at root. Since taking office, the current-term Government has introduced a number of measures to substantially increase public housing supply by enhancing quantity, speed, efficiency and quality. Coupled with some 30 000 units of Light Public Housing (LPH), the total public housing supply in the coming 5 years (i.e. 2025-26 to 2029-30) will reach 189 000 units, which is about 80% higher than that of the 5-year period since the current-term Government took office (i.e. 2022-23 to 2026-27). Besides, some 21 000 Transitional Housing (TH) units also help plug the short-term gap in public housing supply, allowing eligible citizens (including the current rough estimation of over 40% of SDU households who have applied for public rental housing (PRH) and about 20% of households who are eligible but have yet to apply for PRH) to be housed to public housing more quickly. All these have enabled the Government to in gradually handle the “long-standing, big and difficult” issue of substandard SDUs.

1.3 In this connection, the Chief Executive (the CE) announced in the 2023 Policy Address the establishment of the Task Force on Tackling the Issue of SDUs (the Task Force) for conducting an in-depth study on the comprehensive handling of the SDU issue and making recommendations along the following directions:

- (a) set the minimum standards of living conditions for SDUs in terms of their building safety, fire safety and hygiene requirements, living space, etc.;
- (b) suggest measures to eradicate substandard SDUs;
- (c) prevent the resurgence of substandard SDUs; and
- (d) put forward solutions to address the problem in an orderly manner, covering necessary administrative and legislative proposals.

1.4 Led by the Deputy Financial Secretary as the Head and the Secretary for Housing as the Deputy Head, the Task Force organised more than 20 meetings to listen to views of different stakeholders, and relevant bureaux and departments conducted in-depth discussions on SDU-related issues. In addition, the consultant commissioned by the Task Force visited different types of SDUs across the territory to collect relevant data so as to assist in understanding the latest situation of existing SDUs and relevant households. The Task Force submitted to the CE its specific proposals and the results of further study in August and September 2024 respectively on the comprehensive handling of the issue of substandard SDUs in an orderly manner.

1.5 After considering the Task Force's reports, the CE announced in the 2024 Policy Address to put in place, through legislation, a system on the renting of SDUs in residential buildings, under which SDUs will be required to meet the relevant minimum standards and be recognised as Basic Housing Units (BHUs) before being allowed to be rented out legally (the BHU regulatory regime), representing a significant milestone in eradicating substandard SDUs.

1.6 Given that there are about 110 000 households living in SDUs, the Government will implement the BHU regulatory regime in an orderly manner to allow sufficient time for landlords and tenants to make necessary arrangements. The implementation work includes setting up a registration system for pre-existing SDUs in residential buildings under rental (pre-existing SDUs) upon completion of the legislative process, under which grace period will be granted to registered landlords to carry out works in their units to meet the minimum standards. Concurrent with the implementation of the registration system, the Government plans to launch a recognition system on BHUs, under which SDUs concerned may apply for recognition after obtaining confirmation by professionals of their compliance with the minimum standards. There would be criminal

liability on the part of the landlords¹ who rent out SDUs not having been recognised as BHUs, while the tenants concerned will not be held liable.

1.7 The Government will adopt a pragmatic approach and adhere to the people-oriented principle when taking enforcement actions against illegal renting of substandard SDUs in an orderly manner upon completion of registration period and grace period respectively, with regard to market supply of BHUs as well as the public housing supply. The primary targets of the enforcement actions will be SDUs which are neither registered nor recognised. Upon completion of the grace period, the relevant enforcement actions will go further to target at registered units which have not yet converted nor applied for recognition as BHUs. The Government will, in light of the overall public housing supply and other actual circumstances, decide on the timing and pace of enforcement actions against SDUs in an orderly and progressive manner so that the number of substandard SDUs in residential buildings will gradually go down to zero. Same with other existing enforcement actions, the Government will consider providing appropriate assistance to the affected households subject to their actual needs. However, even if SDU households affected by enforcement actions under the BHU regulatory regime are waiting for PRH, they will not be accorded priority in the allocation of PRH units as a result of the above-mentioned enforcement actions, otherwise it would be unfair to other individuals who are also waiting for PRH.

1.8 This consultation document sets out the following recommendations and details pertinent to the BHU regulatory regime:

- (a) regulation timetable;
- (b) scope of regulation;
- (c) registration system for pre-existing SDUs;
- (d) recognition system on BHUs;
- (e) minimum standards of living conditions for BHUs;
- (f) contravention and penalty;
- (g) appeal mechanism; and
- (h) enforcement approach and priorities.

¹ "Landlord" means any person who is, from time to time, entitled to receive rent in respect of any premises, thus includes a "principal tenant".

1.9 The Government welcomes views from stakeholders on the above issues, which the Government would consider carefully when formulating the final proposals of the BHU regulatory regime. The consultation period starts from 2 December 2024 and will end on 10 February 2025.

Chapter 2 Background

(I) Latest Situation of SDUs and Characteristics of Relevant Households

2.1 To understand the latest situation of existing SDUs and relevant households, the Task Force commissioned a consultant (i.e. Policy 21) to conduct sample surveys on different types of SDU households across the territory from February to May 2024. The consultant successfully interviewed over 2 400 SDU households in Hong Kong to collect data in relation to their background, living conditions and economic status, etc. The data collected were consolidated and analysed with reference to the results of the 2021 Population Census conducted by the Census and Statistics Department and in consultation with the department.

2.2 According to findings of the survey, there were about 110 400 SDUs in Hong Kong, which accommodated a total of about 108 400 households and about 220 000 persons. These numbers are largely similar to those estimated in the 2021 Population Census (i.e. about 108 200 SDUs, 107 400 households and 215 700 persons). The latest situation of SDUs and characteristics of relevant households are highlighted as follows:

(a) Situation of SDUs

- (i) **Geographical distribution:** Among 110 400 SDUs, 69 800 (63.2%) were located in Kowloon, 25 000 (22.6%) in the New Territories and 15 600 (14.1%) on Hong Kong Island.
- (ii) **Floor area:** 16.3% of the SDUs had an internal floor area less than 7m², 26.2% less than 8m², 38.3% less than 9m², 49.9% less than 10m², 75.7% less than 13m², 97.9% less than 20m², and 2.1% 20m² or above. The median floor area of SDUs was 10.0m².
- (iii) **Building age:** Nearly 90% (87.9%) of the SDUs were located in buildings aged 50 or above. 8.1% of SDUs were located in buildings aged between 25 to 49. There were only very few (less than 1%) SDUs located in buildings aged below 25

and no relevant information was available for 4.0% of the SDU households.

- (iv) **Rent:** More than half (55.0%) of the monthly rents of SDU households were between \$4,000 and \$5,999, while 16.7% of the monthly rents were between \$6,000 and \$6,999. Only a relatively small number of SDU households had a monthly rent below \$3,000 (3.6%) or \$8,000 or above (4.6%). The median monthly rent of SDU households was \$5,000. The relevant rent distribution is tabulated as follows:

Monthly Rents of SDU households	Percentage
Below \$2,000	0.1%
\$2,000 to \$2,999	3.4%
\$3,000 to \$3,999	13.6%
\$4,000 to \$4,999	25.3%
\$5,000 to \$5,999	29.8%
\$6,000 to \$6,999	16.7%
\$7,000 to \$7,999	6.4%
\$8,000 or above	4.6%
Others (e.g. rent free)	0.1%
Median	\$5,000

(b) Characteristics of SDU households

- (i) **Demographic characteristics:** Among those persons living in SDUs, 16.3% were aged below 15, 8.4% were aged between 15 and 24, 33.1% were aged between 25 and 44, 33.6% were aged between 45 and 64, and 8.6% were elderly persons aged 65 or above. Meanwhile, nearly 70% of those persons living in SDUs were permanent residents of Hong Kong.
- (ii) **Household size:** The household size of SDUs was generally small. Among the SDU households, 33.6% were singleton households, 33.4% were 2-person households, and 21.7% were 3-person households. Only about 11.3% of households had 4 or more members. The average household size of SDUs was 2.

- (iii) **Economic characteristics:** For SDU residents aged 15 or above, 58.3% of them were employed; among those employed, 32.6% were workers in elementary occupations and 32.6% were service and sales workers. There were also 7.2% of those aged 15 or above living in SDUs being students.
- (iv) **Application for PRH:** Among the SDU households, over 40% (42.1%) had applied for PRH; nearly 20% (18.6%) might fulfil the eligibility criteria for PRH application with majority of their family members being permanent residents of Hong Kong but had not applied for PRH for reasons including “not knowing how to apply”, “worried about the complex application procedure”, “worried that the location of PRH being inconvenient”, etc. In addition, nearly 40% (39.3%) of SDU households did not apply for PRH for reasons including “exceeding income or asset limits”, “having resided in Hong Kong for less than seven years”, “being visitors with other documents”, etc.

(II) Existing Legislation Regulating Various Matters of SDUs

2.3 Pursuant to the existing legislation, relevant government departments have been regulating matters related to SDUs in different aspects, including:

- (a) **Buildings Ordinance (Cap. 123):** Internal alteration works of flats associated with SDUs may fall under building works subject to the regulation of this Ordinance, with the scope of regulation covering the building design and construction standards in aspects such as fire safety, structural safety and drainage works, etc. If the works involve the structure of a building, the landlord should appoint an authorised person and a registered structural engineer in accordance with the Ordinance to prepare the building plans for the relevant works. Only after obtaining approval of the plans and consent to the commencement of the works from the Building Authority (BA), the works can be carried out by a registered contractor as per the approved plans. If the works belong to minor works, they can be carried out through the simplified requirements under the Minor Works Control System (MWCS);

- (b) **Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7):** This Part has come into force since January 2022 to implement tenancy control on SDUs. It aims to provide protection to SDU² tenants in various aspects, which include four-year security of tenure (i.e. first term of two years and second term of two years); restricting the maximum rate of rent increase on tenancy renewal, which is to be the lower of the percentage change of the territory-wide rental index for all classes of private domestic properties compiled and published by the Rating and Valuation Department (RVD) over the relevant period or 10%; and prohibiting landlords from overcharging tenants on utilities and services (such as water and electricity), etc.; and
- (c) **Waterworks Regulations (Cap. 102A):** According to the Regulations, a registered consumer (usually the landlord) of the Water Supplies Department (WSD) can only recover from the occupants (usually the tenants) of the premises (including SDUs) the water charge paid to WSD regarding water supply. Besides, the Regulations also stipulate that reimbursement for water can only be collected from tenants after the water bill from WSD has been issued and paid, and receipts must be issued to the tenants.

2.4 Notwithstanding the regulation of various matters related to SDUs under existing legislation, there is currently no legislation regulating the standards on living conditions that SDUs have to meet before they can be rented out. This results in the quality of SDUs available in the market varying significantly in terms of fire safety, ventilation, floor area, availability of separate kitchens and toilets or kitchens that are merged with toilets. To this end, the CE announced in the 2024 Policy Address to put in place the BHU regulatory regime through legislation. Clear and objective standards on the living conditions for SDUs will be prescribed so that only up-to-standard SDUs are allowed to be rented out, while substandard SDUs will be eradicated in an orderly manner so as to progressively improve the living conditions of relevant households.

² To allow more SDU tenants to benefit from tenancy control, the definition of SDUs under this Ordinance is relatively broad, i.e. premises that form part of a unit of a building, thereby covering premises such as rooms, cubicles, rooftop houses, podium houses, lofts, bedspaces, space capsules, etc. A tenancy is a regulated tenancy and is regulated by this Ordinance if it fulfils the relevant conditions, including the tenancy being a domestic tenancy, the premises being SDUs, the tenant being a natural person, etc.

(III) Measures to Improve the Livelihood of SDU Households

2.5 In addition to the proposed BHU regulatory regime, the Government has devoted considerable resources and efforts to improving the livelihood and meeting the housing needs of families living in SDUs in the past few years. The relevant measures implemented by the Government include:

- (a) **Cash Allowance Trial Scheme:** The Housing Department launched the Trial Scheme in end-June 2021, with a view to alleviating the difficulties on livelihood faced by grassroots families who have been waiting for PRH for more than 3 years. Under the Trial Scheme, cash allowance is provided to eligible PRH General Applicant households (i.e. applicant households with 2 or more persons, and applicants under the Single Elderly Persons Priority Scheme) who are not living in PRH, not receiving the Comprehensive Social Security Assistance, and have waited for PRH for more than 3 years but have not been offered the first PRH allocation. As at end-October 2024, around \$5.1 billion of cash allowance had been disbursed under the Scheme to about 105 900 applicant households;
- (b) In collaboration with the Commission on Poverty, the Government has identified SDU households as one of the target groups for targeted poverty alleviation. In view of their needs, the Government has launched the following targeted poverty alleviation projects:
 - (i) **Strive and Rise Programme:** The Programme was launched in October 2022 focusing on supporting secondary school students from underprivileged families, particularly those living in SDUs through tripartite collaboration between the Government, the business sector and the community, so as to lift them out of intergenerational poverty. The Programme aims to enable participants to broaden their horizons, reinforce their self-confidence, develop a positive outlook on life, set goals for their future and strive for upward mobility; and
 - (ii) **Pilot Programme on Community Living Room (CLR):** The Programme was launched in December 2023. The

business sector provides venues and the Community Care Fund allocates funding to commission non-governmental organisations (NGOs) to operate CLRs, which offer shared pantries and dining rooms, as well as common spaces for doing homework, organising interest classes and group activities, providing SDU households with additional living space; provide information and organise talks, refer service targets to community services as appropriate, and approach the business sector and local organisations for in-kind donations as well as volunteer services, etc. As at September 2024, four CLRs located in Sham Shui Po, Hung Hom, Nam Cheong and To Kwa Wan had commenced services, serving altogether at least 1 750 SDU households, with at least 270 000 attendances anticipated each year.

(IV) Regulations on Housing Types Similar to SDUs in Other Jurisdictions

2.6 The consultant commissioned by the Task Force also studied the regulations on housing types similar to SDUs on the Mainland and in other overseas jurisdictions (including Singapore, Australia, the United Kingdom, Germany, the Netherlands and the United States of America). The study reveals that certain form of shared tenancy housing exists around the world, in particular economically developed cities, to cater for the housing needs of different persons. While the housing situations vary in the selected places studied, most of them have some regulations on the living conditions of shared tenancy housing and some sort of recognition system (e.g. a registration or licensing system for such housing), and failure to comply with these regulations will be subject to criminal liability. Generally speaking, the purpose of setting regulations in different places is to ensure proper and safeliving conditions and prevent proliferation of poor-quality shared accommodation. The scope of relevant regulations usually covers floor area (e.g. minimum floor area and minimum headroom, etc.), fire safety (e.g. mandatory provision of fire extinguishers, fire blankets and fire detectors, etc.), lighting and ventilation (e.g. mandatory provision of windows), environmental hygiene, etc. In formulating the proposed BHU regulatory regime, the Government has taken into account the relevant regulations and practices of various places.

(V) Summary of Stakeholders' Views on Tackling the SDU Issue

2.7 Following the announcement of the establishment of the Task Force in the 2023 Policy Address, the Task Force convened more than 20 stakeholder engagement sessions to gather views on tackling the SDU issue from political parties, academics, professional bodies, NGOs and SDU concern groups. At the same time, the Task Force also received about 50 relevant written views and submissions.

2.8 The vast majority of stakeholders appreciated the Government's determination to tackle the long-standing SDU issue and supported regulating the renting of SDUs in residential buildings through legislation to ensure safe and reasonable living conditions therein. They generally recognised that SDUs did serve some social functions to meet the housing needs of some grassroots families who could not afford better accommodation or some youngsters who wished to live in the vicinity of their places of study or work, and therefore it was unrealistic to eradicate all SDUs. They, however, stressed that the Government should eradicate substandard SDUs, and considered that structural safety and fire safety of SDUs were of utmost importance, and SDUs should provide a reasonable living space with proper ventilation and good environmental hygiene. At the same time, they also expected the Government to strengthen enforcement actions against other illegal / unauthorised inadequate housing under the existing legislation.

2.9 The rental level of SDUs was also a matter of concern to many members of the Legislative Council (LegCo). Some members feared that the introduction of minimum standards for SDUs would result in increased rental level due to the additional compliance costs incurred by the landlords and the potential drop in the supply of SDUs, thereby calling for introduction of "initial rent" (i.e. a rent ceiling at the beginning of the first term tenancy under the SDU tenancy control regime) to protect tenants. In this regard, the Government notes that the rent of an individual SDU is affected by many factors, including the economic situation at the time of entering into tenancy; floor area, floor level and orientation of the SDU; the facilities in the SDU; environmental hygiene, etc. Even for SDUs on the same street or in the same building, their rental levels vary depending on their quality. Imposing a mandatory "initial rent" level for each SDU would in effect discourage landlords to improve the quality of their SDUs, which may lead to deteriorating living conditions.

2.10 Meanwhile, some LegCo members considered it important to strike an appropriate balance between regulation of the SDU market and protection of private property rights, and pointed out that the introduction of “initial rent” might be a form of over-regulation of the SDU rental market, which would have an impact on the overall private residential rental market. Among academics with economics background engaged by the Task Force, the majority did not support setting “initial rent” for SDUs. They considered that if the Government requested landlords to comply with minimum standards and at the same time restricted the rents of SDUs at a low level, the profit of operating SDUs might become lower than that of renting out the entire reinstated flat, thereby putting some households which needed to rent SDUs under greater pressure.

2.11 Meanwhile, NGOs and SDU concern groups urged the Government to provide rehousing options with better locations or facilities to SDU households affected by future enforcement actions. They also recommended strengthening the promotion on TH and LPH (e.g. provision of information on employment, education, transportation, etc.) amongst SDU tenants so as to encourage them to apply for such housing to improve their living conditions as soon as possible. They also welcomed the Housing Bureau (HB)’s recent further relaxation of the eligibility criteria for Category B tenants for TH (i.e. families / persons having been waiting for traditional PRH for less than 3 years) so that those not eligible to apply for PRH but with imminent housing needs could be temporarily housed at TH. However, some stakeholders were of the view that the Government should not accord priority to the allocation of traditional PRH to SDU households affected by enforcement actions so as not to cause unfairness to other individuals who were waiting for traditional PRH, or even encourage more people to move into substandard SDUs to seek rehousing.

Chapter 3 Proposed Regulatory Regime on BHUs

(I) Guiding Principles

3.1 The Government has formulated the proposed BHU regulatory regime in accordance with the following principles:

- (a) Every SDU in residential buildings under rental should provide safe and reasonable living conditions, and should comply with the relevant minimum standards and apply for recognition as up-to-standard BHUs;
- (b) Renting out of SDUs that are not recognised as up-to-standard BHUs will be illegal. The Government will allow reasonable time for landlords of pre-existing SDUs to carry out conversion works and apply for recognition as BHUs, and will take enforcement actions against illegal renting in an orderly manner so as to prevent the resurgence of substandard SDUs that do not meet the minimum standards; and
- (c) The eradication of substandard SDUs should be carried out in an orderly manner to tie in with the pace of public housing supply. Subject to the actual needs of the affected households, the Government will consider providing appropriate assistance to avoid displacing them.

(II) Overall Regulatory Proposals

3.2 According to the above principles, the Government has decided to put in place the BHU regulatory regime through legislation. In future, only SDUs that meet the relevant minimum standards and recognised as BHUs can be rented out legally. The main components of the proposed BHU regulatory regime include: (1) regulation timetable; (2) scope of regulation; (3) registration system for pre-existing SDUs; (4) recognition system on BHUs; (5) minimum standards of living conditions for BHUs; (6) contravention and penalty; (7) appeal mechanism; and (8) enforcement approach and priorities. The ensuing paragraphs set out the details of the proposed regulatory regime.

3.3 To put forward the BHU regulatory regime in an orderly manner, the Government will set up a registration system for pre-existing SDUs, with a grace period to allow owners of registered pre-existing SDUs to carry out necessary alteration works within a reasonable period of time and apply for recognition as BHUs. During the grace period, the Government will not take enforcement actions against registered pre-existing SDUs. Upon completion of the grace period, the Government will, in light of the overall public housing supply and other actual circumstances, decide on the timing and pace of enforcement actions against SDUs in an orderly and progressive manner. Meanwhile, the Government will establish a recognition system on BHUs where pre-existing SDUs or new SDUs entering the market may apply for recognition as BHUs after obtaining confirmation by professionals of their compliance with the minimum standards for being rented out legally.

3.4 The standards for BHUs under the overall regulatory proposals will cover requirements on floor area, fire safety, ventilation, hygiene, etc. Existing substandard SDUs must be converted into up-to-standard SDUs in the future, or else the landlords will be held legally liable for renting out them. Specific details are set out in paragraphs 3.5 to 3.20 below.

(III) Timetable for Regulation of SDUs

3.5 Upon completion of the stakeholder consultation on the BHU regulatory regime in February 2025, HB plans to present to LegCo Panel on Housing the summary of views collected during the consultation period and the final proposal of the BHU regulatory regime. Subject to the consultation results and the final proposal, the Government aims to introduce the relevant Bill to LegCo for scrutiny as soon as possible in 2025 and strive for passage of the Bill by LegCo within 2025. Upon completion of the legislative process, it is expected that the registration for pre-existing SDUs will commence in the fourth quarter of 2025 the earliest and last for 12 or up to 18 months, with applications for recognition as BHUs to be accepted concurrently. Having regard to the supply of BHUs and the public housing supply, the Government will take enforcement actions against illegal renting of substandard SDUs in an orderly manner after completion of the registration period and the grace period respectively. The primary targets of the enforcement actions will be SDUs which have neither been registered nor applied for recognition. Upon completion of the grace period, the relevant enforcement actions will go further to target at registered SDUs which have not been converted into BHUs yet still being rented out illegally. Same as other existing

enforcement actions, the Government will consider providing appropriate assistance for the affected households depending on their actual needs.

(IV) Scope of Regulation

3.6 The proposed BHU regulatory regime targets to regulate SDUs in residential buildings, i.e. SDUs located in the domestic portion of domestic buildings or composite buildings. These SDUs must comply with the minimum standards (see paragraph 3.14 below) and be recognised as BHUs before they can be rented out legally, otherwise there would be criminal liability on the part of the landlords for renting out unrecognised SDUs illegally.

3.7 Under the current proposal, “SDUs” refer to two or more smaller units formed through subdivision of a residential flat with fixed materials (i.e. partition materials with certain degree of firmly fixed nature, e.g. brick walls, wood panels, metal panels, etc.) resulting in change(s) in the flat layout as shown in the latest approved building plans³ of the flat and such SDUs are rented out separately.

3.8 The diagrams of the conversion of a residential flat into several up-to-standard SDUs (i.e. BHUs) are as follows:

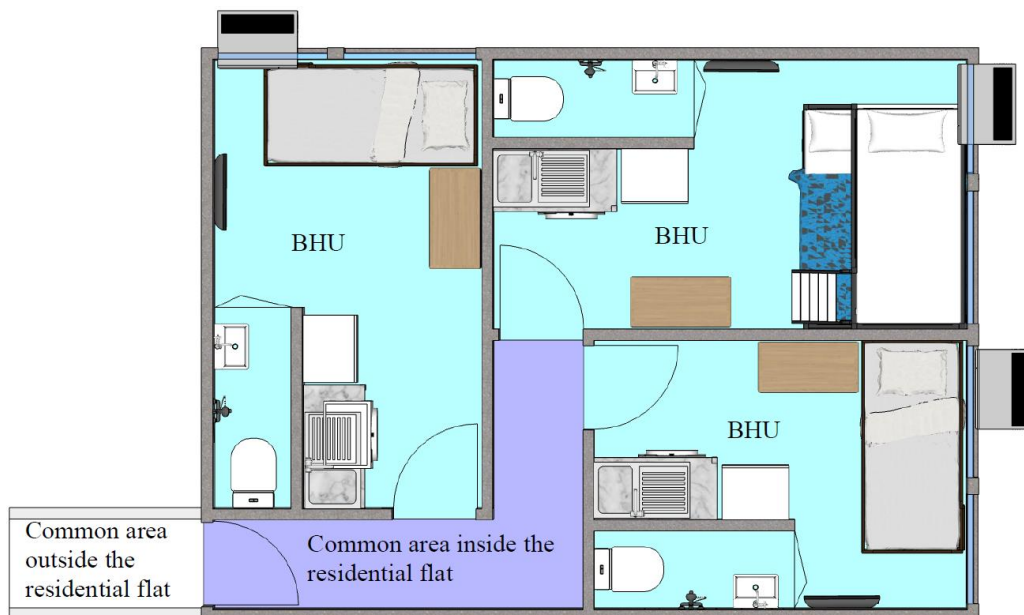
³ A latest approved building plan refers to the following before implementation of the BHU regulatory regime –

- (a) a building plan approved by the Buildings Department under the Buildings Ordinance (Cap. 123), including those of private residential flats, as well as subsidised sale flats of the Hong Kong Housing Society, the Urban Renewal Authority and private developers (including developments under the Starter Homes Pilot Scheme for Hong Kong residents, the Private Sector Participation Scheme and the Middle Income Housing Scheme); or
- (b) a building plan prepared by the Hong Kong Housing Authority for a building.

Original residential flat:



Residential flat converted into several compliant SDUs:



3.9 The Government proposes that the scope of regulation under the BHU regulatory regime should cover SDUs in private residential flats and

Subsidised Sale Flats (SSFs) with premium paid⁴, as well as those in the domestic portion of composite buildings. If a landlord sublets different rooms in a residential flat without alteration to the layout as shown in the latest approved building plan, such subletting will not be regulated under the BHU regulatory regime.

3.10 Moreover, as the following structures or premises are under the regulation of and, in fact, in breach of existing legislation and/or government leases, they do not need to be subject to the BHU regulatory regime, lest it might create confusion that such structures or premises is “legalised”. Relevant departments will continue to take enforcement actions in accordance with the existing legislation / government leases and established practices to eradicate such inadequate housing, including:

- (a) **Illegal structures:** Illegal structures erected on government or private land that have not been recorded in the 1982 Squatter Control Survey mentioned in paragraph 3.10(d) below, or in contravention of the provisions of the Buildings Ordinance (Cap. 123) (e.g. any unauthorised cocklofts, unauthorised building works (UBWs) on rooftops, flat roofs as well as those in lanes, lightwells and yards without prior approval of BA or constructed in contravention of any provision of the Ordinance) shall be demolished in accordance with section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28)⁵ or section 24 of the Buildings Ordinance (Cap. 123)⁶ respectively;

⁴ Generally speaking, SSFs with premium unpaid are for owner-use only (including Tenants Purchase Scheme, Green Form Subsidised Home Ownership Scheme, Home Ownership Scheme, Private Subsidised Sale Flat – Pilot Scheme, Starter Homes Pilot Project for Hong Kong Residents, and Subsidised Sale Housing under the Hong Kong Housing Society), and they are not rentable, except for owners participating in the Letting Scheme for Subsidised Sale Developments with Premium Unpaid.

⁵ Section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) provides that if unleased land is occupied, otherwise than under a licence or a deed or memorandum of appropriation, the Director of Lands may cause a notice, requiring the occupation of the land to cease to be posted. If the occupation of unleased land does not cease as required by the notice, any property or structure on the land may be taken possession, demolished or removed by the Government. At the same time, the relevant occupiers may be subject to prosecution.

⁶ Section 24 of the Buildings Ordinance (Cap. 123) provides that BD may issue statutory orders to the owners requiring demolition, removal or alteration of UBWs which have been or are being carried out without the prior approval and consent of BA or in contravention of the provisions of the Ordinance.

- (b) **Industrial and commercial buildings:** The use of industrial / commercial⁷ buildings for residential purposes contravenes the provisions relating to change in use of buildings under section 25 of the Buildings Ordinance (Cap. 123)⁸, and may contravene the conditions of government leases. In fact, industrial / commercial buildings are not designed for residential use. For instance, some units in industrial buildings may still be used for industrial activities or storage of dangerous and inflammable goods. Using some of these units for residential purposes will pose a significantly high level of safety risk to the inhabitants. BD has been taking stringent enforcement actions to ensure the safety of the residents of SDUs in industrial buildings;
- (c) **New Territories Exempted Houses (NTEHs):** Current government leases (except for those granted in the older days such as block government leases for old schedule lots) prohibit the partitioning of any storey of NTEHs into more than one self-contained unit. If a breach of lease conditions is substantiated, the Lands Department (LandsD) will take lease enforcement actions according to the prevailing lease enforcement policy. Moreover, there are certain infrastructural constraints (e.g. lack of public sewerage system, limited emergency vehicular access, etc.) in the rural areas of the New Territories. If SDUs in NTEHs were regulated under the BHU regulatory regime, this would in turn encourage the landlords concerned to subdivide their houses for renting out, which will increase the loading of existing drainage, sewage and transportation systems, and/or emergency vehicular access; and
- (d) **Squatters**⁹: Squatters are either structures illegally occupying government land or unauthorised structures on leased agricultural land. They are, however, tolerated on a temporary basis, provided that the location, dimensions, building materials and use

⁷ Including the commercial portion of composite buildings.

⁸ Section 25 of the Buildings Ordinance (Cap. 123) provides that prior notice shall be given to BA of any intended material change in the use of a building by the person concerned. This Ordinance stipulates that the change in use of a building shall be deemed to be materially changed if the carrying out of building works for the erection of a building intended for new use would have contravened the provisions of this Ordinance.

⁹ There are currently about 81 700 domestic Surveyed Squatter Structures and 293 300 non-domestic Surveyed Squatter Structures in the territory. LandsD has no information on the number of squatter households.

are the same as the records in the 1982 Squatter Control Survey, until they have to be cleared for development, environmental improvement or safety reasons, or until they are phased out through natural wastage (e.g. when the structures are not occupied or cease to exist). Such tolerance arrangement does not create any legal rights, interests or obligations, and does not confer on any person the right of occupation of the land. Regulating SDUs in squatters under the BHU regulatory regime will run counter to the illegal / unauthorised nature of squatters. LandsD has been taking enforcement actions against unauthorised extension of squatters including cancelling of squatter survey numbers, demolishing the whole unauthorised structures on government land, and taking lease enforcement actions against cases involving newly extended structures on private land.

3.11 Apart from the structures / premises that are already illegal as mentioned in paragraph 3.10 above, premises regulated under the existing legislation are proposed to be excluded from the scope of regulation under the BHU regulatory regime so as to avoid duplicate regulation:

- (a) **Bedspace apartments**¹⁰: According to the Bedspace Apartments Ordinance (Cap. 447), any flat with 12 or more bedspaces used as sleeping accommodation for individuals under rental is regulated by the licensing system of this Ordinance to monitor the fire safety, structural safety and hygiene of the premises so as to ensure the safety of occupants and other users of the building; and
- (b) **Premises used as a hotel or guesthouse**: According to the Hotel and Guesthouse Accommodation Ordinance (Cap. 349), premises are hotels or guesthouses if the premises are held out as providing sleeping accommodation to any persons presenting themselves

¹⁰ In view of the worsening problem of “cage homes” in Hong Kong during the 1980s and the associated environmental hygiene and fire safety issues, etc., the Government enacted the Bedspace Apartments Ordinance (Cap. 447) in 1994 to regulate the operation of “cage homes”. According to this Ordinance, a “bedspace apartment” means any flat in which there are 12 or more bedspaces occupied or intended to be occupied as sleeping accommodation under rental agreements; or where the partitioning wall or walls between two or more adjoining flats which has or have been demolished, and for the purpose of determining whether any flat constitutes a bedspace apartment, the existence of partitions in the flats shall be disregarded. Therefore, this Ordinance applies to any flat in which there are 12 or more floor spaces, beds, bunks or sleeping facilities of any other type, intended to be used as sleeping accommodation for single occupancy, regardless of whether the flat has been converted into cubicles or cubicles with kitchen and toilet facilities. Currently, there are seven licensed bedspace apartments (involving about 726 bedspaces in total).

who are willing to pay a fee for the sleeping accommodation for a period less than 28 consecutive days. The purpose of this Ordinance is to, through a licensing system, ensure that premises used as hotels and guesthouses comply with the relevant statutory requirements on building and structural safety, fire safety as well as the sanitary provisions to ensure the safety of the tourists and the public.

The Office of the Licensing Authority (OLA) under the Home Affairs Department will continue to step up inspection, enforcement and publicity efforts. Having regard to the circumstances of individual cases, OLA will follow up and collect evidence by adopting the most appropriate and effective means to combat irregularities in the premises concerned.

(V) Registration System for Pre-existing SDUs

3.12 In order to allow time for landlords of pre-existing SDUs to carry out necessary works to convert the units to up-to-standard BHUs, the Government proposes to put in place a registration system, enabling landlords of registered pre-existing SDUs to carry out alteration works during the grace period granted by the Secretary for Housing. The Government will simplify the registration procedures and the required information as far as possible to encourage landlords of pre-existing SDUs to make registration. The relevant details are as follows:

- (a) **Eligibility for registration:** Landlords of SDUs who wish to register must have at least one valid tenancy agreement on the “specified date” or within the past three months of the “specified date” and provide copies of the Notice of Tenancy (Form AR2)¹¹ endorsed by RVD and/or documents proving the validity of the tenancies. The “specified date” is proposed to be the date of the Government’s introduction of the Bill on the BHU regulatory regime into LegCo, with a view to curbing early the creation of new substandard SDUs in the market for making registration. Moreover, the SDUs should meet the definition stated in paragraph 3.7 above.

¹¹ Under section 120AAZT of Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), which implements tenancy control on SDUs, the landlords of regulated tenancies must, within 60 days after the term of the tenancy commences or is taken to commence, submit a notice in the specified form (i.e. duly completed Form AR2) to notify the Commissioner of Rating and Valuation of the particulars of the tenancy.

The aforementioned registration shall be made by the landlords. If a residential flat is subdivided into more than one SDU, the landlord concerned may register all SDUs within the residential flat concerned in one go with a single registration form. Considering that some landlords may appoint estate agents, management companies or their family members, etc. to handle SDU tenancies, a person / company formally authorised by the landlord concerned (the authorised representative) may also make registration for the SDUs concerned;

- (b) **Implementation timeline:** The Government proposes that upon the passage of the Bill on BHUs by LegCo, a 12 or up to 18-month registration period will be rolled out for registration of pre-existing SDUs. If the scrutiny of the aforementioned Bill is completed by LegCo in 2025, the Government expects to launch the registration system in the fourth quarter of 2025 the earliest;
- (c) **Documents required:** To facilitate landlords to make registration, they will only need to declare simple information, including (i) the particulars of landlord and tenant(s), (ii) the address of the unit, (iii) the number and area of SDUs as well as the facilities therein, (iv) the commencement and end dates of tenancies, etc. As stated in paragraph 3.12(a) above, when making registration, landlords also have to provide copies of valid tenancy agreements and Form AR2 endorsed by RVD, and/or documents proving the validity of the tenancies;
- (d) **Grace period:** The Government proposes to empower the Secretary for Housing to grant a grace period to the landlords of the pre-existing SDUs that have been successfully registered within the registration period upon submission of all the required information, and under the current proposal, the grace period may last for 12 or up to 24 months following the end of the registration period. This would provide reasonable time for the landlords to discuss tenancy arrangements with tenants and convert their SDUs to up-to-standard BHUs. Upon completion of the grace period, the Government will, having regard to factors such as the supply of public housing, take enforcement actions against the illegal renting of substandard SDUs in an orderly manner;

- (e) **List of registered units:** To facilitate SDU households to check and ascertain whether the units they have rented or intend to rent are registered, the Government proposes to upload information of registered pre-existing SDUs to the website of HB, including the addresses of the units, the grace period, etc., but not the personal particulars of landlords or tenants; and
- (f) **Arrangements after registration:** Upon completion of the registration period, enforcement actions targeting at the illegal renting of unregistered and unrecognised SDUs will be taken in an orderly manner. For landlords who **intend** to convert their SDUs into up-to-standard BHUs and apply for recognition as BHUs before completion of the grace period, they should discuss with their tenants the move-out arrangement to facilitate the alteration works. If necessary, the Government will provide assistance in evacuating existing tenants for alteration works, such as helping the tenants find other rental accommodation in the private market or providing temporary shelter. On the other hand, if the landlords **do not intend** to convert their SDUs to meet the minimum standards before completion of the grace period, the SDUs concerned cannot be rented out after completion of the grace period or else the landlord concerned will commit an offence. The Government will take enforcement actions in an orderly manner and provide assistance to the tenants concerned on a need basis, such as helping them find other rental accommodation in the private market or providing temporary shelter. The aforementioned enforcement arrangements on BHUs will not affect the enforcement actions by other departments in respect of matters such as building structure, fire safety, hygiene, etc., in accordance with other relevant legislation.

(VI) Recognition Regime on BHUs

3.13 Concurrent with the roll-out of the registration system for pre-existing SDUs, the Government proposes to launch a recognition system on BHUs to accept relevant applications. To this end, unregistered pre-existing SDUs or new SDUs entering the market must apply for recognition as up-to-standard BHUs before they can be rented out legally. In other words, all SDUs, unless they have been successfully registered and granted a valid grace period, must obtain recognition as BHUs before being rented out legally. Details of the recognition system are as follows:

- (a) **Eligibility criteria and conditions of recognition:** SDUs meeting the definition in paragraph 3.7 above, regardless of whether they are registered, their landlords¹² may make applications for recognition as BHUs subject to their compliance with the minimum standards of BHUs. The recognition of SDUs is subject to conditions including submission of a report certified by professionals¹³ to confirm compliance with the minimum standards of living conditions for BHUs and with the statutory order / direction / notice issued in respect of the SDUs concerned by BD or other departments.

In addition, the Government will consider the conditions of the common parts of the buildings where SDUs are located when deciding whether the SDUs will be recognised as BHUs. For instance, if there are serious safety problems in the common parts of the buildings (e.g. seriously defective drainage, structural cracks, blockage of exit route with UBWs, etc.), even though the relevant SDUs can meet the minimum standards of BHUs, the Government may still refuse their recognition applications and will reconsider such applications only after the safety conditions of the common parts of the relevant buildings have improved (i.e. relevant statutory order / direction / notice has been complied with, the defective drainage / structural cracks have been fixed, UBWs have been removed, etc.);

- (b) **Implementation timeline:** Provided that the applications for recognition as BHUs can fulfil the requirements, the landlords of up-to-standard SDUs will be granted recognitions by the Secretary for Housing. The Government proposes that the recognition system and the registration system should be rolled out concurrently after passage of the BHU Bill, i.e. the

¹² As mentioned in paragraph 3.12(a) above, considering that some landlords may rely on appointing estate agents, management companies or their family members, etc. to handle the SDU tenancies, a person / company duly authorised by the landlord concerned (i.e. authorised representative) may also apply for recognition of the SDU concerned.

¹³ It is proposed that the professionals should be registered architects, registered professional engineers (construction, civil and structural) or registered professional surveyors (building surveying) registered with the Architects Registration Board, the Engineers Registration Board or the Surveyors Registration Board.

implementation is expected to commence in the fourth quarter of 2025 the earliest;

- (c) **Documents required:** SDU landlords are required to fill in an application form and provide basic personal particulars with the submission of a report certified by professionals to confirm the compliance of all SDUs in the residential flat concerned with the minimum standards of BHUs, and with the statutory order / direction / notice as well as that there is no immediate safety problem in the residential flat and all the SDUs therein.

Other documents required include: (i) particulars of the landlords and tenants; (ii) proof showing the landlord's ownership of the relevant unit; (iii) latest approved building plan of the flat as well as any prescribed plans of works submitted to BD under MWCS; (iv) building plans showing the latest layout of the SDUs; (v) commencement and end dates of the relevant tenancies, etc.;

- (d) **Validity period of recognition:** To ensure that the living conditions of BHUs can continue to meet the minimum standards, the validity period of each BHU recognition is proposed to be 5 years. In order to apply for renewal of the BHU recognition for continued legal renting out of the unit concerned, a report certified by professionals has to be submitted every 5 years to confirm that all SDUs in the residential flat concerned still meet the minimum standards of BHUs;
- (e) **Audit check system:** Apart from certification by professionals on the compliance of SDUs with the minimum standards of BHUs, the Government will also put in place an audit check system to conduct random audit checks on SDUs with recognition applications submitted and those recognised as BHUs so as to check whether they comply with the minimum standards of BHUs. Failure of the SDUs concerned in meeting the minimum standards may result in cancellation of the recognition of the relevant units. If any person is found to have provided false information when applying for recognition, the Government will consider instigating prosecution against the relevant person having regard to the actual circumstances and the information and evidence collected. If such acts involve registered professionals, the Government will also refer the cases to relevant professional institutes / bodies /

registration boards for their consideration on whether disciplinary hearings should be carried out. In addition, we will conduct inspections at the SDUs concerned and take appropriate follow-up actions in response to public complaints / reports; and

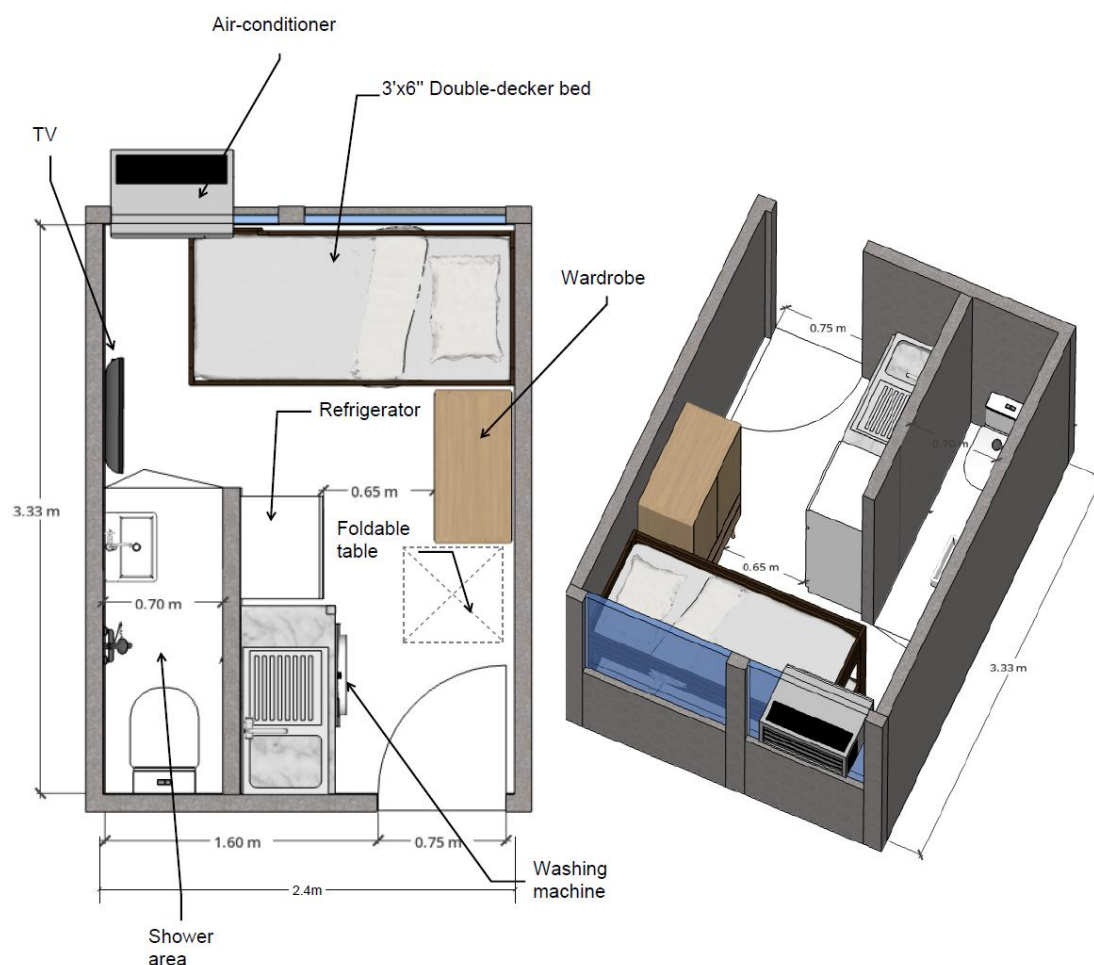
- (f) **List of recognised units:** To facilitate tenants to identify which SDUs are granted with valid recognition as BHUs, the Government proposes to upload the information of BHUs (including the addresses and recognition validity periods of the units, etc., but not the personal particulars of landlords or tenants) to the website of HB.

(VII) Minimum Standards of Living Conditions for BHUs

3.14 With reference to findings of the consultancy study commissioned by the Task Force, and to ensure the provision of safe and reasonable living conditions in BHUs, the Government proposes that the living conditions of BHUs should meet the following minimum standards:

- (a) **Internal floor area (IFA)**¹⁴: Having struck a balance among the views of different stakeholders, other minimum requirements and living configurations on SDUs, as well as relevant data collected from the consultancy study, the IFA requirement for each BHU is at least 8m². From a practical perspective, an IFA of 8m² can basically provide space for a single bed or double-decker bed, a separate toilet, ventilation windows, basic living space, etc. Besides, there are views in the community suggesting that some singleton SDU households do not wish the minimum area requirement to be set too high in order to save rental expenses. The schematic layout plan of a BHU that meets the minimum standards is as follows:

¹⁴ IFA means the area contained within the enclosing walls of a unit measured to the interior face of the external walls or partition walls. All internal partitions and columns within the unit as well as balconies and toilets forming part of that unit are included.



According to findings of the Task Force’s consultancy study, about 26% of all SDUs in Hong Kong had an IFA of less than 8m², about 50% were sized 10m² or above, and SDUs with an IFA of 13 m² to less than 20m² accounted for approximately 22% of the total;

- (b) **Clear headroom:** To eliminate inadequate housing such as “lofts” and “tree houses”, and taking into account the need to lay solid floor screeding in SDUs in general for the erection of drainage, the requirement for clear headroom of a BHU is at least 2.3m measured from floor to ceiling, or at least 2m¹⁵ measured from the floor to the underside of any beam.

¹⁵ This is a slight relaxation from BD’s current requirements under the relevant legislation. According to regulation 24 of the Building (Planning) Regulations (Cap. 123F), every room used for habitation in any building shall have a height of not less than 2.5m measured from floor to ceiling, provided that there shall be not less than 2.3m measured from the floor to the underside of any beam.

According to findings of the Task Force's consultancy study, about 91% of the pre-existing SDUs without beam had a living space with clear headroom of at least 2.3m measured from floor to ceiling. On the other hand, among the pre-existing SDUs with beams, about 99% had a living space with clear headroom of at least 2m measured from the floor to the underside of any beam;

- (c) **Fire safety:** Since existing SDUs are generally cramped with a lot of miscellaneous articles, the consequences can be very serious in case of a fire. In this regard, the major fire safety requirements for BHUs are the same as the existing standards under the Buildings Ordinance (Cap. 123), e.g. BHUs should be provided with access to two or more exit staircases (except for single-staircase buildings), a clear headroom of not less than 2m for exit routes, separation of the exit routes / exit staircases of the building from BHUs by fire-rated partition walls, etc.

In addition, with regard to the special conditions of BHUs, if the fire-rated door at the original entrance of the residential unit concerned is retained, the clear width of the internal corridor leading to each BHU must be not less than 0.75m. The partition walls of each BHU and the walls at both sides of the internal corridors should be constructed of solid partitions such as brick walls, gypsum plaster board partition walls, etc. from floor to ceiling to meet the requirements for protection against smoke, and the entrance door of each BHU must be self-closing with smoke seal.

If the fire-rated door at the original entrance of the residential unit where BHUs are located is removed or replaced by one that does not meet the required fire resistance rating (FRR), the clear width of the internal corridor leading to BHUs must be not less than 1.05m. The partition walls of each BHU, the walls at both sides of the internal corridors as well as the entrance door of each BHU should have an FRR of not less than one hour, and such doors should be self-closing with smoke-seal.

According to findings of the Task Force's consultancy study, the internal corridors of about 94% of the pre-existing SDUs had a width of not less than 0.75m, and only about 4% of the SDUs had

their main doors (i.e. the original main doors of the residential units) removed.

Moreover, the Government also proposes that each BHU should be equipped with a stand-alone fire detector, and that fire extinguishers and stand-alone fire detectors should be installed in the common corridor or area (if any) of the residential units where BHUs are located to enhance fire safety of the building. These fire service installations and equipment are relatively simple to install and more readily available for purchase. They can serve to enhance the fire safety level of the units within a short period of time;

- (d) **Structural safety:** SDUs usually involve the erection of non-load bearing block partition walls or thickening of floor slabs. Although these building works can be carried out without prior approval and consent from BD, they must comply with the standards on loading capacity stipulated in the Buildings Ordinance (Cap. 123), not to overload building structure, and the simplified requirements under MWCS should be adhered to by appointing prescribed building professionals / prescribed registered contractors to design and supervise the works;
- (e) **Ventilation and lighting:** To ensure sufficient lighting and ventilation in BHUs, the habitable area, toilet and kitchen (if any) of each BHU shall comply with the existing statutory requirements on natural ventilation and lighting.

If the habitable area or kitchen (if any) of a BHU fails to comply with the existing statutory requirements on natural ventilation and lighting¹⁶, it must each be provided with at least one openable window facing a street, service lane, yard, re-entrant, etc., instead of a four-side enclosed yard, and with a system of artificial lighting and mechanical ventilation producing not less than 5 air changes per hour, and the change of air must be with the outside

¹⁶ The habitable area and kitchen are required to have one or more windows to provide natural lighting and ventilation with the aggregate superficial area of glass in the window or windows being not less than one-tenth of the area of the floor of the room. Such window or windows shall face into the external air (i.e. facing into a street which is not less than 4.5m wide, or facing into a space uncovered and unobstructed above the area delineated by the rectangular horizontal plane), and can be opened to an extent at least equal in the aggregate to one-sixteenth of the area of the floor of the room.

of the building. Examples of windows facing re-entrant and a four-side enclosed yard are as follows:

Window at habitable area facing a re-entrant



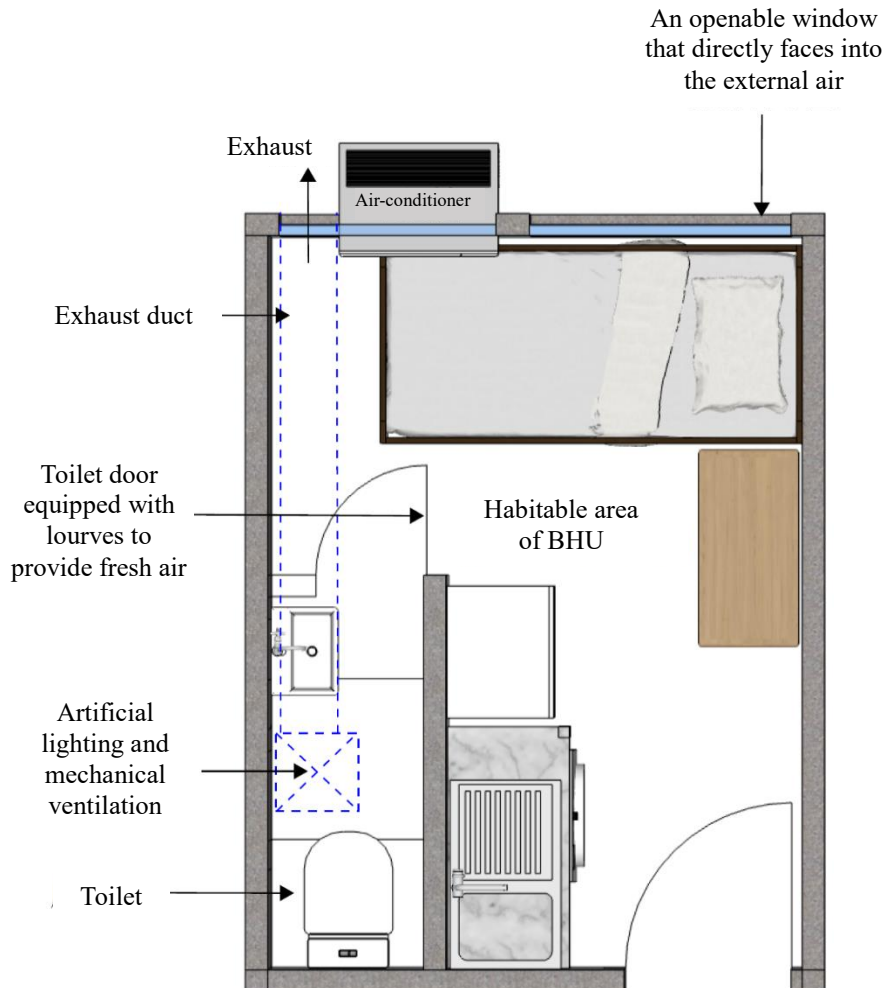
Window at habitable area facing a four-side enclosed yard (non-compliant)



For indoor toilet that fails to comply with the existing statutory requirements on natural ventilation and lighting¹⁷ (commonly known as “dark toilet / bathroom”), a system of artificial lighting and mechanical ventilation producing not less than 5 air changes per hour should be in operation at any time when the toilet is in use, and the change of air must be with the outside of the building.

¹⁷ Toilets must be provided with a window, with the aggregate superficial area of glass therein being not less than the equivalent of one-tenth of the area of the floor of the room, and a part thereof, not less in area than the equivalent of one-tenth of the area of the floor of the room, can be opened directly into the open air (a space which is vertically uncovered and unobstructed, and is not less, in any horizontal dimension, than 1.5m).

Such toilets must also be provided with permanent ventilation connected to the open air, e.g. in the form of louvers on a toilet door which connect to windowed habitable area. The relevant layout plan is as follows:



According to findings of the Task Force's consultancy study, about 90% of the pre-existing SDUs had openable window(s) in at least the habitable area, kitchen or toilet, etc., and such window(s) face(s) a street, service lane, yard, re-entrant, etc. The remaining SDUs either had no windows or had windows that were not openable or facing the inside of the flat / corridor / yard / light well only;

- (f) **Toilet:** In order to provide hygienic living conditions, each BHU should be equipped with a separate toilet for exclusive use by the household with partition wall from floor to ceiling and a door to separate it from the habitable area and kitchen (if any). According to the Building (Planning) Regulations (Cap. 123F),

the toilet should not be constructed on a “balcony” or “verandah” on or over any street.

To ensure no water seepage affecting the flats on the lower floor and neighboring flats, waterproofing membrane / material must be applied to the floor and walls of the toilet in a BHU to cover the entire floor and turn up every wall at a height of at least 0.3m. For the walls surrounding the shower area, the waterproofing membrane / material should be applied to at least 2.2m high on the walls.

According to the current requirements of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap. 123I), floor drain outlets and sanitary fitments (e.g. water closet, wash basin and bathtub) of toilets must be equipped with effective water seal traps with anti-syphonage provision to prevent foul odour in drain pipes from drifting into the premises. Relevant drainage works should also be carried out in accordance with the simplified requirements of MWCS.

According to findings of the Task Force’s consultancy study, about 91% of pre-existing SDUs were equipped with separate toilet compartments, of which about 76% were fitted with floor-to-ceiling partitions. In addition, about 5% of pre-existing SDUs had shared toilets or no toilets at all;

- (g) **Kitchen:** In view of the generally limited space of the existing SDUs and fire safety considerations, the Government will not mandate the provision of a kitchen in each BHU while BHUs as well as the common area within the residential flat should not be installed with any naked flame cooking facility so as to minimise the fire risk. If naked flame cooking is needed, the BHU must be provided with a separate and enclosed kitchen in compliance with the fire safety requirements with a fire-rated door. The kitchen and the door must have an FRR of not less than half an hour.

Besides, if a kitchen is not provided, a water point and a sink (with effective water seal trap with anti-syphonage provision) outside the toilet and proper water proofing for the surrounding area must be provided in each BHU to avoid occupants using the toilet to prepare food / wash dishes.

According to the Building (Planning) Regulations (Cap. 123F), if a landlord intends to add an open kitchen (i.e. a kitchen without any partition wall and door with an FRR of not less than half an hour), the landlord is required to obtain the approval from BD and the Fire Services Department in respect of the design of the open kitchen, which includes automatic sprinkler system, smoke detector, installation of a fire resistant wall from ceiling to floor with a width of not less than 0.6m and having an FRR of not less than half an hour. Also, the kitchen should not be constructed on a “balcony” or “verandah” on or over any street.

According to findings of the Task Force’s consultancy study, about 90% of the existing SDUs were provided with kitchens. Specifically, 64% of the SDU households had open kitchens with or without naked flame cooking facilities; 8% had kitchens with separate brick wall partitions; 12% were provided with a kitchen merged with toilet; and 4% had shared kitchens; and

- (h) **Separate water meters and individual electricity meters:** To ensure that BHU households will not be overcharged for water and electricity, each BHU should be fitted with a separate water meter provided by WSD and an individual electricity meter provided by the power companies. The relevant works of pipe and electrical installation / work shall be carried out in accordance with the existing relevant regulations.

According to findings of the Task Force’s consultancy study, 90% and 96% of the pre-existing SDUs were provided with a separate water meter and independent electricity meter respectively, but the majority of these meters were not official (i.e. provided by WSD or power companies). In addition, as at end-October 2024, WSD has installed separate water meters for 895 SDU households while the two power companies have also installed individual meters for 413 SDU households¹⁸.

¹⁸ Some works of re-wiring and installation of individual electricity meters involve common areas of buildings and the consent of owners’ corporations or affected owners is required; in addition, many SDUs are located in old buildings which are dilapidated, or the public areas are too cramped, which poses technical and safety constraints to the installation of independent electricity meters.

(VIII) Contravention and Penalty

3.15 Under the recognition system on BHUs, the Government proposes that persons renting out substandard SDUs, including landlords and principal tenants who further sublet the units, shall be held criminally liable. To ensure compliance by the landlords and principal tenants with the requirements under the BHU regulatory regime, the Government proposes to criminalise the following major acts in the BHU Bill, while the Secretary for Housing will be empowered to carry out inspection, evidence search, enforcement, prosecution, etc. in relation to such criminal offences under the BHU regulatory regime:

- (a) renting out of SDUs which have neither been granted a valid grace period nor recognised as BHUs;
- (b) renting out of recognised BHUs which are subsequently found to fail to comply with the minimum standards of living conditions for BHUs; and
- (c) furnishing false information or making a false statement under the registration system or the recognition system on BHUs or in response to the request for information from the Government, knowing such statement to be false or not believing that such statement to be true.

3.16 To enhance the deterrent effect, the Government proposes that the relevant penalties under the BHU regulatory regime should be more stringent. Making reference to other relevant existing legislation¹⁹, the Government proposes that any person who commits the acts in paragraphs 3.15(a) and (b) above shall be liable on conviction to a maximum fine of

¹⁹ The penalties of other relevant existing legislations on similar offences are as follows:

- (a) Bedspace Apartments Ordinance (Cap. 447): Any person who operates, keeps, manages or otherwise controls a bedspace apartment, which neither a licence nor a certificate of exemption has been issued, commits an offence and is liable on conviction to a fine of \$100,000 and to imprisonment for 2 years and to a further fine of \$20,000 for each day during which the offence has continued; and
- (b) Hotel and Guesthouse Accommodation Ordinance (Cap. 349): A person commits an offence if the person operates, keeps, manages or otherwise has control of any premises that are a hotel or guesthouse while no licence is in force for the premises and is liable on summary conviction to a fine of \$200,000 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of \$20,000 for every day during which the offence continues; or is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 3 years and, in the case of a continuing offence, to a further fine of \$20,000 for every day during which the offence continues.

\$300,000 and to imprisonment for 3 years. As for the act in paragraph 3.15(c) above, it is proposed that any person who commits such act shall be liable to a fine at level 3 (\$10,000) and to imprisonment for 3 months. We will also study the feasibility of imposing higher penalties on cases where the offender continues with the illegal renting for a longer period of time.

(IX) Appeal Mechanism

3.17 The Government proposes to set up an appeal mechanism under the BHU regulatory regime to allow relevant landlords to make an appeal through an independent appeal board if they disagree with the decisions made or written directions given by the Secretary for Housing on the registration system for pre-existing SDUs, grace period and the recognition system on BHUs. Members of the appeal board may include professionals from the building surveying and engineering professions and the legal profession, etc., to ensure that there is balanced and independent third-party advice to consider the appeals. As regards other decisions of the Secretary for Housing under the BHU regulatory regime, including inspection, evidence search, enforcement and prosecution, etc., if the parties concerned are not satisfied with the relevant decisions, they may be dealt with through judicial proceedings.

(X) Enforcement Approach and Priorities

3.18 According to findings of the consultancy study, it is roughly estimated that about 30% of SDUs among about 110 000 existing SDUs in residential buildings will need to be substantially modified to meet the minimum standards of BHUs, while the remaining about 70% of SDUs are expected to be able to meet the relevant minimum standards through simpler remedial works. In this regard, the Government will adopt a pragmatic approach in taking enforcement actions against illegal renting of substandard units in an orderly manner upon completion of the registration period and grace period respectively. In determining the enforcement priorities, the Government will consider the following relevant factors under the “risk-based” approach:

- (a) how the units fall short of the minimum standards, such as whether serious safety problems are involved;

- (b) the number of SDUs that falls short of the minimum standards in the building where the SDUs are located;
- (c) the condition of the common area in the building where the SDUs are located;
- (d) the market supply of BHUs; and
- (e) the supply of public housing (including LPH and TH) and relevant policies, etc.

3.19 Upon completion of the registration period of 12 or up to 18 months (the registration period is expected to complete in the fourth quarter of 2026 or the second quarter of 2027 the earliest, subject to the consultation results and the legislative progress), the Government plans to take progressive enforcement actions against illegal renting of substandard units, primarily targeting at SDUs that are neither registered nor recognised. Subsequently, after a grace period of 12 or up to 24 months (the grace period is expected to complete in the fourth quarter of 2027 or the second quarter of 2029 the earliest, subject to the consultation results and the legislative progress), the Government plans to take enforcement actions against illegal renting of substandard flats that have not been converted to BHUs during the grace period in an orderly manner.

3.20 To avoid displacing SDU households affected by the enforcement actions, the Government will provide appropriate assistance through relevant social work teams on a need basis in finding other rental accommodation (including BHUs with valid recognition) in the private market for relocation, as well as flexibly deploy other housing resources (such as TH, interim housing, transit centres, etc.) to provide temporary shelter for households in need. However, even if SDU households affected by enforcement actions under the BHU regulatory regime are on the waiting list for PRH, they will not be accorded priority in the allocation of PRH units as a result of the above-mentioned enforcement actions, otherwise it would be unfair to other individuals who are also on the PRH waiting list.

Chapter 4 Invitation of Views from Stakeholders

4.1 Stakeholders are invited to provide their views on the issues set out in this consultation document on or before 10 February 2025 by email, post or facsimile.

Email address : bhu_consultation@hb.gov.hk
Mail address : Dedicated Team on Subdivided Units,
Housing Bureau,
Housing Authority Headquarters,
33 Fat Kwong Street, Ho Man Tin, Kowloon
Fax no. : 2129 3829

4.2 An electronic version of this consultation document is available on the website of HB (www.hb.gov.hk/eng/bhu).



4.3 We will treat the submissions received as public information, and may reproduce and publish the submissions in whole or in part and in any form for the purposes of this consultation and any directly related purposes without seeking permission of or providing acknowledgement to the senders.

4.4 It is optional for the senders to provide their personal data when putting forward views on this consultation document. The names and background information of the senders may be posted on the website of HB or referred to in other documents published for the aforementioned purposes, or transferred to other relevant bodies for the same purposes. We respect the wish of senders to remain anonymous. If the senders request anonymity in the submissions, we will remove their names and other personal data when

publishing their views. For access to or correction of personal data contained in the submissions, please write to HB via the above means.

Housing Bureau

December 2024