

Basic Housing Units Bill

Contents

Clause	Page
Part 1	
Preliminary	
1.	Short title and commencement C3427
2.	Interpretation C3429
3.	Meaning of <i>reference building plan</i> C3443
4.	Meaning of <i>subdivided unit</i> C3445
5.	Application to contractual licences C3449
6.	Disapplication C3451
7.	Determining domestic tenancies C3451
Part 2	
Restriction on Letting Subdivided Units	
8.	Offence of unauthorized letting of 2 or more subdivided units C3453
Part 3	
Grace-period Registration of Flats	
Division 1—Registration of Flats for Permitting Letting of Certain Pre-existing Subdivided Units during Grace Period	
9.	Secretary may register flats in which subdivided units were let for habitation during specified period C3459

Clause	Page
--------	------

Division 2—Application for Grace-period Registration

10.	Application for grace-period registration	C3459
11.	Determining application	C3461
12.	Application approved	C3463
13.	Application refused	C3463

Division 3—Cancellation of Grace-period Registration

14.	Secretary may cancel grace-period registration	C3463
-----	--	-------

Division 4—Supplementary Provisions

15.	Notification of certain changes	C3467
-----	---------------------------------------	-------

Part 4

Basic-housing-unit Recognition of Subdivided Units

**Division 1—Recognition of Subdivided Units as Basic Housing Units for
Permitting Letting**

16.	Secretary may recognize subdivided units as basic housing units	C3473
-----	--	-------

Division 2—Application for Basic-housing-unit Recognition

17.	Application for basic-housing-unit recognition	C3473
18.	Determining application	C3475
19.	Application approved	C3479
20.	Application refused	C3479

Clause	Page
--------	------

Division 3—Application for Renewal of Basic-housing-unit Recognition

21.	Application for renewal of basic-housing-unit recognition	C3479
22.	Determining application	C3481
23.	Application approved	C3485
24.	Application refused	C3485

Division 4—Cancellation of Basic-housing-unit Recognition

25.	Secretary may cancel basic-housing-unit recognition	C3487
-----	---	-------

Division 5—Supplementary Provisions

26.	Implications of pending applications and appeals on existing basic-housing-unit recognitions as at expiry of their validity periods	C3493
27.	Notification of certain changes	C3495

Part 5

Transitional Arrangements relating to Grace-period (Registration) Applications and Basic-housing-unit (Recognition) Applications

Division 1—Grace-period (Registration) Application Period

28.	Pending applications for grace-period registration etc. as at expiry of grace-period (registration) application period	C3501
29.	Pending applications for basic-housing-unit recognition etc. as at expiry of grace-period (registration) application period	C3503

Clause	Page
--------	------

Division 2—Countdown Period

30.	Interpretation	C3505
31.	Termination of domestic tenancies for not-yet-recognized subdivided units in registered flats when countdown period begins	C3505
32.	Supplementary provisions for section 31: direction of termination by Secretary	C3509
33.	Supplementary provisions for section 31: direction of termination by appeal board	C3511
34.	Supplementary provisions for section 31: basic-housing-unit (recognition) applications still not settled as at expiry of countdown period	C3513
35.	Offence of letting subdivided units in registered flats during countdown period	C3517

Part 6

Ancillary or Incidental Powers

36.	Requiring documents etc.	C3521
37.	Requiring reports on being notified of changes in conditions of basic housing units	C3523
38.	Entering premises with consent	C3525
39.	Warrant to enter and search premises	C3529
40.	Rectification notices	C3533
41.	Termination notices	C3535

Clause	Page
42. Supplementary provisions for termination notices etc.	C3537
43. Disclosure of documents or information	C3539

Part 7

Statutory Compensation for Termination of Tenancies

44. Interpretation	C3543
45. Statutory compensation for termination of tenancies	C3543
46. Rights under common law etc. not affected	C3545

Part 8

Appeals

Division 1—General

47. Interpretation	C3547
48. Appeal panel	C3547
49. Illness of chairperson of appeal panel etc.	C3549
50. Resignation of members of appeal panel	C3549
51. Removal of members of appeal panel from office	C3549
52. Publication of notice of appointment etc. in Gazette	C3549
53. Appeals against decisions	C3551

Division 2—Appeal Board

54. Appointment of appeal board	C3553
55. Illness of members of appeal boards etc.	C3555
56. General procedure for hearing	C3557

Clause	Page
57. Quorum for hearing	C3557
58. Voting at hearing	C3557
59. Parties to appeal	C3557
60. Date, time and place of hearing	C3559
61. Proceedings of appeal board	C3559
62. Summons	C3563
63. Offences relating to appeal	C3563
64. Hearing generally public	C3565
65. Prohibition on disclosure of appeal matters	C3567
66. Abandonment of appeal	C3567
67. Failure of appellant to attend hearing	C3569
68. Decisions of appeal board	C3571

Division 3—Miscellaneous

69. Privileges and immunities	C3573
70. Regulations for Part 8	C3575

Part 9

Implications on Other Ordinances

71. Other Ordinances, law and liabilities not affected, unless expressly provided otherwise	C3577
72. Effect of Buildings Ordinance modified	C3579
73. Provisions inapplicable because of section 72 to resume application	C3581

Clause		Page
--------	--	------

Part 10

Miscellaneous

74.	Appointment of authorized officers	C3585
75.	Delegation of functions by Secretary	C3585
76.	Performance of functions	C3585
77.	Secretary may specify forms and ways	C3587
78.	Secretary may reduce prescribed fees etc.	C3587
79.	Miscellaneous offences	C3587
80.	Use of incriminating evidence in criminal proceedings	C3591
81.	Reasonable excuse	C3593
82.	Service of notice etc.	C3595
83.	Publishing information	C3599
84.	Issue of codes of practice	C3601
85.	Prosecution deadline for offences	C3603
86.	Liability of officers of body corporate	C3605
87.	Liability of partners, office holders, etc. of unincorporated bodies	C3605
88.	Evidence by documents	C3607
89.	Immunity	C3609
90.	Notice relating to specified offence to be registered under Land Registration Ordinance or Land Titles Ordinance	C3609
91.	Amendment of Schedules	C3615

Clause	Page
--------	------

Part 11

Related Amendments

Division 1—Enactments Amended

92.	Enactments amended	C3617
-----	--------------------------	-------

Division 2—Buildings Ordinance (Cap. 123)

93.	Section 24 amended (order for demolition, removal, or alteration of building, building works (other than minor works commenced under simplified requirements) or street works)	C3617
-----	--	-------

94.	Section 24AA amended (order for demolition, removal, or alteration of minor works commenced under simplified requirements)	C3617
-----	--	-------

95.	Section 24C amended (notice for demolition or alteration of building or building works)	C3619
-----	---	-------

Division 3—Prevention of Bribery Ordinance (Cap. 201)

96.	Schedule 1 amended (public bodies)	C3619
-----	--	-------

Schedule 1	Minimum Standards of Living Conditions	C3621
------------	--	-------

Schedule 2	Prescribed Fees	C3629
------------	-----------------------	-------

Schedule 3	Specified Professionals	C3635
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Schedule 4	Excluded Premises	C3637
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A BILL

To

Introduce a regulatory regime for the letting of subdivided units of domestic buildings or of the domestic parts of composite buildings; to make related amendments to certain enactments; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Basic Housing Units Ordinance.
- (2) Subject to subsection (3), this Ordinance comes into operation on 1 March 2026.
- (3) Part 2 comes into operation on 1 March 2027.
- (4) The Secretary for Housing may, by notice published in the Gazette, postpone the date specified in subsection (3).

2. Interpretation

(1) In this Ordinance—

address (地址), in relation to a subdivided unit, includes a description that identifies the subdivided unit among all the subdivided units in its principal flat;

appeal board (上訴委員會) means a board appointed under section 54(1);

appeal panel (上訴委員團) means the panel appointed under section 48(1);

approved building plan (獲准建築圖則) means—

(a) subject to paragraph (b), a plan approved by the Building Authority under Cap. 123; or

(b) in relation to a building to which Cap. 123 does not apply under section 18(2) of the Housing Ordinance (Cap. 283)—a plan prepared by the Hong Kong Housing Authority;

authorized officer (獲授權人員) means a person appointed under section 74(1);

basic housing unit (簡樸房) means a subdivided unit for which a basic-housing-unit recognition is in force;

basic-housing-unit recognition (簡樸房認證) means a recognition given under section 16(1) or renewed under section 16(3);

basic-housing-unit (recognition) application (簡樸房(認證)申請) means an application under section 16(1);

basic-housing-unit (renewal) application (簡樸房(續期)申請) means an application under section 16(3);

building (建築物) means a building or any other structure constructed or adapted for use in accordance with an approved building plan;

Building Authority (建築事務監督) has the meaning given by section 2(1) of Cap. 123;

building works (建築工程) has the meaning given by section 2(1) of Cap. 123;

building-related order or notice (關乎建築物的命令或通知) means—

(a) an order under section 23, 24, 24A, 24AA, 24B, 25, 26, 26A, 27 or 28 of Cap. 123; or

(b) a notice under section 24C, 30B or 30C of Cap. 123;

Cap. 7 (《第 7 章》) means the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);

Cap. 95 (《第 95 章》) means the Fire Services Ordinance (Cap. 95);

Cap. 95F (《第 95F 章》) means the Fire Services (Fire Hazard Abatement) Regulation (Cap. 95 sub. leg. F);

Cap. 123 (《第 123 章》) means the Buildings Ordinance (Cap. 123);

Cap. 123F (《第 123F 章》) means the Building (Planning) Regulations (Cap. 123 sub. leg. F);

Cap. 128 (《第 128 章》) means the Land Registration Ordinance (Cap. 128);

Cap. 572 (《第 572 章》) means the Fire Safety (Buildings) Ordinance (Cap. 572);

Cap. 585 (《第 585 章》) means the Land Titles Ordinance (Cap. 585);

code of practice (實務守則) means a code of practice issued under section 84(1) (as revised from time to time under section 84(3));

common parts (公用部分) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344);

court (法院) means—

- (a) a court as defined by section 3 of the Interpretation and General Clauses Ordinance (Cap. 1); or
- (b) a magistrate;

domestic tenancy (住宅租賃), in relation to any premises (or part of any premises) of a building, means a tenancy for the letting of the premises (or part of the premises) for habitation;

fire-safety-related order or direction (關乎消防安全的命令或指示) means—

- (a) a closure order as defined by section 2(1) of Cap. 95F;
- (b) a prohibition order as defined by section 2(1) of Cap. 95F;
- (c) a closure order as defined by section 3(1) of Cap. 572;
- (d) a fire safety compliance order as defined by section 3(1) of Cap. 572;
- (e) a fire safety direction as defined by section 3(1) of Cap. 572; or
- (f) a prohibition order as defined by section 3(1) of Cap. 572;

flat (樓宇單位), in relation to a building, means premises of the building that are demarcated or shown as a separate unit (however described) in the reference building plan of the building;

function (職能) includes a power and a duty;

gazettal date (刊憲日) means the date on which this Ordinance is published in the Gazette;

grace period (寬限期) means—

- (a) subject to paragraph (b), the period mentioned in section 9(3); or
- (b) if the period is extended under section 9(4)—the period so extended;

grace-period registration (寬限期登記) means a registration made under section 9(2);

grace-period (registration) application (寬限期(登記)申請) means an application under section 9(2);

grace-period (registration) application period (寬限期(登記)申請期) means—

- (a) subject to paragraph (b), the period mentioned in section 10(1)(d); or
- (b) if the period is extended under section 10(2)—the period so extended;

let (出租、租出) includes sublet;

minimum standards of living conditions (居住環境最低標準)—see subsection (2);

operator (營運人), in relation to a subdivided unit, means—

- (a) a person who lets the subdivided unit for habitation; or
- (b) any other person who is from time to time entitled to receive rent for such letting;

owner (擁有人), in relation to any premises in a building, means—

- (a) if the land on which the building is erected is divided into undivided shares and the entitlement to exclusive possession of the premises is attached to the ownership of one of those shares (**specified undivided share**)—a person—

- (i) who appears from a register kept in the Land Registry under Cap. 128 to be an owner of the specified undivided share; or
 - (ii) whose name is entered in the Title Register kept in the Land Registry under Cap. 585 as an owner of the specified undivided share; or
- (b) otherwise—a person—
- (i) who appears from a register kept in the Land Registry under Cap. 128 to be an owner of the land; or
 - (ii) whose name is entered in the Title Register kept in the Land Registry under Cap. 585 as an owner of the land;

prescribed fee (訂明費用), in relation to a matter specified in column 2 of Schedule 2, means the fee specified in column 3 of that Schedule opposite the matter;

principal building (主建築物), in relation to a subdivided unit or flat, means the building in which the subdivided unit or flat is located;

principal flat (主樓宇單位), in relation to a subdivided unit, means the flat in which the subdivided unit is located;

recognition date (認證日), in relation to a basic-housing-unit recognition, means the date specified under section 19(2) for the recognition;

reference building plan (參照建築圖則)—see section 3;

registered flat (登記樓宇單位) means a flat for which a grace-period registration is in force;

registration date (登記日), in relation to a grace-period registration, means the date specified under section 12(2) for the registration;

renewal date (續期日), in relation to a basic-housing-unit recognition, means the date specified under section 23(2) for the renewal of the recognition;

Secretary (局長) means the Secretary for Housing;

settled (有定論)—see subsection (3);

specified application (指明申請) means—

- (a) a grace-period (registration) application;
- (b) a basic-housing-unit (recognition) application; or
- (c) a basic-housing-unit (renewal) application;

specified form and way (指明格式及方式), in relation to a document, means a form of the document, and the way in which it is to be provided, specified under section 77;

specified professional (指明專業人士) means any of the persons specified in Schedule 3;

specified statutory order, notice or direction (指明法定命令、通知或指示) means—

- (a) a building-related order or notice;
- (b) a fire-safety-related order or direction;
- (c) an improvement notice as defined by section 2 of the Gas Safety Ordinance (Cap. 51);
- (d) a notice under section 16(1) of the Waterworks Ordinance (Cap. 102); or
- (e) a notice under section 5(1) of the Electricity Ordinance (Cap. 406);

subdivided unit (分間單位)—see section 4;

tenancy (租賃) means a lease entered into orally or in writing and includes—

- (a) an agreement for a tenancy; and
- (b) a sub-tenancy;

- tenant** (租客) includes a sub-tenant;
- validity period** (有效期), in relation to a basic-housing-unit recognition—
- (a) if the recognition is one given under section 16(1)—means the period mentioned in section 16(2);
or
 - (b) if the recognition is one renewed under section 16(3)—means the period mentioned in section 16(4).
- (2) For the purposes of this Ordinance, a subdivided unit meets the minimum standards of living conditions if—
- (a) the subdivided unit meets all the requirements specified in Schedule 1 that are applicable to the subdivided unit; and
 - (b) the principal flat of the subdivided unit also meets all the requirements specified in that Schedule that are applicable to the flat.
- (3) For the purposes of this Ordinance, a specified application is settled when—
- (a) if the application is approved—the application is approved;
 - (b) if the application is refused and no appeal is lodged under section 53 against the decision of refusal—the period within which a notice of such an appeal may be lodged under section 53(2) expires; or
 - (c) if the application is refused and an appeal is lodged under section 53 against the decision of refusal—the appeal board’s decision on the appeal takes effect.
- (4) For the purposes of this Ordinance—

- (a) letting a whole flat under a single tenancy is not to be regarded as letting a subdivided unit in the flat; and
 - (b) a reference to—
 - (i) a tenancy for a subdivided unit; or
 - (ii) a subdivided unit that is the subject of a tenancy,is to be construed accordingly.
- (5) A note in the text of this Ordinance is for information only and has no legislative effect.

3. **Meaning of *reference building plan***

- (1) For the purposes of this Ordinance, an approved building plan is the reference building plan of a building if the approved building plan is the latest one for the building as at—
- (a) for a pre-existing building—the gazettal date; or
 - (b) for any other building—
 - (i) the date on which an occupation permit is issued under section 21(2)(a) of Cap. 123 for the building; or
 - (ii) the date on which the approval or consent to occupy the building (however described) is issued by the Independent Checking Unit under the Office of the Permanent Secretary for Housing.
- (2) For the purposes of subsection (1)(a), a building is a pre-existing building if—

- (a) an occupation permit is issued under section 21(2)(a) of Cap. 123 for the building before the gazettal date; or
 - (b) an approval or consent to occupy the building (however described) is issued before the gazettal date by the Housing Department or by the Independent Checking Unit under the Office of the Permanent Secretary for Housing.
- (3) For the purposes of subsection (1)(a), in ascertaining which approved building plan is the latest one for a building as at the gazettal date, a plan approved by the Building Authority under Cap. 123 for any building works concerning the building is not to be taken into account unless, before the gazettal date—
- (a) the completion of the building works has been certified in accordance with regulation 25 of the Building (Administration) Regulations (Cap. 123 sub. leg. A); and
 - (b) the Building Authority has issued an acknowledgement letter for the certification.

4. Meaning of *subdivided unit*

- (1) For the purposes of this Ordinance, if—
- (a) a flat of a domestic building is partitioned or repartitioned in a way that is not shown in the reference building plan of the building; and
 - (b) after the partition or repartition, there are 2 or more compartments in the flat and, where—
 - (i) among the compartments, at least 2 are designed for each being the subject of a separate domestic tenancy; and

- (ii) among the compartments that fall within subparagraph (i), at least 1 is formed by the partition or repartition,

then each of the compartments that fall within paragraph (b)(i) is a subdivided unit.

- (2) For the purposes of subsection (1)—
 - (a) a flat is partitioned if one or more walls or installations are so installed in the flat as to be capable of—
 - (i) wholly or substantially enclosing a certain part of the flat; or
 - (ii) causing a certain part of the flat to be wholly or substantially enclosed; and
 - (b) a flat is repartitioned if one or more structures in the flat as shown in the reference building plan of the building are so removed as to combine 2 or more compartments in the flat into one (***combined compartment***), regardless of whether the combined compartment is subsequently partitioned as described in paragraph (a).
- (3) For the purposes of subsection (2)(a), it is immaterial—
 - (a) whether an installation mentioned in that subsection is a fixture;
 - (b) what material the installation is made of;
 - (c) whether the installation is immobile; and
 - (d) whether the installation is in the shape of a vertical plane.
- (4) Despite subsection (1), if a compartment in a flat is formed on the roof or flat roof, or in the garden or yard, of the flat as a result of any building works carried out in

contravention of Cap. 123, the compartment is not to be regarded as a subdivided unit.

(5) In this section—

compartment (隔間), in relation to a flat, means a wholly or substantially enclosed part of the flat, regardless of whether it is so enclosed because of a partition or repartition described in subsection (2);

composite building (綜合用途建築物) means a building that is—

- (a) partly constructed or intended to be used for habitation; and
- (b) partly constructed or intended to be used for any other purpose;

domestic building (住用建築物)—

- (a) means a building that is constructed or intended to be used for habitation; and
- (b) includes the part of a composite building that is constructed or intended to be used for habitation.

5. Application to contractual licences

- (1) This Ordinance applies to a contractual licence to occupy any premises as if it were a tenancy.
- (2) For applying this Ordinance in accordance with subsection (1)—
 - (a) the person who grants the contractual licence is to be regarded as a person who lets the premises;
 - (b) the person to whom the contractual licence is granted is to be regarded as a tenant of the premises; and
 - (c) the valuable consideration given for the grant of the contractual licence is to be regarded as rent received for the letting of the premises.

(3) In this section—

contractual licence (合約下特許) means a licence or sub-licence granted for valuable consideration;

valuable consideration (有值代價) means money or anything worth money.

6. **Disapplication**

This Ordinance does not apply to any premises specified in Part 2 of Schedule 4.

7. **Determining domestic tenancies**

- (1) This section applies for determining whether a tenancy for a subdivided unit is a domestic tenancy for the purposes of this Ordinance.
 - (2) If a tenancy specifies in writing that a subdivided unit is to be let for a particular purpose, the subdivided unit is taken to be let for that purpose unless it is proved otherwise.
 - (3) Despite any evidence showing that a subdivided unit was originally let for a particular purpose, if the subdivided unit is being used primarily for another purpose, the subdivided unit is taken to have been let for that other purpose.
 - (4) If there is not sufficient evidence showing that a subdivided unit was originally let for a particular purpose, the purpose for which the subdivided unit was let is to be determined by the primary user of the subdivided unit.
-

Part 2

Restriction on Letting Subdivided Units

8. Offence of unauthorized letting of 2 or more subdivided units

- (1) If 2 or more subdivided units in a flat are let under separate domestic tenancies while—
 - (a) no grace-period registration is in force for the flat; and
 - (b) no basic-housing-unit recognition is in force for any one of the subdivided units (*unrecognized subdivided unit*),
then each of the persons specified in subsection (2) commits an offence.
- (2) The persons specified for subsection (1) are—
 - (a) a person who lets the unrecognized subdivided unit under a tenancy;
 - (b) a person who lets the whole principal flat of the unrecognized subdivided unit under a superior tenancy of the tenancy mentioned in paragraph (a); and
 - (c) a person who is not a person mentioned in paragraph (a) or (b), but is from time to time entitled to receive rent for the letting described in paragraph (a) or (b).
- (3) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction—to a fine at level 6 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

- (b) on conviction on indictment—to a fine of \$300,000 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.
- (4) It is a defence for a person charged with an offence under subsection (1) to establish that—
- (a) the person did not know and had no reason to suspect that the subdivided units were let in circumstances that would constitute an offence under that subsection;
 - (b) the person could not with reasonable diligence have prevented the subdivided units from being let in circumstances that would constitute an offence under that subsection; or
 - (c) the tenancy for the unrecognized subdivided unit for which the person is responsible was not originally for habitation, and—
 - (i) the person did not know and had no reason to suspect that the unrecognized subdivided unit was used for habitation; or
 - (ii) the person could not with reasonable diligence have prevented the unrecognized subdivided unit from being used for habitation.
- (5) For the purposes of subsection (4)(c), a person is responsible for a tenancy if the person—
- (a) lets a subdivided unit under the tenancy; or
 - (b) is otherwise from time to time entitled to receive rent for such letting.
- (6) A person is taken to have established a matter that needs to be established for a defence under subsection (4) if—

- (a) there is sufficient evidence to raise an issue with respect to that matter; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(7) In this section—

superior tenancy (上級租賃), in relation to a tenancy (*subject tenancy*), means—

- (a) subject to paragraph (b), the tenancy out of which the subject tenancy is created; or
 - (b) if the subject tenancy is created out of a series of tenancies—any of those tenancies.
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Part 3

Grace-period Registration of Flats

Division 1—Registration of Flats for Permitting Letting of Certain Pre-existing Subdivided Units during Grace Period

- 9. Secretary may register flats in which subdivided units were let for habitation during specified period**
- (1) If, in a flat, there is a subdivided unit that was the subject of a domestic tenancy at any time during the period of 3 months ending on the gazettal date, then subsection (2) applies to the flat.
 - (2) The Secretary may, on application, register the flat for the purposes of this Ordinance.
 - (3) Unless a grace-period registration is cancelled under section 14(1), the registration is in force until the expiry of the period of 36 months beginning immediately after the grace-period (registration) application period expires.
 - (4) The Secretary may, by notice published in the Gazette, extend the grace period.
 - (5) A notice under subsection (4) may only be published before the commencement of the last 6 months of the grace period that the notice seeks to extend.

Division 2—Application for Grace-period Registration

- 10. Application for grace-period registration**
- (1) A grace-period (registration) application must—
 - (a) be made by the owner of the flat concerned or by a person with the written consent of the owner;

- (b) be made in the specified form and way;
 - (c) be accompanied by the prescribed fee; and
 - (d) be made within the period of 12 months beginning on 1 March 2026.
- (2) The Secretary may, by notice published in the Gazette, extend the grace-period (registration) application period.
- (3) A notice under subsection (2) may only be published before the expiry of the grace-period (registration) application period that the notice seeks to extend.

11. Determining application

- (1) In determining a grace-period (registration) application, the Secretary may take any matters that the Secretary considers relevant into account, including—
- (a) any document or information provided in the application;
 - (b) any document or information provided for compliance with a requirement imposed under section 36(2) for the application; and
 - (c) the findings of any inspection carried out under section 38(2) for the application.
- (2) The Secretary may refuse the grace-period (registration) application if—
- (a) the application does not comply with section 10(1);
 - (b) a requirement imposed under section 36(2) for the application is not complied with;
 - (c) an authorized officer's request for entry to and inspection of the flat concerned under section 38(2) for the application is refused; or
 - (d) the Secretary is satisfied that—

- (i) any document or information provided in or in connection with the application is false or misleading in a material particular;
- (ii) there is an imminent danger or risk to life or property in the flat or the common parts of its principal building; or
- (iii) the flat should not be registered under section 9(2) for any other reason.

12. Application approved

- (1) If the Secretary approves a grace-period (registration) application, the Secretary must give written notice of the grace-period registration (*registration notice*) to the applicant.
- (2) The Secretary must specify in the registration notice the date on which the grace-period registration is made under section 9(2).

13. Application refused

- (1) If the Secretary refuses a grace-period (registration) application, the Secretary must give written notice of the refusal (*refusal notice*) to the applicant.
- (2) The Secretary must specify in the refusal notice the reason for refusing the grace-period (registration) application.

Division 3—Cancellation of Grace-period Registration

14. Secretary may cancel grace-period registration

- (1) The Secretary may, by written notice (*cancellation notice*), cancel a flat's grace-period registration so that it ceases to be in force on a certain date (*cancellation date*) if—

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- (a) a requirement imposed under section 36(2) for determining whether or not to cancel the registration has not been complied with;
 - (b) an authorized officer's request for entry to and inspection of the flat under section 38(2) for determining whether or not to cancel the registration is refused; or
 - (c) the Secretary is satisfied that—
 - (i) there is an imminent danger or risk to life or property in the flat or the common parts of its principal building; or
 - (ii) the registration should be cancelled for any other reason.
- (2) If, when a cancellation notice is issued, a domestic tenancy for a subdivided unit in the flat (*affected tenancy*) is subsisting, the Secretary may, by that notice, direct the termination of the tenancy on the cancellation date so that the tenancy ceases to be in force for all purposes on that date.
- (3) If the Secretary issues a cancellation notice, the Secretary must—
- (a) specify in the notice—
 - (i) the reason for the cancellation;
 - (ii) the cancellation date; and
 - (iii) if the termination of an affected tenancy is directed by the notice under subsection (2)—the direction;
 - (b) serve the notice on—
 - (i) each operator of the subdivided units in the flat of whom the Secretary is aware; and

- (ii) if the owner of the flat does not fall within subparagraph (i)—the owner; and
 - (c) post the notice on the main door or entrance to the flat or to each of the subdivided units in the flat.
- (4) Unless the cancellation notice is issued on the ground mentioned in subsection (1)(c)(i), the cancellation date must not fall within the period of 30 days beginning immediately after the date of the cancellation notice.
- (5) If the termination of an affected tenancy is directed under subsection (2), the tenant under the tenancy may, in accordance with Part 7, recover as a civil debt compensation from the operator of the subdivided unit concerned for the termination of the tenancy.

Division 4—Supplementary Provisions

15. Notification of certain changes

- (1) This section applies if any of the following changes occurs—
 - (a) a responsible person for a registered flat ceases to be such a person;
 - (b) a person (*new responsible person*) becomes a responsible person for a registered flat;
 - (c) there is a change in the particulars of a responsible person for a registered flat provided in the relevant grace-period (registration) application, or provided under this section.
- (2) Subject to subsection (3), a person must notify the Secretary in the specified form and way, or cause the Secretary to be so notified, of the notifiable change within 15 days after the date on which the person becomes aware of the change if—

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- (a) for a notifiable change mentioned in subsection (1)(a) or (c)—the person is a responsible person of a subdivided unit in the registered flat immediately before the change occurs (*pre-existing responsible person*); or
 - (b) for a notifiable change mentioned in subsection (1)(b)—the person is a pre-existing responsible person or the new responsible person.
- (3) A person who is subject to a requirement under subsection (2) in respect of a notifiable change (*subject person*) is, for the purposes of subsection (4), to be regarded as having complied with the requirement in respect of the change if—
- (a) for a notifiable change mentioned in subsection (1)(a) or (c)—another person who is also a responsible person of the subdivided unit immediately before the change occurs (*another pre-existing responsible person*) complies with the requirement in respect of the change; or
 - (b) for a notifiable change mentioned in subsection (1)(b)—
 - (i) if the subject person is the new responsible person—a pre-existing responsible person complies with the requirement in respect of the change; or
 - (ii) otherwise—another pre-existing responsible person or the new responsible person complies with the requirement in respect of the change.

(4) If a person, without reasonable excuse, fails to comply with a requirement under subsection (2), the person commits an offence and is liable on conviction to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for every day during which the offence continues.

(5) In this section—

notifiable change (須呈報變更) means a change mentioned in subsection (1);

responsible person (負責人), in relation to a registered flat, means—

- (a) an operator of a subdivided unit in the flat; or
 - (b) an owner of the flat.
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Part 4

Basic-housing-unit Recognition of Subdivided Units

Division 1—Recognition of Subdivided Units as Basic Housing Units for Permitting Letting

- 16. Secretary may recognize subdivided units as basic housing units**
- (1) The Secretary may, on application, recognize a subdivided unit for the purposes of this Ordinance.
 - (2) Unless a recognition given under subsection (1) is renewed under subsection (3) or is cancelled under section 25(1), and subject to section 26, the recognition is in force for a period of 60 months beginning on its recognition date.
 - (3) The Secretary may, on application, renew a recognition given under subsection (1), or further renew a recognition renewed under this subsection.
 - (4) Unless a recognition renewed under subsection (3) is further renewed under that subsection or is cancelled under section 25(1), and subject to section 26, the recognition is in force for a period of 60 months beginning on its renewal date.

Division 2—Application for Basic-housing-unit Recognition

- 17. Application for basic-housing-unit recognition**
- (1) A basic-housing-unit (recognition) application must—
 - (a) be made by the owner of the principal flat of the subdivided unit concerned or by a person with the written consent of the owner;
 - (b) be made in the specified form and way; and

- (c) be accompanied by—
 - (i) the prescribed fee; and
 - (ii) a report in which a specified professional certifies that in his or her opinion—
 - (A) the subdivided unit meets the minimum standards of living conditions; and
 - (B) if there is any liability arising from any specified statutory order, notice or direction that relates to the subdivided unit or its principal flat—the liability has been discharged.
- (2) For the purposes of subsection (1), the requirement under paragraph (c)(ii) of that subsection is not met unless the report mentioned in that paragraph is prepared based on an on-site inspection of the principal flat (including the subdivided unit) that is conducted or arranged by the specified professional.

18. Determining application

- (1) In determining a basic-housing-unit (recognition) application (including the question of whether the subdivided unit meets the minimum standards of living conditions), the Secretary may take any matters that the Secretary considers relevant into account, including—
 - (a) any document (including the report mentioned in section 17(1)(c)(ii)) or information provided in the application;
 - (b) any document or information provided for compliance with a requirement imposed under section 36(2) for the application;

- (c) the findings of any inspection carried out under section 38(2) for the application; and
 - (d) any code of practice.
- (2) The Secretary may refuse the basic-housing-unit (recognition) application if—
- (a) the application does not comply with section 17(1);
 - (b) a requirement imposed under section 36(2) for the application is not complied with;
 - (c) an authorized officer's request for entry to and inspection of the principal flat of the subdivided unit under section 38(2) for the application is refused;
 - (d) a liability arising from any specified statutory order, notice or direction that relates to the subdivided unit or principal flat has not been discharged; or
 - (e) the Secretary is satisfied that—
 - (i) any document or information provided in or in connection with the application is false or misleading in a material particular;
 - (ii) the subdivided unit does not meet the minimum standards of living conditions;
 - (iii) there is an imminent danger or risk to life or property in the subdivided unit, its principal flat or the common parts of its principal building; or
 - (iv) the subdivided unit should not be recognized under section 16(1) for any other reason.

19. Application approved

- (1) If the Secretary approves a basic-housing-unit (recognition) application, the Secretary must give written notice of the basic-housing-unit recognition (*recognition notice*) to the applicant.
- (2) The Secretary must specify in the recognition notice the date on which the basic-housing-unit recognition is given under section 16(1).

20. Application refused

- (1) If the Secretary refuses a basic-housing-unit (recognition) application, the Secretary must give written notice of the refusal (*refusal notice*) to the applicant.
- (2) The Secretary must specify in the refusal notice the reason for refusing the basic-housing-unit (recognition) application.

Division 3—Application for Renewal of Basic-housing-unit Recognition**21. Application for renewal of basic-housing-unit recognition**

- (1) A basic-housing-unit (renewal) application must—
 - (a) be made by the owner of the principal flat of the basic housing unit or by a person with the written consent of the owner;
 - (b) be made in the specified form and way;
 - (c) be accompanied by—
 - (i) the prescribed fee; and
 - (ii) a report in which a specified professional certifies that in his or her opinion—

- (A) the basic housing unit still meets the minimum standards of living conditions; and
 - (B) if there is any liability arising from any specified statutory order, notice or direction that relates to the basic housing unit or its principal flat—the liability has been discharged; and
- (d) be made no earlier than 6 months before the date on which the basic-housing-unit recognition sought to be renewed ceases to be in force (*expiry date*) and no later than 3 months before that date.
- (2) For the purposes of subsection (1), the requirement under paragraph (c)(ii) of that subsection is not met unless the report mentioned in that paragraph is prepared based on an on-site inspection of the principal flat (including the basic housing unit) that is conducted or arranged by the specified professional.
- (3) Subsection (1)(d) does not apply to a basic-housing-unit (renewal) application made within 3 months before the expiry date if the Secretary considers that there is a good reason for it not to apply.

22. Determining application

- (1) In determining a basic-housing-unit (renewal) application (including the question of whether the basic housing unit still meets the minimum standards of living conditions), the Secretary may take any matters that the Secretary considers relevant into account, including—
- (a) any document (including the report mentioned in section 21(1)(c)(ii)) or information provided in the application;

- (b) any document or information provided for compliance with a requirement imposed under section 36(2) for the application;
 - (c) the findings of any inspection carried out under section 38(2) for the application; and
 - (d) any code of practice.
- (2) The Secretary may refuse the basic-housing-unit (renewal) application if—
- (a) the application does not comply with section 21(1);
 - (b) a requirement imposed under section 36(2) for the application is not complied with;
 - (c) an authorized officer's request for entry to and inspection of the principal flat of the basic housing unit under section 38(2) for the application is refused;
 - (d) a liability arising from any specified statutory order, notice or direction that relates to the basic housing unit or principal flat has not been discharged; or
 - (e) the Secretary is satisfied that—
 - (i) any document or information provided in or in connection with the application is false or misleading in a material particular;
 - (ii) the basic housing unit does not meet the minimum standards of living conditions;
 - (iii) there is an imminent danger or risk to life or property in the basic housing unit, its principal flat or the common parts of its principal building; or
 - (iv) the basic-housing-unit recognition should not be renewed under section 16(3) for any other reason.

23. Application approved

- (1) If the Secretary approves a basic-housing-unit (renewal) application, the Secretary must give written notice of the renewal of the basic-housing-unit recognition concerned (*renewal notice*) to the applicant.
- (2) The Secretary must specify in the renewal notice the date on which the basic-housing-unit recognition is renewed under section 16(3).

24. Application refused

- (1) This section applies if the Secretary refuses a basic-housing-unit (renewal) application.
- (2) If, when the basic-housing-unit (renewal) application is refused, a domestic tenancy for the basic housing unit (*affected tenancy*) is subsisting, the Secretary may, in addition to refusing the application, direct the termination of the tenancy on a certain date (*termination date*) so that the tenancy ceases to be in force for all purposes on that date.
- (3) The Secretary must—
 - (a) give written notice of the refusal of the basic-housing-unit (renewal) application (*refusal notice*) to—
 - (i) the applicant;
 - (ii) each operator of the basic housing unit who is not an applicant and of whom the Secretary is aware; and
 - (iii) if the owner of the principal flat of the basic housing unit falls within neither subparagraph (i) nor (ii)—the owner; and

- (b) post the notice on the main door or entrance to the basic housing unit or to its principal flat.
- (4) The Secretary must specify in the refusal notice—
 - (a) the reason for refusing the basic-housing-unit (renewal) application; and
 - (b) if the termination of an affected tenancy is directed under subsection (2) in addition to the refusal of the application—the direction.
- (5) Unless the basic-housing-unit (renewal) application is refused on the ground mentioned in section 22(2)(e)(iii), the termination date must not fall within the period of 30 days beginning immediately after the date of the refusal notice.
- (6) If the termination of an affected tenancy is directed under subsection (2), the tenant under the tenancy may, in accordance with Part 7, recover as a civil debt compensation from the operator of the basic housing unit for the termination of the tenancy.

Division 4—Cancellation of Basic-housing-unit Recognition

25. Secretary may cancel basic-housing-unit recognition

- (1) The Secretary may, by written notice (*cancellation notice*), cancel a basic-housing-unit recognition so that it ceases to be in force on a certain date (*cancellation date*) if—
 - (a) the Secretary is satisfied that the basic housing unit no longer meets the minimum standards of living conditions;
 - (b) a requirement imposed under section 36(2) for determining whether or not to cancel the recognition has not been complied with;

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- (c) a requirement imposed under section 37(2) for ascertaining whether the basic housing unit actually still meets the minimum standards of living conditions has not been complied with;
 - (d) an authorized officer's request for entry to and inspection of the principal flat of the basic housing unit under section 38(2) for determining whether or not to cancel the recognition is refused;
 - (e) a rectification notice issued under section 40(1) in respect of the basic housing unit has not been complied with; or
 - (f) the Secretary is satisfied that—
 - (i) there is an imminent danger or risk to life or property in the basic housing unit, its principal flat or the common parts of its principal building; or
 - (ii) the recognition should be cancelled for any other reason.
- (2) In determining whether to cancel a basic-housing-unit recognition, the Secretary may take any matters that the Secretary considers relevant into account, including—
- (a) any document or information provided for compliance with a requirement imposed under section 36(2) for the determination;
 - (b) the findings of any inspection carried out under section 38(2) for the determination; and
 - (c) any code of practice.
- (3) If, when a cancellation notice is issued, a domestic tenancy for the basic housing unit (*affected tenancy*) is subsisting, the Secretary may, by that notice, direct the termination

of the tenancy on the cancellation date so that the tenancy ceases to be in force for all purposes on that date.

- (4) If the Secretary issues a cancellation notice, the Secretary must—
 - (a) specify in the notice—
 - (i) the reason for the cancellation;
 - (ii) the cancellation date; and
 - (iii) if the termination of an affected tenancy is directed by the notice under subsection (3)—the direction;
 - (b) serve the notice on—
 - (i) each operator of the basic housing unit of whom the Secretary is aware; and
 - (ii) if the owner of the principal flat does not fall within subparagraph (i)—the owner; and
 - (c) post the notice on the main door or entrance to the basic housing unit or to the principal flat.
- (5) Unless the cancellation notice is issued on the ground mentioned in subsection (1)(f)(i), the cancellation date must not fall within the period of 30 days beginning immediately after the date of the cancellation notice.
- (6) If the termination of an affected tenancy is directed under subsection (3), the tenant under the tenancy may, in accordance with Part 7, recover as a civil debt compensation from the operator of the basic housing unit for the termination of the tenancy.

Division 5—Supplementary Provisions**26. Implications of pending applications and appeals on existing basic-housing-unit recognitions as at expiry of their validity periods**

- (1) Despite the expiry of the validity period of a basic-housing-unit recognition—
 - (a) if a basic-housing-unit (renewal) application made in respect of the recognition is pending immediately before the expiry of the validity period; or
 - (b) if—
 - (i) a basic-housing-unit (renewal) application made in respect of the recognition has been refused; and
 - (ii) the period within which a notice of appeal may be lodged under section 53(2) against the decision of refusal runs past the expiry of the validity period,the recognition remains in force until the application is settled.
- (2) Despite the expiry of the validity period of a basic-housing-unit recognition, if—
 - (a) a basic-housing-unit (renewal) application made in respect of the recognition has been refused; and
 - (b) an appeal lodged under section 53 against the decision of refusal is pending immediately before the expiry of the validity period,the recognition remains in force until the appeal board's decision on the appeal takes effect.

- (3) If—
- (a) a basic-housing-unit (renewal) application to which this section applies is refused; and
 - (b) the Secretary, in addition to refusing the application, directs under section 24(2) the termination of a tenancy on a certain date,
- then despite that section, that direction is not to take effect as long as the basic-housing-unit recognition concerned remains in force under this section.

27. Notification of certain changes

- (1) This section applies if any of the following changes occurs—
- (a) a responsible person for a basic housing unit ceases to be such a person;
 - (b) a person (*new responsible person*) becomes a responsible person for a basic housing unit;
 - (c) there is a change in the particulars of a responsible person for a basic housing unit provided in the relevant basic-housing-unit (recognition) application or basic-housing-unit (renewal) application, or provided under this section;
 - (d) there is a change in the condition of a basic housing unit or its principal flat that might make the basic housing unit no longer meet the minimum standards of living conditions.
- (2) Subject to subsection (3), a person must notify the Secretary in the specified form and way, or cause the Secretary to be so notified, of a notifiable change within 15 days after the date on which the person becomes aware of the change if—

- (a) for a notifiable change mentioned in subsection (1)(a), (c) or (d)—the person is a responsible person of a basic housing unit immediately before the change occurs (*pre-existing responsible person*); or
 - (b) for a notifiable change mentioned in subsection (1)(b)—the person is a pre-existing responsible person or the new responsible person.
- (3) A person who is subject to a requirement under subsection (2) in respect of a notifiable change (*subject person*) is, for the purposes of subsection (4), to be regarded as having complied with the requirement in respect of the change if—
- (a) for a notifiable change mentioned in subsection (1)(a), (c) or (d)—another person who is also a responsible person of the basic housing unit immediately before the change occurs (*another pre-existing responsible person*) complies with the requirement in respect of the change; or
 - (b) for a notifiable change mentioned in subsection (1)(b)—
 - (i) if the subject person is the new responsible person—a pre-existing responsible person complies with the requirement in respect of the change; or
 - (ii) otherwise—another pre-existing responsible person or the new responsible person complies with the requirement in respect of the change.

(4) If a person, without reasonable excuse, fails to comply with a requirement under subsection (2), the person commits an offence and is liable on conviction to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for every day during which the offence continues.

(5) In this section—

notifiable change (須呈報變更) means a change mentioned in subsection (1);

responsible person (負責人), in relation to a basic housing unit, means—

- (a) an operator of the basic housing unit; or
 - (b) an owner of the principal flat of the basic housing unit.
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Part 5

Transitional Arrangements relating to Grace-period (Registration) Applications and Basic-housing-unit (Recognition) Applications

Division 1—Grace-period (Registration) Application Period

- 28. Pending applications for grace-period registration etc. as at expiry of grace-period (registration) application period**
- (1) If a grace-period (registration) application for a flat is pending immediately before the expiry of the grace-period (registration) application period, a grace-period registration is, for the purposes of section 8(1)(a), to be regarded as being in force for the flat from the expiry of the grace-period (registration) application period until the application is settled.
 - (2) If—
 - (a) a grace-period (registration) application for a flat has been refused; and
 - (b) the period within which a notice of appeal may be lodged under section 53(2) against the decision of refusal runs past the expiry of the grace-period (registration) application period,a grace-period registration is, for the purposes of section 8(1)(a), to be regarded as being in force for the flat from the expiry of the grace-period (registration) application period until the application is settled.
 - (3) If—
 - (a) a grace-period (registration) application for a flat has been refused; and

- (b) an appeal lodged under section 53 against the decision of refusal is pending immediately before the expiry of the grace-period (registration) application period,

a grace-period registration is, for the purposes of section 8(1)(a), to be regarded as being in force for the flat from the expiry of the grace-period (registration) application period until the appeal board's decision on the appeal takes effect.

29. Pending applications for basic-housing-unit recognition etc. as at expiry of grace-period (registration) application period

- (1) If, immediately before the expiry of the grace-period (registration) application period—

- (a) a basic-housing-unit (recognition) application for a subdivided unit is pending; and
- (b) no grace-period registration is in force for the principal flat of the subdivided unit,

a basic-housing-unit recognition is, for the purposes of section 8(1)(b), to be regarded as being in force for the subdivided unit from the expiry of the grace-period (registration) application period until the application is settled.

- (2) If—

- (a) a basic-housing-unit (recognition) application for a subdivided unit has been refused; and
- (b) the period within which a notice of appeal may be lodged under section 53(2) against the decision of refusal runs past the expiry of the grace-period (registration) application period,

a basic-housing-unit recognition is, for the purposes of section 8(1)(b), to be regarded as being in force for the subdivided unit from the expiry of the grace-period (registration) application period until the application is settled.

(3) If—

- (a) a basic-housing-unit (recognition) application for a subdivided unit has been refused; and
- (b) an appeal lodged under section 53 against the decision of refusal is pending immediately before the expiry of the grace-period (registration) application period,

a basic-housing-unit recognition is, for the purposes of section 8(1)(b), to be regarded as being in force for the subdivided unit from the expiry of the grace-period (registration) application period until the appeal board's decision on the appeal takes effect.

Division 2—Countdown Period

30. Interpretation

In this Division—

countdown period (倒數期) means the last 6 months of the grace period.

31. Termination of domestic tenancies for not-yet-recognized subdivided units in registered flats when countdown period begins

- (1) Subject to subsections (5) and (6), subsections (3) and (4) apply if—

- (a) the term of a domestic tenancy for a subdivided unit (not being an exempted second term tenancy) (*original tenancy*) begins after the gazettal date, but before the countdown period begins;
 - (b) immediately before the countdown period begins—
 - (i) a grace-period registration is in force for the principal flat of the subdivided unit; and
 - (ii) no basic-housing-unit recognition is in force for the subdivided unit; and
 - (c) but for the operation of this subsection and subsection (3), the original tenancy, or another domestic tenancy for the subdivided unit (not being an exempted second term tenancy) (*new tenancy*), would be subsisting when the countdown period begins.
- (2) For the purposes of subsection (1), a second term tenancy of a regulated cycle is an exempted second term tenancy if the term of the first term tenancy of the regulated cycle begins on or before the gazettal date.
 - (3) The original tenancy or new tenancy (as the case requires) is automatically terminated when the countdown period begins so that it ceases to be in force for all purposes at that time.
 - (4) The tenant under a tenancy terminated under subsection (3) may, in accordance with Part 7, recover as a civil debt compensation from the operator of the subdivided unit for the termination of the tenancy.
 - (5) Subsections (3) and (4) do not apply if a basic-housing-unit (recognition) application for the subdivided unit concerned is pending immediately before the countdown period begins.

- (6) Subsections (3) and (4) also do not apply if—
- (a) a basic-housing-unit (recognition) application for the subdivided unit has been refused; and
 - (b) immediately before the countdown period begins—
 - (i) the period within which a notice of appeal may be lodged under section 53(2) against the decision of refusal has not expired; or
 - (ii) an appeal lodged against the decision of refusal under section 53 is pending.

(7) In this section—

first term tenancy (首期租賃) has the meaning given by section 120AA(1) of Cap. 7;

regulated cycle (規管周期) has the meaning given by section 120AA(1) of Cap. 7;

second term tenancy (次期租賃) has the meaning given by section 120AA(1) of Cap. 7.

32. **Supplementary provisions for section 31: direction of termination by Secretary**

- (1) This section applies if—
- (a) the basic-housing-unit (recognition) application mentioned in section 31(5) is subsequently refused; or
 - (b) the refusal of the basic-housing-unit (recognition) application mentioned in section 31(6)(a) occurs within the period of 30 days ending immediately before the countdown period.
- (2) If, at the time of the refusal of the basic-housing-unit (recognition) application, a domestic tenancy for the subdivided unit concerned (*affected tenancy*) is subsisting,

the Secretary may, in addition to refusing the application, direct the termination of the tenancy on a certain date (*termination date*) so that the tenancy ceases to be in force for all purposes on that date.

- (3) If the termination of a tenancy is directed under subsection (2), the Secretary must specify in the refusal notice (within the meaning of section 20(1)) the direction and the termination date.
- (4) Unless the basic-housing-unit (recognition) application is refused on the ground mentioned in section 18(2)(e)(iii), the termination date must not fall within the period of 30 days beginning immediately after the date of the refusal notice.
- (5) If the termination of a tenancy is directed under subsection (2), the tenant under the tenancy may, in accordance with Part 7, recover as a civil debt compensation from the operator of the subdivided unit for the termination of the tenancy.

33. Supplementary provisions for section 31: direction of termination by appeal board

- (1) This section applies to the appeal mentioned in section 31(6)(b)(ii).
- (2) If—
 - (a) the appeal board confirms the decision appealed against; and

- (b) at the time of the confirmation of the decision, a domestic tenancy for the subdivided unit (*affected tenancy*) is subsisting,

the board may, in addition to confirming the decision, direct the termination of the tenancy on a certain date (*termination date*) so that it ceases to be in force for all purposes on that date.

- (3) If the termination of a tenancy is directed under subsection (2), the appeal board must—
- (a) specify in the decision on the appeal the direction and the termination date; and
- (b) post a copy of the decision on the main door or entrance to the subdivided unit or to its principal flat.
- (4) Unless the appeal board is satisfied that there is an imminent danger or risk to life or property in the subdivided unit, its principal flat or the common parts of its principal building, the termination date must not fall within the period of 30 days beginning immediately after the date of the decision on the appeal.
- (5) If the termination of a tenancy is directed under subsection (2), the tenant under the tenancy may, in accordance with Part 7, recover as a civil debt compensation from the operator of the subdivided unit for the termination of the tenancy.

34. Supplementary provisions for section 31: basic-housing-unit (recognition) applications still not settled as at expiry of countdown period

- (1) If, immediately before the expiry of the countdown period—

- (a) the basic-housing-unit (recognition) application mentioned in section 31(5) is still pending; and
 - (b) a grace-period registration is still in force for the principal flat of the subdivided unit concerned,
then despite section 9(3), the registration is, for the purposes of section 8(1)(a), to continue to be in force until the application is settled.
- (2) If—
- (a) the basic-housing-unit (recognition) application mentioned in section 31(5) is subsequently refused;
 - (b) the period within which a notice of appeal may be lodged under section 53(2) against the decision of refusal runs past the expiry of the countdown period; and
 - (c) a grace-period registration is still in force for the principal flat of the subdivided unit concerned immediately before the expiry of the countdown period,
then despite section 9(3), the registration is, for the purposes of section 8(1)(a), to continue to be in force until the application is settled.
- (3) If—
- (a) the basic-housing-unit (recognition) application mentioned in section 31(5) is subsequently refused; and
 - (b) immediately before the expiry of the countdown period—
 - (i) an appeal lodged under section 53 against the decision of refusal is still pending; and

- (ii) a grace-period registration is still in force for the principal flat of the subdivided unit concerned, then despite section 9(3), the registration is, for the purposes of section 8(1)(a), to continue to be in force until the appeal board's decision on the appeal takes effect.
- (4) If, immediately before the expiry of the countdown period—
 - (a) an appeal lodged under section 53 against the decision to refuse the basic-housing-unit (recognition) application mentioned in section 31(6)(a) is still pending; and
 - (b) a grace-period registration is still in force for the principal flat of the subdivided unit concerned, then despite section 9(3), the registration is, for the purposes of section 8(1)(a), to continue to be in force until the appeal board's decision on the appeal takes effect.

35. Offence of letting subdivided units in registered flats during countdown period

- (1) A person commits an offence if—
 - (a) the person lets a subdivided unit in a registered flat under a domestic tenancy;
 - (b) the term of the tenancy begins during the countdown period; and
 - (c) no basic-housing-unit recognition is in force for the subdivided unit when the term begins.
- (2) A person who commits an offence under subsection (1) is liable—

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- (a) on summary conviction—to a fine at level 6 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
 - (b) on conviction on indictment—to a fine of \$300,000 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.
- (3) It is a defence for a person charged with an offence under subsection (1) to establish that—
- (a) the person would not have let the subdivided unit as described in subsection (1)(a) and (b) but for the operation of section 31(5) or (6); or
 - (b) the tenancy was not originally for habitation, and—
 - (i) the person did not know and had no reason to suspect that the subdivided unit was used for habitation; or
 - (ii) the person could not with reasonable diligence have prevented the subdivided unit from being used for habitation.
- (4) A person is taken to have established a matter that needs to be established for a defence under subsection (3) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
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Part 6

Ancillary or Incidental Powers

36. Requiring documents etc.

- (1) This section applies if the Secretary is performing any of the following functions—
 - (a) determining a specified application;
 - (b) determining whether to cancel a grace-period registration under section 14(1);
 - (c) determining whether to cancel a basic-housing-unit recognition under section 25(1);
 - (d) determining whether to issue a rectification notice under section 40(1);
 - (e) determining whether to issue a termination notice under section 41(1);
 - (f) ascertaining whether this Ordinance has been or is being complied with in respect of a subdivided unit.
- (2) The Secretary may, by written notice, require a specified person to provide, within the time and in the way specified in the notice, any document or information that the Secretary reasonably considers necessary for performing the function.
- (3) In this section—

specified person (指明人士)—

 - (a) in relation to a function performed in respect of a subdivided unit—means a person who is or was—
 - (i) an operator of the subdivided unit;
 - (ii) an owner of the principal flat of the subdivided unit;

- (iii) an occupier of the principal flat or any of the subdivided units in it;
 - (iv) an applicant of a specified application for the subdivided unit or principal flat; or
 - (v) a specified professional who has certified a report mentioned in section 17(1)(c)(ii), 21(1)(c)(ii) or 37(2) for the subdivided unit; or
- (b) in relation to a function performed in respect of a flat—means a person who is or was—
- (i) an operator of any of the subdivided units in the flat;
 - (ii) an owner of the flat;
 - (iii) an occupier of the flat or any of the subdivided units in the flat;
 - (iv) an applicant of a specified application for the flat or any of the subdivided units in the flat; or
 - (v) a specified professional who has certified a report mentioned in section 17(1)(c)(ii), 21(1)(c)(ii) or 37(2) for any of the subdivided units in the flat.

37. Requiring reports on being notified of changes in conditions of basic housing units

- (1) This section applies if a person, under section 27, notifies the Secretary of a change in the condition of a basic housing unit described in section 27(1)(d).
- (2) The Secretary may, by written notice, require an operator of the basic housing unit to submit, within the time and in the way specified in the notice, a report in which a specified professional certifies that, in his or her opinion,

the basic housing unit actually still meets the minimum standards of living conditions despite the change.

- (3) In determining whether to issue a notice under subsection (2), the Secretary may take any matters that the Secretary considers relevant into account, including any code of practice.
- (4) A requirement imposed under subsection (2) is not complied with unless the report concerned is prepared based on an on-site inspection of the principal flat of the basic housing unit (including the basic housing unit) that is conducted or arranged by the specified professional.

38. Entering premises with consent

- (1) This section applies if the Secretary is performing any of the following functions—
 - (a) determining a specified application;
 - (b) determining whether to cancel a grace-period registration under section 14(1);
 - (c) determining whether to cancel a basic-housing-unit recognition under section 25(1);
 - (d) determining whether to issue a rectification notice under section 40(1);
 - (e) determining whether to issue a termination notice under section 41(1);
 - (f) ascertaining whether this Ordinance has been or is being complied with in respect of a subdivided unit.
- (2) For assisting the Secretary to perform the function, an authorized officer may, with the consent of an occupier of the subject flat, exercise any of the following powers—
 - (a) enter and inspect any part of the subject flat;

- (b) take any measurements and other particulars of the subject flat that the officer has reasonable grounds to believe to be relevant to the Secretary's performance of the function;
 - (c) take any photograph, or make any recording, of anything in the subject flat that the officer has reasonable grounds to believe to be relevant to the Secretary's performance of the function;
 - (d) require any person who is present in the subject flat to provide to the officer any document or information that the officer has reasonable grounds to believe to be relevant to the Secretary's performance of the function;
 - (e) remove for further examination any document that the officer has reasonable grounds to believe to be relevant to the Secretary's performance of the function;
 - (f) do anything that is reasonably necessary—
 - (i) for the inspection under paragraph (a); or
 - (ii) for the inspection or testing of any equipment or works used or intended to be used for or in connection with the letting of the subject subdivided unit.
- (3) In this section—

subject flat (標的樓宇單位)—

- (a) in relation to a function performed in respect of a subdivided unit—means the principal flat of the subdivided unit; or
- (b) in relation to a function performed in respect of a flat—means the flat;

subject subdivided unit (標的分間單位)—

- (a) in relation to a function performed in respect of a subdivided unit—means the subdivided unit; or
- (b) in relation to a function performed in respect of a flat—means each of the subdivided units in the flat.

39. Warrant to enter and search premises

- (1) A magistrate may issue a warrant authorizing an authorized officer to enter and search any premises if the magistrate is satisfied by information on oath that—
 - (a) unless paragraph (b) applies—there are reasonable grounds to believe that there is or may be on the premises anything that is or contains evidence of an offence under this Ordinance; or
 - (b) if the officer may enter and inspect the premises under section 38—
 - (i) the officer's request for such an entry and inspection has been refused; and
 - (ii) there are reasonable grounds to believe that there is or may be on the premises anything that is or contains evidence of an offence under this Ordinance.
- (2) A warrant issued under this section must specify—
 - (a) the premises covered by the warrant;
 - (b) the purpose of the entry and search;
 - (c) the name and capacity of the person authorized under the warrant to enter and search the premises; and
 - (d) the date of issue of the warrant.
- (3) A warrant issued under this section continues to be in force until the earlier of the following—

- (a) the expiry of 1 month after the date of its issue; or
 - (b) the purpose of the entry and search as specified in it has been satisfied,
- unless otherwise specified in the warrant.
- (4) An authorized officer authorized by a warrant issued under this section to enter and search any premises may—
- (a) enter the premises at the time specified in the warrant or, if no time is so specified, at any time; and
 - (b) use any force that is reasonable in the circumstances for gaining entry into the premises.
- (5) For searching the premises, the authorized officer may exercise any of the following powers—
- (a) stop and require any person found on the premises whom the officer has reasonable grounds to believe has committed or is committing an offence under this Ordinance—
 - (i) to state the person's name, correspondence address and contact telephone number; and
 - (ii) to produce for the officer's inspection the person's proof of identity as defined by section 17B(1) of the Immigration Ordinance (Cap. 115);
 - (b) search for or require the provision of, and examine, any document relating to the premises;
 - (c) search for or require the provision of, and examine, any other document, or any information, that the officer has reasonable grounds to believe to be or to contain evidence of an offence under this Ordinance;
 - (d) take and make copies of any document or information mentioned in paragraph (b) or (c);

- (e) seize, remove and detain anything that the officer has reasonable grounds to believe to be or to contain evidence of an offence under this Ordinance;
 - (f) take any measurements and other particulars of the premises that the officer has reasonable grounds to believe may be used as evidence of an offence under this Ordinance;
 - (g) take any photograph, or make any recording, of anything on the premises that the officer has reasonable grounds to believe to be or to contain evidence of an offence under this Ordinance;
 - (h) require any person who is present on the premises to provide, without cost, facilities and assistance that the officer reasonably requires for exercising a power of the officer under this section.
- (6) The authorized officer may be accompanied and assisted by any person the officer considers necessary for assisting the officer in entering or searching the premises.
- (7) On leaving any unoccupied premises entered under this section, the authorized officer must leave the premises as effectually secured against trespass by any person as the premises were found at the time of entry.
- (8) In this section—
premises (處所) includes part of any premises.

40. Rectification notices

- (1) If the Secretary is satisfied that a basic housing unit does not meet the minimum standards of living conditions, the Secretary may, by written notice (*rectification notice*), require an operator of the basic housing unit to rectify the non-compliance within the period specified in the notice.

- (2) In determining whether to issue a rectification notice, the Secretary may take any matters that the Secretary considers relevant into account, including—
 - (a) any document or information provided for compliance with a requirement imposed under section 36(2) for the determination;
 - (b) the findings of any inspection carried out under section 38(2) for the determination; and
 - (c) any code of practice.
- (3) If the Secretary is satisfied that a rectification notice has been complied with, the Secretary must notify the operator in writing of this fact.

41. Termination notices

- (1) The Secretary may, by written notice (*termination notice*), direct the termination of a domestic tenancy for a subdivided unit on a certain date (*termination date*) so that the tenancy ceases to be in force for all purposes on that date if the Secretary is satisfied that the subdivided unit is let in circumstances that constitute an offence under section 8(1) or 35(1).
- (2) In determining whether to issue a termination notice, the Secretary may take any matters that the Secretary considers relevant into account, including—
 - (a) any document or information provided for compliance with a requirement imposed under section 36(2) for the determination; and
 - (b) the findings of any inspection carried out under section 38(2) for the determination.
- (3) If the Secretary issues a termination notice, the Secretary must—

- (a) specify in the notice—
 - (i) the reason for the termination; and
 - (ii) the termination date;
 - (b) serve the notice on—
 - (i) each operator of the subdivided unit of whom the Secretary is aware; and
 - (ii) if the owner of the principal flat of the subdivided unit does not fall within subparagraph (i)—the owner; and
 - (c) post the notice on the main door or entrance to the subdivided unit or to the principal flat.
- (4) Unless the Secretary is satisfied that there is an imminent danger or risk to life or property in the subdivided unit, its principal flat or the common parts of its principal building, the termination date must not fall within the period of 30 days beginning immediately after the date of the termination notice.
- (5) If the termination of a tenancy is directed under subsection (1), the tenant under the tenancy may, in accordance with Part 7, recover as a civil debt compensation from the operator of the subdivided unit for the termination of the tenancy.

42. Supplementary provisions for termination notices etc.

- (1) When exercising the power under section 14(2), 24(2), 25(3), 32(2), 33(2) or 41(1) (*empowering provision*) to direct the termination of a tenancy for a subdivided unit on a certain date, if it comes to the attention of the Secretary or appeal board (as the case requires) that the term of the tenancy will expire before that date, the Secretary or board may instead direct the termination of any domestic

tenancy for the subdivided unit subsisting on that date (*new tenancy*) so that the new tenancy ceases to be in force for all purposes on that date.

- (2) A direction made under subsection (1) is, for the purposes of this Ordinance, to be regarded as a direction made under the empowering provision.

43. Disclosure of documents or information

- (1) The Secretary may disclose any document or information obtained under this Ordinance to a specified person if the Secretary considers that the disclosure will enable or assist the specified person to perform a function imposed or conferred on the person by—
 - (a) this Ordinance;
 - (b) Part IVA of Cap. 7;
 - (c) the Fire Service (Installations and Equipment) Regulations (Cap. 95 sub. leg. B);
 - (d) Cap. 95F;
 - (e) the Waterworks Regulations (Cap. 102 sub. leg. A);
 - (f) Cap. 123; or
 - (g) Cap. 572.
- (2) Subject to subsection (3), the Secretary may also disclose any document or information obtained under this Ordinance to a Government department for the department to carry out research or prepare statistics, or to use the document or information for other similar purposes, in connection with the performance of any of the department's functions that relate to subdivided units.
- (3) Any document or information that may be disclosed under subsection (2) must not be so disclosed in a form that would enable an individual to be identified.

(4) In this section—

specified person (指明人士) means—

- (a) the Court of First Instance;
 - (b) the District Court;
 - (c) the Lands Tribunal;
 - (d) a magistrate; or
 - (e) a public officer acting in the capacity of a public officer.
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Part 7

Statutory Compensation for Termination of Tenancies

44. Interpretation

In this Part—

statutory compensation (法定賠償) means the compensation mentioned in section 14(5), 24(6), 25(6), 31(4), 32(5), 33(5) or 41(5).

45. Statutory compensation for termination of tenancies

- (1) The amount of statutory compensation that a tenant under a tenancy may recover for the termination of the tenancy is to be equal to the lesser of the following—
- (a) 3 times the monthly rent payable by the tenant under the tenancy immediately before the date on which the termination takes effect;
 - (b) the remaining rent determined in accordance with the following formula—

$$A = B \times C$$

where—

- A means the remaining rent;
- B means the monthly rent that would be payable by the tenant under the tenancy had the tenancy not been terminated;
- C means the number of months covering the period beginning immediately after the termination of the tenancy and ending on the expiry of the original term of the tenancy (*remaining period*).

- (2) If the number of months covering the remaining period is not an integer, it is to be rounded down to the nearest integer.

46. Rights under common law etc. not affected

The payment of statutory compensation for the termination of a tenancy in accordance with this Part does not affect any rights of the tenant under common law rules or equitable principles to make any further claim against the operator of the subdivided unit concerned.

Part 8

Appeals

Division 1—General

47. Interpretation

In this Part—

qualifying legal professional (合資格法律專業人士) means an individual qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap. 336).

48. Appeal panel

- (1) The Chief Executive is to appoint a panel for hearing appeals under this Part.
- (2) The appeal panel is to consist of the following members—
 - (a) at least 2 qualifying legal professionals; and
 - (b) at least 1 other individual.
- (3) The Chief Executive is to appoint one of the members of the appeal panel as chairperson.
- (4) In appointing the members of the appeal panel, the Chief Executive must ensure that—
 - (a) the chairperson is a qualifying legal professional; and
 - (b) at least half of the other members are not public officers.
- (5) Each member of the appeal panel is to be appointed for a period of not more than 3 years, but is eligible for reappointment.

49. Illness of chairperson of appeal panel etc.

If the chairperson of the appeal panel is precluded by illness, incapacity, absence from Hong Kong or any other cause from exercising the chairperson's functions, the Chief Executive may appoint another member of the panel who is a qualifying legal professional to act as chairperson of the panel.

50. Resignation of members of appeal panel

- (1) A member of the appeal panel may resign from office by giving written notice of the resignation to the Chief Executive.
- (2) The notice must be signed by the member.
- (3) The notice takes effect on—
 - (a) the date on which the notice is received by the Chief Executive; or
 - (b) if a later date is specified in the notice—the later date.

51. Removal of members of appeal panel from office

- (1) The Chief Executive may remove a member of the appeal panel from office if the Chief Executive considers that the removal is desirable for the panel to effectively perform its functions.
- (2) If a member of the appeal panel is removed from office, the Chief Executive must give the member written notice informing the member of the removal.

52. Publication of notice of appointment etc. in Gazette

The Chief Executive must arrange to be published in the Gazette notice of—

- (a) any appointment under section 48;

- (b) any resignation under section 50; and
- (c) any removal under section 51.

53. Appeals against decisions

- (1) A person aggrieved by any of the following decisions may lodge an appeal against the decision—
 - (a) a decision to refuse a specified application;
 - (b) a decision to issue a cancellation notice under section 14(1) or 25(1);
 - (c) a decision to issue a rectification notice under section 40(1);
 - (d) a decision to direct the termination of a tenancy under section 14(2), 24(2), 25(3), 32(2) or 41(1).
- (2) A person who wishes to appeal against a decision under subsection (1) (*appellant*) must lodge a written notice (*appeal notice*) with the chairperson of the appeal panel within 30 days beginning on the date of the decision, setting out the grounds of appeal.
- (3) The appeal notice must—
 - (a) be in the form, and be lodged in the way, specified by the chairperson of the appeal panel;
 - (b) be accompanied by a document containing—
 - (i) the particulars of the evidence to be adduced by the appellant at the appeal hearing; and
 - (ii) the name of every witness whom the appellant intends to call at the appeal hearing; and
 - (c) be accompanied by a copy of every document the appellant intends to produce at the appeal hearing.

- (4) The chairperson of the appeal panel may in a particular case extend the period specified in subsection (2) if the chairperson considers it appropriate to do so.
- (5) If the decision appealed against is a decision mentioned in subsection (1)(b), (c) or (d), the decision is to be suspended in its operation from the day on which the appeal notice is lodged until the appeal board's decision on the appeal takes effect.
- (6) However, subsection (5) does not apply if—
 - (a) the Secretary is satisfied that such a suspension would pose an imminent danger or risk to life or property; and
 - (b) the notice of the decision appealed against contains a statement to that effect.

Division 2—Appeal Board

54. Appointment of appeal board

- (1) As soon as practicable after a notice of appeal has been lodged under section 53(2), the chairperson of the appeal panel must appoint from the panel an appeal board to hear the appeal.
- (2) The appeal board is to consist of the following members—
 - (a) a chairperson; and
 - (b) at least 2 other members (*ordinary members*).
- (3) In appointing the members of the appeal board, the chairperson of the appeal panel must ensure that—
 - (a) the chairperson of the board is a qualifying legal professional; and
 - (b) at least half of the ordinary members are not public officers.

- (4) To avoid doubt, the chairperson of the appeal panel may appoint himself or herself to be the chairperson of the appeal board.
- (5) Any public officer appointed to be a member of the appeal board must, in exercising the officer's functions as such a member—
 - (a) act only in the personal capacity of the officer; and
 - (b) not be subject to any direction to which the officer might otherwise be subject to in the officer's capacity as a public officer.

55. Illness of members of appeal boards etc.

- (1) If the chairperson of an appeal board is precluded by illness, incapacity, absence from Hong Kong or any other cause from exercising the chairperson's functions, the chairperson of the appeal panel may appoint himself or herself, or any other person from the panel who is a qualifying legal professional, to act as chairperson of the board.
- (2) If a member of an appeal board is precluded by illness, incapacity, absence from Hong Kong or any other cause from exercising the member's functions, the chairperson of the appeal panel may appoint any other person from the panel to act in the member's place.
- (3) The hearing of an appeal may be continued despite any change in the membership of the appeal board under this section.

56. General procedure for hearing

- (1) Subject to this Division and the regulations made under section 70, the procedure for convening a hearing of an appeal board and for conducting the hearing is to be decided by the board.
- (2) A hearing of an appeal board is to be presided over by the chairperson of the board.

57. Quorum for hearing

- (1) The quorum for a hearing of an appeal board is 3 members of the board or one half of the members of the board, whichever is the greater.
- (2) For determining the quorum, if the number of members of the appeal board is not an even number, the number is to be regarded as having been increased by 1.

58. Voting at hearing

- (1) In the hearing of an appeal—
 - (a) every question of law before an appeal board is to be decided by the chairperson of the board; and
 - (b) every other question before the board is to be decided by a majority of votes of the members of the board who are present and entitled to vote.
- (2) For the purposes of subsection (1)(b), each member of the appeal board who is present at the hearing has 1 vote.
- (3) However, if there is an equality of votes in respect of the question, the chairperson of the appeal board has a casting vote in addition to his or her original vote.

59. Parties to appeal

The parties to an appeal are the appellant and the Secretary.

60. Date, time and place of hearing

The chairperson of an appeal board must—

- (a) fix the date, time and place for the hearing of the appeal so that the hearing may begin as soon as practicable; and
- (b) serve on the parties to the appeal a notice of the date, time and place of the hearing.

61. Proceedings of appeal board

- (1) An appeal board has the following powers when hearing an appeal—
 - (a) power to take evidence on oath;
 - (b) power to require evidence to be given on oath;
 - (c) power to summon a person to—
 - (i) attend the hearing as a witness;
 - (ii) give evidence; and
 - (iii) provide any document or information in the person's possession or under the person's control that may be relevant to the hearing;
 - (d) power to examine witnesses;
 - (e) power to require the provision of, and to receive and consider, any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not the material would be admissible in civil or criminal proceedings;
 - (f) power to determine the way in which any material mentioned in paragraph (e) is received;

- (g) power to award to a person the expenses that, in the board's opinion, the person has reasonably incurred because of the person's compliance with a summons issued to the person under paragraph (c);
 - (h) power to make any order that may be necessary for, or ancillary to, conducting the hearing or carrying out its functions; and
 - (i) power to give any direction to the Secretary with respect to the exercise of any of the Secretary's functions under this Ordinance that relates to the appeal.
- (2) With the consent of the parties to the appeal, the appeal board may hear an appeal on the basis of written submissions only.
- (3) If it appears to the appeal board that the Secretary has reversed the decision appealed against, the board may determine the appeal in favour of the appellant.
- (4) A party to the appeal—
 - (a) may, subject to any order made by the appeal board, be present at the hearing; and
 - (b) may participate in the hearing—
 - (i) in person;
 - (ii) through a legal representative; or
 - (iii) with the consent of the board, through another person.
- (5) For the purposes of subsection (4)(b)(i)—
 - (a) a company is to be regarded as participating in the hearing in person if it participates in it through any of its directors or other officers;

- (b) a partnership is to be regarded as participating in the hearing in person if it participates in it through any of its partners; and
 - (c) any other body corporate or unincorporated body is to be regarded as participating in the hearing in person if it participates in it through a person concerned in the management of the body.
- (6) The appeal board may make an order as to the payment of the costs and expenses incurred in relation to the hearing, whether by the board, any party to the appeal, or any person attending the hearing as a witness.
- (7) Any costs and expenses ordered under subsection (6) to be paid are recoverable by the person to which they are payable as a civil debt.
- (8) At the hearing of an appeal, the chairperson of the appeal board may administer an oath to any person.

62. Summons

A summons issued to a person under section 61(1)(c) must—

- (a) be in the form specified by the chairperson of the appeal panel;
- (b) be signed by the chairperson of the appeal board; and
- (c) specify the requirements that the person must comply with.

63. Offences relating to appeal

- (1) A person commits an offence if the person, without reasonable excuse—
- (a) fails to comply with—

- (i) a requirement imposed on the person under section 61(1)(b) or (e);
 - (ii) a summons issued to the person under section 61(1)(c); or
 - (iii) an order made in respect of the person under section 61(1)(h); or
 - (b) does any other act that would, if the appeal board concerned had been a court having power to commit for contempt, have been contempt of that court.
- (2) A person commits an offence if the person—
- (a) in connection with an appeal under section 61, gives any evidence, or provides any document or information, that is false or misleading in a material particular; and
 - (b) knows that, or is reckless as to whether, the evidence, document or information is false or misleading in a material particular.
- (3) A person who commits an offence under this section is liable—
- (a) on summary conviction—to a fine at level 3 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine at level 6 and to imprisonment for 2 years.

64. Hearing generally public

- (1) Subject to subsection (2), the hearing of an appeal is to be held in public.
- (2) After consulting the parties to the appeal, an appeal board may, by order, direct that the hearing, or any part of the hearing, be held in private.

- (3) For the purposes of subsection (2), the appeal board must have regard to the views or private interests of the parties to the appeal, including any claims as to privilege.

65. Prohibition on disclosure of appeal matters

- (1) An appeal board may, by order, prohibit or restrict the publication or disclosure, by all or any of the persons present at the hearing of an appeal, of—
 - (a) any evidence given at the hearing; or
 - (b) any matter contained in any document or information provided or received in evidence at the hearing.
- (2) A person commits an offence if the person, without reasonable excuse, fails to comply with an order made under subsection (1).
- (3) A person who commits an offence under subsection (2) is liable—
 - (a) on summary conviction—to a fine at level 3 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine at level 6 and to imprisonment for 2 years.

66. Abandonment of appeal

- (1) An appellant may abandon the whole or any part of an appeal by written notice lodged with the chairperson of the appeal board.
- (2) The appellant must, as soon as practicable after the notice is lodged, serve a copy of the notice on the Secretary.
- (3) After the appeal board receives the notice, the appeal board may dismiss the appeal and, in accordance with section 68, confirm the decision appealed against.

67. Failure of appellant to attend hearing

- (1) If at the time fixed for the hearing of an appeal, the appellant fails to attend the hearing, whether in person or through a legal representative or some other person, the appeal board may—
 - (a) if it is satisfied that the appellant's failure to attend the hearing was due to illness or another reasonable ground—postpone or adjourn the hearing for a period it considers appropriate; or
 - (b) if it is satisfied that the appellant's failure to attend the hearing was not due to illness or another reasonable ground—
 - (i) proceed to hear the appeal; or
 - (ii) dismiss the appeal and, in accordance with section 68, confirm the decision appealed against.
- (2) If an appeal is dismissed under subsection (1)(b)(ii)—
 - (a) the appeal board must order that its decision on the appeal (***appeal decision***) is to take effect on a date that falls after the period of 30 days beginning immediately after the date of the appeal decision;
 - (b) the appellant may, before the appeal decision takes effect, apply to the appeal board for a review of the appeal decision by notice in writing lodged with the chairperson of the board; and
 - (c) the board may suspend the appeal decision while considering the review and, if it is satisfied that the appellant's failure to attend the hearing was due to illness or another reasonable ground, set aside the appeal decision.

- (3) However, subsection (2) does not apply if—
 - (a) the appeal board is satisfied that making the order mentioned in subsection (2)(a) would pose an imminent danger or risk to life or property; and
 - (b) the appeal decision contains a statement to that effect.
- (4) A notice under subsection (2)(b) must be in the form specified by the chairperson of the appeal panel.
- (5) The appellant must, as soon as practicable after a notice is lodged under subsection (2)(b), serve a copy of the notice on the Secretary.
- (6) If the appeal board sets aside the appeal decision under subsection (2)(c), the chairperson of the board must—
 - (a) fix the date, time and place for a new hearing of the appeal so that the hearing may begin as soon as practicable; and
 - (b) at least 14 days before the date so fixed, serve on the parties to the appeal a notice of the date, time and place of the hearing.

68. Decisions of appeal board

- (1) An appeal board hearing an appeal may confirm, vary or reverse the decision appealed against (*subject decision*).
- (2) The appeal board must give reasons in writing for its decision, and those reasons must include its findings on material questions of fact and a summary of the evidence or other material on which those findings were based.
- (3) The appeal board must serve a copy of its decision and of the reason for its decision on the parties to the appeal.
- (4) The appeal board's decision takes effect—

- (a) subject to paragraph (b), immediately after the decision is made; or
 - (b) if the board orders that its decision is not to take effect until a specified date—on that date.
- (5) If the subject decision as confirmed or varied by the appeal board will result in the termination of a tenancy for a subdivided unit—
- (a) the board must post a copy of its decision on the main door or entrance to the subdivided unit or to its principal flat; and
 - (b) unless the board is satisfied that there is an imminent danger or risk to life or property in the subdivided unit, its principal flat or the common parts of its principal building, the board must order that its decision is to take effect on a date that falls after the period of 30 days beginning immediately after the date of the decision.
- (6) A document purporting to be a copy of a decision or order of the appeal board and to be certified by the chairperson of the board to be a true copy of the decision or order is admissible in any proceedings as evidence of the decision or order.
- (7) The decision of the appeal board is final.

Division 3—Miscellaneous

69. Privileges and immunities

- (1) An appeal board, when hearing an appeal under this Part, has the same privileges and immunities as it would have if the appeal were legal proceedings in a court.

- (2) A party, legal representative, witness or any other person who appears before an appeal board at a hearing of an appeal under this Part has the same privileges and immunities as the person would have if the appeal were a proceeding in a court.

70. Regulations for Part 8

The Secretary may make regulations for either or both of the following purposes—

- (a) to prescribe the procedures for the hearing of appeals under this Part;
 - (b) to provide generally for the better carrying out of the purposes of this Part.
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Part 9

Implications on Other Ordinances

- 71. Other Ordinances, law and liabilities not affected, unless expressly provided otherwise**
- (1) Subsections (2), (3) and (4) apply, except as expressly provided to the contrary in this Part.
 - (2) The requirements under this Ordinance are in addition to and do not derogate from any requirement under any other Ordinance or law.
 - (3) A grace-period registration or basic-housing-unit recognition—
 - (a) has effect solely for the purposes of this Ordinance;
 - (b) does not, to any extent, negate liability of any description for any contravention of any other Ordinance or law; and
 - (c) does not, to any extent, negate liability of any description arising—
 - (i) under an instrument affecting land, whether or not the Government is a party to the instrument;
 - (ii) from an agreement, whether or not the Government is a party to the agreement;
 - (iii) in tort, whether or not the tort is committed against the Government; or
 - (iv) in any other way.

- (4) That any function is conferred on or performed by a person under this Ordinance does not, to any extent, affect any function conferred on or performed by a person under any other Ordinance or law.

72. Effect of Buildings Ordinance modified

- (1) Subject to subsection (4), sections 24(1), 24AA(1) and 24C(1) of Cap. 123 do not apply in respect of any structure or building works existing during a period merely because of the fact that the structure or building works are non-compliant if—
 - (a) the structure or building works are necessary for, or ancillary to—
 - (i) the letting of, or the habitation in, a subdivided unit; and
 - (ii) the meeting of the minimum standards of living conditions by the subdivided unit; and
 - (b) during the period either or both of the circumstances specified in subsection (2) exist in respect of the subdivided unit.
- (2) The circumstances specified for subsection (1)(b) are—
 - (a) that a basic-housing-unit recognition is in force for the subdivided unit;
 - (b) that a basic-housing-unit (recognition) application has been made in respect of the subdivided unit and the application is not yet settled.
- (3) The circumstances specified in subsection (2)(b) are to be disregarded if, before the making of the basic-housing-unit (recognition) application—

- (a) an order or notice has been served or issued under section 24(1), 24AA(1) or 24C(1) of Cap. 123 in respect of the structure or building works, whether on the applicant or any other person; and
 - (b) the order or notice has not been complied with or withdrawn.
- (4) Subsection (1) does not apply if the Building Authority—
- (a) is satisfied that the operation of that subsection would pose an imminent danger or risk to life or property; and
 - (b) makes a statement to that effect when making an order or issuing a notice under section 24(1), 24AA(1) or 24C(1) of Cap. 123.
- (5) For the purposes of this section—
- (a) a structure is non-compliant if it is erected in contravention of any of the provisions of Cap. 123; and
 - (b) any building works are non-compliant if they are carried out in contravention of any of the provisions of Cap. 123.

73. Provisions inapplicable because of section 72 to resume application

- (1) Even if, because of the operation of section 72, sections 24(1), 24AA(1) and 24C(1) of Cap. 123 do not apply in respect of any structure or building works during a specified period, that fact does not in any way affect the application of those sections in respect of the structure or building works after the period.
- (2) Subsection (1) does not affect the operation of section 71.
- (3) In this section—

specified period (指明期間) means the period during which either or both of the circumstances specified in section 72(2) exist in respect of the subdivided unit concerned.

Part 10

Miscellaneous

74. Appointment of authorized officers

- (1) The Secretary may, in writing, appoint a public officer to perform any function conferred or imposed by this Ordinance on an authorized officer.
- (2) The Secretary must provide the authorized officer with a copy of the appointment.
- (3) The Secretary may perform a function mentioned in subsection (1) as if the Secretary were an authorized officer appointed under that subsection.

75. Delegation of functions by Secretary

- (1) The Secretary may, in writing, delegate to a public officer any of the Secretary's functions under this Ordinance.
- (2) However, a power under subsection (1), or under section 70 or 91, may not be delegated.

76. Performance of functions

- (1) When performing a function under this Ordinance, a specified officer—
 - (a) may be assisted by any person whom the officer reasonably requires; and
 - (b) must produce evidence of the officer's appointment or delegation (as the case requires), and the relevant warrant (if any), for inspection by a person who is affected by the officer's performance of the function and requires to see them.
- (2) In this section—

specified officer (指明人員) means—

- (a) an authorized officer; or
- (b) a person to whom any function is delegated under section 75.

77. Secretary may specify forms and ways

- (1) The Secretary may specify—
 - (a) the form of a document required for the purposes of this Ordinance; and
 - (b) the way in which it is to be provided.
- (2) The Secretary may specify—
 - (a) more than one form under subsection (1)(a); and
 - (b) more than one way under subsection (1)(b),
whether as alternatives or to provide for different circumstances.

78. Secretary may reduce prescribed fees etc.

The Secretary may reduce, waive or refund, in whole or in part, a prescribed fee payable or paid under this Ordinance.

79. Miscellaneous offences

- (1) A person commits an offence if—
 - (a) the person—
 - (i) in or in connection with a specified application, makes a statement (whether oral or written), or provides any document or information, that is false or misleading in a material particular; and

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- (ii) knows that, or is reckless as to whether, the statement, document or information is false or misleading in a material particular;
 - (b) the person wilfully obstructs the Secretary or an authorized officer in performing a function under this Ordinance;
 - (c) the person, without reasonable excuse, fails to comply with a requirement imposed under section 36(2) for the Secretary's performance of a function mentioned in section 36(1)(b), (c), (d), (e) or (f);
 - (d) the person, without reasonable excuse, fails to comply with a requirement imposed under section 37(2) or 38(2) or a section 39 warrant;
 - (e) the person—
 - (i) in purported compliance with a requirement imposed under section 36(2), 37(2) or 38(2) or a section 39 warrant, provides any document or information that is false or misleading in a material particular; and
 - (ii) knows that, or is reckless as to whether, the document or information is false or misleading in a material particular; or
 - (f) the person, without reasonable excuse, fails to comply with a rectification notice issued under section 40(1).
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 2 years and, in the case of a continuing offence, to a further fine of \$10,000 for every day during which the offence continues.
- (3) A person is not excused from complying with—

- (a) a requirement imposed under section 36(2) for the Secretary's performance of a function mentioned in section 36(1)(b), (c), (d), (e) or (f); or
- (b) a requirement imposed under section 38(2) or a section 39 warrant for the provision of any document or information,

on the ground that to do so might tend to incriminate the person.

- (4) In this section—

section 39 warrant (第39條手令) means a warrant issued under section 39(1).

80. Use of incriminating evidence in criminal proceedings

- (1) On or before requiring a person—

- (a) to provide any information under section 36(2) for the Secretary's performance of a function mentioned in section 36(1)(b), (c), (d), (e) or (f); or
- (b) to provide any information under section 38(2) or a section 39 warrant,

the Secretary or an authorized officer (as the case requires) must ensure that the person is informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the requirement and of the information provided by the person.

- (2) Despite any other provision of this Ordinance, if—

- (a) the Secretary or authorized officer (as the case requires) requires a person—
 - (i) to provide any information under section 36(2) for the Secretary's performance of a function mentioned in section 36(1)(b), (c), (d), (e) or (f); or

- (ii) to provide any information under section 38(2) or a section 39 warrant;
 - (b) the required information might tend to incriminate the person; and
 - (c) the person claims, before providing the information, that it might so tend,
- the requirement and the information provided by the person are not admissible in evidence against the person in criminal proceedings in a court of law other than the criminal proceedings specified in subsection (3).
- (3) The criminal proceedings are those in which the person is prosecuted for—
 - (a) an offence under section 79(1)(a), (c), (d) or (e) in respect of the information provided by the person; or
 - (b) an offence under Part V of the Crimes Ordinance (Cap. 200) in respect of the information provided by the person.

81. Reasonable excuse

- (1) This section applies if a provision of this Ordinance that creates an offence makes a reference to a reasonable excuse for a contravention to which the provision relates.
- (2) The reference to a reasonable excuse is to be construed as providing for a defence to a charge in respect of the contravention to which the provision relates.
- (3) A defendant is taken to have established that the defendant had a reasonable excuse for the contravention if—
 - (a) there is sufficient evidence to raise an issue that the defendant had such a reasonable excuse; and

- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

82. Service of notice etc.

- (1) Subject to the other provisions of this Ordinance, a notice or other document required to be given or sent (however described) (collectively *served*) under or for the purposes of this Ordinance is, in the absence of evidence to the contrary, so served if—
 - (a) for service on the Secretary—
 - (i) it is delivered by hand or sent by post to the address of an office specified by the Secretary for the purpose;
 - (ii) it is sent by facsimile transmission to a facsimile number specified by the Secretary for the purpose; or
 - (iii) it is sent in the form of an electronic record to an electronic address in an information system specified by the Secretary for the purpose;
 - (b) for service on an individual—
 - (i) it is delivered by hand personally to the individual;
 - (ii) it is delivered by hand or sent by post to the individual's last known address;
 - (iii) it is sent by facsimile transmission to the individual's last known facsimile number; or
 - (iv) it is sent in the form of an electronic record to the individual's last known electronic address in an information system;
 - (c) for service on a company—

- (i) it is delivered by hand personally to an officer of the company;
 - (ii) it is delivered by hand or sent by post to the company's registered office within the meaning of the Companies Ordinance (Cap. 622);
 - (iii) it is sent by facsimile transmission to the company's last known facsimile number; or
 - (iv) it is sent in the form of an electronic record to the company's last known electronic address in an information system;
- (d) for service on a partnership—
- (i) it is delivered by hand personally to a partner of the partnership;
 - (ii) it is delivered by hand or sent by post to the partnership's last known principal place of business;
 - (iii) it is sent by facsimile transmission to the partnership's last known facsimile number; or
 - (iv) it is sent in the form of an electronic record to the partnership's last known electronic address in an information system; or
- (e) for service on any other body corporate or unincorporated body—
- (i) it is delivered by hand personally to a person apparently concerned in the management of, or apparently employed by, the body;
 - (ii) it is delivered by hand or sent by post to the body's last known principal place of business;
 - (iii) it is sent by facsimile transmission to the body's last known facsimile number; or

- (iv) it is sent in the form of an electronic record to the body's last known electronic address in an information system.

(2) In this section—

electronic address (電子地址) means any sequence or combination of letters, characters, numbers or symbols of any language, or any number, used for sending or receiving a document in the form of an electronic record;

electronic record (電子紀錄) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

information system (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

officer (高級人員), in relation to a company, means—

- (a) a director of the company;
- (b) a company secretary of the company;
- (c) a person concerned in the management of the company; or
- (d) a person purporting to act in the capacity of a person mentioned in paragraph (a), (b) or (c).

83. Publishing information

In order to provide appropriate information to members of the public, the Secretary may upload onto a website specified by the Secretary, or in any other way publish—

- (a) information about a flat's grace-period registration, including—
 - (i) the address of the flat;
 - (ii) the registration date; and
 - (iii) if applicable—the cancellation date (within the meaning of section 14(1)); and

- (b) information about the basic-housing-unit recognition of a subdivided unit, including—
 - (i) the address of the subdivided unit;
 - (ii) a plan showing the location of the subdivided unit in its principal flat;
 - (iii) the recognition date or renewal date (whichever is applicable);
 - (iv) the validity period of the recognition; and
 - (v) if applicable—the cancellation date (within the meaning of section 25(1)).

84. Issue of codes of practice

- (1) The Secretary may issue a code of practice for providing practical guidance in respect of how subdivided units can meet the minimum standards of living conditions.
- (2) If a code of practice is issued under subsection (1), the Secretary must by notice published in the Gazette—
 - (a) notify members of the public of the code;
 - (b) specify the date on which the code is to take effect; and
 - (c) specify the purposes for which the code is issued.
- (3) The Secretary may from time to time revise a code of practice (or any part of a code of practice).
- (4) If a code of practice (or any part of a code of practice) is revised under subsection (3), the Secretary must by notice published in the Gazette—
 - (a) notify members of the public of the revision;
 - (b) specify the date on which the revision is to take effect; and
 - (c) specify the purposes of the revision.

- (5) The Secretary may revoke a code of practice (or any part of a code of practice).
- (6) If a code of practice (or any part of a code of practice) is revoked under subsection (5), the Secretary must by notice published in the Gazette—
 - (a) notify members of the public of the revocation; and
 - (b) specify the date on which the revocation is to take effect.
- (7) A code of practice must be made available for public inspection free of charge on a website specified by the Secretary.
- (8) For the purposes of this Ordinance, if a code of practice is issued or revised under this section, regard must be had to the code of practice so issued or revised in determining whether a subdivided unit meets the minimum standards of living conditions.
- (9) A code of practice is not subsidiary legislation.

85. Prosecution deadline for offences

- (1) A prosecution for a summary offence under this Ordinance may only be started before the end of 12 months beginning on the date on which the offence is discovered by the Secretary.

Note—

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (2) In this section—

summary offence (簡易程序罪行) means an offence triable summarily only.

86. Liability of officers of body corporate

- (1) If a body corporate commits an offence under this Ordinance, and it is proved that the offence—
 - (a) was committed with the consent or connivance of an officer of the body corporate; or
 - (b) is attributable to any neglect on the part of an officer of the body corporate,
the officer also commits the offence.
- (2) In this section—

officer (高級人員), in relation to a body corporate, means—

 - (a) a director of the body corporate;
 - (b) a company secretary of the body corporate;
 - (c) a person concerned in the management of the body corporate; or
 - (d) a person purporting to act in the capacity of a person mentioned in paragraph (a), (b) or (c).

87. Liability of partners, office holders, etc. of unincorporated bodies

- (1) If a partner in a partnership commits an offence under this Ordinance, and it is proved that the offence—
 - (a) was committed with the consent or connivance of a person specified in subsection (2); or
 - (b) is attributable to any neglect on the part of a person specified in subsection (2),
the person also commits the offence.
- (2) The person mentioned in subsection (1) is—
 - (a) a partner in the partnership;
 - (b) a person concerned in the management of the partnership;

- (c) an office holder in the partnership; or
 - (d) a person purporting to act in the capacity of a person mentioned in paragraph (a), (b) or (c).
- (3) If a member of an unincorporated body other than a partnership commits an offence under this Ordinance, and it is proved that the offence—
- (a) was committed with the consent or connivance of a person specified in subsection (4); or
 - (b) is attributable to any neglect on the part of a person specified in subsection (4),
- the person also commits the offence.
- (4) The person mentioned in subsection (3) is—
- (a) a person concerned in the management of the body;
 - (b) an office holder of the body; or
 - (c) a person purporting to act in the capacity of a person mentioned in paragraph (a) or (b).

88. Evidence by documents

- (1) In any proceedings, a copy purporting to be certified by the Secretary as a true copy of a document or part of a document given, issued or maintained by the Secretary—
- (a) is admissible in evidence without further proof; and
 - (b) in the absence of evidence to the contrary, is taken as so certified by the Secretary.
- (2) In any proceedings, a document purporting to be given or issued by the Secretary and purporting to be signed by the Secretary or any person authorized by the Secretary in that behalf—
- (a) is admissible in evidence without further proof; and
 - (b) in the absence of evidence to the contrary—

- (i) is taken as given or issued by the Secretary and as so signed; and
 - (ii) is evidence of the facts stated in it.
- (3) In any proceedings, a document purporting to be given or issued by an authorized officer and purporting to be signed by the officer—
 - (a) is admissible in evidence without further proof; and
 - (b) in the absence of evidence to the contrary—
 - (i) is taken as given or issued by the officer and as so signed; and
 - (ii) is evidence of the facts stated in it.

89. Immunity

- (1) A person does not incur any civil liability (whether arising in contract, tort, defamation, equity or otherwise) in respect of an act done, or omitted to be done, by the person in good faith in the performance, or purported performance, of any function under this Ordinance.
- (2) Subsection (1) does not affect any liability of the Government for the act or omission.

90. Notice relating to specified offence to be registered under Land Registration Ordinance or Land Titles Ordinance

- (1) If any of the following events occurs in relation to any subdivided unit or flat, the Secretary must arrange for a written notice about the event (*event notice*) (or the subject matter to which the notice relates) to be registered under Cap. 128 or Cap. 585—
 - (a) that a charge against a person for a specified offence is laid or withdrawn;

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- (b) that a person is convicted or acquitted of a specified offence;
 - (c) that a person's acquittal of a specified offence is appealed against;
 - (d) that an appeal against a person's acquittal of a specified offence is allowed without a conviction;
 - (e) that a rectification notice is issued under section 40(1);
 - (f) that a notification is made under section 40(3);
 - (g) that a rectification notice issued under section 40(1) is varied or reversed on an appeal lodged under section 53.
- (2) An event notice must state—
- (a) the location of the subdivided unit or flat;
 - (b) the fact that the event occurred; and
 - (c) the date on which the event occurred.
- (3) Moreover, for an event notice about the quashing of a conviction on appeal or about the event mentioned in subsection (1)(d), the notice must also state whether a retrial is ordered.
- (4) An event notice must be prepared—
- (a) for a notice about an event mentioned in subsection (1)(a), (c), (e), (f) or (g)—by the Secretary; or
 - (b) for a notice about an event mentioned in subsection (1)(b) or (d)—by the court concerned.

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- (5) For an event notice prepared by the Secretary, the Secretary must, as soon as reasonably practicable after the event occurred, arrange for the registration under subsection (1).
- (6) For an event notice prepared by a court—
- (a) the court must send the notice to the Secretary as soon as reasonably practicable after the event occurred; and
 - (b) the Secretary must arrange for the registration mentioned in subsection (1) as soon as reasonably practicable after receiving the notice.
- (7) A failure to register an event notice (or the subject matter to which the notice relates) under Cap. 128 or Cap. 585 does not affect the validity of the notice as against any person.
- (8) For the purposes of Cap. 128, an event notice is to be regarded as an instrument affecting land.
- (9) In this section—
- acquittal** (獲判無罪) means—
- (a) an acquittal on trial; or
 - (b) the quashing of a conviction on appeal;
- conviction** (定罪) means—
- (a) a conviction on trial;
 - (b) a record of a conviction on appeal; or
 - (c) a restoration of a quashed conviction on appeal;
- specified offence** (指明罪行) means an offence under section 8(1) or 35(1).

91. Amendment of Schedules

- (1) The Secretary may by notice published in the Gazette amend any of the Schedules.
 - (2) A notice under subsection (1) may contain incidental, consequential, supplemental, transitional or savings provisions that are necessary or expedient in consequence of the notice.
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Part 11

Related Amendments

Division 1—Enactments Amended

92. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Buildings Ordinance (Cap. 123)

93. Section 24 amended (order for demolition, removal, or alteration of building, building works (other than minor works commenced under simplified requirements) or street works)

Section 24(6)—

Repeal

everything after “subject to”

Substitute

“—

(a) section 112 of the Private Columbaria Ordinance (Cap. 630); and

(b) section 72 of the Basic Housing Units Ordinance (of 2025).”.

94. Section 24AA amended (order for demolition, removal, or alteration of minor works commenced under simplified requirements)

After section 24AA(10)—

Add

“(11) Subsection (1) has effect subject to section 72 of the Basic Housing Units Ordinance (of 2025).”.

95. Section 24C amended (notice for demolition or alteration of building or building works)

Section 24C(7)—

Repeal

everything after “subject to”

Substitute

“—

- (a) section 112 of the Private Columbaria Ordinance (Cap. 630); and
- (b) section 72 of the Basic Housing Units Ordinance (of 2025).”.

Division 3—Prevention of Bribery Ordinance (Cap. 201)

96. Schedule 1 amended (public bodies)

Schedule 1—

Add

“146. The appeal panel as defined by section 2(1) of the Basic Housing Units Ordinance (of 2025), including an appeal board as defined by that section.”.

Schedule 1

[ss. 2 & 91]

Minimum Standards of Living Conditions

1. Minimum internal floor area

- (1) The internal floor area of the subdivided unit must be at least 8 m².
- (2) For the purposes of subsection (1), the internal floor area of a subdivided unit is the floor area within its enclosing installations, measured from their interior face.

2. Minimum height

- (1) The subdivided unit must have a height of at least 2.3 m measured from floor to ceiling.
- (2) Moreover, if there is a beam in the subdivided unit, the area beneath the beam must have a height of at least 2 m measured from the floor to the underside of the beam.

3. Fire safety

- (1) The subdivided unit must be so designed and constructed, and its principal flat so partitioned or repartitioned (as described in section 4(2)), that in the case of fire—
 - (a) the spread of fire within the flat, and from the flat outward, can be inhibited;
 - (b) adequate resistance to the spread of fire and smoke within the flat, and from the flat outward, is provided;
 - (c) an adequate means of escape for safe evacuation is provided; and

- (d) the stability of the flat can be maintained to—
 - (i) allow adequate time for safe evacuation;
 - (ii) allow adequate time for rescue and firefighting operation; and
 - (iii) avoid any consequential damage to any other flats.
- (2) Without limiting subsection (1)—
 - (a) the subdivided unit and the shared part of the principal flat must each be provided with adequate stand-alone fire detectors that are inspected at least once in every 12 months; and
 - (b) the shared part of the principal flat must be provided with adequate fire extinguishers that are inspected at least once in every 12 months.
- (3) In this section—
 - shared part* (共用部分), in relation to a flat, means the part of the flat that is not a subdivided unit;
 - stand-alone fire detector* (獨立火警偵測器) has the meaning given by regulation 2 of the Fire Service (Installations and Equipment) Regulations (Cap. 95 sub. leg. B).

4. Loading

The subdivided unit and its principal flat must not be subject to a load beyond each of their proper bearing capacity.

5. Separate toilet

- (1) There must be an enclosed and waterproofed toilet in the subdivided unit for exclusive use by its occupier.
- (2) The toilet must be fitted with—
 - (a) a watercloset;

- (b) a lavatory basin; and
- (c) a bath or shower.

6. Water supply point and sink outside toilet

- (1) A water supply point and a sink must be provided outside the toilet of the subdivided unit.
- (2) The area around the water supply point and sink must be waterproofed.

7. Lighting and ventilation

- (1) Every room in the subdivided unit must—
 - (a) comply with regulations 30, 31, 32 and 33 of Cap. 123F; or
 - (b) be fitted with—
 - (i) at least 1 openable window that—
 - (A) has a superficial area of glass of at least 0.1 m²; and
 - (B) provides adequate access to the external air;
 - (ii) artificial lighting; and
 - (iii) a mechanical means of ventilation that is capable of supplying fresh air to the room at a rate of at least 5 changes of air per hour.
- (2) A toilet in the subdivided unit must—
 - (a) comply with regulation 36 of Cap. 123F; or
 - (b) be fitted with—
 - (i) artificial lighting; and

- (ii) a mechanical means of ventilation that is capable of supplying fresh air to the toilet at a rate of at least 5 changes of air per hour.

(3) In this section—

room (房間) includes a kitchen but excludes a toilet.

8. **Water and electricity meters**

The subdivided unit must be provided with—

- (a) a water meter provided by the Water Supplies Department exclusively for the subdivided unit; and
 - (b) an electricity meter provided by—
 - (i) The Hongkong Electric Company, Limited; or
 - (ii) the CLP Power Hong Kong Limited, exclusively for the subdivided unit.
-

Schedule 2

[ss. 2 & 91]

Prescribed Fees

Column 1	Column 2	Column 3
Item	Matter	Fee
1.	Grace-period (registration) application—	
	(a) if the application is made during the period beginning on 1 March 2026 and ending on 28 February 2027	\$0
	(b) if the grace-period (registration) application period is extended under section 9(4), and the application is made on or after 1 March 2027	\$745 per flat
2.	Basic-housing-unit (recognition) application (<i>subject application</i>)—	
	(a) if a grace-period registration is in force for the principal flat of the subdivided unit concerned at the time the subject application is made, and the corresponding grace-period (registration) application was made during the period beginning on 1 March 2026 and ending on 31 August 2026—	

Basic Housing Units Bill

Schedule 2

C3631

Column 1	Column 2	Column 3
Item	Matter	Fee
(i)	if the subject application is made during the period beginning on 1 March 2026 and ending on 28 February 2029	\$0
(ii)	otherwise	\$3,000 per subdivided unit
(b)	if a grace-period registration is in force for the principal flat of the subdivided unit concerned at the time the subject application is made, and the corresponding grace-period (registration) application was made during the period beginning on 1 September 2026 and ending on 28 February 2027—	
(i)	if the subject application is made during the period beginning on 1 September 2026 and ending on 29 February 2028	\$0
(ii)	if the subject application is made during the period beginning on 1 March 2028 and ending on 28 February 2029	\$1,500 per subdivided unit
(iii)	otherwise	\$3,000 per subdivided unit

Basic Housing Units Bill

Schedule 2

C3633

Column 1	Column 2	Column 3
Item	Matter	Fee
(c) otherwise—	(i) if the subject application is made during the period beginning on 1 March 2026 and ending on 28 February 2027	\$0
	(ii) if the subject application is made during the period beginning on 1 March 2027 and ending on 28 February 2029	\$1,500 per subdivided unit
	(iii) otherwise	\$3,000 per subdivided unit
3.	Basic-housing-unit (renewal) application	\$2,400 per basic housing unit

Schedule 3

[ss. 2 & 91]

Specified Professionals

1. A person whose name is on the register of registered architects mentioned in section 8(a) of the Architects Registration Ordinance (Cap. 408)
 2. A person whose name is on the register of registered professional engineers mentioned in section 7(a) of the Engineers Registration Ordinance (Cap. 409) under the building, building services, civil, fire or structural discipline
 3. A person whose name is on the register of registered professional surveyors mentioned in section 7(a) of the Surveyors Registration Ordinance (Cap. 417) under the building surveying division
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Schedule 4

[ss. 6 & 91]

Excluded Premises

Part 1

Interpretation

1. In this Schedule—
subsidized sale flat (資助出售單位) means—
 - (a) a flat sold under—
 - (i) the Green Form Subsidised Home Ownership Scheme;
 - (ii) the Home Ownership Scheme;
 - (iii) the Middle Income Housing Scheme;
 - (iv) the Private Sector Participation Scheme;
 - (v) the Private Subsidised Sale Flat—Pilot Scheme;
 - (vi) the Starter Homes Pilot Project for Hong Kong Residents; or
 - (vii) the Tenants Purchase Scheme; or
 - (b) a flat sold by the Hong Kong Housing Society.

Part 2

Premises Excluded from Application of this Ordinance

1. A subsidized sale flat in respect of which no premium has been paid to the Hong Kong Housing Authority or Hong Kong Housing Society for the removal of a restriction on the alienation of the flat
2. A flat that is let by the Hong Kong Housing Authority or Hong Kong Housing Society
3. A bedspace apartment as defined by section 2 of the Bedspace Apartments Ordinance (Cap. 447)
4. A flat under the public housing scheme known as Transitional Housing
5. A flat under the public housing scheme known as Light Public Housing
6. A flat that is let by a non-profit-making organization operating on a non-profit-making basis for the provision of social services
7. A flat acquired by the Urban Renewal Authority under a project as defined by section 2 of the Urban Renewal Authority Ordinance (Cap. 563)
8. A hotel or guesthouse within the meaning of section 2A of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349)
9. A residential care home as defined by section 2(1) of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)

10. A residential care home for PWDs as defined by section 2(1) of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)
 11. A child care centre as defined by section 2(1) of the Child Care Services Ordinance (Cap. 243)
 12. A treatment centre as defined by section 2 of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566)
 13. A dormitory or hostel that is managed by—
 - (a) a school registered under the Education Ordinance (Cap. 279); or
 - (b) a university or any other institution that provides post secondary education as defined by section 3(1) of the Education Ordinance (Cap. 279)
 14. Any premises—
 - (a) that are used for the provision of sleeping accommodation by an employer to his or her employees and their families (whether or not any monetary consideration is received by the employer for it); and
 - (b) the owner of which is the employer
 15. Any other premises similar to the ones specified in item 8, 9, 10, 11, 12, 13 or 14
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Explanatory Memorandum

The purpose of this Bill is to introduce a regulatory regime for the letting of subdivided units of domestic buildings or of the domestic parts of composite buildings.

2. The Bill contains 11 Parts and 4 Schedules.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.
4. Clause 2 contains the definitions for the interpretation of the Bill. The main definitions include *basic housing unit*, *basic-housing-unit recognition*, *basic-housing-unit (recognition) application*, *grace-period registration*, *grace-period (registration) application*, *grace-period (registration) application period*, *flat*, *operator*, *prescribed fee*, *principal flat*, *registered flat*, *specified professional*, *tenancy* and *tenant*.
5. Clauses 3 and 4 respectively explain the meaning of *reference building plan* and *subdivided unit*.
6. Clause 5 provides that the Bill applies to contractual licenses to occupy premises as if they were tenancies.
7. Clause 6 provides that the Bill does not apply to certain premises.
8. Clause 7 provides for the factors to be taken into account when determining whether a tenancy is a domestic tenancy.

Part 2—Restriction on Letting Subdivided Units

9. Clause 8 makes it an offence to let 2 or more subdivided units in a flat under separate domestic tenancies while no grace-period registration is in force for the flat and no basic-housing-unit recognition is in force for any one of the subdivided units.

Part 3—Grace-period Registration of Flats

10. Clauses 9 to 13 provide for the grace-period registration of flats and its application process.
11. Clause 14 provides that the Secretary for Housing (*Secretary*) may cancel a grace-period registration under certain circumstances.
12. Clause 15 provides for the notification of certain changes in respect of the responsible persons for registered flats.

Part 4—Basic-housing-unit Recognition of Subdivided Units

13. Clauses 16 to 24 provide for the basic-housing-unit recognition of subdivided units and its application and renewal process.
14. Clause 25 provides that the Secretary may cancel a basic-housing-unit recognition under certain circumstances.
15. Clause 26 provides that a basic-housing-unit recognition remains in force despite the expiry of its validity period if a basic-housing-unit (renewal) application, or an appeal against the refusal of such an application, is pending immediately before the expiry of the period. The recognition remains in force until the application is settled.

16. Clause 27 provides for the notification of certain changes in respect of the responsible persons for basic housing units as well as in respect of the condition of basic housing units.

Part 5—Transitional Arrangements relating to Grace-period (Registration) Applications and Basic-housing-unit (Recognition) Applications

17. Clause 28 provides that, if a grace-period (registration) application for a flat, or an appeal against the refusal of such an application, is pending immediately before the expiry of the grace-period (registration) application period, a grace-period registration is to be regarded as being in force for the flat until the application is settled.
18. Clause 29 provides that, if a basic-housing-unit (recognition) application for a subdivided unit, or an appeal against the refusal of such an application, is pending immediately before the expiry of the grace-period (registration) application period and at that time no grace-period registration is in force for the principal flat of the subdivided unit, the subdivided unit is to be regarded as recognized under clause 16(1) until the application is settled.
19. Clause 30 defines *countdown period* for the purposes of Division 2 of Part 5.
20. Clauses 31 to 34 provide for the termination of domestic tenancies for subdivided units for which no basic-housing-unit recognition is in force when the countdown period begins, and for related matters.

21. Clause 35 makes it an offence to let a subdivided unit in a registered flat under a domestic tenancy if the term of the tenancy begins during the countdown period and no basic-housing-unit recognition is in force for the subdivided unit when the term begins.

Part 6—Ancillary or Incidental Powers

22. Clauses 36 to 41 provide for the exercise of powers ancillary or incidental to the Secretary's performance of functions under the Bill. The powers are—
 - (a) requiring certification reports or other documents or information;
 - (b) entering premises either with the consent of an occupier or with a warrant;
 - (c) directing rectifications to be made in respect of basic housing units in certain circumstances; and
 - (d) directing the termination of domestic tenancies for subdivided units under certain circumstances.
23. Clause 42 provides that, if it comes to the attention of the Secretary or an appeal board that a tenancy (*original tenancy*) will expire before a direction to terminate it under the Bill takes effect, the Secretary or board may instead direct the termination of any new domestic tenancy following the original tenancy.
24. Clause 43 empowers the Secretary to disclose documents and information obtained under the Bill under certain circumstances.

Part 7—Statutory Compensation for Termination of Tenancies

25. Clauses 44 to 46 provide for the compensation that a tenant under a tenancy for a subdivided unit is entitled to receive in circumstances where the tenancy is terminated under the Bill.

Part 8—Appeals

26. Clauses 47 to 52 provide for the appointment of an appeal panel and its members.
27. Clause 53 provides that certain decisions made by the Secretary under the Bill may be appealed.
28. Clauses 54 to 69 provide for how appeals lodged under clause 53 are to be dealt with.
29. Clause 70 empowers the Secretary to make regulations for the handling of appeals.

Part 9—Implications on Other Ordinances

30. Clause 71 provides that, in general, the requirements of the Bill are in addition to and do not derogate from other legal requirements unless otherwise stated in the Bill. A grace-period registration or basic-housing-unit recognition does not negate any liability under any other Ordinance.
31. Clause 72 modifies the effect of the Buildings Ordinance (Cap. 123) so that some of its provisions do not apply in certain circumstances. Clause 73 provides for the resumption of application of the provisions.

Part 10—Miscellaneous

32. Clause 74 empowers the Secretary to appoint authorized officers.
33. Clause 75 provides for the delegation of functions by the Secretary.
34. Clause 76 provides for the performance of functions by authorized officers and persons to whom any function is delegated under clause 75.
35. Clause 77 empowers the Secretary to specify forms etc. for the purposes of the Bill.
36. Clause 78 empowers the Secretary to reduce, waive or refund prescribed fees.
37. Clause 79 provides for various miscellaneous offences for the purposes of the Bill.
38. Clause 80 provides for the use of incriminating evidence in criminal proceedings.
39. Clause 81 provides for the defence of reasonable excuse for certain offences under the Bill.
40. Clause 82 provides for how notices etc. are to be served.
41. Clause 83 empowers the Secretary to publish certain information about grace-period registrations and basic-housing-unit recognitions.
42. Clause 84 empowers the Secretary to issue codes of practice.

43. Clause 85 provides that a prosecution for a summary offence under the Bill may only be started before the end of 12 months beginning on the date on which the offence is discovered.
44. Clauses 86 and 87 provide for the liability of directors or partners etc. of a body corporate or unincorporated body for an offence under the Bill committed by the body.
45. Clause 88 provides for the use of documentary evidence.
46. Clause 89 provides for the immunity of persons who perform any function under the Bill.
47. Clause 90 requires notices relating to certain offences under the Bill and to rectification notices to be registered in the Land Registry.
48. Clause 91 empowers the Secretary to amend any of the Schedules to the Bill by notice published in the Gazette.

Part 11—Related Amendments

49. Clauses 93 to 95 make related amendments to the Buildings Ordinance (Cap. 123) in view of clause 72.
50. Clause 96 makes a related amendment to the Prevention of Bribery Ordinance (Cap. 201) so that the appeal panel will be a public body under that Ordinance.

Schedules

51. Schedule 1 sets out the minimum standards of living conditions that a subdivided unit has to meet for a basic-housing-unit recognition to be given for it.

Basic Housing Units Bill

Explanatory Memorandum
Paragraph 52

C3657

52. Schedule 2 sets out the prescribed fees for the purposes of the Bill.
53. Schedule 3 sets out the persons who are specified professionals for the purposes of the Bill.
54. Schedule 4 sets out the premises to which the Bill does not apply.