

在《專業天地》內，我們會解答持牌人的一些常見提問。

In *Horizons*, we will answer questions commonly asked by licensees.

**問** 《業主與租客（綜合）條例》（「《條例》」）第IVA部已於2022年1月22日生效，監管局會否提供一份標準租賃協議樣本適用於受《條例》第IVA部所規管的「劏房」租賃（即「規管租賃」）供持牌人採用？

**答** 由於租賃協議屬商業合約，「規管租賃」的業主及租客在不抵觸《條例》條文（包括但不限於每項「規管租賃」隱含的強制性條款）的情況下，可自由協商「規管租賃」的條款。因此，監管局不會提供「規管租賃」的標準租賃協議樣本供持牌人採用。

然而，政府已擬備一份《條例》第IVA部適用的「規管租賃」的租賃協議範本作一般參考之用，持牌人可於差餉物業估價署的網頁（[www.rvd.gov.hk/tc/our\\_services/part\\_iva.html](http://www.rvd.gov.hk/tc/our_services/part_iva.html)）下載。

持牌人可建議「規管租賃」的業主及租客使用範本並因應其情況對範本作適當的修訂（強制性條款除外）。若業主或租客對如何應用或詮釋範本內的條文有疑問，持牌人應建議客戶考慮徵詢法律或其他專業意見。

（備註：租賃如符合以下所有條件，即屬《條例》第IVA部下的「規管租賃」：

- (a) 租賃在2022年1月22日當日或之後開始；
- (b) 租賃屬住宅租賃；
- (c) 租賃中的處所屬分間單位；
- (d) 租客是自然人；
- (e) 租賃的目的是作為租客本身的住宅；及
- (f) 租賃並非《條例》附表6指明的其中一種租賃。）

**Q** Part IVA of the Landlord and Tenant (Consolidation) Ordinance (“Ordinance”) came into effect on 22 January 2022. Will the EAA provide a standard form of tenancy agreement for a tenancy relating to a subdivided unit (“SDU”) which is subject to the tenancy control regime under Part IVA of the Ordinance (i.e. “regulated tenancy”) for licensees’ use?

**A** Since tenancy agreements are commercial contracts, as long as it is not inconsistent with the provisions of the Ordinance (including but not limited to the mandatory terms implied into every “regulated tenancy”), the landlord and tenant of a “regulated tenancy” are free to negotiate the terms of the “regulated tenancy”. As such, the EAA will not provide a standard form of tenancy agreement for a “regulated tenancy” for licensees’ use.

However, the Government has prepared a template for tenancy agreement for a “regulated tenancy” to which Part IVA of the Ordinance applies for general reference purpose. Licensees can download it from the webpage of the Rating and Valuation Department ([www.rvd.gov.hk/en/our\\_services/part\\_iva.html](http://www.rvd.gov.hk/en/our_services/part_iva.html)).

Licensees may invite the landlord and tenant of a “regulated tenancy” to use and adapt the template with such modifications as appropriate (except mandatory terms) to suit their own circumstances. If they have doubts about how the provisions in the template are to be applied or interpreted in their cases, licensees should recommend them to consider seeking legal or other professional advice.

(Remark: A tenancy which fulfills the following conditions is a “regulated tenancy” under Part IVA of the Ordinance:

- (a) it commences on or after 22 January 2022;
- (b) it is a domestic tenancy;
- (c) the subject premises of the tenancy are a SDU;
- (d) the tenant is a natural person;
- (e) the purpose of the tenancy is for the tenant’s own dwelling; and
- (f) it is not one of the tenancies specified in Schedule 6 to the Ordinance.)