

處理出租「規管租賃」的新指引

New guidelines on handling the letting of “regulated tenancies”



就公眾關注有關保障基層租客的利益，政府推出《業主與租客（綜合）條例》（《條例》）第IVA部下對分間單位（俗稱「劏房」）的新租務管制制度，並已於2022年1月22日起生效。

由於地產代理有可能處理受《條例》第IVA部所規管的分間單位租賃（即「規管租賃」），監管局發出執業通告22-01（CR）以制定指引讓持牌人遵從，該指引與《條例》第IVA部同日生效。

由於違反《條例》第IVA部的規定有可能觸犯法例，持牌人必須提醒客戶留意相關的罪行和罰則。為利便業主遵守相關法定要求，在分間單位的「規管租賃」中代表業主行事的持牌人，應（除非業主客戶以書面方式表示他將直接處理該事宜）於簽訂租賃協議後安排將租賃協議加蓋印花，並在「規管租賃」的租期開始後的60日內，安排向差餉物業估價署（「差估署」）署長提交租賃通知書（表格AR2），通知他有關租賃的詳情。

此外，持牌人必須提醒客戶留意，業主如要求租客繳付分間單位的任何指明公用設施及服務的收費的付還，或以其他方式從租客收取該等收費的付還，而所涉款項超過業主向租客提供的書面帳目中就有關分間單位顯示的經分攤款額，將構成違反《條例》的罪行。

In response to public concern on protecting the interests of grass-root tenants, the Government implemented a new tenancy control regime on subdivided units (“SDUs”) under Part IVA of the Landlord and Tenant (Consolidation) Ordinance (“Ordinance”) which came into effect on 22 January 2022.

Since estate agents may handle tenancies in respect of SDUs which are subject to Part IVA of the Ordinance (i.e. “regulated tenancies”), the Estate Agents Authority issued a practice circular (No. 22-01 (CR)) setting out the relevant guidelines for licensees to follow, which came into effect on the same date as Part IVA of the Ordinance.

Since non-compliance with the requirements under Part IVA of the Ordinance may constitute an offence, licensees are required to draw their clients’ attention to the relevant offences and penalties. To facilitate the landlord’s compliance with the relevant statutory requirements, licensees who act for the landlord in a “regulated tenancy” of an SDU should (unless the landlord client has otherwise indicated in writing that he/she would handle the matter directly) arrange for the stamping of the tenancy agreement after it has been entered into and the submission of the relevant Form AR2 to notify the Commissioner of Rating and Valuation of the particulars of the tenancy within 60 days after the term of a “regulated tenancy”.

In addition, licensees are required to draw the clients’ attention that it would constitute an offence under the Ordinance if the landlord requires the tenant to pay for, or the landlord otherwise receives from the tenant, the reimbursement of the charges for any of the specified utilities and services for the SDU at a sum exceeding the apportioned amount for the SDU as shown in the account in writing provided by the landlord to the tenant.