

**Practice Circular on
Letting of Subdivided Units under
the Basic Housing Units Ordinance**

Questions and Answers (Q&As)

Notes:

1. All references to:
 - a. “EAA” shall mean the Estate Agents Authority.
 - b. “Practice Circular” shall mean Circular No. 26-01 (CR) issued by the EAA on Letting of Subdivided Units under the Basic Housing Units Ordinance.
 - c. “RVD” shall mean the Rating and Valuation Department of the Government of the Hong Kong Special Administrative Region.

The words and expressions used in these Q&As shall have, unless the context otherwise requires, the same meaning as those words and expressions have in the Practice Circular.

2. These Q&As are for general reference only. The answers/solutions suggested in the Q&As are not exhaustive and they do not constitute legal or professional advice. In considering whether a licensee has breached the Practice Circular, the EAA will consider each case on its own merits. You should seek legal or professional advice as and when necessary, especially on the interpretation of relevant legal provisions and specific advice on any individual case. The EAA makes no warranty as to the completeness of the information set out in these Q&As, or the appropriateness for its use in any particular circumstances. The EAA will not accept any liability or responsibility whatsoever for any loss or damage caused to any person howsoever arising from any use, misuse of, or reliance on the contents of these Q&As.

Q&As

Q1. What is an “SDU” under the Ordinance?

Answer: If a residential flat (a) through partition or repartition, has changed its layout compared to the one as shown in the reference building plan of the building; (b) resulted in two or more wholly or substantially enclosed compartments in the flat designed for each being the subject of a separate domestic tenancy; and (c) at least one of the compartments is formed by the partition or repartition, then each of these compartments is an SDU.

Q2. Does the BHU regulatory regime cover flats in New Territories Exempted Houses (“NTEHs”)?

Answer: No.

Referring to the answer in Q1 above, an SDU is part of a residential flat whose layout is different from the one as shown in a reference building plan or approved building plan. Since NTEHs can be constructed without the requirement to obtain a building plan approved by the Building Authority, NTEHs are not covered under the BHU regulatory regime.

Please refer to paragraph (3)(c) of the Practice Circular.

Q3. Under what situation will the letting of SDUs be regulated under the Ordinance?

Answer: Generally speaking, if the layout of a residential flat has been changed as compared to the reference building plan of the building and there are two or more rooms in that residential flat, the letting of these rooms under two or more domestic tenancies (either written or oral) will be regulated under the Ordinance.

In other words, the BHU regulatory regime will not cover the letting of rooms in a residential flat if the layout of that flat in the reference building plan has not been altered.

For the avoidance of doubt, if the relevant residential flat has any building works certified as completed by the Buildings Department to change the layout of the flat after obtaining the Occupation Permit and before the gazettal date of the Ordinance (i.e. 3 October 2025), the relevant approved building plan will be regarded as the “reference building plan”. Please refer to footnote 2 of the Practice Circular.

Q4. If the landlord client has altered the layout of his residential flat, resulting in a total of five rooms in the flat, and he intends to: (a) allow his relatives and friends to reside in three of these rooms for free; and (b) let out the remaining two rooms in the flat to collect rental income, will licensees have to comply with the guidelines in the Practice Circular if they were asked to handle the letting of the latter two rooms in the flat?

Answer: Yes. First of all, all the five rooms are SDUs under the Ordinance as the layout of the residential flat is different from the one as shown on the reference building plan.

For (a), the Ordinance does not regulate the provision of rooms in a residential flat for habitation for free. Therefore, allowing relatives and friends to reside in three of the five rooms for free will not be covered under the BHU regulatory regime. Nonetheless, licensees are reminded that, according to section 5 of the Ordinance, the Ordinance applies to a contractual licence to occupy any premises if it were a tenancy and the valuable consideration (i.e. money or anything worth money) given for the grant of the contractual licence is to be regarded as rent received for the letting of the premises.

For (b), the letting of the two SDUs in a residential flat under separate domestic tenancies for valuable consideration is regulated under the BHU regulatory regime and licensees are required to comply with the guidelines in the Practice Circular when handling the letting of these two SDUs.

Q5. With respect to Grace Period registration, what is a residential flat with pre-existing SDUs that is eligible for registration?

Answer: Residential flat with pre-existing SDUs means a residential flat with SDUs that has at least one valid domestic tenancy of an SDU subsisting between 4 July 2025 and 3 October 2025 (copy of the tenancy agreement or the Notice of Tenancy (Form AR2) endorsed by the RVD is required as proof). The concerned SDU and other SDUs in the same residential flat will be regarded as “pre-existing SDUs” and are eligible to apply for Grace Period registration.

Q6. If the landlord client (who is eligible to apply for registration for obtaining a Grace Period) has failed to submit a Notice of Tenancy (Form AR2) to the Commissioner of Rating and Valuation as required under Part IVA of the LTCO but would still like to apply for the Grace Period registration, what should licensees do?

Answer: In such case, licensees should advise the landlord client to submit a copy of the valid domestic tenancy agreement with respect to his application for Grace Period registration.

Licensees should also advise the landlord client that in any event, the landlord client should comply with the statutory obligations under Part IVA of the LTCO and make a late submission of Form

AR2 even after applications have already been submitted for Grace Period registration.

Licensees may also advise the landlord client that to encourage SDU operators to apply for Grace Period registration, the RVD will in general take into consideration all relevant factors in deciding whether and if so what follow-up action may be taken in respect of late submission of Form AR2, including whether the SDU owner/operator has obtained Grace Period registration and/or BHU recognition from the HB within a specified timeframe. Such lenient approach covers late submission of Form AR2 discovered during the period from the gazettal date of the Ordinance (i.e. 3 October 2025) to the last day of the registration period (i.e. 28 February 2027).

Q7. What should licensees do if domestic tenancies of pre-existing SDUs were entered into on 14 February 2026 but will only take effect on 1 March 2026?

Taking into account that the domestic tenancies of SDUs were entered into prior to the commencement of the Practice Circular, licensees who were involved in such letting are encouraged to take similar actions as set out in paragraphs (16) (a) to (f) of the Practice Circular between 1 March 2026 and 28 February 2027 if they have not already done so.

Q8. Could the definition of “operator” under the Ordinance include estate agents?

Answer: Yes.

According to the Ordinance, an “operator” in relation to an SDU means (a) a person who lets the SDU for habitation; or (b) any other person who is from time to time entitled to receive rent for

such letting. As such, an operator under the Ordinance includes an owner of the flat as well as an estate agent who from time to time collects rent for such letting on the owner's behalf even though the estate agent does not have control and management of the flat or SDU concerned.

Q9. With regard to the Ordinance, what is the implication for a licensee if he/she is regarded as an “operator” in relation to an SDU?

Answer: A licensee who is regarded as an “operator” in relation to an SDU will be subject to the additional obligations and possible criminal liability under the Ordinance in respect of such a role, e.g., the obligation to notify the Secretary where there is a change in the condition of the BHU or its principal flat that might make the BHU no longer meet the minimum standards of living conditions through a specified form within 15 days after becoming aware of the change; and the possibility of being held criminally liable if found guilty of the offence of unauthorized letting of SDUs under the Ordinance.

Please refer to paragraphs (10), (15) and (22) of the Practice Circular.

Q10. In view of the new regulatory regime for letting of SDUs under the Ordinance, does it mean that licensees are no longer required to comply with the guidelines with respect to letting of SDUs under Part IVA of the LTCO set out in Circular No. 22-01 (CR)?

Answer: No.

Licensees must, in the course of their estate agency practice, comply with the Estate Agents Ordinance and its subsidiary

legislation, and the Code of Ethics and guidelines issued by the EAA from time to time. If the letting is in respect of an SDU under Part IVA of the LTCO in relation to a domestic tenancy that is subject to the tenancy control regime, licensees are also required to comply with the guidelines in Circular No. 22-01 (CR).

Q11. Is a licensee required to enter into a prescribed estate agency agreement with his client(s) when handling the letting of an SDU under a domestic tenancy that is subject to the Ordinance?

Answer: It will depend on the circumstances of the case. If the letting of the SDU under a domestic tenancy that is subject to the BHU regulatory regime is a self-contained unit under the Practice Regulation, the licensee is required to enter into a prescribed estate agency agreement with his client(s) in accordance with the Practice Regulation.

Q12. Regarding the requirement to ascertain the status of the SDU concerned as mentioned in paragraph (19) of the Practice Circular,

- (a) When must licensees conduct the relevant search on the BHU thematic website?**
- (b) Does the requirement only apply to licensees whose estate agency company is acting solely for the landlord?**

Answer: (a) With effect from 1 March 2027, licensees must conduct the relevant search on the BHU thematic website before engaging in any estate agency work in relation to the letting of SDUs under domestic tenancies that are subject to the BHU regulatory regime. Licensees should retain documentary proof for having conducted such searches, e.g., hardcopies of the screenshots of the

BHU thematic website search with date and time shown.

If the landlord clients claim to have obtained the Grace Period registration or BHU recognition but such status has yet to be reflected on the BHU thematic website, licensees should request for proof issued by the HB from the landlord clients, so as to ascertain the status of the SDU concerned. In such case, licensees should similarly retain a copy of such proof for record.

- (b) No, the status of the SDU concerned is an important piece of information for tenants. It is also important for licensees to guard against inadvertently committing the criminal offence of unauthorized letting of SDUs (see paragraph (10) of the Practice Circular). In other words, regardless of whether the estate agency company concerned is acting solely for the landlord, solely for the tenant, or for both the landlord and the tenant, the licensee is required to ascertain the status of the SDU concerned before getting involved in the letting.

25 February 2026