



Circular

Circular No. 26-01 (CR)

Guidelines on handling the letting of subdivided units under domestic tenancies that are subject to the Basic Housing Units Ordinance:

- **Actions to take from 1 March 2026 to 28 February 2027 ((16) – (18)).**
- **Actions to take from 1 March 2027 onwards ((19) – (21)).**
- **Comply with guidelines issued by the Estate Agents Authority including guidelines with respect to the letting of subdivided units under Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Circular No. 22-01 (CR)).**

Letting of Subdivided Units under the Basic Housing Units Ordinance

This circular sets out guidelines for licensees when handling the letting of subdivided units (“SDUs”) under domestic tenancies that are subject to the regulatory regime under the Basic Housing Units (“BHU”) Ordinance (Cap. 658) (“Ordinance”) during their estate agency practice. This circular is issued in light of the new requirements under the Ordinance and shall take effect on 1 March 2026, except for paragraphs (10) and (19) to (21) which will come into operation on 1 March 2027, with the aim of assisting licensees to understand and comply with the requirements under the Ordinance.

Scope of Regulation

- (2) The regulatory regime under the Ordinance is applicable to SDUs and the flats in which the SDUs are located (“principal flats”) in domestic buildings¹ or the domestic part of composite buildings (hereafter collectively referred to as “residential flats”).
- (3) The scope of regulation **excludes** the following premises:

¹ Including subsidised sale flats (“SSFs”) with premium already paid to the Hong Kong Housing Authority or the Hong Kong Housing Society for the removal of a restriction on the alienation of the SSF.

- (a) premises set out in Part 2 of Schedule 4 to the Ordinance, which includes premises being regulated by other existing statutory regimes, such as bedspace apartments, hotels, guesthouses and residential care homes for elderly or persons with disabilities, drug treatment and rehabilitation centres as well as child care centres;
 - (b) premises located in non-domestic buildings (including commercial buildings and industrial buildings) or the non-domestic parts of composite buildings;
 - (c) buildings or premises without reference building plans² (including New Territories Exempted Houses and squatters); and
 - (d) illegal structures located at rooftops, flat roofs, lanes, light wells, yards, etc. constructed in contravention with the Buildings Ordinance (Cap. 123).
- (4) With effect from 1 March 2026, letting of SDUs in a residential flat under two or more separate domestic tenancies (either written or oral) will be regulated under the BHU regulatory regime.

Meaning of SDU under the Ordinance

- (5) Under the BHU regulatory regime, if:
- (a) a residential flat, through partition or repartition, has changed its layout compared to the one 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

² In respect of private residential flats, “reference building plan” generally refers to the relevant approved building plan for issuance of the Occupation Permit (“OP”) by the Buildings Department (“BD”); and if the relevant residential flat has any building works certified as completed by the BD to change the layout of the flat after obtaining the OP 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”, whichever is later.

- (c) at least one of the compartments is formed by the partition or repartition,

then each of these compartments is an **SDU**.

Key Features of the BHU Regulatory Regime

Grace Period Registration System for Residential Flats with Pre-existing SDUs³

- (6) Starting from 1 March 2026, the Housing Bureau (“HB”) will roll out a registration system that will operate for 12 months from 1 March 2026 to 28 February 2027 (“Registration Period”) for owners or persons with written consents of the owners of residential flats with pre-existing SDUs to make registration for obtaining a uniform grace period of 36 months from 1 March 2027 to 28 February 2030⁴ (“Grace Period”), during which the owners/operators⁵ could carry out necessary alteration works on the concerned SDUs/residential flats for the purpose of applying for BHU recognition. Application for Grace Period registration is free of charge⁶.
- (7) The Secretary for Housing (“Secretary”) may cancel a Grace Period registration and direct that the concerned subsisting domestic tenancy, if there is one, be terminated on specified grounds (e.g., the documents/information required for by the Secretary are not provided; entry into and inspections of the concerned SDU/flat by an authorized officer are refused; or the concerned building/flat is in imminent danger). The tenant of the SDU concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the

³ “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. The concerned SDU and other SDUs in the same residential flat will be regarded as “pre-existing SDUs” and are eligible to apply for registration for obtaining a uniform grace period.

⁴ Unless the Secretary extends the Grace Period by notice published in the Gazette.

⁵ “Operator” means a person who lets the SDU for habitation; or any other person who is from time to time entitled to receive rent for such letting.

⁶ If the Secretary extends the Registration Period by notice published in the Gazette, the application fee for Grace Period registration will be \$745 per residential flat starting from 1 March 2027.

relevant operator for the termination of the tenancy⁷, with an amount equivalent to three months' rent or the total rent of the remaining term of the tenancies (whichever is lower).

Recognition System on BHUs

- (8) Starting from 1 March 2026, HB will roll out the recognition system on BHUs in parallel with the Grace Period registration system in paragraph (6) above, whereby applications of SDUs for BHU recognition will be accepted for SDUs that comply with the minimum standards of living conditions set out in Schedule 1 to the Ordinance (i.e. minimum internal floor area, minimum height, fire safety, loading (i.e. structural safety), separate toilet, water supply point and sink outside toilet, lighting and ventilation, as well as water and electricity meters). Upon successful application, a BHU recognition with a validity period of five years will be granted to the SDU concerned.
- (9) To incentivize early applications for BHU recognition, reduction/waiver of the application fee for recognition will be provided according to the timing of making an application. For details, licensees should refer to Schedule 2 to the Ordinance or the "Application Fees" section on the BHU thematic website at (<https://www.bhu.gov.hk/eng/regulatory-regime/fees/>).

Unauthorized Letting of SDUs

- (10) With effect from 1 March 2027, if two or more SDUs in a residential flat are let under separate domestic tenancies while no Grace Period registration is in force for the flat; and no BHU recognition is in force for any one of the SDUs, then (a) a person who lets the unrecognized SDU under a tenancy; (b) a person who lets the whole principal flat of the unrecognized SDU 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), would **each** be

⁷ For details, please see section 14 and Part 7 of the Ordinance.

criminally liable for the offence of unauthorized letting of SDUs⁸. Licensees must not participate in any act that involves the unauthorized letting of SDUs in the course of their practice.

Expiration/Termination of certain Domestic Tenancies of SDUs

- (11) For domestic tenancies of SDUs in a registered flat that were entered into and came into effect **on or before** the gazettal date of the Ordinance (i.e. 3 October 2025), their four-year security of tenure will expire before the end of the Grace Period (i.e. 28 February 2030).
- (12) For new domestic tenancies of SDUs in a registered flat (not being second term tenancies under section 120AA(1) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (“LTCO”)) that were entered into and came into effect **after** the gazettal date of the Ordinance (i.e. 3 October 2025) but **before** 1 September 2029 (i.e. the start of the last six months of the Grace Period (“Countdown Period”)), if a Grace Period is in force for the flat but there is no BHU recognition for the SDU concerned, such tenancies remaining effective on 1 September 2029 will be automatically terminated¹⁰ on that day.
- (13) With respect to domestic tenancies of SDUs in a registered flat which have been automatically terminated as mentioned in paragraph (12) above, the tenants of the SDUs concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the relevant operators for the termination of the tenancies, with an amount equivalent to three months’ rent or the total rent of the remaining term of the tenancies (whichever is lower).

⁸ The maximum penalty for a person who commits the offence of unauthorized letting of SDUs is a fine of \$300,000 and imprisonment for 3 years and, in the case of a continuing offence, a further fine of \$20,000 for every day during which the offence continues. For details, please refer to section 8 of the Ordinance.

⁹ “Countdown Period” refers to the period from 1 September 2029 to 28 February 2030.

¹⁰ Unless (a) a BHU recognition application for the SDU concerned is pending immediately before the Countdown Period begins; or (b) a BHU recognition application for the SDU concerned has been refused and immediately before the Countdown Period begins, the period for lodging a notice of appeal against the decision of the refusal has not expired or an appeal lodged against the decision of the refusal is pending. For details, please refer to section 31 of the Ordinance.

No New Domestic Tenancy of SDU during the Countdown Period

- (14) During the Countdown Period, no new domestic tenancy of SDU will be allowed for an unrecognized SDU in a registered flat, otherwise the person letting the SDU under such new tenancy would be held criminally liable¹¹. Licensees must not participate in any act that involves the letting of such SDU during the Countdown Period.

Notification of Changes

- (15) A responsible person, in relation to a registered flat (i.e. an operator of an SDU in the flat or an owner of the flat) or, in relation to a BHU (i.e. an operator of the BHU or an owner of the principal flat) is required to notify the Secretary of certain changes (e.g., a change in relation to any operator/owner or their particulars provided; or a change in the condition of a 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 the date on which he/she becomes aware of the change¹². A person who, without reasonable excuse, fails to comply with the relevant requirement commits an offence¹³.

Actions to take from 1 March 2026 to 28 February 2027

Subsisting Domestic Tenancies of SDUs already entered into prior to 1 March 2026

- (16) In respect of subsisting domestic tenancies of SDUs entered into prior to 1 March 2026, licensees who were involved in such

¹¹ The maximum penalty for a person who commits the offence of letting SDUs in registered flats during the Countdown Period is a fine of \$300,000 and imprisonment for 3 years and, in the case of a continuing offence, a further fine of \$20,000 for every day during which the offence continues. For details, please refer to section 35 of the Ordinance.

¹² For details, please refer to sections 15 and 27 of the Ordinance.

¹³ The maximum penalty for a person who fails to notify the Secretary of certain changes is a fine of level 4 (i.e. \$25,000 as at February 2026) and, in the case of a continuing offence, to a further fine of \$700 for every day during which the offence continues.

letting are encouraged to:

- (a) remind the landlord clients of a valid domestic tenancy of an SDU in a residential flat with pre-existing SDUs to register their flat between 1 March 2026 and 28 February 2027 for the grant of a Grace Period if they have not yet done so;
- (b) draw to the attention of landlord clients of a valid domestic tenancy of an SDU in a residential flat ineligible for registration (i.e. a valid domestic tenancy of an SDU entered into between 4 October 2025 and 28 February 2026, in a residential flat without any valid domestic tenancy of an SDU subsisting between 4 July 2025 and 3 October 2025) that they should apply to obtain BHU recognition for the relevant SDU on or before 1 March 2027. Otherwise, continued letting of such unrecognized SDUs in an unregistered flat under domestic tenancies from 1 March 2027 onwards would constitute a criminal offence under the Ordinance;
- (c) remind the landlord clients to plan for early alteration works and early application for BHU recognition to avoid last-minute rush towards the closing of the Grace Period, if such clients wish to continue letting out their SDUs under domestic tenancies that are subject to the BHU regulatory regime;
- (d) advise the landlord clients to seek professional advice from a specified professional before designing and commencing the alteration work¹⁴;
- (e) remind the landlord and tenant clients that domestic tenancies of SDUs in a registered flat entered into and came into effect on or before 3 October 2025 will still be

¹⁴ According to Schedule 3 to the Ordinance, “specified professionals” mean registered architects registered with the Architects Registration Board; registered professional engineers (under the building, civil, structural, fire or building services disciplines) registered with the Engineers Registration Board; and registered professional surveyors (under the building surveying division) registered with the Surveyors Registration Board.

able to enjoy the four years of security of tenure under Part IVA of the LTCO; that such tenancies will expire before 28 February 2030 according to the terms of their respective regulated tenancies; and

- (f) advise the landlord and tenant clients to contact the Dedicated Team on Subdivided Units (“DTSDU”) under HB by email at bhu@hb.gov.hk or by phone at 3611 0248 and/or seek legal/professional advice from professionals if they have questions concerning the BHU regulatory regime.

New Domestic Tenancies of SDUs in Residential Flats with pre-existing SDUs

- (17) Where licensees are involved in the letting of SDUs in residential flats with pre-existing SDUs under new domestic tenancies (not being second term tenancies under section 120AA(1) of the LTCO) to be entered into on or after 1 March 2026 but before 1 March 2027, they are required to in writing:
 - (a) remind the landlord clients to apply to register for the Grace Period and obtain BHU recognition before expiry of the Grace Period if they have not yet done so;
 - (b) remind the landlord and tenant clients that during the Grace Period and the validity period of a BHU recognition, the Secretary may cancel a Grace Period registration and/or BHU recognition under certain circumstances (see paragraph (7) above) and direct that the concerned tenancy be terminated, in which case the tenant of the SDU concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the relevant operator, with an amount equivalent to three months’ rent or total rent of the remaining term of the tenancies (whichever is lower);
 - (c) remind the landlord and tenant clients that their tenancies will be automatically terminated on 1 September 2029 unless BHU recognition in respect of the SDUs concerned

has been obtained on or before that date; and the tenants of the SDUs concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the relevant operators for the termination of the tenancy, with an amount equivalent to three months' rent or total rent of the remaining term of the tenancies (whichever is lower);

- (d) inform the landlord and tenant clients that no new letting of SDUs in registered flats under domestic tenancies will be allowed during the Countdown Period (i.e. between 1 September 2029 and 28 February 2030) unless valid BHU recognition in respect of the SDUs concerned has been obtained on or before the concerned tenancy is entered into; and
- (e) advise the landlord and tenant clients to contact the DTSDU under HB by email at bhu@hb.gov.hk or by phone at 3611 0248 and/or seek legal/professional advice from professionals if they have questions concerning the BHU regulatory regime.

New Domestic Tenancies of New Entrant SDUs in Residential Flats

- (18) Licensees who are involved in the letting of SDUs under new domestic tenancies to be entered into on or after 1 March 2026 but before 1 March 2027 in respect of SDUs in residential flats which are new entrants to the market (including SDUs in residential flats ineligible for registration (i.e. residential flats without any valid domestic tenancy of an SDU subsisting between 4 July 2025 and 3 October 2025)) are required to in writing:
 - (a) remind the landlord clients to apply for and obtain BHU recognition before letting out the SDUs concerned;
 - (b) remind the landlord clients that the letting of unrecognized SDUs under a domestic tenancy would constitute a criminal offence under the Ordinance with effect from 1 March 2027;

- (c) remind the landlord and tenant clients that during the validity period of a BHU recognition, the Secretary may cancel a BHU recognition under certain circumstances (see paragraph (7) above) and direct that the concerned tenancy be terminated, in which case the tenant of the SDU concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the relevant operator, with an amount equivalent to three months' rent or total rent of the remaining term of the tenancies (whichever is lower); and
- (d) advise the landlord and tenant clients to contact the DTSDU under HB by email at bhu@hb.gov.hk or by phone at 3611 0248 and/or seek legal/professional advice from professionals if they have questions concerning the BHU regulatory regime.

Actions to take from 1 March 2027 onwards

Ascertain the status of the SDU concerned before getting involved in letting

- (19) As the offence of unauthorized letting of SDUs will come into operation on 1 March 2027, before engaging in any estate agency work in relation to the letting of SDUs under domestic tenancies to be entered into on or after 1 March 2027, licensees **must first ascertain whether (a) the principal flat concerned has been registered for the Grace Period; and/or (b) the SDU concerned has been granted a valid BHU recognition¹⁵**. If the principal flat has not been registered for the Grace Period and the SDU has not been granted with a valid BHU recognition, licensees **must not** participate in any act which involves the letting of the SDU concerned.

¹⁵ To facilitate SDU households and members of the public to identify which principal flats have been registered and/or which SDUs have been granted with BHU recognition, the address of registered flats and BHUs, location map of the relevant SDU and validity periods of BHU recognition will be uploaded to the BHU thematic website at (<https://www.bhu.gov.hk/eng/>) for public inspection. Searches can be conducted by using the filter function or by entering the address or building/street name.

New Domestic Tenancies of SDUs in Registered Flats

(20) Apart from ascertaining the status of the SDU concerned as mentioned in paragraph (19) above, licensees who are involved in the letting of SDUs in registered flats under new domestic tenancies to be entered into on or after 1 March 2027 but before the Countdown Period commences (i.e. 1 September 2029) are also required to in writing:

- (a) inform the landlord and tenant clients that such tenancies will be automatically terminated on 1 September 2029 unless BHU recognition in respect of the SDUs concerned has been obtained on or before 1 September 2029; and the tenants of the SDUs concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the relevant operators for the termination of the tenancy, with an amount equivalent to three months' rent or total rent of the remaining term of the tenancies (whichever is lower);
- (b) remind the landlord and tenant clients that during the Grace Period and the validity period of a BHU recognition, the Secretary may cancel a Grace Period registration and/or BHU recognition under certain circumstances (see paragraph (7) above) and direct that the concerned tenancy be terminated, in which case the tenant of the SDU concerned may recover as a civil debt compensation (e.g., filing a claim through the Small Claims Tribunal) from the relevant operator, with an amount equivalent to three months' rent or total rent of the remaining term of the tenancies (whichever is lower); and
- (c) remind the landlord and tenant clients that no new letting of SDUs in registered flats under domestic tenancies will be allowed during the Countdown Period (i.e. between 1 September 2029 and 28 February 2030) unless valid BHU recognition in respect of the SDUs concerned has been obtained on or before the concerned tenancy is

entered into.

Other Actions to take regarding the BHU Regulatory Regime

- (21) Even if an owner/operator has been granted a valid Grace Period in respect of the principal flat or a valid BHU recognition in respect of the SDUs, when handling the letting of these SDUs under domestic tenancies to be entered into on or after 1 March 2027, licensees are also required to in writing:
- (a) advise the landlord clients to comply with the Secretary's request for documents/information for the performance of his/her functions to avoid cancellation of the Grace Period registration or BHU recognition;
 - (b) remind the landlord clients to notify changes of particulars provided in their application or a change in the condition of a BHU or its principal flat to the Secretary in specified form within 15 days after the date on which they become aware of the change¹⁶;
 - (c) advise the landlord clients to renew BHU recognition every five years¹⁷;
 - (d) draw to the landlord clients' attention that the letting of SDUs with no valid BHU recognition in a flat with no valid Grace Period under domestic tenancies from 1 March 2027 onwards would constitute a criminal offence under the Ordinance; and
 - (e) advise the landlord and tenant clients to contact the DTSDU under HB by email at bhu@hb.gov.hk or by phone at 3611 0248 and/or seek legal/professional advice from professionals if they have questions concerning the

¹⁶ A person who, without reasonable excuse, fails to comply with the notification of changes requirement under the Ordinance would commit an offence, and the maximum penalty is a fine at level 4 (\$25,000 as at February 2026) and, in the case of a continuing offence, a further fine of \$700 for every day during which the offence continues.

¹⁷ The application must be made no earlier than 6 months and no later than 3 months before the expiry date of the BHU recognition.

BHU regulatory regime.

General Warnings to Licensees

- (22) Licensees should note that estate agents who collect rent on behalf of an owner of a residential flat will fall within the definition of “operator”¹⁸ under the Ordinance even if they do not have control and management of the residential flat or SDU concerned. In the circumstances, licensees who are from time to time entitled to receive rent for the letting of SDUs under domestic tenancies should note that they 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 when 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).

Others

- (23) In order to protect licensees’ interests in case of dispute, licensees are advised to obtain a written acknowledgement from their clients stating that licensees have informed/reminded them in writing of the matters in paragraphs (17), (18), (20) and (21) above (where applicable).
- (24) For details of the BHU regulatory regime, including its scope of regulation, registration system for flats with pre-existing SDUs for Grace Period, recognition system on BHUs, minimum standards of living conditions, frequently asked questions, code of practice, specified forms and application guide for Grace Period registration and BHU recognition, etc., licensees should refer to the BHU thematic website at (<https://www.bhu.gov.hk/eng/>).

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¹⁸ See Footnote 5 above for definition of “operator”.

For the avoidance of doubt, licensees must, in the course of their estate agency practice, comply with the Estate Agents Ordinance (Cap. 511) and its subsidiary legislation, and the Code of Ethics and guidelines issued by the Estate Agents Authority (“EAA”) from time to time, including particularly the guidelines with respect to letting of SDUs subject to the tenancy control regime under Part IVA of the LTCO (Circular No. 22-01 (CR)) as well as other applicable laws.

Licensees who fail to comply with the above guidelines or the relevant laws may be disciplined by the EAA.

February 2026

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| Holder of Statements of Particulars of Business should bring this Circular to the attention of all staff engaged in estate agency work |
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