

# **Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)**

**Effective from 22 January 2022**

**2** First Term  
years **+** **2** Second Term  
years

**Regulation on Rent Increase**

**“Regulated Tenancies” Booklet**



差餉物業估價署  
Rating and Valuation Department

## 1. Application

- 1.1 A tenancy which fulfills all of the following conditions is regulated (“regulated tenancy”) under Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (“Ordinance”) —
- (1) the tenancy commences on or after 22 January 2022 (see item 3 Transitional Arrangements below);
  - (2) the tenancy is a domestic tenancy;
  - (3) the subject premises of the tenancy are a subdivided unit;
  - (4) the tenant is a natural person;
  - (5) the purpose of the tenancy is for the tenant’s own dwelling; and
  - (6) the tenancy is not one specified in Schedule 6 to the Ordinance, i.e. the tenancy is not an excluded tenancy (see item 2 Excluded Tenancies below).
- 1.2 A “subdivided unit” (“SDU”) means premises that form part of a unit of a building.
- 1.3 In general, the scope of regulation covers SDUs of domestic, industrial and commercial buildings, and different types of SDUs (including cubicles, bedspaces, space capsules, lofts, cage homes, rooftop houses and podium houses, etc.). However, it does not cover “squatters” or “New Territories Exempted Houses”.

## 2. Excluded Tenancies

Tenancies specified in Schedule 6 to the Ordinance are excluded from the application of Part IVA of the Ordinance. Such tenancies include —

- 2.1 A tenancy of which the landlord is the employer and the tenant is the employee in possession of the premises in accordance with the terms and conditions of the tenant’s employment, being terms and conditions requiring the tenant to vacate the premises on ceasing to be so employed;
- 2.2 A tenancy —
- (1) that is not a sub-tenancy;
  - (2) the subject premises of which are demarcated as a bedroom in a unit of a building in the latest building plan of the building, which is the latest building plan approved by the Building Authority under the Buildings Ordinance (Cap. 123) as at the date on which the occupation permit in relation to the building is issued; and
  - (3) the landlord of which is a natural person and residing in the unit at the commencement of the tenancy;
- 2.3 A tenancy of premises under the Hong Kong Housing Society’s “Letting Scheme for Subsidised Sale Developments with Premium Unpaid”.

### 3. Transitional Arrangements

- 3.1 Fixed-term tenancies which commence before 22 January 2022 are not subject to the regulation under Part IVA of the Ordinance even though the tenancies fulfill the conditions mentioned in item 1.1(2)-(6) above.
- 3.2 If a tenancy —
- (1) fulfills the conditions mentioned in item 1.1(2)-(6) above;
  - (2) is not a second term tenancy of a regulated cycle;
  - (3) is a periodic tenancy commencing before and existing on 22 January 2022 (“effective date”), and a period of the tenancy either —
    - (a) commences on the effective date; or
    - (b) straddles the effective date,



the tenancy is taken to be a first term tenancy of a regulated cycle and is regulated under Part IVA of the Ordinance. The term of the tenancy is taken to be 2 years commencing on — for (a) the effective date; or for (b) the date immediately after the expiry of the period that straddles the effective date (see item 5.1 Security of Tenure below for “regulated cycle”, “first term tenancy” and “second term tenancy”).

### 4. Determination of “Regulated Tenancy”

- 4.1 A person having an interest in any premises, including the landlord and the tenant of a tenancy for the premises, may apply to the Lands Tribunal (“Tribunal”) to determine whether or not a tenancy for the premises is a “regulated tenancy” for the purposes of Part IVA of the Ordinance.
- 4.2 One of the conditions of a “regulated tenancy” is that the tenancy is a domestic tenancy (see item 1 Application above), and that the primary user of the subject premises of the tenancy may be one of the factors for consideration. A landlord or tenant of any premises may apply to the Commissioner of Rating and Valuation (“Commissioner”) for the issue of a primary user certificate for the premises. However, if the Commissioner has already issued a primary user certificate for any premises, no further application may be made for the premises before the expiry of 1 year from the day on which the primary user certificate is issued.



**Lands Tribunal**



**Primary User Certificate**

## 5. Key Requirements under Part IVA of the Ordinance

### 5.1 Security of Tenure

- (1) Each “regulated tenancy” is for a term of 2 years. Unless under the circumstances specified in Part IVA of the Ordinance, the landlord cannot terminate the tenancy before the expiry of the term.
- (2) A regulated cycle of tenancies for an SDU is to comprise 2 consecutive “regulated tenancies” (i.e. first term tenancy and second term tenancy) for the SDU.
- (3) A tenant of a first term tenancy for an SDU is entitled to be granted a second term tenancy of the regulated cycle, thus enjoying a total of 4 years (first term of 2 years + second term of 2 years) of security of tenure (see item 5.8 Second Term Offer below).
- (4) The terms and conditions of the second term tenancy are to be the same as those of the first term tenancy, except the period of the tenancy and the amount of rent.

**2** First Term Years + **2** Second Term Years



### 5.2 Rent Regulation

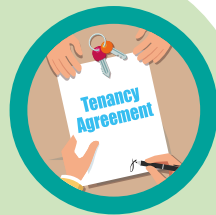
- (1) A landlord and a tenant may enter into a first term tenancy for an SDU at a rent agreed by the parties.
- (2) The amount of rent for the second term tenancy as agreed by the landlord and the tenant must not exceed the maximum amount of rent that is permitted under Part IVA of the Ordinance.
- (3) Specifically, in the same regulated cycle, the rate of rent increase for the second term tenancy must not exceed the percentage change of the territory-wide rental index for all classes of private domestic properties compiled and published by the Rating and Valuation Department (“RVD”) during the relevant period, and is capped at 10%. If the percentage is a negative figure, the rent for the second term tenancy is to be reduced at least by that percentage.
- (4) An online calculator (a) showing the maximum percentage for an increase of rent for the relevant second term tenancy; and (b) calculating the maximum amount of renewed rent as permitted under the Ordinance, will be available at RVD’s webpage from October 2023 for reference purpose.
- (5) Be it a first term tenancy or a second term tenancy, the rent cannot be increased during the term.



**Regulation on  
Rent Increase**

### 5.3 Entering into Written Tenancy Agreement

- (1) If the landlord and tenant of an SDU have entered into a tenancy orally for a first term tenancy and the first term tenancy has commenced, the tenant may in writing demand the landlord to, within 30 days, serve on the tenant a written tenancy agreement reflecting the contents of the oral tenancy.
- (2) If the landlord fails to do so, the tenant may elect either (a) to withhold the payment of rent until the landlord has done so; or (b) to terminate the tenancy by, within 7 days after the specified period of 30 days mentioned above, giving the landlord not less than 30 days' prior notice in writing of the termination.
- (3) A template for tenancy agreement for a "regulated tenancy" can be downloaded from RVD's webpage ([www.rvd.gov.hk/en/our\\_services/tenancy\\_matters.html](http://www.rvd.gov.hk/en/our_services/tenancy_matters.html)) for general reference.



### 5.4 Submission of Notice of Tenancy

The landlord must submit a Notice of Tenancy in Form AR2 to RVD within 60 days after the term of a "regulated tenancy" (including a first term tenancy and a second term tenancy) commences to notify RVD of the particulars of the tenancy.



### 5.5 Rental Deposit

Despite any provision of the tenancy, the rental deposit payable by a tenant of a "regulated tenancy" may not be more than 2 months' rent under the tenancy. The landlord must return the rental deposit to the tenant no later than the time specified in the Ordinance.

### 5.6 Early Termination by Tenant

A tenant of a "regulated tenancy" may, by giving the landlord not less than 30 days' prior notice in writing, terminate the tenancy. However, the date of termination must not be a date earlier than the last day of the first year of the term. Moreover, Part IVA of the Ordinance does not limit any rights of the tenant to terminate the tenancy by notice under the tenancy.

## 5.7 Mandatory Terms Implied for Every “Regulated Tenancy”

According to Part IVA of the Ordinance, the following mandatory terms are to be impliedly incorporated into every “regulated tenancy” (“incorporated provisions”). The incorporated provisions bind the landlord and tenant of the tenancy, and prevail over any other provision of the tenancy that is in conflict or inconsistent with the incorporated provisions —

### (1) Landlord’s Obligations

#### (a) Maintenance and repair

The landlord must maintain and keep in repair the drains, pipes and electrical wiring serving the premises exclusively; and windows of the premises. In addition, the landlord must keep in proper working order the fixtures and fittings provided by the landlord in the premises. On receiving a notice from the tenant for repair of an item mentioned above, the landlord must carry out the repair as soon as practicable.

If the landlord fails to fulfil any of his obligations, the tenant may, by giving the landlord not less than 30 days’ prior notice in writing, terminate the tenancy.

#### (b) Stamping of tenancy agreement

The landlord must, after receiving the tenancy agreement (including a Form AR1 signed by the landlord and tenant for a second term tenancy) signed by the tenant, cause the tenancy agreement to be stamped (the relevant stamp duty is to be borne by the landlord solely), and within 30 days, return to the tenant a counterpart of the stamped tenancy agreement signed by the parties.

If the landlord fails to return the counterpart, the tenant may withhold the payment of rent until the landlord has done so.



## (2) Tenant's Obligations

- (a) The tenant must pay the rent to the landlord on or before the due date.
- (b) The tenant —
  - (i) must not use the premises for any immoral or illegal purpose;
  - (ii) must not do anything on the premises that would cause any unnecessary annoyance, inconvenience or disturbance to the landlord or any other person;
  - (iii) must not make any structural alteration to the premises without the prior consent in writing of the landlord;
  - (iv) must not assign or underlet the whole of the premises to another person; or
  - (v) must not underlet part of the premises to another person without the prior consent in writing of the landlord.

## (3) Landlord's Re-entry

If the tenant is in breach of item 5.7(2)(a) and fails to pay the rent within 15 days after the due date, or is in breach of any sub-item of item 5.7(2)(b), the landlord may enforce a right of re-entry or forfeiture.

## 5.8 Second Term Offer

### (1) Landlord Must Make Second Term Offer

A landlord of a first term tenancy for an SDU must, within the offer period (see item 5.8(2) below), make a second term offer in Form AR1 (to be available from October 2023) to the tenant for a second term tenancy of the regulated cycle for the SDU, and serve the offer on the tenant.

The landlord must state the proposed amount of rent for the second term tenancy in Form AR1 and sign the Form.

### (2) Offer Period

Offer period means the period of the second calendar month immediately before the calendar month in which the purported second term tenancy commences. For example, if a second term tenancy is to commence on any date of January 2024, the relevant offer period is the whole month of November 2023.

### (3) Tenant's Acceptance of Second Term Offer

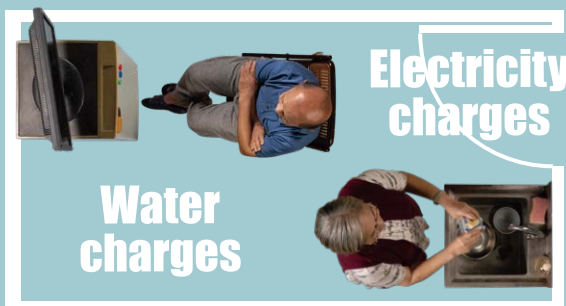
If the tenant accepts the second term offer, the tenant must sign the Form AR1 containing the offer as served by the landlord, and serve it on the landlord before the expiry of the first term tenancy. If the tenant fails to notify the landlord of the tenant's acceptance of the second term offer before the expiry of the first term tenancy, the tenant is taken to have rejected the second term offer.



## 6. Offences, Penalties and Consequences Targetting “Regulated Tenancies”

### 6.1 Prohibiting Landlord from Charging Tenant Miscellaneous Fees

- (1) A landlord of a “regulated tenancy” commits an offence if the landlord requires the tenant to pay, or the landlord otherwise receives from the tenant, any money in relation to the tenancy other than those falling within the following types —
  - (a) rents as permitted under Part IVA of the Ordinance;
  - (b) rental deposits as permitted under Part IVA of the Ordinance;
  - (c) reimbursement of charges for any of the utilities and services<sup>#</sup> specified by Part IVA of the Ordinance; (<sup>#</sup>means water, electricity, gas and communication services; and communication services include services enabling the Internet to be used)
  - (d) damages for the tenant’s breach of the tenancy.
- (2) A person who commits the afore-said offence is liable on a first conviction to a fine at level 3 (HK\$10,000), and on a second or subsequent conviction to a fine at level 4 (HK\$25,000).





## 6.2 Prohibiting Landlord from Overcharging Tenant Apportioned Water and Electricity Charges, etc.

- (1) Where the charges for any of the utilities and services specified by Part IVA of the Ordinance for an SDU incurred by a tenant of a “regulated tenancy” for the SDU are not independently billed by the relevant authorities or service providers (e.g. power companies or Water Supplies Department), the landlord commits an offence if the landlord requires the tenant to pay for, or the landlord otherwise receives from the tenant, the reimbursement of the charges as a separate payment from rent unless —
  - (a) the landlord is the payer named in the bills covering the charges;
  - (b) copies of the bills are produced by the landlord to the tenant when the landlord requires payment; and
  - (c) the landlord has provided an account in writing to the tenant showing how the amounts under the bills are apportioned and that the aggregate of the apportioned amounts does not exceed the amounts under the bills.
- (2) Also, the landlord commits an offence if the landlord requires the tenant to reimburse the relevant charges at a sum exceeding the apportioned amount for the SDU as shown in the account.
- (3) A person who commits either of the two afore-said offences is liable on a first conviction to a fine at level 3 (HK\$10,000), and on a second or subsequent conviction to a fine at level 4 (HK\$25,000).



### 6.3 Landlord Must Submit Notice of Tenancy

- (1) The landlord must, within 60 days after the term of a “regulated tenancy” (including a first term tenancy and a second term tenancy) commences, submit a completed Notice of Tenancy (Form AR2) to the Commissioner. If the landlord, without reasonable excuse, refuses or neglects to comply with this requirement, the landlord commits an offence, and is liable on conviction to a fine at level 3 (HK\$10,000), and in the case of a continuing offence, to a further fine of HK\$200 for each day during which the offence continues.
- (2) If a person, in purported compliance with the requirement to submit a Notice of Tenancy to the Commissioner, provides any particulars that are false or misleading in a material particular, and knows that, or is reckless as to whether or not, the particulars are false or misleading in a material particular, the person commits an offence, and is liable on conviction to a fine at level 3 (HK\$10,000) and to imprisonment for 3 months.
- (3) A landlord of a “regulated tenancy” may not maintain an action to recover any rent under the tenancy unless the Notice of Tenancy is endorsed by the Commissioner. A copy of the Notice of Tenancy will be served on the landlord and the tenant respectively by RVD.

## 7. Enhancing Protection for Sub-tenant

7.1 If a “regulated tenancy” for an SDU is a sub-tenancy, when a tenancy superior to the tenancy ends, the sub-tenancy will end simultaneously.

### 7.2 60-day “Automatic Stay” Period

- (1) If a “regulated tenancy” for an SDU is a sub-tenancy, and a superior landlord applies to the court for possession of the SDU and is granted an order for possession, before enforcing the order of the court, the superior landlord must notify the tenant of the “regulated tenancy” (“sub-tenant”) in writing by posting the notice on the main door or entrance to the SDU on 3 successive days.



- (2) Leave to issue a writ of possession is not to be granted by the court before the expiry of a period of 60 days beginning on the day immediately after the last day on which the notice is posted.
- (3) The above-mentioned 60-day “automatic stay” period aims to provide sufficient time for the affected SDU sub-tenants to look for alternative accommodation.

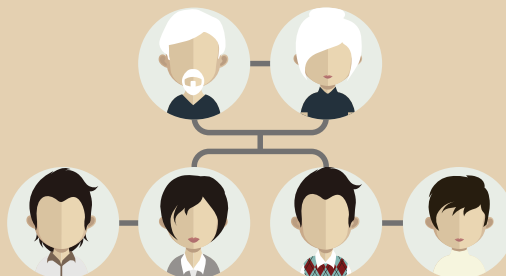
### 7.3 Limited Liabilities of Sub-tenant

Where a “regulated tenancy” for an SDU is a sub-tenancy and the “regulated tenancy” is terminated because of the termination of a superior tenancy, if the sub-tenant fails to deliver up vacant possession of the SDU after the tenancy has been terminated, the compensation that the superior landlord (or the landlord of the “regulated tenancy”) may recover from the sub-tenant is to be determined in accordance with the formula set out in Part IVA of the Ordinance (i.e. based on the monthly rent payable by the sub-tenant under the “regulated tenancy” for the SDU immediately before the date of termination of the tenancy and the holding-over period).



## 8. Tenant's Interest to Pass to Family Member on Death

- 8.1 If a tenant of a “regulated tenancy” dies during the term of the tenancy, the subsisting benefits and protection under the “regulated tenancy” to which the tenant is entitled under Part IVA of the Ordinance during the tenant's life time are, after the tenant's death, available to a family member of the tenant who is residing with the tenant in the SDU at the time of the tenant's death.
- 8.2 If there is more than one eligible family member and they are unable to reach an agreement among themselves as to who should be entitled to the relevant interest, they must refer the matter to the Tribunal for a determination.





[www.rvd.gov.hk/en/our\\_services/  
tenancy\\_matters.html](http://www.rvd.gov.hk/en/our_services/tenancy_matters.html)



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### Disclaimer

The purpose of this booklet is to introduce the main provisions of Part IVA "Regulated Tenancies" of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) for general reference by the public only. This booklet is not a legal document, nor can it be regarded as an authoritative legal interpretation. Anyone who has questions about the provisions of the Ordinance should seek the advice of a lawyer.