

(This document is typed by the Legislative Council Secretariat to facilitate Members' perusal of the attached original document which is handwritten.)

To : the relevant Committee  
through : the Secretariat,  
Legislative Council

From : YIP, MING EDWARD

15 April 2005

Building Management (Amendment) Bill 2005

1. In Clause 4(b), at subsection (2)(a), replace "a majority" by "an one-half majority";
2. In Clause 4(c), replace paragraph (4) by : –  
“(4) The notice of meeting shall specify –  
(a) the date the notice of meeting is given;  
(b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and  
(c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee.”
3. In Clause 4(c), replace paragraph (10)(a) by : –  
“(a) the instrument appointing in proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”
4. In Clause 5(c), replace paragraph (3B) by : –  
“(3B) The notice of meeting shall specify –  
(a) the date the notice of meeting is given;  
(b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and  
(c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a meeting committee.”
5. In Clause 5(c), replace paragraph (3H)(a) by : –  
“(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”

6. In Clause 6(b), replace paragraph (b) by : –  
“(b) The notice of meeting shall specify –
  - (a) the date the notice of meeting is given;
  - (b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and
  - (c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee.”
  
7. In Clause 6(b), replace paragraph (12)(a) by : –  
“(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”
  
8. In Clause 19(d), replace paragraph (5) by : –  
“(5) The notice of meeting shall specify –
  - (a) the date the notice of meeting is given;
  - (b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and
  - (c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee.”
  
9. In Clause 19(d), replace paragraph (11)(a) by : –  
“(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”
  
10. In Clause 24(e), replace paragraph (ii) by : –  
“(ii) in subparagraph (2), by repealing “in writing signed by the owner, or if the owner is a body corporate, under the seal of that body and substituting –  
“in the form set out in Form 2 in Schedule 1A and shall be done accordingly to the instructions in Form 2 in Schedule 1A.”
  
11. Add a clause such that : –  
“Add section 20AA in front of section 20A : –  
“20AA Management fee
  - (1) A management fee incurred on an occupant, owner or tenant shall be used solely for –
    - (a) expenses incidental to and arising from the proper management of a building, including security, repair and maintenance, hygiene and sanitary, salary for staff and employees and insurance policies; and
    - (b) the purposes set out in section 20(1) and (2).

- (2) A management fee shall be collected on a regular basis from an occupant, owner or tenant for the purposes set out in subsection (1).
- (3) A management collected under subsection (2) shall be used for purposes set out in subsection (1) and in all circumstances not be used for investing in any monies.
- (4) A membership fee to the tenant's club (or whatever name it calls) or other fees occasionally incurred shall be segregated from a management fee."

12. Add a clause such that : –

“Add section 20AB in front of section 20A : –

“20AB Employment Contract

An employment contract incidentally to and arising from the management of a building must as close as the standard employment contract set out by the Labour Department and shall carry the following effect : –

- (a) The time span between that an employee starts his or her working day and that he or she leaves at the end of that working day, does not exceed 8 hours and 30 minutes, where there shall be a meal break in the middle of the working day;
- (b) There shall be at least one rest day in between 6 working days and that rest day can not be supplemented by other considerations; and
- (c) The time span and rest day may be adjusted or varied only in case of emergency.”

13. In Clause 22, for Form 1 and Form 2, under the phrase “\*Delete where inapplicable”, add ; –

“Instructions :

1. The form shall be duly filled out on or after the date a notice of the meeting is given.
2. (a) The form shall be signed by the owner; or  
(b) If the owner is a body corporate, shall, notwithstanding anything contrary to its constitution, be sealed or stamped with the seal or stamp of the body corporate and signed by a person authorized by the body corporate in that behalf.
3. The instrument appointed a proxy shall be lodged with the convenor at least 24 hours before the time for the holding of the meeting; and
4. a proxy appointed in accordance with paragraphs 2 and 3 to vote for an owner shall, for the purposes of establishing a quorum, be treated as being an owner present at the meeting.”

14. Add Clause 50A : –

“50A. In section 32, 35 and 36, replace “Any person” by “A person” and “shall be guilty of” by “commits”.”

15. Add Clause 50B : –

“50B. Repeal section 31(1) and substitute the following : –

- “(1) The tribunal may, upon application made to it by –
- (a) an owner;
  - (b) a registered mortgagee; or
  - (c) the Authority or an authorised officer,
- dissolve the management committee and appoint an administrator.
- (1A) The tribunal may, upon application made to it by –
- (a) an owner;
  - (b) a registered mortgagee;
  - (c) an administrator; or
  - (d) the Authority or an authorised officer,
- remove and replace an administrator.”

16. Add Clause 50C : –

“50C. (1) Add a paragraph (ba) after paragraph (b) in paragraph (1) to Schedule 3 : –

“(ba) in the case of management committee elected in a general meeting convened by an administrator, an annual general meeting not earlier than 12 months, and not later than 15 months, after the date of such general meeting.

- (2) In paragraph 3(3) to Schedule 3, replace “a majority” by “an one-half majority”.”

17. Add Clause 50D : –

“50D Replace section 5(3)(b) by : –

“(b) lodged in a website specified by the Authority.”

(Original document)

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15 April 2005

1. In clause 4(b), at subsection (1)(a), replace "a majority" by "an one-half majority";
2. In clause 4(c), replace paragraph (4) by:—  
“(4) The notice of meeting shall specify—  
(a) the date the notice of meeting is given;  
(b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and  
(c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee.”
3. In clause 4(c), replace paragraph (1)(a) by:—  
“(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”
4. In clause 5(c), replace paragraph (3B) by:—  
“(3B) The notice of meeting shall specify—  
(a) the date the notice of meeting is given;  
(b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and  
(c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a meeting committee.”
5. In clause 5(c), replace paragraph (3A)(a) by:—  
“(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”
6. In clause 6(b), replace paragraph (b) by:—  
“(b) The notice of meeting shall specify—  
(a) the date the notice of meeting is given;  
(b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and  
(c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee.”
7. In clause 6(b), replace paragraph (1)(a) by:—  
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“(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;”
10. In clause 24(c), replace paragraph (ii) by:—  
“(ii) in subparagraph (c), by repealing “in writing signed by the owner, or if the owner is a body corporate, under the seal of that body and substituting—  
“in the form set out in Form 2 in Schedule 1A and shall be done accordingly to the instructions in Form 2 in Schedule 1A.”

11. Add a clause such that: —

" Add section 20AA in front of section 20A: —

" 20AA. Management fee

- (1) A management fee incurred on an occupant, owner or tenant shall be used solely for —
  - (a) expenses incidental to and arising from the proper management of a building, including security, repair and maintenance, hygiene and sanitary, salary for staff and employees and insurance policies; and
  - (b) the purposes set out in section 20(1) and (2)
- (2) A management fee shall be collected on a regular basis from an occupant, owner or tenant for the purposes set out in subsection (1).
- (3) A management fee collected under subsection (2) shall be used for purposes set out in subsection (1) and in all circumstances not be used for investing in any monies.
- (4) A membership fee to the tenant's club (or whatever name it calls) or other fees occasionally incurred shall be segregated from a management fee."

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An employment contract incidental to and arising from the management of a building must as close as the standard employment contract set out by the Labour Department and shall carry the following effect: —

- (a) The time span between that an employee starts his or her working day and that he or she leaves at the end of that working day, does not exceed 8 hours and 30 minutes, where there shall be a meal break in the middle of the working day;
- (b) There shall be at least one rest day in between 6 working days and that rest day can not be supplemented by other considerations; and
- (c) The time span and rest day may be adjusted or varied only in case of emergency."

13. In clause 22, for Form 1 and Form 2, under the phrase "Delete where inapplicable", add: —

" Instructions: —

1. The form shall be duly filled out on or after the date a notice of the meeting is given.
2. (a) The form shall be signed by the owner; or  
(b) If the owner is a body corporate, shall, notwithstanding anything contrary in its constitution, be sealed or stamped with the seal or stamp of the body corporate and signed by a person authorized by the body corporate in that behalf.
3. The instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting; and
4. a proxy appointed in accordance with paragraphs 2 and 3 to vote for an owner shall, for the purposes of establishing a quorum, be treated as being an owner present at the meeting."

14. Add clause 50A: —

" 50A. In sections 32, 35 and 36, replace "Any person" by "A person" and "shall be guilty of "by" counts."

15. Add clause 50B: —

" 50B. Repeal section 31(1) and substitute the following: —

"(1) The tribunal may, upon application made to it by —

- (a) an owner;
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- (c) the Authority or an authorized officer,

divulge the management committee and appoint an administrator.

(1A) The tribunal may, upon application made to it by —

- (a) an owner;
- (b) a registered mortgagee;
- (c) an administrator; or
- (d) the Authority or an authorized officer,

remove and replace an administrator."

16. Add clause 50C: —

" 50C (1) Add a paragraph (6a) after paragraph (6a) in paragraph (1) to schedule 3: —

" (6a) in the case of a management committee elected in a general meeting convened by an administrator, an annual general meeting not earlier than 12 months, and not later than 15 months, after the date of such general meeting."

(2) In paragraph 3(3) to schedule 3, replace "a majority" by "an one-half majority". "

17. Add clause 50D: —

" 50D Replace section 5(3)(b) by: —

" (b) lodged in a website specified by the Authority."