

Marked-up copy of relevant provisions of the Building Management
(Amendment) Bill 2000 providing for mandatory obligations for owners'
corporations to effect third party insurance in relation to buildings

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BUILDING MANAGEMENT (AMENDMENT)
ORDINANCE

Ord. No. 69 of 2000

CAP. 344 *Building Management*

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 69 OF 2000

Note

The repeal of section 18(2)(d) and new section 28 are not yet in operation.

18. Duties and powers of corporation

- (1) The corporation shall—
 - (a) maintain the common parts and the property of the corporation in a state of good and serviceable repair and clean condition;
 - (b) carry out such work as may be ordered or required in respect of the common parts by any public officer or public body in exercise of the powers conferred by any Ordinance;
 - (c) do all things reasonably necessary for the enforcement of the obligations contained in the deed of mutual covenant (if any) for the control, management and administration of the building.
- (2) A corporation may, in its discretion—
 - (a) engage and remunerate staff for any purpose relating to the powers or duties of the corporation under this Ordinance or the deed of mutual covenant (if any);
 - (aa) subject to subsection (3), and subject to such terms and conditions as to attendance at meetings of a management committee and its sub-committees as the management committee may determine, pay the chairman, vice-chairman (if any), secretary, treasurer and other holders of office of the management committee appointed in accordance with the Second Schedule such allowances as may be approved by the corporation by resolution passed at a general meeting, in accordance with, but not exceeding, the maximum allowances specified in the Fourth Schedule; (*Added 27 of 1993 s. 17*)
 - (b) retain and remunerate accountants for the purposes of auditing the corporation's books of accounts and preparing the annual income and expenditure accounts and balance sheets;
 - (c) retain and remunerate a manager or other professional trade or business firm or person to carry out on behalf of the corporation any of the duties or powers of the corporation under this Ordinance or the deed of mutual covenant (if any);
 - ~~(d) insure and keep insured the building or any part thereof to the reinstatement value thereof against fire and other risks;~~
 - (e) purchase, hire or otherwise acquire movable property for use by the owners in connexion with their enjoyment of the common parts or to satisfy any requirement of a public officer or public body for the purpose of any Ordinance;

- (f) establish and maintain lawns, gardens and playgrounds on the common parts;
- (fa) carry out any renovation, improvement or decoration work, as the case may be, to the common parts; (*Added 12 of 1998 s. 5*)
- (g) act on behalf of the owners in respect of any other matter in which the owners have a common interest. (*Amended 27 of 1993 s. 17*)

(2A) Without prejudice to the generality of subsections (1) and (2), the corporation in the performance of its duties and the exercise of its powers under this section shall have regard to and be guided by Codes of Practice issued from time to time under section 44(1). (*Added 69 of 2000 s. 10*)

(3) A person shall not be entitled to receive an allowance under subsection (2)(aa) in respect of more than one office held by him at the same time. (*Added 27 of 1993 s. 17*)

(4) No provision in a deed of mutual covenant or other agreement shall operate to prevent a person who is otherwise entitled to receive an allowance under this section from receiving that allowance and any such provision, including a provision purporting to substitute some lesser allowance (howsoever named) for that allowance, shall be void and of no effect. (*Added 27 of 1993 s. 17*)



⇒ ~~28. Insurance policy to be made available by management committee for inspection~~

(1) If a corporation has effected any policy of insurance in respect of the building or the common parts the management committee shall permit the Authority, an authorized officer, the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee, to inspect the policy of insurance and the receipt for the last premium in respect thereof at any reasonable time. *(Amended 27 of 1993 s. 24)*

(2) If any person (other than the Authority or an authorized officer) referred to in subsection (1) requests the corporation to supply him with copies of the policy of insurance and the receipt for the last premium in respect of that policy the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person. *(Added 27 of 1993 s. 24)*

(3) The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in ~~subsection (2) to the Authority or that officer.~~ *(Added 27 of 1993 s. 24)*

28. Obligations regarding insurance

(1) A corporation shall, on behalf of the corporation and the occupiers and owners of a building, procure and keep in force in relation to the building and all parts thereof including the common parts and the property of the corporation, such policy of insurance with an insurance company in respect of third party risks as complies with any requirement prescribed for the purposes of this section.

(2) In the event of a contravention of subsection (1), every member of the management committee shall be guilty of an offence and shall be liable on conviction to a fine at level 5 unless he proves—

- (a) that the offence was committed without his consent or connivance; and
- (b) that he exercised all such due diligence to prevent the commission of the offence as he ought to have exercised in the circumstances.

(3) A corporation may, on behalf of the corporation and the occupiers and owners of a building, insure and keep insured with an insurance company the common parts of the building and the property of the corporation to the reinstatement value thereof against fire and other risks.

(4) Where a corporation has effected any policy of insurance with an insurance company by virtue of this section the management committee shall permit the Authority, an authorized officer, the tenants' representative, an occupier, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an occupier, an owner or registered mortgagee, to inspect the policy of insurance and any receipt for the premium in respect thereof at any reasonable time.

(5) Where any person (other than the Authority or an authorized officer) referred to in subsection (4) requests the corporation to supply him with copies of the policy of insurance and any receipt for the premium in respect of that policy, the treasurer shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.

(6) The treasurer shall, if requested by the Authority or an authorized officer and without raising any charge, supply the copies referred to in subsection (5) to the Authority or that officer.

(7) In this section and in section 41, "insurance company" (保險公司)—

- (a) means an insurer authorized under section 8 of the Insurance Companies Ordinance (Cap. 41) or deemed under section 61(1) or (2) of that Ordinance to be so authorized, to carry on insurance business;
- (b) means the society of underwriters known in the United Kingdom as Lloyd's; and
- (c) means an association of underwriters approved by the Insurance Authority.

41. Power to make regulations

The Chief Executive in Council may make regulations for any of the following matters— (*Amended 34 of 1999 s. 3*)

- (a) the fees payable in respect of the registration or filing of any documents submitted to the Land Registrar under this Ordinance; (*Amended 8 of 1993 s. 3*)
- (b) the fees payable for the inspection or copying of any document so registered or filed;
- (c) the fees payable for the issue of any certificate under this Ordinance;
- (d) prescribing anything which is to be or may be prescribed under this Ordinance;
- (e) the better carrying out of the purposes of this Ordinance.

- (ca) the effecting of policies of insurance in respect of third party risks and against fire and other risks by corporations with insurance companies and the conditions and requirements which are to apply in respect of those policies, including without limitation—
 - (i) the conditions and requirements in respect of policies which are binding on corporations and the occupiers and owners of a building;
 - (ii) the conditions and requirements in respect of policies which are binding on insurance companies;
 - (iii) the conditions to policies which are to be void and of no effect;
 - (iv) the duty of insurance companies to satisfy judgments against corporations and the occupiers and owners of a building in respect of third party risks;
 - (v) the effect of the insolvency and bankruptcy of corporations and the occupiers and owners of a building in respect of claims by third parties;
 - (vi) the effect of the dissolution of a corporation in respect of claims by third parties;
 - (vii) the avoidance of the imposition by insurance companies of restrictions on the scope of policies covering third party risks;
 - (viii) the conditions and requirements as to the minimum amount of insurance cover;
 - (ix) the conditions and requirements as to the system of accounts to be kept and the returns to be furnished by insurance companies;
 - (x) the obligations of third parties; (*Added 69 of 2000 s. 20*)