

BUILDING MANAGEMENT (AMENDMENT) ORDINANCE 2007

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 5 OF 2007



Donald TSANG
Chief Executive
3 May 2007

An Ordinance to amend the Building Management Ordinance and to provide for incidental and transitional matters.

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Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Building Management (Amendment) Ordinance 2007.

2. Commencement

This Ordinance shall come into operation on a day to be appointed by the Secretary for Home Affairs by notice published in the Gazette.

PART 2

AMENDMENTS TO BUILDING MANAGEMENT ORDINANCE

3. Interpretation

Section 2 of the Building Management Ordinance (Cap. 344) is amended—

- (a) in paragraph (c)(ii) of the definition of “building”, by repealing “Part II” and substituting “section 3, 3A, 4 or 40C”;
- (b) in the definition of “management committee”, by repealing “section 3, 3A or 4” and substituting “section 3, 3A, 4 or 40C”;
- (c) by adding—
 - ““convenor” (召集人)—
 - (a) in relation to a meeting of owners convened under section 3, means the person referred to in section 3(1)(a) or (b) or the owner appointed under section 3(1)(c);
 - (b) in relation to a meeting of owners convened under section 3A, means the owner directed under section 3A(1);
 - (c) in relation to a meeting of owners convened under section 4, means the owner directed under section 4(1); or
 - (d) in relation to a meeting of owners convened under section 40C, means the owner named in the order made under section 40C(1);
- “member” (委員), in relation to a management committee, means a person appointed as a member of the management committee under section 14(2) or paragraph 2(1)(b), 5(2)(a), 6 or 6A of Schedule 2;”.

4. Section added

The following is added in Part I—

“2B. References to majority of votes

For the avoidance of doubt, in determining whether a resolution is passed by a majority of the votes of owners, or members of a management committee, at a meeting convened under this Ordinance, the following shall be disregarded—

- (a) owners or members, as the case may be, who are not present at the meeting;
- (b) owners or members, as the case may be, who are present at the meeting but do not vote;
- (c) blank or invalid votes;
- (d) abstentions.”.

5. Appointment of management committee

Section 3 is amended—

- (a) by repealing subsection (1)(c) and substituting—
 - “(c) one owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.”;
- (b) by repealing subsection (2) and substituting—
 - “(2) At a meeting of owners convened under this section, the owners may, by a resolution—
 - (a) passed by a majority of the votes of the owners voting either personally or by proxy; and
 - (b) supported by the owners of not less than 30% of the shares in aggregate,appoint a management committee.”;
- (c) by adding—
 - “(3) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and—
 - (a) where the convenor is the person referred to in subsection (1)(a), to the person referred to in subsection (1)(b) (if any);
 - (b) where the convenor is the person referred to in subsection (1)(b), to the person referred to in subsection (1)(a) (if any); or
 - (c) where the convenor is the owner appointed under subsection (1)(c), to the person referred to in subsection (1)(a) or (b) (if any).
 - (4) The notice of meeting shall specify—
 - (a) the date, time and place of the meeting; and
 - (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee and the incorporation of the owners.
 - (5) The notice of meeting may be given—
 - (a) in the case of an owner—
 - (i) by delivering it personally to the owner;
 - (ii) by sending it by post to the owner at his last known address; or
 - (iii) by leaving it at the owner’s flat or depositing it in the letter box for that flat; or

(b) in the case of a person referred to in subsection (1)(a) or (b)—

(i) by delivering it personally to the person;
or

(ii) by sending it by post to the person at his last known address.

(6) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building.

(7) The convenor shall preside at a meeting of owners convened under this section.

(8) The quorum at a meeting of owners convened under this section shall be 10% of the owners.

(9) At a meeting of owners convened under this section—

(a) an owner shall, unless the deed of mutual covenant (if any) otherwise provides, have one vote in respect of each share he owns;

(b) an owner may cast a vote personally or by proxy;

(c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—

(i) by a proxy jointly appointed by the co-owners;

(ii) by a person appointed by the co-owners from amongst themselves; or

(iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and

(d) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid.

(10) For the purposes of subsection (9)—

(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—

- (i) shall be signed by the owner; or
- (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
- (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
- (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
- (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
- (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—
 - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
 - (ii) determine the validity of the instrument in accordance with paragraph (c); and
 - (iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting.

(11) Subject to subsection (12), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting.

(12) Where a management committee is appointed at a meeting of owners convened under this section—

- (a) the convenor shall deliver to the management committee immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and

(b) the management committee shall keep the instruments for a period of at least 12 months after the conclusion of the meeting.

(13) Subject to subsection (14), where a meeting of owners convened under this section is adjourned, subsections (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) shall apply to the adjourned meeting as they apply to the original meeting.

(14) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
- (b) the instrument is revoked; or
- (c) the instrument is replaced by a new instrument appointing a proxy.”.

6. Appointment of management committee after application to the Authority

Section 3A is amended—

- (a) in subsection (1), by repealing “(“convenor” (召集人))”;
- (b) in subsection (3), by repealing “the meeting of owners convened under this section may,” and substituting “at a meeting of owners convened under this section, the owners may,”;
- (c) by adding—

“(3A) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and the person referred to in section 3(1)(a) or (b) (if any).

(3B) The notice of meeting shall specify—

- (a) the date, time and place of the meeting; and
- (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee and the incorporation of the owners.

(3C) The notice of meeting may be given—

- (a) in the case of an owner—
 - (i) by delivering it personally to the owner;
 - (ii) by sending it by post to the owner at his last known address; or

- (iii) by leaving it at the owner's flat or depositing it in the letter box for that flat; or
- (b) in the case of a person referred to in section 3(1)(a) or (b)—
 - (i) by delivering it personally to the person; or
 - (ii) by sending it by post to the person at his last known address.

(3D) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building.

(3E) The convenor shall preside at a meeting of owners convened under this section.

(3F) The quorum at a meeting of owners convened under this section shall be 10% of the owners.

(3G) At a meeting of owners convened under this section—

- (a) an owner shall, unless the deed of mutual covenant (if any) otherwise provides, have one vote in respect of each share he owns;
- (b) an owner may cast a vote personally or by proxy;
- (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
 - (i) by a proxy jointly appointed by the co-owners;
 - (ii) by a person appointed by the co-owners from amongst themselves; or
 - (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and
- (d) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid.

(3H) For the purposes of subsection (3G)—

- (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
 - (i) shall be signed by the owner; or
 - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
- (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
- (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
- (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
- (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—
 - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
 - (ii) determine the validity of the instrument in accordance with paragraph (c); and
 - (iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting.

(3I) Subject to subsection (3J), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting.

(3J) Where a management committee is appointed at a meeting of owners convened under this section—

- (a) the convenor shall deliver to the management committee immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and
- (b) the management committee shall keep the instruments for a period of at least 12 months after the conclusion of the meeting.

(3K) Subject to subsection (3L), where a meeting of owners convened under this section is adjourned, subsections (3A), (3B), (3C), (3D), (3E), (3F), (3G), (3H), (3I) and (3J) shall apply to the adjourned meeting as they apply to the original meeting.

(3L) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
 - (b) the instrument is revoked; or
 - (c) the instrument is replaced by a new instrument appointing a proxy.”;
- (d) in subsection (4), by repealing “by notice served upon the Authority not less than 7 days” and substituting “by notice given to the Authority at least 7 days”;
 - (e) in subsection (5), by repealing “served with a notice under section 5(1)(ba)” and substituting “to whom a notice has been given under subsection (3A)”.

7. Appointment of management committee after application to tribunal

Section 4 is amended—

- (a) in subsection (4), by repealing “The meeting of owners convened under this section may,” and substituting “At a meeting of owners convened under this section, the owners may,”;
- (b) by adding—
 - “(5) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and the person referred to in section 3(1)(a) or (b) (if any).
 - (6) The notice of meeting shall specify—

- (a) the date, time and place of the meeting; and
 - (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee and the incorporation of the owners.
- (7) The notice of meeting may be given—
- (a) in the case of an owner—
 - (i) by delivering it personally to the owner;
 - (ii) by sending it by post to the owner at his last known address; or
 - (iii) by leaving it at the owner's flat or depositing it in the letter box for that flat; or
 - (b) in the case of a person referred to in section 3(1)(a) or (b)—
 - (i) by delivering it personally to the person; or
 - (ii) by sending it by post to the person at his last known address.
- (8) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building.
- (9) The convenor shall preside at a meeting of owners convened under this section.
- (10) The quorum at a meeting of owners convened under this section shall be 10% of the owners.
- (11) At a meeting of owners convened under this section—
- (a) an owner shall, unless the deed of mutual covenant (if any) otherwise provides, have one vote in respect of each share he owns;
 - (b) an owner may cast a vote personally or by proxy;
 - (c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
 - (i) by a proxy jointly appointed by the co-owners;
 - (ii) by a person appointed by the co-owners from amongst themselves; or
 - (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and

- (d) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid.
- (12) For the purposes of subsection (11)—

 - (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—

 - (i) shall be signed by the owner; or
 - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
 - (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
 - (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
 - (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
 - (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—

 - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
 - (ii) determine the validity of the instrument in accordance with paragraph (c); and

(iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting.

(13) Subject to subsection (14), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting.

(14) Where a management committee is appointed at a meeting of owners convened under this section—

(a) the convenor shall deliver to the management committee immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and

(b) the management committee shall keep the instruments for a period of at least 12 months after the conclusion of the meeting.

(15) Subject to subsection (16), where a meeting of owners convened under this section is adjourned, subsections (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14) shall apply to the adjourned meeting as they apply to the original meeting.

(16) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

(a) contrary intention is shown on the instrument;

(b) the instrument is revoked; or

(c) the instrument is replaced by a new instrument appointing a proxy.”.

8. Notice of and voting at meetings

Section 5 is repealed.

9. Application of section 5 to meetings held under section 40C

Section 5A is repealed.

10. Application by management committee for registration of owners as a corporation

Section 7(3) is amended—

- (a) in paragraph (c), by repealing “and”;
- (b) in paragraph (d)—
 - (i) by repealing “section 5, 5A or 5B” and substituting “section 5B”;
 - (ii) by repealing the full stop and substituting “; and”;
- (c) by adding—
 - “(e) a declaration by each member of the management committee appointed under paragraph 2(1)(b) of Schedule 2, in such form as the Land Registrar may specify, that he does not fall within the description of paragraph 4(1)(a) or (b) of that Schedule.”.

11. Incorporation

Section 8 is amended by adding—

“(1A) The Land Registrar shall not issue a certificate of registration to more than one corporation for a building in respect of which a deed of mutual covenant is in force.”.

12. Land Registrar to maintain register of corporations

Section 12 is amended—

- (a) in subsection (1), by adding “, and permit any person to inspect the register at any reasonable time to ascertain, in connection with the management of buildings, the particulars of a corporation entered in the register under subsection (2)” after “corporations”;
- (b) in subsection (2)—
 - (i) by repealing paragraph (d) and substituting—
 - “(d) the name and address of—
 - (i) the chairman of the management committee;
 - (ii) the vice-chairman (if any) of the management committee;
 - (iii) the secretary of the management committee;
 - (iv) the treasurer of the management committee;
 - and

- (v) any other person who is a member of the management committee but does not fall within the description of subparagraph (i), (ii), (iii) or (iv);”;

(ii) by adding—

“(da) the name and address of the insurance company with which the corporation has effected a policy of insurance under section 28(1) and the period covered by the policy of insurance;”.

13. Powers of corporation generally

Section 14 is amended by adding—

“(4) Paragraph 6 of Schedule 2 shall, with necessary modifications, apply for the purposes of appointing an owner to replace a member of the management committee by the corporation under subsection (2), as it applies for the purposes of appointing an owner to fill a vacancy in a management committee by the corporation.”.

14. Duties and powers of corporation

Section 18 is amended—

(a) in subsection (2)(aa)—

(i) by repealing “subject to subsection (3), and”;

(ii) by repealing “secretary, treasurer and other holders of office of the management committee appointed in accordance with the Second Schedule” and substituting “secretary and treasurer of the management committee appointed under section 14(2) or paragraph 2(1), 5(2), 6 or 6A of Schedule 2”;

(iii) by adding “in aggregate” before “not exceeding”;

(b) in subsection (3), by repealing “A person” and substituting “For the avoidance of doubt, it is declared that a member of a management committee”;

(c) in subsection (4), by repealing “a person who is otherwise entitled to receive an allowance under this section” and substituting “a member of a management committee who is entitled to receive an allowance under subsection (2)(aa)”.

15. Establishment of funds

Section 20 is amended—

(a) in subsection (3), by adding “open and” before “maintain”;

(b) in subsection (4), by adding “opened and” before “maintained”.

16. Supplies, goods and services

Section 20A is amended—

(a) in subsection (2)—

- (i) by repealing “Any” and substituting “Subject to subsection (2A), any”;
- (ii) in paragraph (a), by repealing “\$100,000” and substituting “\$200,000”;
- (iii) in paragraph (b), by repealing “as may be approved by the corporation by a resolution passed at a general meeting” and substituting “as the Authority may specify by notice in the Gazette”;

(b) by adding—

“(2A) Subsection (2) does not apply to any supplies, goods or services which but for this subsection would be required to be procured by a corporation by invitation to tender (referred to in this subsection as “relevant supplies, goods or services”) if—

- (a) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the corporation by a supplier; and
- (b) the corporation decides by a resolution of the owners passed at a general meeting of the corporation that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender.

(2B) Where any supplies, goods or services are required under subsection (2)(b) to be procured by invitation to tender, whether a tender submitted for the purpose is accepted or not shall be decided by a resolution of the owners passed at a general meeting of the corporation.”;

(c) by repealing subsection (3);

(d) by adding—

“(5) A contract for the procurement of any supplies, goods or services shall not be void by reason only that it does not comply with subsection (1).

(6) Where any supplies, goods or services are required under subsection (2) to be procured by invitation to tender, a contract for the procurement of the supplies, goods or services which does not comply with subsection (2) or (2B)—

(a) subject to any resolution passed by the corporation under paragraph (b) or any order made by the court under subsection (7), shall not be void by reason only that it does not comply with subsection (2) or (2B);

(b) subject to any order made by the court under subsection (7), may be avoided by the corporation by a resolution of the owners passed at a general meeting of the corporation but only for the reason that it does not comply with subsection (2) or (2B).

(7) In any legal proceedings in relation to a contract for the procurement of any supplies, goods or services to which subsection (2) or (2B) applies, the court may make such orders (including whether the contract is void or voidable) and give such directions in respect of the rights and obligations of the contractual parties as the court thinks fit having regard to all the circumstances of the case, including (but not limited to) the following factors—

(a) whether the supplies, goods or services have been procured by invitation to tender;

(b) whether a general meeting of the corporation has been convened to consider the procurement of the supplies, goods or services;

(c) whether the Code of Practice referred to in subsection (1) has been complied with;

(d) whether the contract has been split, for the sole purpose of avoiding the compliance of the requirements in subsection (2) or (2B), from a contract which should have been made for the procurement of supplies, goods or services of greater value;

(e) whether the supplies, goods or services were urgently required;

(f) the progress of any activities or works in relation to the supplies, goods or services;

(g) whether the owners have benefited from the contract;

- (h) whether the owners have incurred any financial loss due to the contract and the extent thereof;
- (i) whether the supplier of the supplies, goods or services under the contract has acted in good faith;
- (j) whether the supplier of the supplies, goods or services under the contract has benefited from the contract; and
- (k) whether the supplier of the supplies, goods or services under the contract has incurred any financial loss due to the contract and the extent thereof.

(8) For the purposes of subsection (7), where the court makes an order that the contract is voidable at the instance of the corporation, it shall also make an order that a general meeting of the corporation be convened and held in such manner as the court thinks fit, so as to decide whether the contract is to be avoided.

(9) For the avoidance of doubt, subject to section 29A, any person who enters into a contract for the procurement of any supplies, goods or services otherwise than in compliance with subsection (2) or, if applicable, subsection (2B) may be personally liable for any claims arising from the contract.”.

17. Section added

The following is added—

“26A. Management committee to display information about legal proceedings

A management committee shall notify the owners of any legal proceedings to which the corporation is a party—

- (a) in the case of proceedings against the corporation, by displaying a notice containing the particulars of the proceedings in a prominent place in the building within 7 days of receiving any court documents commencing the proceedings, and causing the notice to remain so displayed for at least 7 consecutive days;

- (b) in the case of proceedings by the corporation, by displaying a notice containing the particulars of the proceedings in a prominent place in the building within 7 days of issuing any court documents commencing the proceedings, and causing the notice to remain so displayed for at least 7 consecutive days.”.

18. Accounts of corporation

Section 27 is amended—

- (a) in subsection (1), by repealing everything after “every 12 months,” and substituting—
 - “financial statements which—
 - (a) shall be signed by—
 - (i) the chairman of the management committee; and
 - (ii) the secretary or the treasurer of the management committee;
 - (b) if subsection (1A) is applicable, shall be audited under that subsection; and
 - (c) together with the accountant’s report made under subsection (1A), if any, shall be laid before the corporation at the annual general meeting of the corporation convened in accordance with paragraph 1(1) of Schedule 3.”;
 - (b) by adding immediately after subsection (1)—
 - “(1AA) The financial statements referred to in subsection (1) shall include—
 - (a) an income and expenditure account which gives a true and fair view of the financial transactions of the corporation for the period to which it relates; and
 - (b) a balance sheet which gives a true and fair view of the financial position of the corporation as at the date to which the income and expenditure account is made up.”;
 - (c) in subsection (1A)—
 - (i) by repealing “, the income and expenditure account and balance sheet” and substituting “, the financial statements”;

- (ii) by repealing “such account and balance sheet present fairly the financial transactions of the corporation during the period to which the income and expenditure account and balance sheet relate; and the financial position of the corporation at the end of that period,” and substituting “such financial statements are, in his opinion, properly prepared so as to give a true and fair view of the financial transactions of the corporation for the period to which the income and expenditure account relates and the financial position of the corporation as at the date to which the income and expenditure account is made up,”;
- (d) in subsection (4), by adding “the inspection of any documents referred to in such accounts and records,” after “records,”.

19. Section added

The following is added in Part IV—

“29A. Protection of members of management committee

(1) No member of a management committee, acting in good faith and in a reasonable manner, shall be personally liable for any act done or default made by or on behalf of the corporation—

- (a) in the exercise or purported exercise of the powers conferred by this Ordinance on the corporation; or
- (b) in the performance or purported performance of the duties imposed by this Ordinance on the corporation.

(2) The protection conferred by subsection (1) on a member of a management committee shall not in any way affect the liability of the corporation for that act or default.”.

20. Interpretation

Section 34D is amended—

- (a) in subsection (1)—
 - (i) by repealing the definition of “manager” and substituting—
““manager” (經理人), in relation to a building, means the DMC manager or any other person who for the time being is, for the purposes of the deed of mutual covenant, managing the building;”;
 - (ii) by repealing the definition of “owners’ committee” and substituting—

““owners’ committee” (業主委員會), in relation to a building, means the committee of owners (howsoever named) formed under or in accordance with the deed of mutual covenant in respect of the building.”;

(iii) by adding—

““DMC manager” (公契經理人), in relation to a building, means the person who is specified in the deed of mutual covenant to manage the building.”;

(b) in subsection (3), by adding “and Schedule 7” after “this Part”;

(c) by repealing subsection (4).

21. Right to establish corporation and conduct business

Section 34J(4)(a) is amended by repealing “Part II” and substituting “section 3, 3A, 4 or 40C”.

22. Appointment of building management agent by order of Authority

Section 40B(3) is repealed and the following substituted—

“(3) For the purposes of this section and section 40C, a person is eligible to be appointed as a building management agent if his name appears in a list of persons engaged in the business of the management of buildings compiled by the Authority from time to time and published in the Gazette.”.

23. Appointment of management committee or building management agent by order of tribunal

Section 40C is amended—

(a) by repealing subsection (3) and substituting—

“(3) At a meeting of owners convened under this section, the owners may, by a resolution passed by a majority of the votes of the owners voting either personally or by proxy, appoint—

(a) a management committee; or

(b) (if no management committee is appointed) a building management agent.”;

(b) by adding—

“(3A) If no management committee or building management agent is appointed at the meeting of owners, the convenor may appoint a building management agent directly.”;

(c) by repealing subsection (4) and substituting—

“(4) The convenor shall, at least 14 days before the date of the meeting of owners, give notice of the meeting to each owner and the person referred to in section 3(1)(a) or (b) (if any).”;

(d) by adding—

“(5) The notice of meeting shall specify—

- (a) the date, time and place of the meeting; and
- (b) the resolutions that are to be proposed at the meeting and are related only to the appointment of a management committee, the incorporation of the owners and the appointment of a building management agent.

(6) The notice of meeting may be given—

(a) in the case of an owner—

- (i) by delivering it personally to the owner;
- (ii) by sending it by post to the owner at his last known address; or
- (iii) by leaving it at the owner’s flat or depositing it in the letter box for that flat; or

(b) in the case of a person referred to in section 3(1)(a) or (b)—

- (i) by delivering it personally to the person; or
- (ii) by sending it by post to the person at his last known address.

(7) The convenor shall also, at least 14 days before the date of the meeting of owners, display the notice of meeting in a prominent place in the building.

(8) The convenor shall preside at a meeting of owners convened under this section.

(9) The quorum at a meeting of owners convened under this section shall be 10% of the owners.

(10) At a meeting of owners convened under this section—

- (a) each owner shall have one vote;

- (b) an owner may cast a vote personally or by proxy;
 - (c) in the case of co-owners, the vote may be cast—
 - (i) by a proxy jointly appointed by the co-owners;
 - (ii) by a person appointed by the co-owners from amongst themselves; or
 - (iii) if no appointment is made under subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners; and
 - (d) where, in the case of co-owners, more than one of the co-owners seeks to cast a vote, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in the register kept at the Land Registry shall be treated as valid.
- (11) For the purposes of subsection (10)—
- (a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
 - (i) shall be signed by the owner; or
 - (ii) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf;
 - (b) the instrument appointing a proxy shall be lodged with the convenor at least 48 hours before the time for the holding of the meeting;
 - (c) the instrument appointing a proxy is valid only if it is made and lodged in accordance with paragraphs (a) and (b);
 - (d) a proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting; and
 - (e) where an instrument appointing a proxy is lodged with the convenor, the convenor shall—

- (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting;
- (ii) determine the validity of the instrument in accordance with paragraph (c); and
- (iii) display information of the owner's flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting.

(12) Subject to subsection (13), the convenor shall keep all the instruments for the appointment of proxies that have been lodged with him for a period of at least 12 months after the conclusion of the meeting.

(13) Where a management committee or building management agent is appointed at a meeting of owners convened under this section—

- (a) the convenor shall deliver to the management committee or building management agent, as the case may be, immediately after the conclusion of the meeting all the instruments for the appointment of proxies that have been lodged with him; and
- (b) the management committee or building management agent, as the case may be, shall keep the instruments for a period of at least 12 months after the conclusion of the meeting.

(14) Subject to subsection (15), where a meeting of owners convened under this section is adjourned, subsections (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13) shall apply to the adjourned meeting as they apply to the original meeting.

(15) Where a meeting of owners convened under this section is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

- (a) contrary intention is shown on the instrument;
- (b) the instrument is revoked; or

- (c) the instrument is replaced by a new instrument appointing a proxy.”.

24. Power to make regulations

Section 41(*ca*) is amended—

- (a) in subparagraph (i), by repealing “and the occupiers and owners of a building”;
- (b) in subparagraph (iv), by repealing “and the occupiers and owners of a building”;
- (c) by repealing subparagraph (v);
- (d) in subparagraph (vi), by repealing “dissolution” and substituting “insolvency or winding up”;
- (e) by adding—
 - “(xi) the avoidance of any arrangements, agreements or understandings, or parts thereof, made or reached in respect of the liability of corporations towards third parties;”.

25. Common parts

The First Schedule is amended—

- (a) by repealing “FIRST SCHEDULE” and substituting “SCHEDULE 1”;
- (b) by repealing “[s. 2]” and substituting “[ss. 2 & 42]”.

26. Schedule 1A added

The following is added—

“SCHEDULE 1A [ss. 3, 3A, 4, 40C
& 42 & Schs.
3 & 8]

FORMS

FORM 1

INSTRUMENT OF PROXY FOR MEETINGS OF OWNERS

Meeting of the owners of
(description of building)

I/We, (name(s) of owner(s)),
being the owner(s) of
(unit and address of building), hereby appoint
(name of proxy) *[or failing him (name of
alternative proxy)], as my/our proxy to attend and vote on my/our behalf
at the meeting of the owners of the building described above, to be held on
the day of *[and at
any adjournment thereof].

Dated this day of .

(Signature of owner(s))

*Delete where inapplicable.



FORM 2

INSTRUMENT OF PROXY FOR MEETINGS OF CORPORATION

The Incorporated Owners of
(description of building)

I/We, (name(s) of owner(s)),
being the owner(s) of
..... (unit and address of building),
hereby appoint (name of proxy)
*[or failing him (name of
alternative proxy)], as my/our proxy to attend and vote on my/our behalf
at the [*general meeting/annual general meeting] of The Incorporated
Owners of
(description of building), to be held on the day
of *[and at any adjournment thereof].

Dated this day of .

(Signature of owner(s))

*Delete where inapplicable.”.

27. Composition and procedure of management committee

The Second Schedule is amended—

- (a) by repealing “SECOND SCHEDULE” and substituting “SCHEDULE 2”;
- (b) by repealing “[ss. 6 & 42]” and substituting “[ss. 2, 6, 7, 14, 18, 34K & 42 & Sch. 3]”;
- (c) by repealing paragraph 1 and substituting—
 - “1. (1) The number of members of a management committee shall be as follows—
 - (a) where the building contains not more than 50 flats, the number of members shall be not less than 3;
 - (b) where the building contains more than 50 flats but not more than 100 flats, the number of members shall be not less than 7;
 - (c) where the building contains more than 100 flats, the number of members shall be not less than 9.
 - (2) Subject to subparagraph (1), the number of members of a management committee shall be decided by a resolution of the owners under paragraph 2(1)(a).
 - (3) Subject to subparagraph (1), the number of members of a management committee as decided under paragraph 2(1)(a) may be changed from time to time by a resolution of the owners passed at a general meeting of the corporation (except a general meeting of the corporation convened under paragraph 6A(1)).
 - (4) A management committee shall include the tenants’ representative (if any) appointed under section 15(1).”;
- (d) in paragraph 2—
 - (i) by repealing subparagraph (1) and substituting—
 - “(1) At a meeting of owners convened under section 3, 3A, 4 or 40C, after a management committee is appointed—
 - (a) the owners shall, by a resolution passed by a majority of the votes of the owners, decide the number of members of the management committee;
 - (b) subject to subparagraph (2), the owners shall, by resolution, appoint, from amongst the owners, the members of the management committee;

- (c) the owners shall, by resolution—
 - (i) appoint a person, from amongst the members of the management committee, as the chairman of the management committee;
 - (ii) appoint a person, whether or not he is a member of the management committee, as the secretary of the management committee; and
 - (iii) appoint a person, whether or not he is a member of the management committee, as the treasurer of the management committee; and
 - (d) the owners may, by resolution, appoint a person, from amongst the members of the management committee, as the vice-chairman of the management committee.”;
- (ii) by adding—
- “(3) For the purposes of appointing the members of a management committee under subparagraph (1)(b)—
- (a) where the number of candidates is not more than the number of members of the management committee to be appointed, the candidates shall be deemed to be appointed as members of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (1)(b) accordingly;
 - (b) where there are more candidates than the number of members of the management committee to be appointed—
 - (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the “first past the post” system of voting), under which—
 - (A) an owner may vote for not more than the number of members of the management committee to be appointed; and

- (B) the candidates to be appointed as members of the management committee are those who obtain the greatest number of votes and then the next greatest and so on until the required number of members of the management committee is appointed;
 - (ii) if, after the counting is finished, a member of the management committee is still to be appointed and the most successful candidates remaining have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as a member of the management committee.
- (4) For the purposes of appointing the chairman, vice-chairman (if applicable), secretary and treasurer of a management committee under subparagraph (1)(c) and (d)—
- (a) where there is only one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee, the candidate shall be deemed to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (1)(c) or (d), as the case may be, accordingly;
 - (b) where there is more than one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee—

- (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the “first past the post” system of voting), under which the candidate to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee is the candidate who obtains the greatest number of votes;
- (ii) if, after the counting is finished, the most successful candidates for the office of the chairman, vice-chairman, secretary or treasurer of the management committee have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee.

(5) A person who is not a member of the management committee appointed under subparagraph (1)(b) does not by virtue of his appointment as the secretary or treasurer of the management committee under subparagraph (1)(c)(ii) or (iii), as the case may be, become a member of the management committee.

(6) For the purposes of appointing the members, chairman, vice-chairman (if applicable), secretary and treasurer of a management committee under subparagraph (1)(b), (c) and (d) at a meeting of owners convened under section 3, 3A, 4 or 40C—

- (a) if the meeting is convened under section 3, the provisions in section 3(7), (8), (9), (10), (11), (12), (13) and (14) shall apply as they apply for the purposes of appointing a management committee under section 3;

- (b) if the meeting is convened under section 3A, the provisions in section 3A(3E), (3F), (3G), (3H), (3I), (3J), (3K) and (3L) shall apply as they apply for the purposes of appointing a management committee under section 3A;
 - (c) if the meeting is convened under section 4, the provisions in section 4(9), (10), (11), (12), (13), (14), (15) and (16) shall apply as they apply for the purposes of appointing a management committee under section 4; or
 - (d) if the meeting is convened under section 40C, the provisions in section 40C(8), (9), (10), (11), (12), (13), (14) and (15) shall apply as they apply for the purposes of appointing a management committee under section 40C.”;
- (e) in paragraph 3, by repealing everything after “members of the management committee” and substituting “appointed under paragraph 2(1)(b) shall hold office until the members of a new management committee are appointed under paragraph 5(2)(a).”;
- (f) in paragraph 4—
 - (i) by repealing subparagraph (1) and substituting—
 - “(1) For the purposes of section 14(2) and paragraphs 2(1)(b), 5(2)(a), 6 and 6A, a person is not eligible to be appointed as a member of a management committee if he—
 - (a) is an undischarged bankrupt at the time of the appointment or has, within the previous 5 years, either obtained a discharge in bankruptcy or entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his creditors, in either case without paying the creditors in full;

- (b) has, within the previous 5 years, been convicted of an offence in Hong Kong or any other place for which he has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine.”;
- (ii) in subparagraph (2)—
- (A) in sub-subparagraph (d), by adding “or (if he is the secretary or the office of the secretary is vacant) the chairman of the management committee” after “committee”;
- (B) in sub-subparagraph (e), by repealing “, or ceases to be qualified to be a member according to the deed of mutual covenant (if any), as the case may be”;
- (iii) by adding—
- “(3) Every member of the management committee appointed under section 14(2) or paragraph 2(1)(b), 5(2)(a), 6 or 6A shall, within 21 days after the appointment, lodge with the secretary of the management committee a declaration, in such form as the Land Registrar may specify, stating that he does not fall within the description of subparagraph (1)(a) or (b).
- (4) A member of the management committee who fails to comply with subparagraph (3) shall cease to be such member.
- (5) Subject to subparagraph (7), where a change occurs in any matter stated in a declaration referred to in subparagraph (3), the person who made the declaration shall, within 21 days after the change occurs, lodge with the secretary of the management committee another declaration, in such form as the Land Registrar may specify, stating the particulars of the change.
- (6) The secretary of the management committee shall—
- (a) after receiving a declaration by virtue of subparagraph (3) from a member of the management committee appointed under paragraph 2(1)(b), cause the declaration to be lodged with the Land Registrar within the period of 28 days referred to in section 7(1);

(b) within 28 days after receiving a declaration by virtue of subparagraph (3) from a member of the management committee appointed under section 14(2) or paragraph 5(2)(a), 6 or 6A, or by virtue of subparagraph (5), lodge with the Land Registrar the declaration.

(7) Where the person referred to in subparagraph (5) is the secretary of the management committee, that person shall, within 28 days after the relevant change occurs, lodge with the Land Registrar a declaration, in such form as the Land Registrar may specify, stating the particulars of the change.”;

(g) in paragraph 5—

(i) in subparagraph (1), by repealing “annual general meeting, all members of the management committee, other than the member (if any) deemed to be appointed under paragraph 2(2) in his capacity as the tenants’ representative, shall retire from office.” and substituting—

“annual general meeting—

(a) all members of the management committee (other than the member (if any) deemed to be appointed under paragraph 2(2) in his capacity as the tenants’ representative);

(b) if the secretary of the management committee is not a member of the management committee, the secretary; and

(c) if the treasurer of the management committee is not a member of the management committee, the treasurer, shall retire from office.”;

(ii) by repealing subparagraph (2) and substituting—

“(2) At an annual general meeting of a corporation at which the members of the management committee retire under subparagraph (1)—

(a) subject to subparagraph (2A), the corporation shall, by a resolution passed at the general meeting, appoint, from amongst the owners, the members of a new management committee;

- (b) the corporation shall, by a resolution passed at the general meeting—
 - (i) appoint a person, from amongst the members of the new management committee, as the chairman of the new management committee;
 - (ii) appoint a person, whether or not he is a member of the new management committee, as the secretary of the new management committee; and
 - (iii) appoint a person, whether or not he is a member of the new management committee, as the treasurer of the new management committee; and
 - (c) the corporation may, by a resolution passed at the general meeting, appoint a person, from amongst the members of the new management committee, as the vice-chairman of the new management committee.”;
- (iii) by adding—
- “(2A) The tenants’ representative appointed under section 15(1) shall be deemed to be appointed by the corporation as a member of the new management committee.
 - (2B) For the purposes of appointing the members of the new management committee under subparagraph (2)(a)—
 - (a) where the number of candidates is not more than the number of members of the new management committee to be appointed, the candidates shall be deemed to be appointed as members of the new management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (2)(a) accordingly;
 - (b) where there are more candidates than the number of members of the new management committee to be appointed—

- (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the “first past the post” system of voting), under which—
 - (A) an owner may vote for not more than the number of members of the new management committee to be appointed; and
 - (B) the candidates to be appointed as members of the new management committee are those who obtain the greatest number of votes and then the next greatest and so on until the required number of members of the new management committee is appointed;
- (ii) if, after the counting is finished, a member of the new management committee is still to be appointed and the most successful candidates remaining have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as a member of the new management committee.

(2C) For the purposes of appointing the chairman, vice-chairman (if applicable), secretary and treasurer of the new management committee under subparagraph (2)(b) and (c)—

- (a) where there is only one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the new management committee, the candidate shall be deemed to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the new management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (2)(b) or (c), as the case may be, accordingly;
- (b) where there is more than one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the new management committee—
 - (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the “first past the post” system of voting), under which the candidate to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the new management committee is the candidate who obtains the greatest number of votes;
 - (ii) if, after the counting is finished, the most successful candidates for the office of the chairman, vice-chairman, secretary or treasurer of the new management committee have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the new management committee.”;

(iv) by adding—

“(4) A person who is not a member of the new management committee appointed under subparagraph (2)(a) does not by virtue of his appointment as the secretary or treasurer of the new management committee under subparagraph (2)(b)(ii) or (iii), as the case may be, become a member of the new management committee.”;

(h) in paragraph 5A—

(i) by adding “or (4)” after “paragraph 4(2)”;

(ii) by repealing “if the secretary is not readily available, any other member” and substituting “if the office of the secretary is vacant, the chairman”;

(i) in paragraph 6—

(i) by repealing subparagraph (1) and substituting—

“(1) Notwithstanding paragraph 1, subject to subparagraph (1A) and paragraph 6A, a vacancy in a management committee which occurs other than by reason of the expiration of the term of office may be filled by the corporation or the management committee under subparagraph (3), (4) or (5), as the case requires.”;

(ii) by repealing subparagraph (1A) and substituting—

“(1A) If the vacancy is caused by the tenants’ representative ceasing to be a member of the management committee for whatever reason, the vacancy may be filled by the approved association (within the meaning of section 15(2)) appointing a new tenants’ representative under section 15(1).”;

(iii) by repealing subparagraphs (1B) and (2);

(iv) by adding—

“(3) If the vacancy occurs in the office of a member of a management committee (other than a vacancy caused by the tenants’ representative ceasing to be a member of the management committee)—

(a) the corporation may, by a resolution passed at a general meeting of the corporation, appoint an owner to fill the vacancy till the next annual general meeting of the corporation at which the members of the management committee retire under paragraph 5(1); or

(b) if no general meeting of the corporation has been so convened or no appointment is made to fill the vacancy at a general meeting so convened, the management committee may appoint an owner to fill the vacancy till the next general meeting of the corporation.

(4) If the vacancy occurs in the office of the chairman or vice-chairman of a management committee—

(a) the corporation may, by a resolution passed at a general meeting of the corporation, appoint a person, from amongst the members of the management committee, to fill the vacancy till the next annual general meeting of the corporation at which the members of the management committee retire under paragraph 5(1); or

(b) if no general meeting of the corporation has been so convened or no appointment is made to fill the vacancy at a general meeting so convened, the members of the management committee may appoint a person, from amongst themselves, to fill the vacancy till the next general meeting of the corporation.

(5) If the vacancy occurs in the office of the secretary or treasurer of a management committee—

(a) the corporation may, by a resolution passed at a general meeting of the corporation, appoint a person, whether or not he is a member of the management committee, to fill the vacancy till the next annual general meeting of the corporation at which the members of the management committee retire under paragraph 5(1); or

(b) if no general meeting of the corporation has been so convened or no appointment is made to fill the vacancy at a general meeting so convened, the management committee may appoint a person, whether or not he is a member of the management committee, to fill the vacancy till the next general meeting of the corporation.

(6) A person who is not a member of a management committee does not by virtue of his appointment as the secretary or treasurer of the management committee under subparagraph (5)(a) or (b), as the case may be, become a member of the management committee.

(7) For the purposes of filling the vacancy occurring in the office of a member of a management committee under subparagraph (3)(a)—

(a) where the number of candidates is not more than the number of members of the management committee to be appointed, the candidates shall be deemed to be appointed as members of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (3)(a) accordingly;

(b) where there are more candidates than the number of members of the management committee to be appointed—

(i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the “first past the post” system of voting), under which—

(A) an owner may vote for not more than the number of members of the management committee to be appointed; and

- (B) the candidates to be appointed as members of the management committee are those who obtain the greatest number of votes and then the next greatest and so on until the required number of members of the management committee is appointed;
- (ii) if, after the counting is finished, a member of the management committee is still to be appointed and the most successful candidates remaining have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as a member of the management committee.

(8) For the purposes of filling the vacancy occurring in the office of the chairman or vice-chairman of a management committee under subparagraph (4)(a), or the office of the secretary or treasurer of a management committee under subparagraph (5)(a)—

- (a) where there is only one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee, the candidate shall be deemed to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee, and a resolution to that effect shall be deemed to be passed under subparagraph (4)(a) or (5)(a), as the case may be, accordingly;
- (b) where there is more than one candidate for the office of the chairman, vice-chairman, secretary or treasurer of the management committee—

- (i) the votes shall be given and counted in accordance with the simple or relative majority system of voting (otherwise known as the “first past the post” system of voting), under which the candidate to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee is the candidate who obtains the greatest number of votes;
 - (ii) if, after the counting is finished, the most successful candidates for the office of the chairman, vice-chairman, secretary or treasurer of the management committee have an equal number of votes, the person who presides at the meeting shall determine the result by drawing lots, and the candidate on whom the lot falls is to be appointed as the chairman, vice-chairman, secretary or treasurer, as the case may be, of the management committee.”;
- (j) by adding—
- “6A. (1) Notwithstanding paragraphs 1 and 9, where the number of vacancies occurring in the offices of members of a management committee is more than 50% of the number of members of the management committee as decided under paragraph 2(1)(a) or, if that number of members has been changed under paragraph 1(3), 50% of the number of members so changed—
- (a) the chairman of the management committee may convene a general meeting of the corporation for the sole purpose of filling the vacancies in the management committee; or
 - (b) if one of the vacancies occurs in the office of the chairman of the management committee, the remaining members of the management committee may appoint a person, from amongst themselves, to convene a general meeting of the corporation for the sole purpose of filling the vacancies in the management committee.

(2) For the purposes of filling the vacancies in a management committee under subparagraph (1)—

(a) paragraph 6(3)(a), (4)(a), (5)(a), (6), (7) and (8) shall apply as it applies where the number of vacancies occurring in the offices of members of a management committee is not more than 50% of the number of members of the management committee as decided under paragraph 2(1)(a) or, if that number of members has been changed under paragraph 1(3), 50% of the number of members so changed; and

(b) Schedule 3 (except paragraph 1 of that Schedule) shall, subject to the following modifications, apply as it applies to a general meeting of the corporation convened by a management committee—

- (i) where the general meeting of the corporation is convened under subparagraph (1)(a) and one of the vacancies occurs in the office of the secretary of the management committee, the references to the secretary of the management committee in Schedule 3 shall be construed as references to the chairman of the management committee;
- (ii) where the general meeting of the corporation is convened under subparagraph (1)(b), the references to the chairman of the management committee in Schedule 3 shall be construed as references to the person appointed under that subparagraph to convene the meeting;
- (iii) where the general meeting of the corporation is convened under subparagraph (1)(b) and one of the vacancies occurs in the office of the secretary of the management committee, the references to the secretary of the management committee in Schedule 3 shall be construed as references to the person appointed under that subparagraph to convene the meeting.”;

- (k) in paragraph 8—
- (i) in subparagraph (1)(b), by adding “, and held within 21 days of receiving such request” after “such request”;
 - (ii) by repealing subparagraph (2) and substituting—

“(2) The secretary shall, at least 7 days before the date of the meeting of the management committee, give notice of the meeting to each member of the management committee and (if the treasurer of the management committee is not a member of the management committee) the treasurer of the management committee, and display the notice of meeting in a prominent place in the building.”;
 - (iii) by adding immediately after subparagraph (2)—

“(2AA) The notice of meeting shall specify—

 - (a) the date, time and place of the meeting; and
 - (b) the resolutions (if any) that are to be proposed at the meeting.”;
 - (iv) by repealing subparagraph (2A) and substituting—

“(2A) The notice of meeting may be given—

 - (a) by delivering it personally to the member of the management committee or (if the treasurer of the management committee is not a member of the management committee) the treasurer of the management committee;
 - (b) by sending it by post to the member or, if applicable, the treasurer, at his last known address; or
 - (c) by leaving it at the flat of the member or, if applicable, the treasurer or depositing it in the letter box for that flat.”;
 - (v) by repealing subparagraph (3);

(l) by repealing paragraph 10(4B) and substituting—

“(4B) The secretary shall display the minutes certified in accordance with subparagraph (4A) in a prominent place in the building within 28 days of the date of the meeting of the management committee to which the minutes relate, and cause the minutes to remain so displayed for at least 7 consecutive days.”;

(m) by adding—

“10A. (1) The minutes certified in accordance with paragraph 10(4A) shall be kept by the management committee for such period, being not less than 6 years, as the corporation may determine.

(2) If the tenants’ representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of any minutes certified in accordance with paragraph 10(4A), the secretary shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.”;

(n) in paragraph 11—

(i) in subparagraph (1)—

(A) by repealing “Notwithstanding any provision in a deed of mutual covenant to the contrary, where” and substituting “Where”;

(B) by repealing everything after “in his own right” and substituting “and paragraph 4(1), (2)(a), (b), (c), (d) and (f), (3), (4) and (5) shall apply to the authorized representative.”;

(ii) by repealing subparagraph (2) and substituting—

“(2) If an authorized representative ceases to be a member of a management committee under paragraph 4(2)(a), (b), (c), (d) or (f) or (4), the body corporate may appoint another authorized representative in his place, and paragraph 4(1), (2)(a), (b), (c), (d) and (f), (3), (4) and (5) shall apply to that other authorized representative.”.

28. Meetings and procedure of corporation

The Third Schedule is amended—

(a) by repealing “THIRD SCHEDULE” and substituting “SCHEDULE 3”;

(b) by repealing “[ss. 8(5) & 42]” and substituting “[ss. 8, 10, 27, 30, 34D & 42 & Schs. 2 & 11]”;

(c) in paragraph 1(2), by adding “, and hold the general meeting within 45 days of receiving such request” after “such request”;

(d) in paragraph 2—

(i) by repealing subparagraph (1) and substituting—

- “(1) The secretary of the management committee shall, at least 14 days before the date of the meeting of the corporation, give notice of the meeting to each owner and the tenants’ representative (if any).”;
- (ii) by adding immediately after subparagraph (1)—
“(1AA) The notice of meeting shall specify—
(a) the date, time and place of the meeting; and
(b) the resolutions (if any) that are to be proposed at the meeting or other matters that are to be discussed at the meeting.”;
- (iii) in subparagraph (1A)—
(A) by repealing “Service of a notice required to be served under subparagraph (1) may be effected” and substituting “The notice of meeting may be given”;
(B) in sub-subparagraph (a), by repealing “personally upon” and substituting “by delivering it personally to”;
(C) in sub-subparagraph (b), by repealing “by post addressed to” and substituting “by sending it by post to”;
(D) by repealing sub-subparagraph (c) and substituting—
“(c) by leaving it at the flat of the owner or tenants’ representative (if any) or depositing it in the letter box for that flat.”;
- (iv) by repealing subparagraph (2) and substituting—
“(2) The secretary shall also, at least 14 days before the date of the meeting of the corporation, display the notice of meeting in a prominent place in the building.”;
- (e) in paragraph 3—
(i) by repealing subparagraph (1) and substituting—
“(1) A meeting of the corporation shall be presided over by—
(a) the chairman of the management committee;
(b) in the absence of the chairman of the management committee, the vice-chairman (if any) of the management committee; or
(c) in the absence of the chairman and the vice-chairman (if any) of the management committee, a person appointed by the owners present at the meeting from amongst themselves.”;

- (ii) by repealing subparagraph (2);
- (iii) in subparagraph (3)—
 - (A) by adding “and paragraphs 5(2), (2B) and (2C), 6(3)(a), (4)(a), (5)(a), (7) and (8) and 6A(2)(a) of Schedule 2” after “section 10(1)”;
 - (B) by repealing “majority of votes of the owners” and substituting “majority of the votes of the owners voting either personally or by proxy”;
- (iv) in subparagraph (5)—
 - (A) in sub-subparagraph (a), by repealing “each owner shall, subject to the provisions of any instrument registered in the Land Registry” and substituting “an owner shall, unless the deed of mutual covenant (if any) otherwise provides”;
 - (B) by repealing sub-subparagraph (b) and substituting—
 - “(b) Where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—
 - (i) by a proxy jointly appointed by the co-owners;
 - (ii) by a person appointed by the co-owners from amongst themselves; or
 - (iii) if no appointment is made under sub-sub-subparagraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners.”;
 - (C) by adding—
 - “(c) Where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid.”;
- (v) in subparagraph (7), by repealing “served” and substituting “given”;
- (f) in paragraph 4—
 - (i) in subparagraph (1), by repealing “the votes of owners may be given either” and substituting “, an owner may cast a vote”;

- (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—
 - (a) shall be signed by the owner; or
 - (b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf.”;
- (iii) by repealing subparagraph (3) and substituting—
 - “(3) The instrument appointing a proxy shall be lodged with the secretary of the management committee at least 48 hours before the time for the holding of the meeting.”;
- (iv) by adding—
 - “(4) The instrument appointing a proxy is valid only if it is made and lodged in accordance with subparagraphs (2) and (3).
 - (5) Where an instrument appointing a proxy is lodged with the secretary of the management committee—
 - (a) the secretary shall—
 - (i) acknowledge receipt of the instrument by leaving a receipt at the flat of the owner who made the instrument, or depositing the receipt in the letter box for that flat, before the time for the holding of the meeting; and
 - (ii) display information of the owner’s flat in a prominent place in the place of the meeting before the time for the holding of the meeting, and cause the information to remain so displayed until the conclusion of the meeting; and
 - (b) the chairman of the management committee or, if he is absent, the person who presides at the meeting, shall determine the validity of the instrument in accordance with subparagraph (4).

(6) The management committee shall keep all the instruments for the appointment of proxies that have been lodged with the secretary of the management committee for a period of at least 12 months after the conclusion of the meeting.”;

(g) by repealing paragraph 5(2) and substituting—

“(2) A proxy appointed by an owner to attend and vote on behalf of the owner at a meeting of the corporation shall, for the purposes of the meeting, be treated as being the owner present at the meeting.”;

(h) by adding—

“5A. (1) Subject to subparagraph (2), where a meeting of the corporation convened under paragraph 1 is adjourned, paragraphs 2, 3, 4 and 5 shall apply to the adjourned meeting as they apply to the original meeting.

(2) Where a meeting of the corporation convened under paragraph 1 is adjourned, a valid instrument appointing a proxy made for the purposes of the original meeting shall remain valid for the purposes of the adjourned meeting unless—

(a) contrary intention is shown on the instrument;

(b) the instrument is revoked; or

(c) the instrument is replaced by a new instrument appointing a proxy.”;

(i) by repealing paragraph 6(3) and substituting—

“(3) The secretary shall display the minutes certified in accordance with subparagraph (2) in a prominent place in the building within 28 days of the date of the general meeting to which the minutes relate, and cause the minutes to remain so displayed for at least 7 consecutive days.”;

(j) by adding—

“6A. (1) The minutes certified in accordance with paragraph 6(2) shall be kept by the management committee for such period, being not less than 6 years, as the corporation may determine.

(2) If the tenants' representative, an owner, a registered mortgagee or any person duly authorized in writing in that behalf by an owner or registered mortgagee requests in writing the corporation to supply him with copies of any minutes certified in accordance with paragraph 6(2), the secretary shall, on the payment of such reasonable copying charge as the management committee may determine, supply such copies to that person.”;

(k) by repealing paragraph 9.

29. Maximum allowances in respect of each holder of office of a management committee

The Fourth Schedule is amended—

- (a) by repealing “FOURTH SCHEDULE” and substituting “SCHEDULE 4”;
- (b) by repealing the heading and substituting—
“MAXIMUM ALLOWANCES PAYABLE TO CHAIRMAN,
VICE-CHAIRMAN, SECRETARY AND TREASURER
OF MANAGEMENT COMMITTEE”;
- (c) by repealing “[ss. 18(2) & 42]” and substituting “[ss. 18 & 42]”;
- (d) in the heading of column 3, by adding “for each person” after “per month”.

30. Annual budget

The Fifth Schedule is amended—

- (a) by repealing “FIFTH SCHEDULE” and substituting “SCHEDULE 5”;
- (b) by repealing “[ss. 21(4) & (5) & 42]” and substituting “[ss. 21 & 42]”.

31. Accounts

The Sixth Schedule is amended—

- (a) by repealing “SIXTH SCHEDULE” and substituting “SCHEDULE 6”;
- (b) by repealing “[ss. 27(4) & (5) & 42]” and substituting “[ss. 27 & 42 & Sch. 11]”;
- (c) by adding—

“1A. The management committee shall—

- (a) at the request of not less than 5% of the owners, permit those owners or any person appointed by those owners to inspect any bills, invoices, vouchers, receipts or other documents referred to in paragraph 1 at any reasonable time; and
- (b) permit any person authorized by the court to inspect any bills, invoices, vouchers, receipts or other documents referred to in paragraph 1 at any reasonable time.

1B. For the purposes of paragraph 1A(b), an owner may apply to the court for an order authorizing the owner, or any other person named in the application, to inspect any bills, invoices, vouchers, receipts or other documents referred to in paragraph 1.

1C. The court may make an order under paragraph 1B only if it is satisfied that—

- (a) the application is made in good faith; and
 - (b) the inspection applied for is for a proper purpose.”;
- (d) in paragraph 2, by repealing everything after “that period” and substituting “, display a copy of the summary in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.”;
 - (e) in paragraph 3(a)—
 - (i) by repealing “an income and expenditure account and balance sheet” and substituting “the financial statements and, if applicable, the accountant’s report”;
 - (ii) by repealing “section 27(1)” and substituting “section 27”.

32. Mandatory terms in deeds of mutual covenant

The Seventh Schedule is amended—

- (a) by repealing “SEVENTH SCHEDULE” and substituting “SCHEDULE 7”;
- (b) in paragraph 1(2)—
 - (i) in sub-subparagraph (b), by adding “, and cause it to remain so displayed for at least 7 consecutive days” after “in the building”;

- (ii) in sub-subparagraph (e), by adding “, and cause it to remain so displayed for at least 7 consecutive days” after “in the building”;
- (c) in paragraph 2—
 - (i) in subparagraph (2), by repealing everything after “expenditure” and substituting “and a balance sheet in respect of that period, display a copy of the summary and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days.”;
 - (ii) in subparagraph (3), by adding “, display a copy of the income and expenditure account and balance sheet in a prominent place in the building, and cause it to remain so displayed for at least 7 consecutive days” after “that year”;
 - (iii) in subparagraph (6), by repealing the full stop and substituting—
 - “and—
 - (a) permit any owner, at any reasonable time, to inspect the audited income and expenditure account and balance sheet and the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet; and
 - (b) on payment of a reasonable copying charge, supply any owner with a copy of the audited income and expenditure account and balance sheet, or the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet, or both, as requested by the owner.”;
- (d) in paragraph 3—
 - (i) in the heading, by adding “**open and**” before “**maintain**”;
 - (ii) in subparagraph (1), by adding “open and” before “maintain”;
 - (iii) by adding—
 - “(1A) Without prejudice to the generality of subparagraph (1), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the management of the building.

- (1B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (1) or (1A) in a prominent place in the building.”;
- (iv) in subparagraph (2), by repealing “maintained under subparagraph (1)” and substituting “opened and maintained under subparagraph (1) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (1A)”;
- (e) in paragraph 4—
- (i) in subparagraph (3), by adding “open and” before “maintain”;
- (ii) by adding—
- “(3A) Without prejudice to the generality of subparagraph (3), if there is a corporation, the manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the corporation in respect of the special fund.
- (3B) The manager shall display a document showing evidence of any account opened and maintained under subparagraph (3) or (3A) in a prominent place in the building.”;
- (iii) in subparagraph (4), by repealing “maintained under subparagraph (3)” and substituting “opened and maintained under subparagraph (3) or, if there is a corporation, the account or accounts opened and maintained under subparagraph (3A)”;
- (f) by repealing paragraph 5 and substituting—

“5. Contracts entered into by manager

(1) Subject to subparagraphs (2) and (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200,000 or such other sum in substitution therefor as the Authority may specify by notice in the Gazette unless—

- (a) the supplies, goods or services are procured by invitation to tender; and
- (b) the procurement complies with the Code of Practice referred to in section 20A(1).

(2) Subject to subparagraph (3), the manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed a sum which is equivalent to 20% of the annual budget or such other percentage in substitution therefor as the Authority may specify by notice in the Gazette unless—

- (a) if there is a corporation—
 - (i) the supplies, goods or services are procured by invitation to tender;
 - (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and
 - (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a general meeting of the corporation, and the contract is entered into with the successful tenderer; or
- (b) if there is no corporation—
 - (i) the supplies, goods or services are procured by invitation to tender;
 - (ii) the procurement complies with the Code of Practice referred to in section 20A(1); and
 - (iii) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant, and the contract is entered into with the successful tenderer.

(3) Subparagraphs (1) and (2) do not apply to any supplies, goods or services which but for this subparagraph would be required to be procured by invitation to tender (referred to in this subparagraph as “relevant supplies, goods or services”)—

- (a) where there is a corporation, if—
 - (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the corporation by a supplier; and

- (ii) the corporation decides by a resolution of the owners passed at a general meeting of the corporation that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender; or
- (b) where there is no corporation, if—
 - (i) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the owners by a supplier; and
 - (ii) the owners decide by a resolution of the owners passed at a meeting of owners convened and conducted in accordance with the deed of mutual covenant that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender.”;
- (g) in paragraph 6—
 - (i) in subparagraph (1)(b), by repealing “serving such a notice on” and substituting “giving such a notice to”;
 - (ii) in subparagraph (2)—
 - (A) by repealing “Service of a notice on an owner under this paragraph may be effected” and substituting “The notice referred to in subparagraph (1)(b) may be given”;
 - (B) in sub-subparagraph (a), by repealing “personally upon” and substituting “by delivering it personally to”;
 - (C) in sub-subparagraph (b), by repealing “by post addressed to” and substituting “by sending it by post to”;
 - (D) in sub-subparagraph (c)—
 - (I) by repealing “the notice” where it twice appears and substituting “it”;
 - (II) by repealing “his letter box” and substituting “the letter box for that flat”;
- (h) in paragraph 7—

- (i) by repealing subparagraph (1) and substituting—
 - “(1) Subject to subparagraph (5A), at a general meeting convened for the purpose, a corporation may, by a resolution—
 - (a) passed by a majority of the votes of the owners voting either personally or by proxy; and
 - (b) supported by the owners of not less than 50% of the shares in aggregate,terminate by notice the DMC manager’s appointment without compensation.”;
- (ii) in subparagraph (2)—
 - (A) in sub-subparagraph (b), by repealing “the manager” and substituting “the DMC manager”;
 - (B) in sub-subparagraph (c), by repealing “the manager’s appointment” and substituting “the DMC manager’s appointment”;
 - (C) in sub-subparagraph (d), by repealing “is served upon the manager not more than 14 days” and substituting “is given to the DMC manager within 14 days”;
- (iii) in subparagraph (3)—
 - (A) by repealing “Service of the notice and the copy of the resolution required to be served under subparagraph (2)(d) may be effected” and substituting “The notice and the copy of the resolution referred to in subparagraph (2)(d) may be given”;
 - (B) in sub-subparagraph (a), by repealing “personally upon the manager” and substituting “by delivering them personally to the DMC manager”;
 - (C) in sub-subparagraph (b)—
 - (I) by repealing “by post addressed to the manager” and substituting “by sending them by post to the DMC manager”;
 - (II) by repealing “; or” and substituting a full stop;
 - (D) by repealing sub-subparagraph (c);
- (iv) by repealing subparagraph (4);
- (v) by repealing subparagraph (5);
- (vi) in subparagraph (5A)(b), by repealing “subparagraph (1)” and substituting “subparagraph (1)(b)”;

(vii) by adding—

“(5B) If a contract for the appointment of a manager other than a DMC manager contains no provision for the termination of the manager’s appointment, subparagraphs (1), (2), (3) and (5A) apply to the termination of the manager’s appointment as they apply to the termination of a DMC manager’s appointment.

(5C) Subparagraph (5B) operates without prejudice to any other power there may be in a contract for the appointment of a manager other than a DMC manager to terminate the appointment of the manager.”;

(i) in paragraph 8—

(i) by renumbering it as paragraph 8(2);

(ii) by adding—

“(1) Subject to subparagraph (2), if the manager’s appointment ends for any reason, he shall, as soon as practicable after his appointment ends, and in any event within 14 days of the date his appointment ends, deliver to the owners’ committee (if any) or the manager appointed in his place any movable property in respect of the control, management and administration of the building that is under his control or in his custody or possession, and that belongs to the corporation (if any) or the owners.”;

(iii) by repealing subparagraph (2)(b) and substituting—

“(b) deliver to the owners’ committee (if any) or the manager appointed in his place any books or records of accounts, papers, documents and other records which are required for the purposes of sub-subparagraph (a) and have not been delivered under subparagraph (1).”;

(j) by adding—

“9. Communication among owners

The manager shall consult (either generally or in any particular case) the corporation at a general meeting of the corporation and adopt the approach decided by the corporation on the channels of communication among owners on any business relating to the management of the building.”.

33. Terms added if consistent with deed of mutual covenant

The Eighth Schedule is amended—

- (a) by repealing “EIGHTH SCHEDULE” and substituting “SCHEDULE 8”;
- (b) by repealing “[ss. 34D, 34F & 42]” and substituting “[ss. 34D, 34F & 42 & Sch. 11]”;
- (c) by repealing paragraph 2 and substituting—
 - “2. The person or persons convening the meeting of the owners’ committee shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners’ committee.”;
- (d) by adding—
 - “2A. The notice of meeting referred to in paragraph 2 shall specify—
 - (a) the date, time and place of the meeting; and
 - (b) the resolutions (if any) that are to be proposed at the meeting.”;
- (e) in paragraph 3—
 - (i) by repealing “Service of a notice required to be served under paragraph 2 may be effected” and substituting “The notice of meeting referred to in paragraph 2 may be given”;
 - (ii) in subparagraph (a), by repealing “personally upon” and substituting “by delivering it personally to”;
 - (iii) in subparagraph (b), by repealing “by post addressed to” and substituting “by sending it by post to”;
 - (iv) in subparagraph (c)—
 - (A) by repealing “the notice” where it twice appears and substituting “it”;
 - (B) by repealing “his letter box” and substituting “the letter box for that flat”;
- (f) by repealing paragraph 8 and substituting—
 - “8. A meeting of owners may be convened by—
 - (a) the owners’ committee;
 - (b) the manager; or
 - (c) an owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.”;
- (g) by repealing paragraph 9 and substituting—

“9. The person convening the meeting of owners shall, at least 14 days before the date of the meeting, give notice of the meeting to each owner.”;

(h) by adding—

“9A. The notice of meeting referred to in paragraph 9 shall specify—

- (a) the date, time and place of the meeting; and
- (b) the resolutions (if any) that are to be proposed at the meeting.”;

(i) in paragraph 10—

(i) by repealing “Service of a notice required to be served under paragraph 9 may be effected” and substituting “The notice of meeting referred to in paragraph 9 may be given”;

(ii) in subparagraph (a), by repealing “personally upon” and substituting “by delivering it personally to”;

(iii) in subparagraph (b), by repealing “by post addressed to” and substituting “by sending it by post to”;

(iv) in subparagraph (c)—

(A) by repealing “the notice” where it twice appears and substituting “it”;

(B) by repealing “his letter box” and substituting “the letter box for that flat”;

(j) by repealing paragraph 12 and substituting—

“12. A meeting of owners shall be presided over by the chairman of the owners’ committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting.”;

(k) in paragraph 13—

(i) by repealing subparagraphs (a), (b) and (c) and substituting—

“(a) an owner shall have one vote in respect of each share he owns;

(b) an owner may cast a vote personally or by proxy;

(c) where 2 or more persons are the co-owners of a share, the vote in respect of the share may be cast—

(i) by a proxy jointly appointed by the co-owners;

(ii) by a person appointed by the co-owners from amongst themselves; or

- (iii) if no appointment is made under sub-paragraph (i) or (ii), either by one of the co-owners personally or by a proxy appointed by one of the co-owners;”;
- (ii) by adding—
 - “(ca) where 2 or more persons are the co-owners of a share and more than one of the co-owners seeks to cast a vote in respect of the share, only the vote that is cast, whether personally or by proxy, by the co-owner whose name, in order of priority, stands highest in relation to that share in the register kept at the Land Registry shall be treated as valid; and”;
- (l) by repealing paragraph 14 and substituting—
 - “14. (1) An instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and—
 - (a) shall be signed by the owner; or
 - (b) if the owner is a body corporate, shall, notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorized by the body corporate in that behalf.
 - (2) The instrument appointing a proxy shall be lodged with the chairman of the owners’ committee or, if the meeting is convened under paragraph 8(b) or (c), the person convening the meeting at least 48 hours before the time for the holding of the meeting.
 - (3) A proxy appointed by an owner to attend and vote on behalf of the owner shall, for the purposes of the meeting, be treated as being the owner present at the meeting.”.

34. Exempt estates

The Ninth Schedule is amended by repealing “NINTH SCHEDULE” and substituting “SCHEDULE 9”.

35. Hearing and determination of specified proceedings by tribunal

The Tenth Schedule is amended by repealing “TENTH SCHEDULE” and substituting “SCHEDULE 10”.

36. Enumeration of owners

Schedule 11 is amended—

- (a) by repealing “[s. 5B]” and substituting “[ss. 5B & 42]”;
- (b) by repealing paragraph (a) and substituting—
 - “(a) sections 3(8), 3A(3F), 4(10) and 40C(9) and paragraphs 1(2) and 5 of Schedule 3, paragraph 1A of Schedule 6 and paragraph 11 of Schedule 8 are specified;”.

PART 3

AMENDMENTS TO BUILDING MANAGEMENT
(AMENDMENT) ORDINANCE 2000

37. Section substituted

Section 12 of the Building Management (Amendment) Ordinance 2000 (69 of 2000) is amended, in the new section 28—

- (a) in the heading, by repealing “**Obligations**” and substituting “**Matters**”;
- (b) in subsection (1)—
 - (i) by repealing “, on behalf of the corporation and the occupiers and owners of a building,”;
 - (ii) by repealing “the building and all parts thereof including the common parts” and substituting “the common parts of the building”;
- (c) in subsection (3), by repealing “, on behalf of the corporation and the occupiers and owners of a building,”;
- (d) in subsection (5)—
 - (i) by adding “of the management committee” after “the treasurer”;
 - (ii) by repealing “副本費” and substituting “複印費”;
- (e) in subsection (6), by adding “of the management committee” after “The treasurer”;

(f) by adding—

“(6A) The secretary of the management committee shall, within 28 days after the corporation has effected a policy of insurance under subsection (1), give notice of the name and address of the insurance company and the period covered by the policy of insurance to the Land Registrar in such form as the Land Registrar may specify.”.

PART 4

TRANSITIONAL PROVISIONS

38. Interpretation

In this Part—

“commencement date” (生效日期) means the day on which this Part comes into operation;

“corporation” (法團) has the meaning assigned to it by section 2 of the pre-amended Ordinance;

“management committee” (管理委員會) means a management committee appointed under section 3, 3A, 4 or 40C of the pre-amended Ordinance;

“pre-amended Ordinance” (未經修訂條例) means the Building Management Ordinance (Cap. 344) as in force immediately before the commencement date;

“transitional period” (過渡期) means a period of 4 years after the commencement date.

39. Management committees appointed in accordance with deeds of mutual covenant

(1) This section applies to a management committee of a corporation which has been appointed in accordance with a deed of mutual covenant under section 3(2)(a) of the pre-amended Ordinance and which is in existence immediately before the commencement date.

(2) Subject to subsection (3), during the transitional period, the amendments made by section 27 of this Ordinance to the Second Schedule to the pre-amended Ordinance shall not affect the composition and procedure of a management committee to which this section applies, and the Second Schedule to the pre-amended Ordinance shall continue to have effect with respect to the composition and procedure of the management committee as if section 27 of this Ordinance had not been enacted.

(3) Subsection (2) shall cease to have effect with respect to the composition and procedure of a management committee to which this section applies when—

- (a) the corporation decides, by a resolution passed at a general meeting during the transitional period, that Schedule 2 to the Building Management Ordinance (Cap. 344) as amended by section 27 of this Ordinance shall have effect with respect to the composition and procedure of the management committee; or
- (b) (if no resolution referred to in paragraph (a) is passed during the transitional period) the transitional period expires,

and Schedule 2 to the Building Management Ordinance (Cap. 344) as amended by section 27 of this Ordinance shall after such cessation have effect with respect to the composition and procedure of the management committee accordingly.

PART 5

MINOR AND CONSEQUENTIAL AMENDMENTS

Building Management Ordinance

40. Interpretation

Section 2 of the Building Management Ordinance (Cap. 344) is amended—

- (a) in paragraph (b) of the definition of “common parts”, by repealing “the First Schedule” and substituting “Schedule 1”;
- (b) in paragraph (a) of the definition of “exempt estate”, by repealing “the Ninth Schedule” and substituting “Schedule 9”;
- (c) in paragraph (c)(ii) of the definition of “建築物”, by repealing “委任” where it twice appears and substituting “委出”;
- (d) in the definition of “管理委員會”, by repealing “委任” and substituting “委出”.

41. Appointment of management committee

Section 3(1) is amended by repealing “委任” and substituting “委出”.

**42. Appointment of management committee
after application to the Authority**

Section 3A is amended—

- (a) in subsection (1)—
 - (i) by adding “in aggregate” after “the shares”;
 - (ii) by repealing “委任” and substituting “委出”;
- (b) in subsection (3)—
 - (i) by repealing “多數票” and substituting “過半數票”;
 - (ii) by repealing “委任” and substituting “委出”;
- (c) in subsection (4), by repealing “委任” and substituting “委出”;
- (d) in subsection (5)—
 - (i) in paragraph (a), by repealing “owners of not less than 20% of the shares” and substituting “the owners of not less than 20% of the shares in aggregate”;
 - (ii) in paragraph (b), by repealing “owners of not less than 20% of the shares” and substituting “the owners of not less than 20% of the shares in aggregate”.

**43. Appointment of management committee
after application to tribunal**

Section 4 is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by adding “in aggregate” after “the shares”;
 - (ii) by repealing “委任” and substituting “委出”;
- (b) in subsection (4)—
 - (i) by repealing “多數票” and substituting “過半數票”;
 - (ii) by repealing “委任” and substituting “委出”.

**44. Composition and procedure of
management committee**

Section 6 is amended by repealing “The Second Schedule” and substituting “Schedule 2”.

45. Application by management committee for registration of owners as a corporation

Section 7 is amended—

- (a) in subsection (1)—
 - (i) by repealing “委任的” and substituting “委出的”;
 - (ii) by repealing “獲委任” and substituting “委出”;
- (b) in subsection (2), by repealing “採用土地註冊處處長所指明的格式” and substituting “符合土地註冊處處長指明的格式”;
- (c) in subsection (3)—
 - (i) in paragraph (c), by repealing “委任” and substituting “委出”;
 - (ii) in paragraph (d), by repealing “聲明書格式由土地註冊處處長指明” and substituting “聲明書須符合土地註冊處處長指明的格式”.

46. Incorporation

Section 8 is amended—

- (a) in subsection (2)(b), by repealing “委任” and substituting “委出”;
- (b) in subsection (5), by repealing “The Third Schedule” and substituting “Schedule 3”.

47. Change of name

Section 10(1) is amended—

- (a) by repealing “the Third Schedule” and substituting “Schedule 3”;
- (b) in paragraph (a), by repealing “多數票” and substituting “過半數票”;
- (c) in paragraph (b), by repealing “a majority of”.

48. Powers of corporation generally

Section 14(3) is amended by repealing “the Second Schedule” and substituting “Schedule 2”.

49. Tenants’ representative

Section 15(1) is amended—

- (a) by repealing “by resolution of not less than 50% of the votes” and substituting “by a resolution passed by a majority of the votes”;
- (b) by repealing “親自出席或委派代表出席投票” and substituting “由親自投票或委派代表投票”.

50. Duties and powers of corporation

Section 18 is amended—

- (a) in subsection (2)(aa), by repealing “the Fourth Schedule” and substituting “Schedule 4”;
- (b) in subsection (3), by repealing “所訂的” and substituting “所指的”.

51. Contributions to funds

Section 21 is amended—

- (a) in subsection (4)—
 - (i) by repealing “The Fifth Schedule” and substituting “Schedule 5”;
 - (ii) by repealing “製備” and substituting “擬備”;
- (b) in subsection (5), by repealing “the Fifth Schedule” and substituting “Schedule 5”.

52. Accounts of corporation

Section 27 is amended—

- (a) in subsection (1A), by repealing “製備” and substituting “擬備”;
- (b) in subsection (4)—
 - (i) by repealing “The Sixth Schedule” and substituting “Schedule 6”;
 - (ii) by repealing “收支概要的製備” and substituting “收支概算表的擬備”;
- (c) in subsection (5), by repealing “the Sixth Schedule” and substituting “Schedule 6”.

53. Insurance policy to be made available by management committee for inspection

Section 28(2) is amended by repealing “副本費” and substituting “複印費”.

54. Dissolution of management committee and appointment of administrator

Section 30 is amended—

- (a) in subsection (1), by repealing “the Third Schedule” and substituting “Schedule 3”;
- (b) in subsection (3)(a)—
 - (i) by repealing “the Third Schedule” and substituting “Schedule 3”;
 - (ii) by repealing “委任”;
 - (iii) in subparagraph (i), by adding “委任” before “另”;
 - (iv) in subparagraph (ii), by adding “委出” before “新”.

55. Powers and duties of an administrator

Section 32(2) is amended by repealing “determination” and substituting “termination”.

56. Interpretation

Section 34D is amended—

- (a) in subsection (1), by repealing “the Seventh and Eighth Schedules” and substituting “Schedules 7 and 8”;
- (b) in subsection (2)—
 - (i) by repealing “the Seventh Schedule” and substituting “Schedule 7”;
 - (ii) by repealing “多數票” and substituting “過半數票”;
- (c) in subsection (3)—
 - (i) in paragraph (a), by repealing “the Third Schedule” and substituting “Schedule 3”;
 - (ii) in paragraph (b), by repealing “在業主親自出席或委派代表出席的按照公契召開及進行的業主大會上以多數票” and substituting “在按照公契召開和進行的業主大會上由親自投票或委派代表投票的業主以過半數票”.

57. Mandatory terms in deeds of mutual covenant

Section 34E is amended—

- (a) in subsection (1), by repealing “the Seventh Schedule” and substituting “Schedule 7”;

- (b) in subsection (4), by repealing “the Seventh Schedule” and substituting “Schedule 7”;
- (c) in subsection (5)—
 - (i) by repealing “the Seventh Schedule” and substituting “Schedule 7”;
 - (ii) by repealing “(in aggregate)”;
 - (iii) by repealing “owners of not less than 50% of the shares” and substituting “the owners of not less than 50% of the shares in aggregate”;
- (d) in subsection (6), by repealing “the Ninth Schedule” and substituting “Schedule 9”;
- (e) in subsection (7)—
 - (i) in paragraph (a)—
 - (A) by repealing “(in aggregate)”;
 - (B) by repealing “owners of not less than 50% of the shares” and substituting “the owners of not less than 50% of the shares in aggregate”;
 - (C) by repealing “the Ninth Schedule” and substituting “Schedule 9”;
 - (ii) in paragraph (c), by repealing “the Ninth Schedule” and substituting “Schedule 9”;
- (f) in subsection (8), by repealing “製備” and substituting “擬備”.

58. Terms added if consistent with deed of mutual covenant

Section 34F is amended—

- (a) in subsection (1), by repealing “the Eighth Schedule” and substituting “Schedule 8”;
- (b) in subsection (3), by repealing “the Eighth Schedule” and substituting “Schedule 8”.

59. Right to establish corporation and conduct business

Section 34J(4) is amended—

- (a) in paragraph (a), by repealing “委任” and substituting “委出”;
- (b) in paragraph (b), by repealing “the Seventh Schedule” and substituting “Schedule 7”.

60. Management committee to replace owners' committee

Section 34K is amended—

- (a) in paragraph (b), by repealing “the Second Schedule” and substituting “Schedule 2”;
- (b) by repealing “委任” where it twice appears and substituting “委出”.

61. Appointment of management committee or building management agent by order of tribunal

Section 40C is amended—

- (a) in subsection (1)(a), by repealing “獲委任” where it twice appears and substituting “委出”;
- (b) in subsection (2)(a), by repealing “委任” and substituting “委出”.

62. Powers of building management agent appointed following order of tribunal

Section 40D(1) is amended by repealing “the Seventh Schedule” and substituting “Schedule 7”.

63. Power to amend Schedules

Section 42 is amended—

- (a) in subsection (1), by repealing “the Seventh and Ninth Schedules” and substituting “Schedules 7 and 9”;
- (b) in subsection (2), by repealing “the Seventh Schedule” and substituting “Schedule 7”;
- (c) in subsection (3), by repealing “the Ninth Schedule” and substituting “Schedule 9”.

64. Jurisdiction of tribunal in relation to building management

Section 45 is amended—

- (a) in subsection (1), by repealing “the Tenth Schedule” and substituting “Schedule 10”;
- (b) in subsection (3), by repealing “the Tenth Schedule” and substituting “Schedule 10”;
- (c) in subsection (5), by repealing “the Tenth Schedule” and substituting “Schedule 10”.

65. Composition and procedure of management committee

The Second Schedule is amended—

- (a) in paragraph 4(2)(e), by adding “管理” after “獲委任為”;
- (b) in paragraph 5—
 - (i) in subparagraph (1), by repealing “the Third Schedule” and substituting “Schedule 3”;
 - (ii) in subparagraph (3), by repealing “退職” and substituting “卸任”;
- (c) in paragraph 5A, by repealing “退職” where it twice appears and substituting “卸任”;
- (d) in paragraph 10(2), by repealing “多數票” and substituting “過半數票”.

66. Meetings and procedure of corporation

The Third Schedule is amended, in paragraph 5(1)—

- (a) in sub-subparagraph (a), by repealing “全部業主的 20% 的人數” and substituting “業主人數的 20%”;
- (b) in sub-subparagraph (b), by repealing “全部業主的 10% 的人數” and substituting “業主人數的 10%”.

67. Annual budget

The Fifth Schedule is amended—

- (a) in paragraph 3, by repealing “製備” and substituting “擬備”;
- (b) in paragraph 4, by repealing “副本費” and substituting “複印費”.

68. Accounts

The Sixth Schedule is amended, in paragraph 3, by repealing “副本費” and substituting “複印費”.

69. Mandatory terms in deeds of mutual covenant

The Seventh Schedule is amended—

- (a) in paragraph 1(7), by repealing “副本費” and substituting “複印費”;

- (b) in paragraph 2(5)(b), by repealing “副本費” and substituting “複印費”;
- (c) in paragraph 7(5A)(b)—
 - (i) by adding “in aggregate” after “the shares” where it twice appears;
 - (ii) by repealing “不少於 50% 份數” and substituting “份數不少於 50%”.

70. Terms added if consistent with deed of mutual covenant

The Eighth Schedule is amended, in paragraph 11A(b), by adding “in aggregate” after “the shares”.

71. Enumeration of owners

Schedule 11 is amended, in paragraph (b), in column 2 of item 1, by repealing “共有人” and substituting “共同擁有人”.

Lands Tribunal Rules

72. Commencement of proceedings

Rule 77(c) of the Lands Tribunal Rules (Cap. 17 sub. leg. A) is amended by repealing “the Tenth Schedule” and substituting “Schedule 10”.

73. Forms

The Schedule is amended, in Form 27—

- (a) by adding “in aggregate” after “the shares”;
- (b) by repealing “委任” and substituting “委出”.

Land Titles Ordinance

74. Consequential amendments

Schedule 3 to the Land Titles Ordinance (26 of 2004) is amended—

- (a) by repealing section 114;
- (b) by repealing section 118;
- (c) by repealing section 119.