

**Paper for the Legislative Council Bills Committee on
Building Management (Amendment) Bill 2000**

Building Management Ordinance (Cap. 344)

Introduction

At the meeting of the Bills Committee on 20 April 2000, Government undertook to provide written response to the two items below which were listed in the Clerk to the Bills Committee's letter of even date.

Definition of third parties

2. With regard to the definition of 'third parties' in the context of third party liability insurance policies, the term generally refers to parties other than the two signatory parties (the purchaser of the policy or the insured and the insurance company which undertakes to provide the insurance coverage) to the insurance policy. Beyond this understanding, the term is not further defined as a matter of practice in the trade.

3. In an insurance policy for third party liabilities, the employees of the insured party will not be covered. In addition, a third party liability insurance policy normally will list, other than the insured and his employees, a class or classes of persons against whom insurance coverage is provided or not provided. This is a typical arrangement which is reflected in a number of legislation requiring third party liability insurance, e.g. the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272).

4. In the context of the proposed Building Management (Insurance) Regulation, we are to work by the general rule as described above. The parameters of the Regulation we have developed with the insurance trade have been provided to Members vide paper CB(2)1570/99-00(02) for the meeting of the Bills Committee on 6 April 2000.

Formation of owners' corporations for properties with divided shares

5. With regard to the issue of the basis for allocating undivided shares among owners under section 39(b) of the Building Management Ordinance (Cap. 344), we already responded to this in paper CB(2)1258/99-00(01) which was a response to the various points raised by Members at the meeting of the Bills Committee on 25 February 2000. We have advised that the owners concerned may consider devising a scheme to allocate undivided shares amongst themselves in accordance with section 39(b) of Cap. 344. The Land Registry will consider the validity of the scheme in connection with any application to register an owners' corporation. As the circumstances of individual cases differ, the owners concerned should seek independent legal advice.

6. Furthermore, at the meeting of the Bills Committee on 13 March 2000, we advised that the situation regarding groups of houses such as Fairview Park was quite outside the scope of Cap. 344 which focuses on management of multi-storey and multi-ownership buildings. The definition of "buildings" under section 2 of Cap. 344 refers to flats rather than houses. House developments like Fairview Park need to refer to their DMCs to ascertain whether Cap. 344 is applicable to their situation.

Home Affairs Bureau
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