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To: the relevant Committee through: the Secretariat, Legislative Council From : YIP, MING EDWARD

15 April 2005

Building Management (Amendment) Bill 2005

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

- 6. In Clause 6(b), replace paragraph (b) by : -
 - "(b) The notice of meeting shall specify
 - (a) the date the notice of meeting is given;
 - (b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and
 - (c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee."
- 7. In Clause 6(b), replace paragraph (12)(a) by : -
 - "(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;"
- 8. In Clause 19(d), replace paragraph (5) by : -
 - "(5) The notice of meeting shall specify
 - (a) the date the notice of meeting is given;
 - (b) the date, time and place of meeting (a place in Hong Kong where the attendance shall reach without any difficulties); and
 - (c) the resolutions that are to be proposed at the meeting and, in particular, the resolution for the appointment of a management committee."
- 9. In Clause 19(d), replace paragraph (11)(a) by : -
 - "(a) the instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A, and shall be done accordingly to the instructions in Form 1 in Schedule 1A;"
- 10. In Clause 24(e), replace paragraph (ii) by : -
 - "(ii) in subparagraph (2), by repealing "in writing signed by the owner, or if the owner is a body corporate, under the seal of that body and substituting –

"in the form set out in Form 2 in Schedule 1A and shall be done accordingly to the instructions in Form 2 in Schedule 1A."

11. Add a clause such that : –

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

"20AA Management fee

- (1) A management fee incurred on an occupant, owner or tenant shall be used solely for
 - (a) expenses incidental to and arising from the proper management of a building, including security, repair and maintenance, hygiene and sanitary, salary for staff and employees and insurance policies; and
 - (b) the purposes set out in section 20(1) and (2).

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

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

"20AB Employment Contract

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

- (a) The time span between that an employee starts his or her working day and that he or she leaves at the end of that working day, does not exceed 8 hours and 30 minutes, where there shall be a meal break in the middle of the working day;
- (b) There shall be at least one rest day in between 6 working days and that rest day can not be supplemented by other considerations; and
- (c) The time span and rest day may be adjusted or varied only in case of emergency."
- 13. In Clause 22, for Form 1 and Form 2, under the phrase "*Delete where inapplicable", add ; –

"Instructions :

- 1. The form shall be duly filled out on or after the date a notice of the meeting is given.
- 2. (a) The form shall be signed by the owner; or
 - (b) If the owner is a body corporate, shall, notwithstanding anything contrary to its constitution, be sealed or stamped with the seal or stamp of the body corporate and signed by a person authorized by the body corporate in that behalf.
- 3. The instrument appointed a proxy shall be lodged with the convenor at least 24 hours before the time for the holding of the meeting; and
- 4. a proxy appointed in accordance with paragraphs 2 and 3 to vote for an owner shall, for the purposes of establishing a quorum, be treated as being an owner present at the meeting."
- 14. Add Clause 50A :
 - "50A. In section 32, 35 and 36, replace "Any person" by "A person" and "shall be guilty of" by "commits"."

15. Add Clause 50B : -

- "50B. Repeal section 31(1) and substitute the following : -
 - "(1) The tribunal may, upon application made to it by
 - (a) an owner;
 - (b) a registered mortgagee; or
 - (c) the Authority or an authorised officer,

dissolve the management committee and appoint an administrator.

- (1A) The tribunal may, upon application made to it by
 - (a) an owner;
 - (b) a registered mortgagee;
 - (c) an administrator; or
 - (d) the Authority or an authorised officer,

remove and replace an administrator."

- 16. Add Clause 50C : -
 - "50C. (1) Add a paragraph (ba) after paragraph (ba)in paragraph (1) to Schedule 3 : -
 - "(ba) in the case of management committee elected in a general meeting convened by an administrator, an annual general meeting not earlier than 12 months, and not later than 15 months, after the date of such general meeting.
 - (2) In paragraph 3(3) to Schedule 3, replace "a majority" by "an one-half majority"."
- 17. Add Clause 50D : -
 - "50D Replace section 5(3)(b) by : -

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

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- " To C (1) Add a paragraph (ba) after prograph (ba) in prograph (1) to schedule 3 : --" (ba) in the case of a management convittee elected in a general meeting convened by an administrate, an annual general " (ba) in the case of a management convittee elected in a general meeting offer the date of each general meeting. Meeting not earlier than its months, and not later than is months, after the date of each general meeting.
 - (2) In pangraph 3(3) to estable 3, replace" a majory" by " on one-half majory".

" JOD Replace whom 5(1)(6) by: -" (b) lodged in a website specified by the Amonty."

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