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BUILDING MANAGEMENT (AMENDMENT) BILL 2005

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

- | <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|---|
| 2 | <p>By deleting the clause and substituting -</p> <p>"2. Commencement</p> <p>This Ordinance shall come into operation on a day to be appointed by the Secretary for Home Affairs by notice published in the Gazette."</p> |
| 3(c) | <p>In the proposed definition of "member", by deleting "paragraph 2(1)(a) or 5(2)(a) of Schedule 2" and substituting "section 14(2) or paragraph 2(1)(b), 5(2)(a), 6 or 6A of Schedule 2".</p> |
| New | <p>By adding -</p> <p>"3A. Section added</p> <p>The following is added in Part I -</p> <p>"2B. References to majority of votes</p> |

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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."."

- 4(a) In the proposed section 3(1)(c), by deleting "an owner" and substituting "one owner".
- 4(b) In the proposed section 3(2)(a), in the Chinese text, by deleting "多數票" and substituting "過半數票".
- 4(c) (a) In the proposed section 3(3)(a), by deleting "any person referred to in subsection (1)(b)" and substituting "the person referred to in subsection (1)(b) (if any)".

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- (b) In the proposed section 3(3)(b), by deleting "any person referred to in subsection (1)(a)" and substituting "the person referred to in subsection (1)(a) (if any)".
- (c) In the proposed section 3(3)(c), by deleting "any person referred to in subsection (1)(a) or (b)" and substituting "the person referred to in subsection (1)(a) or (b) (if any)".
- (d) By deleting the proposed section 3(4)(b) and substituting -
"(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."
- (e) In the proposed section 3(6), by deleting everything after "building" and substituting a full stop.
- (f) In the proposed section 3(10)(a)(ii), by deleting "sealed or stamped with the seal or stamp" and substituting "impressed with the seal or chop".
- (g) By deleting the proposed section 3(10)(b) and (c) and substituting -
"(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;

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- (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."
- (h) By adding -

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"(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.

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(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.".

5(c) (a) In the proposed section 3A(3A), by deleting "any person referred to in section 3(1)(a) or (b)" and substituting "the person referred to in section 3(1)(a) or (b) (if any)".

(b) By deleting the proposed section 3A(3B)(b) and substituting -

"(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.".

(c) In the proposed section 3A(3D), by deleting everything after "building" and substituting a full stop.

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- (d) In the proposed section 3A(3H)(a)(ii), by deleting "sealed or stamped with the seal or stamp" and substituting "impressed with the seal or chop".
- (e) By deleting the proposed section 3A(3H)(b) and (c) and substituting -
 - "(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

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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."

(f) By adding -

"(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.

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(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."

- 6(b) (a) In the proposed section 4(5), by deleting "any person referred to in section 3(1)(a) or (b)" and substituting "the person referred to in section 3(1)(a) or (b) (if any)".
- (b) By deleting the proposed section 4(6)(b) and substituting -

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- "(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.".
- (c) In the proposed section 4(8), by deleting everything after "building" and substituting a full stop.
- (d) In the proposed section 4(12)(a)(ii), by deleting "sealed or stamped with the seal or stamp" and substituting "impressed with the seal or chop".
- (e) By deleting the proposed section 4(12)(b) and (c) and substituting -
- "(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 -

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- (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."

(f) By adding -

"(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 -

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- (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

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

9(c) In the proposed section 7(3)(e), by deleting "paragraph 2(1)(a)" and substituting "paragraph 2(1)(b)".

New By adding -

"9A. 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."."

10 By deleting the clause and substituting -

"10. 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

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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

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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

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section 28(1) and
the period covered
by the policy of
insurance;".".

New By adding -

"10A. 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."."

11(a) (a) By deleting subparagraph (ii) and substituting -

"(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";".

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(b) By adding -

"(iii) by adding "in aggregate" before "not exceeding";".

13 By deleting the clause and substituting -

"13. 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

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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);

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(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

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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

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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

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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.

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(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."."

New By adding -

"13A. Section added

The following is added -

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**"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

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days."."

14 By deleting paragraph (a) and substituting -

"(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.";"

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14(c) In subparagraph (ii), by deleting the full stop and substituting a semicolon.

14 By adding -

"(d) in subsection (4), by adding "the inspection of any documents referred to in such accounts and records," after "records),".

15 In the proposed section 29A(1), by adding "and in a reasonable manner" after "in good faith".

16 By deleting the clause and substituting -

"16. 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).".

17 By deleting the clause and substituting -

"17. 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".".

19(a) In the proposed section 40C(3), in the Chinese text, by deleting "多數票" and substituting "過半數票".

19(c) In the proposed section 40C(4), by deleting "any person referred to in section 3(1)(a) or (b)" and substituting "the person referred to in section 3(1)(a) or (b) (if any)".

19(d) (a) By deleting the proposed section 40C(5)(b) and substituting -

"(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."

- (b) In the proposed section 40C(7), by deleting everything after "building" and substituting a full stop.
- (c) In the proposed section 40C(11)(a)(ii), by deleting "sealed or stamped with the seal or stamp" and substituting "impressed with the seal or chop".
- (d) By deleting the proposed section 40C(11)(b) and (c) and substituting -
 - "(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

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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."

(e) By adding -

"(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

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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."

20 By adding before paragraph (a) -

"(aa) in subparagraph (i), by repealing "and the

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occupiers and owners of a building";

(ab) in subparagraph (iv), by repealing "and the
occupiers and owners of a building";

(ac) by repealing subparagraph (v);".

20(a) By adding "insolvency or" before "winding up".

20 By deleting paragraph (b) and substituting -

"(b) 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;".

22 In the proposed Schedule 1A, by deleting Forms 1 and 2 and
substituting -

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"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.

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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.".

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23(b) By adding "18," after "14,".

23 By deleting paragraph (c) and substituting -

"(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).

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(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).";".

23(d) (a) In subparagraph (i), by deleting the proposed paragraph 2(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;

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(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."

(b) In subparagraph (ii) -

(i) by adding -

"(2A) For the purposes of appointing the members of a management committee under subparagraph (1) (b) -

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(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

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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

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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.

(2B) For the purposes of appointing the
chairman, vice-chairman (if applicable),
secretary and treasurer of a management

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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

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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

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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.";

- (ii) in the proposed paragraph 2(3) -
 - (A) by deleting "subparagraph (1)(a)" and substituting "subparagraph (1)(b)";
 - (B) by deleting "subparagraph (1)(c) or (d)" and substituting "subparagraph (1)(c)(ii) or (iii)";

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- (iii) in the proposed paragraph 2(4), by deleting "subparagraph (1)" and substituting "subparagraph (1)(b), (c) and (d)";
- (iv) in the proposed paragraph 2(4)(a), by deleting "section 3(8), (9) and (10)" and substituting "section 3(7), (8), (9), (10), (11), (12), (13) and (14)";
- (v) in the proposed paragraph 2(4)(b), by deleting "section 3A(3F), (3G) and (3H)" and substituting "section 3A(3E), (3F), (3G), (3H), (3I), (3J), (3K) and (3L)";
- (vi) in the proposed paragraph 2(4)(c), by deleting "section 4(10), (11) and (12)" and substituting "section 4(9), (10), (11), (12), (13), (14), (15) and (16)";
- (vii) in the proposed paragraph 2(4)(d), by deleting "section 40C(9), (10) and (11)" and substituting "section 40C(8), (9), (10), (11), (12), (13), (14) and (15)".

23(e) By deleting "paragraph 2(1)(a)" and substituting "paragraph 2(1)(b)".

- 23(f) (a) In subparagraph (i) -
- (i) in the proposed paragraph 4(1), by deleting "paragraphs 2(1)(a) and 5(2)(a)" and substituting "section 14(2) and paragraphs 2(1)(b), 5(2)(a), 6 and 6A";
 - (ii) in the proposed paragraph 4(1)(a) -
 - (A) by deleting "proposed";
 - (B) in the English text, by deleting "the person's creditors" and substituting "his creditors";
 - (iii) in the proposed paragraph 4(1)(b), by adding "in Hong Kong or any other place" after "an offence".
- (b) By deleting subparagraph (ii) and substituting -
- "(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";".

(c) In subparagraph (iii) -

(i) in the proposed paragraph 4(3) -

(A) by deleting "paragraph 5(2)(a)" and substituting "section 14(2) or paragraph 2(1)(b), 5(2)(a), 6 or 6A";

(B) by deleting "14 days" and substituting "21 days";

(ii) by adding -

"(3A) A member of the management committee who fails to comply with subparagraph (3) shall cease to be such member.";

(iii) in the proposed paragraph 4(4) -

(A) by deleting "section 7(3)(e) or";

(B) by deleting "14 days" and substituting "21 days";

(iv) by deleting the proposed paragraph 4(5) and substituting -

"(5) 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 (4), lodge with the Land Registrar the declaration."

23(g) (a) In subparagraph (ii), by deleting the proposed paragraph 5(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

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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."

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(b) In subparagraph (iii), by deleting the proposed paragraph 5(2A) and substituting -

"(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

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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

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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

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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

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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."

- (c) In subparagraph (iv), in the proposed paragraph 5(4), by deleting "subparagraph (2)(c) or (d)" and substituting "subparagraph (2)(b)(ii) or (iii)".

23 By adding -

"(ga) in paragraph 5A -

- (i) by adding "or (3A)" 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";

(gb) 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

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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) -

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- (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.

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(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

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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

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(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

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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

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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;

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(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

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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

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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

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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

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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.";

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(gc) 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 -

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- (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

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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.";".

23(h) (a) By adding before subparagraph (i) -

"(ia) in subparagraph (1)(b), by adding ", and held
within 21 days of receiving such request" after
"such request";".

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- (b) In subparagraph (i), in the proposed paragraph 8(2), by adding "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" before the full stop.
- (c) By deleting subparagraph (iii) and substituting -
- "(iii) 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.";

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(d) By deleting subparagraph (iv) and substituting -

"(iv) by repealing subparagraph (3);".

23 By adding -

"(ha) 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.";"

23 By deleting paragraph (j) and substituting -

"(j) 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), (3A) and (4) 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 (3A), the body corporate may appoint another authorized representative in his place, and paragraph 4(1), (2)(a), (b), (c), (d) and (f), (3), (3A) and (4) shall apply to that other authorized representative.".

24 By adding -

"(ba) in paragraph 1(2), by adding ", and hold the general meeting within 45 days of receiving such request" after "such request";".

24(c) By deleting subparagraph (iv) and substituting -

"(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.";

24(d) By deleting subparagraph (iii) and substituting -

"(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";

24(e) (a) In subparagraph (ii), by deleting "sealed or stamped with the seal or stamp" and substituting "impressed with the seal or chop".

(b) In subparagraph (iii), in the proposed paragraph 4(3), by deleting "24 hours" and substituting "48 hours".

(c) By adding -

"(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

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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.";".

24 By adding -

"(ea) by repealing paragraph 5(2) and substituting -

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"(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.";

(eb) 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.";

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(ec) 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.";"

24(f) By deleting the full stop at the end and substituting a semicolon.

24 By adding -

"(g) by repealing paragraph 9."

25 By deleting paragraph (b) and substituting -

"(b) by repealing the heading and substituting -

"MAXIMUM ALLOWANCES PAYABLE TO CHAIRMAN,
VICE-CHAIRMAN, SECRETARY AND TREASURER
OF MANAGEMENT COMMITTEE";"

25(c) By deleting the full stop at the end and substituting a semicolon.

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25 By adding -

"(d) in the heading of column 3, by adding "for each person" after "per month".".

27(b) By adding "& Sch. 11" after "27 & 42".

27 By adding -

"(ba) 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.

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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.";

(bb) 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.";".

28 By adding -

"(aa) 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";".

28 By deleting paragraph (b) and substituting -

"(b) 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.";".

28(e) By deleting the proposed paragraph 5(1) and (2) and
substituting -

"(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 -

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- (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 -

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- (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

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(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."

28(g) (a) By deleting subparagraph (i).

(b) By deleting subparagraph (ii) and substituting -

"(ii) 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

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(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.";"

(c) By deleting subparagraph (v) and substituting -

"(v) by repealing subparagraph (4);"

(d) By adding -

"(via) in subparagraph (5A)(b), by repealing "subparagraph (1)" and substituting "subparagraph (1)(b)";

(vib) 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.";".

(e) By deleting subparagraph (vii).

28 By adding -

"(h) 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).";

(i) 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."."

"(ea) 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.";"

29(f) In the proposed paragraph 9, in the English text, by deleting "or persons".

29 By adding -

"(ha) 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.";"

29 By deleting paragraph (j) and substituting -

"(j) 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."."

- 32 By deleting paragraph (b) and substituting -
- "(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;".
- 33 By adding before paragraph (a) -
- "(aa) in the heading, by repealing **"Obligations"** and substituting **"Matters"**;"
- 33(a) (a) By deleting subparagraph (i) and substituting -
- "(i) by repealing ", on behalf of the corporation and the occupiers and owners of a building,";"
- (b) In subparagraph (ii), in the Chinese text, by deleting "該建築物的" and substituting "有關建築物的".
- 33 By deleting paragraph (b).
- 33 By deleting paragraph (c) and substituting -
- "(c) in subsection (3), by repealing ", on behalf of the corporation and the occupiers and owners of a building,";"

33(e) In the English text, by deleting "the treasurer" and substituting "The treasurer".

33(f) In the proposed section 28(6A), by deleting "effected the policy of insurance" and substituting "effected a policy of insurance under subsection (1)".

Part 4 By deleting the Part.

36(3) In paragraph (a), by deleting "an annual general meeting" and substituting "a general meeting".

39 By deleting paragraph (b) and substituting -

"(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";".

40 By deleting paragraph (b) and substituting -

"(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 By deleting the clause and substituting -

"44. 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".

46 By deleting the clause and substituting -

"46. 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".

49 By deleting paragraph (a).

New By adding -

"49A. 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".

New By adding -

"50A. Powers and duties of an administrator

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

51 By deleting paragraph (a) and substituting -

"(a) in subsection (1), by repealing "the Seventh and Eighth Schedules" and substituting "Schedules 7 and 8";".

51 By deleting paragraph (b) and substituting -

"(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";".

51(c) By deleting subparagraph (ii) and substituting -

"(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".".

51 By deleting paragraph (d).

60 By deleting paragraph (d).

60 By adding -

"(e) in paragraph 10(2), by repealing "多數票" and substituting "過半數票".".

61 By deleting the clause and substituting -

"61. 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%".

64 By deleting paragraph (c) and substituting -

"(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%".

65 By deleting the clause and substituting -

"65. 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".

66 By deleting the clause and substituting -

"66. 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".

68 By deleting the clause and substituting -

"68. Forms

The Schedule is amended, in Form 27 -

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

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